

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Michelle Harford
416 Sycamore Avenue
Westminster, Maryland 21157

REQUEST: A variance reducing the minimum required front yard of sixty-five feet as measured from the center line of Old Baltimore Road to thirty-four feet and from thirty-five feet to nineteen feet as measured from the property line for an addition to the existing dwelling

LOCATION: 416 Sycamore Avenue in Election District 7; Buckingham View subdivision, Block B, lots 54, 55 and 56 recorded in Carroll County Plat Records in Plat Book 2, page 15.

BASES: Article 4, Section 4.12; Article 8, Section 8.5; Article 15, Section 15.5; Ordinance 1E.

HEARING HELD: January 26, 1989

On January 26, 1989, the Board of Zoning Appeals heard testimony and received evidence concerning the variance request. Based on the record of this case, the request will be **denied**. The application, testimony and evidence comprising the record of this case are hereby included by reference in this decision. The pertinent findings include the following:

FINDINGS OF FACTS

The property, consisting of lots 54, 55 and 56 of Block B is part of a long established residential subdivision known as Buckingham View which was recorded in the Carroll County Plat Records in Plat Book L.D.M. 2, page 15 prior to the adoption of the Carroll County Zoning Ordinance (Ordinance 1E). The property is located on the southwest corner of Sycamore Avenue and Old Baltimore Road intersection. Neither the lots nor the width of the street rights of way conform to existing standards. The existing single family dwelling located on the premises was constructed sometime in the past.

The applicant, Mrs. Harford, purchased the single family dwelling about three years ago. Mr. and Mrs. Harford now propose to enlarge the dwelling by constructing a one story addition, 15 feet in width by 24 feet in length, to be attached to the architectural side of the dwelling fronting on Old Baltimore Road. The architectural front of the dwelling is oriented to Sycamore Avenue and the set back exceeds the minimum front yard requirement. As shown by the plot plan (location survey) filed with the application, the existing dwelling is located 34.5 plus or minus feet from the front property line abutting Old Baltimore Road, slightly less than the minimum requirement of 35 feet. (Article 8, Section 8.5, Ordinance 1E). As also depicted by the plot plan, the location of the dwelling is apparently 49.5 feet from the center line of Old Baltimore Road. (34.5 feet plus half of the right of way with a 30 feet equals 49.5 feet). With the proposed addition, the front yard would be reduced to 19.5 feet to the property line, and the set back from the center line of the road would be 34.5 feet.

In presenting the request to the Board, Mrs. Harford indicated that the enlargement would not be harmful to the community and would provide additional living space at substantially less cost than buying another home. An analysis of the economics involved prepared by a realtor, and three statements prepared by Mrs. Harford and signed by adjacent property owners were submitted in support of the request. (Applicant's Exhibits 1 and 2a, b, c).

One opponent of the requested variances expressed concern regarding the potential affects of the proposed addition upon possible improvements, including realignment of Old Baltimore Road which would adversely affect properties on the north side of Old Baltimore Road. A second opponent noted that the homes in the community were set back uniformly, reduction of the minimum front yard requirements would be contrary and detrimental to the character of the community, and the request was simply a matter of convenience to the applicant with no evidence of practical difficulty and unreasonable hardship in the use of the property necessary to justify authorization.

APPLICABLE LAW

The site and surrounding properties are zoned "R-10,000" Residence District as shown on zoning map 46A. The land use provisions as stated in Article 8, Section 8.5 of Ordinance 1E require a minimum front yard of 35 feet. The site conforms with the definitions of Article 20, Section 20.25 of the zoning ordinance regarding a corner lot which specifies that, "...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." As the right of way width of Old Baltimore Road is noted as 30 feet on the location survey, and is presumed to be correct, the provisions of Article 4, Section 4.16 of Ordinance 1E apply. In this case, an additional 30 feet for the right of way width of Old Baltimore Road was added to the minimum required front yard of 35 feet, establishing a minimum required set back of 65 feet from the center line of the road. The variances proposing reduction of the minimum required front yard and set back from the center line of Old Baltimore Road were processed accordingly for public hearing.

Variance is defined in Article 20, Section 20.39 of the ordinance as:

"...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."

In considering the request, the Board is governed by the provisions of Article 15, Sections 15.0 and 15.5; and, Article 17, Section 17.7 (amended July 12, 1988) of Ordinance 1E. 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 (amended through February 25, 1976) 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."

Section 17.7, Limitations, Guides and Standards, provides direction to the Board in considering and deciding requests. Factors that must be considered include:

- "(b) The orderly growth of the community.", and
- "(e) The conservation of property values."

REASONING

The residential subdivision plat was recorded in a number of years prior to the adoption of Ordinance 1E in 1965. The dwelling was constructed sometime after the subdivision plat was recorded and has apparently been used for residential purposes without conflict with the minimum front yard requirements until now. The record reveals no evidence of circumstances inherent with the use of the property that would justify reduction of the minimum front yard requirements.

CONCLUSION

There is no evidence of practical difficulty and unreasonable hardship in the use of this property. Nor can the proposed reduction be considered to be in accordance with the purpose of the Zoning Ordinance, including the orderly growth of the community and conservation of property values. Therefore the requested variances are hereby **denied**.

Feb. 10, 1989
Date

John Totura
John Totura, Chairman