

**Tax Map/Block/Parcel
No. 57-16-340**

**Building Permit/Zoning
Certificate No. 05-0895**

Case 5073

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

APPLICANT: Tom Green
Phyllis L. Green
1255 Baugher Road
Westminster, MD 21158

ATTORNEY: N/A

REQUEST: An expansion of an existing non-conforming use to include a mulch operation (C&C Mulch).

LOCATION: The site is located at 3030 Salem Bottom Road, Westminster, on property zoned "C" & "A" Conservation and Agricultural Districts in Election District 9.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-9, 223-71 A (32) and 223-125 A (23)

HEARING HELD: May 25, & July 27, 2005

FINDINGS AND CONCLUSION

On May 25 and July 27, 2005, the Board of Zoning Appeals (the Board) convened to hear a request for an expansion of an existing non-conforming use to include a mulch operation (C&C Mulch). The Board made the following findings and conclusion:

The subject property is 11.3 acres and has operated as a sawmill since at least 1958. The sawmill is a lawfully recognized nonconforming use, which pre-dated the adoption of "C" – Conservation and "A" – Agricultural zoning of the property. The facility has been used to make wood pallets. Approximately 2,500 pallets per day are made, with 25-30 truck loads of pallets exiting and entering the site per week. It is estimated that upwards of 2,000 trucks came and went from the site with pallets per year. In addition, there was other vehicular traffic from the

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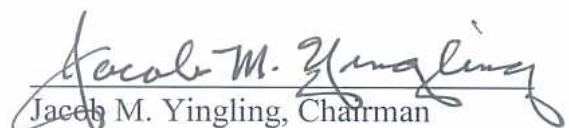
sales of firewood, wood shavings, sawdust and mulch. The sawmill operation includes two trucks and four, 48 Ft. trailers. In addition, there is mulching equipment, a sawmill, a skid loader, 4 forklifts and other supplies stored on site. Hours of operation for the sawmill were from 7:00 A.M. to 5:00 P.M. Monday through Friday, with some occasional Saturdays.

The pallet company has moved most of its operation to a new location in the Westminster area. The Applicant is seeking permission to substitute the nonconforming sawmill and pallet plant with a commercial mulch operation. The mulch operator estimates that at his current location there are 2,200 truck trips per year to and from his property in connection with his business. The mulching process involves hauling waste wood to the site, grinding it, piling it, and turning the piles to aerate and compost them.

The Board heard extensive testimony regarding environmental challenges at the site. As a nonconforming use, the sawmill predated storm water management regulations and other ordinances designed to protect natural resources. It abuts Morgan Run, one of the County's premiere trout streams. The stream empties into Liberty Reservoir. At least ¼ of the property is located in the 100 year flood plain. In addition, the Board heard the County's Environmental Compliance Officer, who discussed potential damage to the stream that could result from a mulch operation. This could include damage from leachate, fires and unmanaged storm water runoff.

Our Zoning Code at 223-9 permits us to allow a change of one nonconforming use to another when the new use is of the same or a more appropriate classification. In addition, a nonconforming use can be enlarged with Board approval. Based upon the testimony of the experts called by the Zoning Administrator, we find that the environmental challenges of this site given its close proximity to Morgan Run, make a mulch operation unsuitable for relocation there. In addition, the Board is familiar with the massive size and scope of the proposed mulch operation from our experience in Case No. 4872. We also find that this site, with its floodplain limitations, is not large enough to accommodate the proposed mulch operation. Accordingly, the request for a change or expansion of the nonconforming use is denied.

8/25/05
Date


Jacob M. Yingling, Chairman

**Tax Map/Block/Parcel
No. 57-16-340**

Case 5073R

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

APPLICANT: Charles T. Coon (current owner)
1828 W. Liberty Road
Westminster, MD 21157

ATTORNEY: Isaac Menasche for Applicant
Chuck McLean for Carroll County Zoning Manager

REQUEST: *Remanded by Circuit Court* – for further proceedings to consider the imposition of conditions on the approved mulch operation.

LOCATION: The site is located at 3030 Salem Bottom Road, Westminster, on property zoned “C” & “A” Conservation and Agricultural Districts in Election District 9.

BASIS: Code of Public Local Laws and Ordinances, Section 223-9, 223-71 A (32) and 223-125 A (23)

HEARING HELD: *Originally heard on May 25, 2005 and July 27, 2005*
Remand: October 24, 2007 Continued to November 27, 2007

FINDINGS AND CONCLUSION

On November 27, 2007, the Board of Zoning Appeals (the Board) convened to hear a Remand by Circuit Court for further proceedings to consider the imposition of conditions on an approved mulch operation. The remand was ordered by the Honorable Thomas F. Stansfield on May 12, 2006 (Case No. 06-C-05-043998) for the purpose of considering “conditions which are reasonable, and perhaps an additional condition that a full site plan be presented”. Since the Judge’s Order was entered, the property was conveyed by Thomas and Phyllis Green to Charles T. Coon.

The Applicant and Zoning Manager reached an agreement with regard to the conditions that should be imposed on the Applicant’s operations. The parties agreed as follows:

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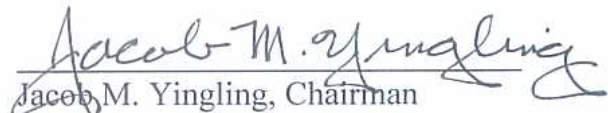
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1. Within one (1) year of the date of this written decision, the Applicant will submit an existing conditions site plan, prepared by a Professional Engineer, which sets forth the existing buildings on the site and the location of the mulch storage area.
2. Within three (3) months of the commencement of the mulch operation on the premises, the Applicant will install a severe duty reinforced type (super) silt fence running the entire length of the mulch storage area and at least 25 feet away from Morgan's Run. Applicant shall notify the County prior to installation of the fence.
3. Within three (3) months of the commencement of the mulch operation on the premises, the Applicant shall remove all loose debris and pallet scrap materials currently stored next to the paved area on the property.
4. Within one (1) year of the date of this written decision, the Applicant shall convey a Water Resource Protection Easement in a form substantially similar to the draft easement submitted as Exhibit "A" by the parties at the November 27, 2007 hearing, 50 feet from either side of Morgan Run as depicted in the sketch of the Green Property submitted in the prior hearing (See p.12, Reproduced Record Case No. 06-C-05-043998).

The Board reviewed the proposed settlement and found the conditions to be reasonable and adequate to protect the surrounding environment and the general public. Accordingly, they were adopted and made a part of the decision of the Board in this case.

12/26/07
Date

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Jacob M. Yingling, Chairman