

**Tax Map/Block/Parcel**  
**No. 59-23-196**  
**Case 5957**

**OFFICIAL DECISION**  
**BOARD OF ZONING APPEALS**  
**CARROLL COUNTY, MARYLAND**

**APPLICANT:** Thomas H. Sisk and Jackson S. Haden, Jr.  
P.O. Box 729  
Finksburg, MD 21048

**ATTORNEY:** Isaac Menasche, Esq.  
Walsh & Fisher  
179 East Main Street  
Westminster, MD 21157

**REQUEST:** A request for the substitution of a non-conforming use for a Contractor's Equipment Storage Yard.

**LOCATION:** The site is located at 3233 Murray Road, Finksburg, Maryland, on property zoned "C" Conservation District, in Election District 4.

**BASIS:** Code of Public Local Laws and Ordinances, Sections 158.070(E)(1)(c) and 158.040.

**HEARING HELD:** June 29, 2016

**FINDINGS AND CONCLUSION**

On June 29, 2016, the Board of Zoning Appeals (the Board) convened to hear the request for the substitution of a non-conforming use for a Contractor's Equipment Storage Yard. Based on the testimony and evidence presented, the Board made the following findings and conclusions.

Stewart Meekins testified on behalf of his company Meekins Associates, LLLP. His company performs contracting work. The company has been in business for sixty years. It has been at its current location since the 1980s. The twenty acre property at the site includes an airstrip, a mobile home park, and a contractor's equipment storage yard. These three uses of the property were present when Mr. Meekins purchased the property. The airstrip includes approximately twenty-eight lots. Some of the lots are presently vacant. Mr. Meekins could not state when the photographs in Petitioner exhibit number 2 were taken.

Petitioner exhibit number 3 shows that the Meekins Associates Partnership had a lease with the owners of the property in 1981. The Meekins business also had an option to purchase the leased premises.

In Petitioner exhibit number 2, Mr. Meekins presented photographs of vehicles and equipment that he had owned over his time in business as a contractor. He did not know with certainty when the photos in Petitioner exhibit number 2 were taken. Nor did he know with certainty when much of the equipment and vehicles were removed from the site. He could affirmatively state that he owned the vehicles and equipment in Petitioner exhibit number 2 at the time that the photos were taken. On cross examination Mr. Meekins went through the time he was the owner of the equipment and vehicles in the photos.

The property used to be a junkyard as evidenced in Petitioner exhibit number 1. In 1981, Petitioner exhibit number 1 demonstrates three separate areas on the applicant's plat as "junk areas." (Board case No. 1718.) Although Meekins Associates, LLLP was operating its business from the site in the 1980s, the applicants in Board case 1718 were William J. Fabrick and Shirley T. Fabrick. Case 1718 was a request to the Board for a confirmation and continuation of a nonconforming use, which was a contractor's equipment storage yard.

Mr. Meekins testified that he currently had one full time worker and one part time employee for his company. He also has professional staff that come to the location to provide a service. In the last few years his business slowed down due to the economy. He testified that he had three or four jobs last year. He mentioned that as recent as a month ago that the company had to work on a small grading job. Meekins Associates, LLLP purchased the property which is the subject matter of this application in 2006, as reflected in the deed in Respondent exhibit number 1.

Mr. Meekins entered into a contract of sale with the applicants for the property. Mr. Meekins supports and is in favor of the instant application before the Board.

Jackson Hayden testified as one of the owners of J & J Trash Removal, Inc. The company entered into a contract with Meekins Associates, LLLP. He owns a garbage removal business that is located in Hampstead, Maryland. The company has been in business since 1979 and has been located in Hampstead since 1992. He believes that the site in question is a bigger and better location for his business.

The photographs taken in Petitioner exhibit number 4 show trucks and equipment at his current Hampstead location. He has two office workers that regularly come to the site. He also has a foreman that spends one half of his time at the site and the other half of his time on routes. A minimum of fourteen workers come to the site daily. These people include drivers of the vehicles. Some workers are picked up off of the site to perform their duties. Employees start coming to the site at between four and five am. Most people have left the site by five pm. Mr. Hayden stated that his trash removal operation would fit within the confines of Petitioner exhibit number 1. The new location would be closer to the contractual trash removal routes. In addition, his drivers would have access to more favorable roads than Maryland Route 30. He would not need to make changes to the property to fit his current operation into the new location.

Jay Voight, Zoning Administrator testified in the case. He stated that one of the existing uses on the property was for a contractor's equipment storage yard. He stated that the usage of a contractor's equipment storage yard would follow the property and not the owner of the property. He did not think that the use of the property as a contractor's equipment storage yard had ceased for one year. He agreed that the Board case 1718 granted a contractor's equipment storage yard on the property. He saw the use as a trash removal operation as less intense than a contractor's equipment storage yard. Contractors are required to use more heavy equipment and vehicles that cannot operate on roads, whereas the trash hauling business included all commercial vehicles that could be driven on Maryland roads.

David Bosley testified in opposition to the application. His family farm is connected to the twenty acre property in question. He has sixty-six acres on his farm. In fact, the twenty acre property was originally a part of his farmland. He stated that the current level of traffic at the site was the people living in the trailer park and their passenger vehicles. The only large vehicles traveling along the road would be a trash truck and a fuel truck. He was not disputing that the Meekins had a full time office worker and a part time office worker.

