

Tax Map/Block/Parcel
No. 64-5-480
Case 5775

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Fred R. Rosen
3011 Forever Drive
Finksburg, MD 21048

ATTORNEY: Clark R. Shaffer, Esq.
73 East Main Street, Suite 1
Westminster, MD 21157

REQUEST: An appeal of the Zoning Administrator's decision in Case ZA-1528, denying a request for a professional office as an accessory use in the conservation zoning district as stated in Section 158.071(E)(11) of the County Code.

LOCATION: The site is located at 3011 Forever Drive, Finksburg, MD 21048, on property zoned "C" Conservation District in Election District 4.

BASIS: Code of Public Local Laws and Ordinances, Section 158.071(E)(11).

HEARING HELD: November 25, 2014

FINDINGS AND CONCLUSION

On November 25, 2014, the Board of Zoning Appeals (the Board) convened to hear an appeal of the Zoning Administrator's decision in Case ZA-1528, denying a request for a professional office as an accessory use in the conservation zoning district as stated in Section 158.071(E)(11) of the County Code. Based on the testimony and evidence presented, the Board made the following findings and conclusions.

Mr. Fred Rosen testified as the applicant here. He is the owner of Diversified Technologies, Inc. His business is an alarm installation and security system maintenance and service business. Mr. Rosen has a Security Systems Agency license from the State of Maryland (Exhibit 3A) and a license from several counties in Maryland to operate, install, maintain, and repair low voltage security systems (Exhibit 3B-G). Carroll County does not require a license for such work. Mr. Rosen stated that he has always operated the business from his residence since 1978.

Mr. Rosen has had the business in the name of Diversified Technologies, Inc. since the 1990s. He has a copy of a zoning certificate No. 96-2468 (Exhibit 6) that allows him to have a home occupation at an address in Westminster, Maryland. At that time he did not have any employees according to the zoning certificate. He also had an office only at this location according to the certificate. All business operations take place in the basement of the house.

He stated that the company is now licensed by Underwriters Laboratory. He only works on referrals. He does not send out advertisements. The business does offer 24 hour service and most of the time he provides this service over the weekends. The business has three vans and there is a truck in the name of the business. (In the near future one van will cease to be in use for the business.) Mr. Rosen has four employees that come to his house on a daily basis. One employee handles administrative/secretarial duties; two employees are full time technicians; another employee is a part time technician. The employees drive their personal vehicles to his house. The technicians then take company vehicles to the job sites. The deliveries for parts for the business are done by UPS trucks. No customers come to the house, and no contractors assisting the business come to the house. Mr. Rosen included the trips to his house in a typical week in Exhibit 7.

Mr. Rosen testified that he was having construction work done on his residence in the last year. He was adding a four car garage. The current garage was being used for storage. The construction has involved a garage, a breezeway and a bump-out. He has hired contractors to perform this construction work. This construction involves his personal use and not his business. Exhibit 4E is a photograph that shows the renovation work.

Mr. Rosen stated that he did not intend to grow his business. He had no plans to acquire additional vehicles or hire more employees.

Jay Voight, the Zoning Administrator, testified to the Board. He explained the rationale for his zoning decision. Mr. Voight denied Mr. Rosen's request because he did not find that the business was a professional office as described in 158.071(G)(11). Mr. Rosen's business was not viewed like a professional office of a doctor, dentist, or lawyer to Mr. Voight. He viewed the business as more like the work of a contractor as defined by the zoning ordinance. He also stated that in general businesses are not allowed in the Conservation District.

Sharon Underkoffler testified in opposition to the request. She is a neighbor who has lived in her house for approximately thirteen years. She was concerned about the amount of traffic generated by the business. Because of traffic unrelated to a residence coming into the neighborhood, she was concerned about her safety. She was also concerned about her property value decreasing due to the business.

Karen Arnold testified in opposition to the request. She stated that there has been more traffic to the address since the previous owners moved out. The traffic concerns affected her desire to allow her children to play outside near the road. She did not want a business in her residential community. She was also concerned about a decrease in property values. Her husband was also a contractor. He had to commute out of the county for his business.

A number of people wrote letters in opposition to the request. Jamison Hensley was concerned about the traffic. He was also concerned about a decrease in property values. He also believed that the business goes against the zoning for the area.

John and Karen Schmiedt were also in opposition to the request. A real estate agent told them that in his 20 years of experience the existence of a business run from a home almost always negatively impacts the value of other adjacent homes. Many people will not consider buying a house with a business nearby.

Robert and Vanessa Freter also were in opposition to the request. They were concerned about the traffic and their young children. They did not want the character of the neighborhood to change with the approval of this request in a Conservation District.

There were also letters in opposition from Cameron and Janet Wilson, John and Kathy Spann, Jeff and Karen Arnold, and Sharon Underkoffler. These letters addressed similar concerns in opposition to the request.

There is a November 4, 2014 letter from Philip R. Hager to the Board. Mr. Hager wrote that the Conservation land use designation is to conserve environmental resources and to support activities associated with natural resource protection. Commercial uses or activities are discouraged in this zone. He requested that the application be denied.

Scott E. Graf, Comprehensive Planner, wrote his comments in an October 31, 2014 memorandum. He stated that the intended use was a business use and did not meet the intent of the Conservation zone.

The Board was convinced that granting the applicant's request was consistent with the purpose of the zoning ordinance and would not unduly affect the residents of adjacent properties, the values of those properties, or public interests. The Board approved the applicant's request. The Board found that the applicant's business was similar to a professional office and for the purpose of this case should be considered like a professional office. The Board approved the request with a number of conditions:

1. The business could not be transferred to someone else;
2. The business would be limited to four commercial vehicles;
3. There would be no weekend hours except for emergencies;
4. There would be deliveries by UPS or parcel deliveries only;
5. There would be no more than the existing four employees for the business;
6. There would be no signage for the business and no customers coming to the business.

Date

Brian DiMaggio, 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 Article 66B, Section 4.08 of the Annotated Code of Maryland Rules of Procedure.

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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