

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Marc H. Seidler
3200 Jeffrey Lori Drive
Finksburg, Maryland 21048

REQUEST: A variance reducing the minimum building line of 60 feet to about 35 feet for an existing storage shed.

LOCATION: 3200 Jeffrey Lori Drive in Election District 4; Charolais Acres subdivision, lot 15 recorded in Carroll County Plat Records in Book 27, page 193.

BASES: Article 66B, Section 5.04, Annotated Code of Maryland; Article 15, Section 15.5; Ordinance 1E.

HEARING HELD: December 9, 1988

On October 26, 1988 the Board of Zoning Appeals heard testimony and received evidence concerning the Application for Hearing requesting a variance to reduce the minimum building line of 60 feet to about 35 feet for an existing storage shed at 3200 Jeffrey Lori Drive. Based on the record of this case, the Board denies the request.

The application, testimony and evidence comprising the record in this case are hereby included by reference in this decision. The pertinent findings are as follows:

FINDINGS OF FACTS

The 3.0046 acre property, identified as lot 15 of Charolais Acres subdivision, is located at the southwest corner of Kays Mill Road and Jeffrey Lori Drive intersection. The subdivision plat is recorded in the Carroll County plat records in Plat Book 27, page 193. The owner and applicant, Mr. Seidler, testified that in planning for the establishment of the shed, he contacted the county permits department by telephone concerning regulations governing sheds and was advised that sheds placed on gravel need only be 15 feet from the adjoining properties and 10 feet from county roads. As his only previous experience regarding permits involved an addition of a deck to his home, he expected the procedure to be similar for the shed. Mr. Seidler then constructed the frame to contain the gravel base, installed the gravel base, and applied for the permit on July 7, 1988 about 2 weeks before scheduled delivery of the shed. At the time of application, he stated that personnel in the permits department advised him again of the same requirements. Mr. Seidler stressed that he was not

advised of any zoning requirements, or that he should check with the Zoning Office regarding the permit. The shed arrived about 5 days before the scheduled delivery date. On the same day he received notice by mail that the building permit was delayed. The notice requested him to contact the office of the Zoning Administrator at his earliest convenience. In the belief that the proposed location of the shed complied with the requirements, Mr. Seidler decided to have the shed placed on the prepared gravel base.

As depicted on the Location Survey of the dwelling on the property, dated January 12, 1987 and filed with both this application and Permit Application and Zoning Certificate #88-2312, the minimum building line as measured from the front property lines abutting Kays Mill Road and Jeffrey Lori Drive is 60 feet. The plot plan submitted with the permit application shows the 12 feet by 24 feet shed to be located completely between the minimum building line and the front property line, which is also the right-of-way line for Kays Mill Road. No dimension, or distance is noted on the plot plan establishing the actual distance the shed is now located from the property line. However, Mr. Seidler testified that the shed is located more than 10 feet from Kays Mill Road, and inside the property line as indicated by the (utility) pole which Mr. Seidler believes to be located on, or next to the property line. From Mr. Seidler's testimony regarding County improvements to Kays Mill Road, including construction of the shoulder and drainage ditch, it seems that he may not understand where the property line of lot 15 is relative to Kays Mill Road.

Mr. Seidler alleged that placement of the shed on the lot in compliance with the minimum requirements is restricted because of a drainage and utility easement located in the rear yard; nearly half an acre in the rear yard is "...almost swampy everytime it rains."; and, placement of the shed in the rear yard would be detrimental to the aesthetics of the property. In addition, even though the shed can be moved, it would be very expensive. The Location Survey of the property shows drainage and utility easements paralleling the southerly and westerly property lines, and another easement crossing the southwesterly portion of the lot connecting the aforesaid easements. As evidenced by the Location Survey, the drainage and utility easements do not substantially

affect placement of the shed in compliance with the minimum requirements.

No documentation was submitted regarding slow or impeded surface drainage of storm water which would adversely affect placement of the shed in compliance with the minimum requirements, or estimates of costs to relocate the shed to abate the violation. Incidentally, Permit Application and Zoning Certificate #88-2312 was signed by Lauren Seidler, not Mr. Seidler, and fails to indicate that there was intention to provide electrical service to the shed.

APPLICABLE LAW

As indicated on the Permit Application and Zoning Certificate, the property is zoned "R-40,000" Residence District. The land use provisions for that district are stated in Article 5C of the Carroll County Zoning Ordinance (Ordinance 1E). Section 5C.5, Lot area, lot width and yard requirements specifies that the minimum required front yard depth for dwellings is 60 feet. The shed, as an accessory use to the dwelling, is subject to the minimum requirements governing dwellings.

Article 20, Definition: Article 20.25, Lot reads:

"A piece or parcel of land occupied or intended to be occupied by a principal building and its accessory buildings and uses, including all open spaces required by this ordinance, and having frontage on a street as defined herein."

(b), Lot frontage (amended 2-15-68) states:

"The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as required herein, except that not more than one rear yard shall be required."

Thus, the minimum required yard depth of 60 feet as specified in Section 5C.5 of Ordinance 1E coincides with the minimum building line of 60 feet shown on the Location Survey of the dwelling, which was submitted as the Plot Plan for the shed.

Article 20, Definitions: Section 20.39, Variance specifies:

"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."

Article 15, Exceptions and Modifications; Section 15.0, Generally, states:

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

Section 15.5, Variance reads in part:

"...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 strict harmony with the spirit and intent of such regulations and only in a manner so as to grant relief without substantial injury to public health, safety and general welfare."

REASONING

The shed is an accessory use to the principal permitted dwelling. The minimum building line is applicable to both principal permitted and accessory uses. The responsibility for establishment of the shed on the property in violation of the minimum building line rests solely with the applicant. There is no probative evidence of practical difficulty and unreasonable hardship in the use of the property which would justify authorization of the variance. As the shed can be located on the property in compliance with minimum requirements, this request is essentially a matter of convenience to the applicant.

CONCLUSION

The requested variance is without merit, and is hereby denied.

Dec. 9, 1988

John Totura
John Totura, Chairman