Marvin Miller testified in opposition to the application. He had lived along Murray Road since 1992. He stated that the Meekins had very little business at the present time. He noted that when the economy crashed in 2008 that the Meekins business really never recovered from it. There was not much construction related activity at the site for the last eight years. He stated that even when the Meekins construction business was at its busiest that equipment went from job site to job site and the same was also true for most employees. Mr. Miller took the photographs in evidence as Respondent Exhibits 2-8. The photographs demonstrate a number of sea containers and a few pieces of construction equipment. He stated that he would suffer a decrease in property values if a trash removal business was allowed to start at the proposed site. He also believed that his quality of life would suffer if such a business moved in. His number one concern was trucks rumbling in and out of the site. He also did not want his children to experience trash trucks and the stink that would accompany them. His house was located about 1200 feet from the site in question.

Melanie Stranix testified in opposition to the application. She stated that she had lived on a quiet road for thirty years. She had not heard the rumble from trucks from the location in question for many years. She was recently retired. She was concerned about the value of her property decreasing if a trash hauling business was approved to be there. Even though the trucks would not directly pass her house, she would still hear the sounds of the trucks.

Karen Bosley Miller testified in opposition to the application. She is married to Marvin Miller and is the daughter of David Bosley. She stated that the neighborhood includes farmland and residences. She has lived at her home for more than twenty years. The property was zoned Conservation. Her peaceful enjoyment would be harmed if the application was approved. She believed that the contractor's equipment storage yard business had been dormant for more than one year. She believed that the existing equipment on the site had not been used for years. She further believed that the office staff ran the mobile home park and not the contractor's equipment storage yard business. Her position was that the change from a contractor's equipment storage yard to a trash removal business should not be considered a substitution. She noted the twenty plus trailers located on the property. Homes would be built nearby in the \$400,000 price range.

Nokomis Ford with the Bureau of Comprehensive Planning wrote in a June 14, 2016 memorandum that the "staff finding is that this request is consistent with the 2014 Carroll County Master Plan.

In summation, the applicant's attorney stated that the new use at the site was similar or a more appropriate use of the existing contractor's equipment storage yard. He stated that Meekins Associates, LLLP had not ceased doing business in the last 12 months and that the Zoning Code Section 158.033(D) did not apply in this situation. The Zoning Administrator testified that there was continuous use at the site as a contractor's equipment storage yard. The Zoning Administrator further stated that the proposed use had a similar or lesser impact on the neighborhood.

In summation, the counsel representing the opposition to the application stated that the Board had to follow a two prong test. The first part of the test was whether the contractor's

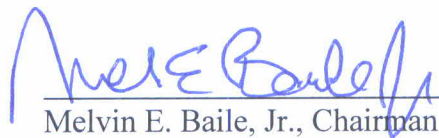
equipment storage yard was in use during the last 12 months. The second part of the test was whether the change of the nonconforming use would require structural alterations or require greater outdoor area to conduct the use or provide parking, and whether the new use would cause an adverse effect on the neighboring properties. He noted that the nonconforming uses were a disfavored use in the state and should eventually cease to exist. He argued that the equipment stored in the contractor's equipment storage yard had to be useable equipment and not junk. He pointed out that Mr. Meekins could not remember when the last time was that many pieces of equipment left the property.

During the deliberations, the Board addressed the question of whether the contractor's equipment storage yard ceased doing business in the last 12 months. The Board was convinced that the contractor's equipment storage yard was continuously in use since the 1980s. Mr. Meekins' company still had equipment at the site. Mr. Meekins was still operating as a contractor. The Board noted that a cessation of the nonconforming use was not dependent on how much equipment was used or stored at the site. Respondent's Exhibits 2-8 showed that there was some equipment at the site. There may have been less equipment than the company had stored in its heyday but there was still equipment stored on the property. There were two office workers that came to the site. One of the workers was full time and the other was part time. There was an allegation that the two workers were not involved in the contractor's equipment storage yard part of the business but no proof. Mr. Meekins stated that these two workers were a part of the contractor's equipment storage yard. Mr. Meekins testified that his company had three or four jobs last year. He mentioned that as recent as a month ago that the company had to work on a small grading job.

As for the second question, the Board noted that there would be no greater impact to the area by a trash removal business being at this site. They accepted the Zoning Administrator's testimony that the use would also be less intensive. Both a contractor and a trash hauler utilized trucks. The only difference in the operation was the things they were hauling. The vehicles and equipment of the trash removal company was comparable to the vehicles and equipment of the Meekins Company in its heyday. There is no requirement that the substitution of the nonconforming use be comparable to the present day use.

The Board was convinced that authorization of the request with regard to the request for a change of a nonconforming use was consistent with the purpose of the zoning ordinance, appropriate in light of the factors to be considered regarding conditional uses of the zoning ordinance, and would not unduly affect the residents of adjacent properties, the values of those properties, or public interests. Based on the findings of fact made by the Board above, the Board found that the proposed project would not generate adverse effects (i.e. noise, traffic, dust, water issues, lighting issues, property depreciation, etc.) greater here than elsewhere in the zone. The Board approved the change of a nonconforming use requested by the applicant.

7-5-2016  
Date

  
Melvin E. Baile, Jr., Chairman

Decisions of the Board of Zoning Appeals may be appealed to the Circuit Court for Carroll County within 30 days of the date of the decision pursuant to Land Use Article, Section 4-401 of the Annotated Code of Maryland.

Pursuant to Section 158.133 (H)(3) of the County Code, this approval will become void unless all applicable requirements of this section are met. Contact the Office of Zoning Administration at 410-386-2980 for specific compliance instructions.

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