

Case 3204

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANTS: Merle B. Barnes and Jane E. Barnes
4563 Cherry Tree Lane
Sykesville, Maryland 21784

ATTORNEY: Charles D. Hollman, Esq.
189 East Main Street
Westminster, Maryland 21157

REQUEST: A conditional use for a garden supply center, and
variances pertaining thereto.

LOCATION: 4044 Sykesville Road (Md. Rt. 32) in Election
District 4.

BASES: Article 6, Sections 6.3(q) and 6.7; Article 15,
Section 15.5; Ordinance 1E.

HEARING HELD: June 27, 1989

On June 27, 1989, the Board of Zoning Appeals heard testimony and received evidence concerning a conditional use request for the establishment of a garden supply center, and variances to the minimum requirements governing the center. 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 authorize the requests except for the minimum required side yard, subject to the conditions of authorization specified below. The pertinent findings include the following facts:

FINDINGS

In its written decision in Case 1992 dated August 4, 1983, the Board conditionally authorized enlargement of the then existing tire service shop, classified as a nonconforming use, and conversion of apartment space on the second floor into office space. The enlargement of the tire shop was not pursued, and the authorization is now void for that reason. However, the construction necessary for the conversion of the apartment into office space was accomplished and the office was occupied by the owner and applicant, Mr. Barnes in operating his home building business. Contrary to the notation on the site plan, Applicants' Exhibit 1, the authorization of the office space in Case 1992 was

not restricted to professional offices. However, the intent, although not expressed, was that the office space was solely for Mr. Barnes' use. As noted on Applicants' Exhibit 1, the floor area of the second floor office, is 1,340 square feet.

The 2.112 acre site is zoned "A" Agricultural District as shown on zoning map 64A. The land use provisions for that district are stated in Article 6 of the Carroll County Zoning Ordinance (Ordinance 1E). Section 6.3, Conditional uses (requiring Board authorization), paragraph (q) specifies:

"Garden supply centers, including the sale of small or light garden supplies, equipment and tools customary and incidental to the sale of garden plants and nursery stock; and including the sale of woodburning stoves, fireplaces and their accessories. (Amended 4-17-79)"

The existing building does not conform with the minimum required front and northerly side yard setback requirements for conditional uses as specified in Section 6.7, Lot area, lot width and yard requirements of Ordinance 1E. For purposes of clarification, the minimum requirements for the garden supply center are:

Lot area	-	3 acres
Lot width	-	200 feet
Front yard (setback)	-	40 feet
Side yard (setbacks)	-	30 feet
Rear yard (setback)	-	50 feet

The necessary variances pertaining to the garden supply center are:

Lot area from 3 acres to 2.112 acres as presently existing
Lot width from 200 feet to 148.6 feet as presently existing
Front yard (setback) from 40 feet to 27 feet as presently existing
Side yard (setback) (northerly side) from 30 feet to 22 feet for the building as presently existing

Applicants' Exhibit 1 shows an existing stockade enclosure (used to store discarded tires, junk, and trash before removal from the premises) less than 10 feet to the northerly side property line, and the proposed outdoor storage area 10 feet from the property line. The outdoor storage area is depicted as about 27 feet from the southerly side property line. An existing driveway located in the northerly side yard between the front and rear yards is not shown on the site plan.

APPLICABLE LAW

As this case involves variances, as well as the conditional use, the provisions of Article 17, Sections 17.2 (c) and 17.7 of Ordinances 1E are applicable.

Section 17.2 (c) reads:

"The Board shall have the following powers:"

"(c) To authorize, upon appeal in special cases, such variance from the terms of the ordinance as will not be contrary to the public interest, where owing to special conditions, the enforcement of the provisions of this ordinance will result in unwarranted hardship or injustice and which will most nearly accomplish the purpose and intent of the regulations of the Zoning Ordinance."

In addition, Article 15, Sections 15.0 and 15.5 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 of Ordinance 1E, the Board extended the time to issue this decision.

For purposes of brevity, Section 17.7 will not be quoted. Nonetheless, the provision governs the Board in considering conditional use applications.

REASONING

In considering the history of the property as a nonconforming use in the "A" Agricultural District, the Board finds that the proposed garden supply center, as conditionally authorized below, is a more appropriate use of the property than the tire shop, and will not unduly affect the adjoining properties or public interest. In conjunction with the conditional use, authorization of the variances to the minimum requirements, as noted above and subject to the conditions of authorization noted below, is also appropriate. Nevertheless, care must be exercised to minimize potential adverse affects upon nearby residents, the property values of adjacent residential properties, and vehicular traffic safety of Sykesville Road (Md. Rt. 32).

In keeping with the objective of minimizing adverse affects, the Board will not authorize reduction of the minimum required side yards of 30 feet for either the stockade enclosure or the proposed outdoor storage area. This will require either removal of the stockade enclosure from the premises or its relocation within the outdoor storage area not closer than 30 feet to a side property line, and reduction of the width of the outdoor storage area to refrain from encroaching into the minimum required side yards. The outdoor storage area may be extended westerly toward the rear property line to compensate for the reduction in width.

In addition, the Board will order that the use of the vehicular driveway now located on the northerly side of the building providing access between the front and rear yards cease and the driveway be permanently closed; and, that the tire shop garage facilities and equipment be removed from the premises and use of the premises for garage purposes cease.

As the northerly driveway and tire shop garage are to be closed, channelization of the frontage of the lot, i.e., curb and gutter to promote traffic safety, and location of a single commercial entrance to Sykesville Road adjacent to the southerly side property line are appropriate.

CONCLUSION

Based on the record of this case, the Board hereby authorizes the conditional use and variances pertaining thereto, except for reduction of the minimum required side yards of 30 feet for other than the existing building.

In order to promote the intent and purpose of the Carroll County Zoning Ordinance, the Board hereby imposes the following conditions of authorization:

1. Authorizations of the conditional use and variances for the garden supply center are contingent upon the

permanent cessation of the tire shop and tire shop garage.

2. The garage facilities and equipment shall be removed from the premises.
3. Use of the driveway located on the northerly side of the building providing vehicular access between the front and rear yards shall cease and the driveway shall be permanently closed.
4. A single commercial entrance, providing ingress and egress, to Sykesville Road (Md. Rt. 32) shall be located adjacent to the southerly side property line. No other access entrance shall be authorized. The commercial entrance, including channelization of the entire frontage of the lot to preclude access other than at the southerly entrance shall be subject to the approval of the Engineering Access Permits Division of the State Highway Administration, including application for and issuance of an Access Permit.
5. Establishment of the garden supply center shall be subject to submission and approval of a commercial site development plan and landscaping plan, including compliance with the conditions of authorization.

Aug. 18, 1989
Date

John Totura
John Totura, Chairman