

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY MARYLAND

APPLICANTS: Thomas Friedhoff and Jennifer Friedhoff
3612 Marguerite Court
Mount Airy, Maryland 21771

REQUESTS: Variances reducing the minimum required lot area of 5 acres to 1.353 acres, and the minimum distance requirements of 200 feet pertaining to the use of an agricultural barn.

LOCATION: 3612 Marguerite Court in Election District 13; Ridgely Estates subdivision, Plat E, lot 28 recorded in Carroll County Plat Records in Book 26, page 203 and 204.

BASES: Article 5, Sections 5.1(a) and 5.5; Article 4, Section 4.12; Article 15, Section 15.5; Zoning Ordinance 1E.

HEARING HELD: June 1, 1988

FINDINGS AND CONCLUSION

Based on the application, testimony and evidence comprising the record of this case, the Board hereby denies the requested variances for reduction of the minimum required lot area, and the minimum distance requirements pertaining to the use of an agricultural barn. The pertinent findings dictating the denial of the requested variances include the following facts:

The property is located within a residential subdivision now zoned "'C" Conservation District as shown on zoning maps 65B and 66A. The tract of land from which the subdivision was created was originally zoned "A" Agricultural District as shown on zoning maps 32 and 33 originally adopted with the zoning ordinance on August 17, 1965. The property, identified as lot 28, has an area of 1.353 acres and a width at the mid-points of the side property lines of about 210 feet. Adjoining and confronting lots are improved, or intended to be improved with dwellings. The applicant testified that the property was purchased in September 1985, with occupancy of the dwelling in March 1986. The horses were brought to the premises in March 1987. The applicant testified that upon making inquiry, supposedly to the county, he was indirectly advised that temporary structures did not require

building permits or zoning certificates. The applicant, presumably relying on the incorrect advice that permits were not required, proceeded with construction of the building without a building permit and zoning certificate in violation of the Carroll County Building Code and Zoning Ordinance. The structure used to provide shelter for three horses is located in the rear yard, 51 feet from the northwesterly side property line, and less than 159 feet from the southeasterly side property line. About half of the rear yard is used for residential purposes, with the majority of the remainder used for the horses. The applicant testified that adjoining acreage, which he has fenced, is leased in conjunction with maintaining the horses. No documentation of the lease agreement was presented.

Residents within the subdivision oppose the variance requests indicating:

1. Reliance on the provisions of the zoning ordinance to protect their interests in the use of their respective properties, and to conserve their residential property values.
2. Adverse affects from odors and insects on the adjacent residents in the peaceful enjoyment of their properties.
3. Maintaining the horses and agricultural barn on the premises are not appropriate uses of the residential property, and are not compatible with the adjacent residences.

Provisions of the zoning ordinance governing the requests include Article 20, Section 20.39 and Article 15, Sections 15.0 and 15.5, which read respectively:

"A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the results of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship."

"The regulations specified in this ordinance shall be subject to the following exceptions, modifications, and interpretations."

"The Board may authorize, upon appeal, in accordance with Section 17.2, variances from height, lot area, lot width, yard regulations, parking space requirements, sign regulations, and distance requirements specified in Section 4.12 and Section 14.31(c)4. The Board may grant such variance only in cases where the strict compliance with the terms of this ordinance would result in practical difficulty and unreasonable hardship, and only if in a manner so as to grant relief without substantial injury to public health, safety and general welfare."

The Board finds no evidence of practical difficulty and unreasonable hardship regarding the use of the residential lot which would warrant authorization of the variances. In fact, it is evident that the requests result solely from the applicant's own actions, and are strictly a matter of convenience in the use of the property. Accordingly, the requests are without merit and must be, and are hereby denied.

June 13, 1988
Date

John Totura
John Totura, Chairman