

Case 3231

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Judd F. Shepard, II
14807 Hanover Pike
Upperco, Maryland 21155

AGENT: Kidde Consultants, Inc.
439 East Main Street
Westminster, Maryland 21157

REQUEST: A variance reducing one minimum required side yard
of 30 feet to 15 feet for a proposed warehouse
(See below for actual use)

LOCATION: 2950 Finksburg Industrial Park Drive in Election
District 4; Finksburg Industrial Park subdivision,
Lot D of Amended Plat C-1, Revised Parcel B-2
recorded in Carroll County plat records in book
18, page 31

BASES: Article 12, Section 12.5; Article 15, Section
15.5; Ordinance 1E

HEARING HELD: August 24, 1989

FINDINGS AND CONCLUSION

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 facts:

The Board of Zoning Appeals authorized establishment of a contractor's equipment and storage yard as a conditional use and a variance to the distance requirements pertaining thereto in its written decision in Case 1226 dated November 9, 1977. In authorizing the requests, the Board imposed the following condition:

- "1. The applicant is directed to prepare a landscaping site plan, including shrubs, and trees, and to present the plan to the Zoning Administrator for review and approval. Standard planting procedures shall be followed, however, completion of the plan shall be accomplished within one (1) year of the date of this decision."

No evidence was introduced substantiating compliance with the condition of authorization.

Item 3 of the Board's findings in Case 1226 states:

- "3. The testimony indicated that the major use of the property will be a principal permitted use which does not require the Board's authorization. The conditional use request involves the storage of the equipment that will be used in the rough and final grading of lawns. Such equipment will be parked, or stored on the property in such a manner as to minimize any affect upon the adjoining properties."

The extent of the authorization of the conditional use for the contractor's equipment and storage yard is based on the testimony and evidence presented to the Board during the public hearing of Case 1226, as stated in the finding above. The conditional authorization is limited accordingly. Use of the property contrary to the testimony and evidence comprising the record of Case 1226, except as permitted by the zoning ordinance, would constitute a violation of the Board's decision.

In the present case, the use of the proposed building is classified as a service establishment, which is a principal permitted use in the "I-R" Restricted Industrial District. [Article 12, Section 12.1(b) of Ordinance 1E.] Contrary to the description of the proposed use of the building entered on the application to the Board, the use will not involve warehousing.

The issue now before the Board is limited solely to the variance reducing the minimum required side yard of 30 feet to 15 feet. The reduction is requested in order to provide adequate maneuvering space between existing improvements and the proposed building for large specialized trucks. Location of the proposed building is restricted by the on-site sewerage disposal system, the area reserved for replacement systems, and the necessity to preserve space for vehicular access to the existing building.

Accordingly, the Board hereby **authorizes** the requested variance.

The applicant's attention is directed to Article 4, Section 4.23, and to Article 10, Section 10.4(d) of Ordinance 1E, both of which are applicable to the proposed building and property.

Sept. 12, 1989
Date

John Totura
John Totura, Chairman