

Tax Map/Block/Parcel
No. 77-5-424

Building Permit/Zoning
Certificate No. 98-0232

Case 4301

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Edward Primoff
7201 Old Washington Road
Woodbine, Maryland 21797

REQUEST: To amend conditions previously authorized in Case 4247 for a private airport

LOCATION: 7201 Old Washington Road on property zoned "A" Agricultural and "C" Conservation District in Election District 14

BASIS: Article 6, Section 6.3(b); Article 17, Section 17.2; Ordinance 1E (The Carroll County Zoning Ordinance)

The Board of Zoning Appeals (hereinafter "the Board"), held hearings on March 27, 1998 and April 27, 1998 on the request of Mr. Edward Primoff to amend one of the conditions imposed in Case 4247 authorizing a private airport at 7201 Old Washington Road on property zoned "A" Agricultural and "C" Conservation District. This request is to modify condition number 4 of that decision restricting the number of flights permitted per year to 40. The applicant seeks to have approval for an unlimited number.

The land, use, adjoining property owners and applicant are the same as those in Case 4247. The difference between these two cases is that the airstrip has been constructed, and the composition of the Board has changed.¹

The application to modify the condition restricting the number of flights is due in part to the applicant underestimating the number of flights anticipated. Mr. Primoff noted that when presenting the initial request to the Board, he did not give the matter due consideration. His wife is also a licensed pilot and may wish to utilize the airstrip. In addition, having the plane close at hand may afford him more opportunities to fly.

During the hearing the applicant sought to introduce evidence of the minimal noise his operation would produce with an unrestricted number of flights. The applicant testified that a

¹At the first hearing, Mr. Ronald Hoff was in attendance in Mr. Hoby Wolf's absence. Mr. Wolf participated in this hearing.

single engine piston powered airplane at a distance produces less noise than the average street traffic or 63 DBA. Steve Brown, Manager of Carroll County Airport, testified that the Federal Aviation Administration advises its airport managers to purchase noise easements from adjoining property owners when the airport produces an average noise level over a 24 hour period of 65 LDN or more. Mr. Brown further testified that the airplanes Mr. Primoff owns would never reach that level.

The Board in considering this request is required to consider those items enumerated in Section 17.7 of the ordinance, wherein it states in part;

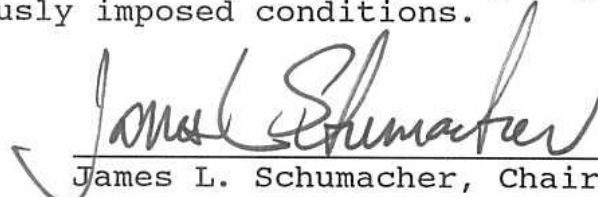
"The application for a conditional use shall not be approved where the Board finds the proposed use would adversely affect the public health, safety, security, morals or general welfare, or would result in dangerous conditions or would jeopardize the lives or property of people living in the neighborhood."

Among the matters the Board is to consider is "(T)he effect of the proposed use upon the peaceful enjoyment of people in their homes." (Section 17.7 of Ordinance 1E, Paragraph (d).) A significant number of people testified in the first case that the noise from the planes is excessive and would adversely influence the peaceful enjoyment of their homes and property. The right of people to peacefully enjoy their homes and property may be impaired by noise levels less than those levels requiring the acquisition of an easement.

The applicant correctly notes that zoning regulations are not to be used as a plebescite. Nevertheless, what is a pleasant sound to one person may be offensive to another. In weighing the different interests, the Board finds that an acceptable limit for the number of flights to be 120 flights a year. This number would not adversely affect the adjoining property owners from the peaceful enjoyment of their property while still affording the applicant the right to use his land as an airstrip.

By a vote of 2-1, the Board approves the request to modify the restriction of the number of flights to 120 flights per year, subject to all the other previously imposed conditions.

May 21, 1998
Date


James L. Schumacher, Chairman

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May 21, 1998