

Case 3192

OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND

APPLICANT: George S. Hoke, Jr.  
3266 Eckard Road  
Westminster, Maryland 21157

REQUEST: A variance reducing the minimum required lot area of 1 acre to allow a second dwelling unit within the existing dwelling.

LOCATION: 2019 Fridinger Mill Road; DeVage Manor subdivision recorded in Carroll County Plat Records in Book 25, Page 103; District 6.

BASES: Article 6, Sections 6.2(d) and 6.7; Article 15, Section 15.5; Ordinance 1E.

HEARING HELD: June 28, 1989

On June 28, 1989, the Board of Zoning Appeals heard testimony and received evidence concerning a variance request to reduce the minimum required lot area of 1 acre to allow a second dwelling unit within the existing dwelling at 2019 Fridinger Mill Road. The property is further identified as lot 1 of the DeVage Manor subdivision recorded in the Carroll County plat records in platbook 25, page 103. The application, testimony and evidence comprising the record of this case are hereby included by reference in this decision. Based on the record the Board will deny the requested variance. The pertinent findings dictating denial of the variance include the following facts.

FINDINGS OF FACT

The applicant's lot is located on the southerly side of Fridinger Mill Road about 1,700 feet east of Albert Rill Road. In Case 1897 the Board in its written decision of December 13, 1982, authorized variances reducing the minimum required lot area of 1 acre to about 40,000 square feet and the minimum required lot

width of 150 feet to about 120 feet. The authorizations effectively allowed the applicant in that case, Mr. Arvil D. DeVage, Jr. to obtain approval of the lot by the Carroll County Planning and Zoning Commission in accordance with the subdivision regulations and record the lot in the plat records of the county. The existing, 26 feet by 44 feet split foyer, single family dwelling was subsequently constructed.

The present owner and applicant in this case, Mr. George S. Hoke, Jr., now proposes to establish a second dwelling unit within the basement, or lower level of the split foyer designed dwelling. The upper level of the dwelling is rented. Other than constructing a new entrance in the architectural rear wall of the dwelling and establishing two additional parking spaces for the proposed dwelling unit, no exterior changes of the existing dwelling are planned.

#### APPLICABLE LAW

The property is zoned "A" Agricultural District as shown on zoning map 23 A. The land use provisions of the agricultural district are specified in Article 6 of Ordinance 1E, and provide for single and two-family dwellings subject to a minimum required lot area of 1 acre and a minimum required lot width of 150 feet. (Sections 6.2(d) and 6.7.)

Article 20, Section 20.39 of Ordinance 1E defines a variance 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."

Article 15, Exceptions and Modifications, Section 15.0, Generally; and, Section 15.5, Variance, read respectively:

"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 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."

In accordance with the provisions of Article 17, Section 17.4.9. the Board extended the period of time to issue this decision.

#### REASONING

Authorization of the variances requested in Case 1897 reducing the minimum required lot area and lot width were considered reasonable and necessary in order that the illegally transferred parcel could be used as a building lot for construction of a single family dwelling. Without the authorization, the lot could not have been used for construction of a dwelling, which would have resulted in practical difficulty and unreasonable hardship to the owner and applicant.

Now, conversion of the single family dwelling into a two-family dwelling represents a substantial change in the use of the property, as well as the dwelling which was designed and constructed solely for single family use. Such changes were not contemplated or requested in Case 1897.

The issue of practical difficult and unreasonable hardship that prevailed in Case 1897 is no longer a factor in the use of this property. Therefore, this request is essentially a matter of convenience to the applicant, and is without justification.

CONCLUSION

The request is without merit and is hereby denied.

Aug. 16, 1989

Date

John Totura  
John Totura, Chairman