

Tax Map/Block/Parcel  
No. 69-22-87

Building Permit/Zoning  
Certificate No. 88-0433

Case 3312

**OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND**

**APPLICANTS:** John S. Brunnett and Helen A. Brunnett  
5780 Oakland Road  
Sykesville, Maryland 21784

**ATTORNEYS:** C. Rogers Hall, Jr., Esquire  
David Kartalia, Esquire  
2 North Court Street  
P.O. Box 850  
Westminster, Maryland 21157

**REQUEST:** An appeal of the decision of the Chief of Zoning Enforcement dated November 13, 1989, pertaining to Building Permit and Zoning Certificate 88-0433 for a pole shed

**LOCATION:** 5780 Oakland Road in Election District 5

**BASIS:** Article 17, Section 17.4; Ordinance 1E (The Carroll County Zoning Ordinance)

**HEARING HELD:** January 23, 1990

On January 23, 1990, the Board of Zoning Appeals heard testimony and received evidence concerning the appeal of the decision of the Chief of Zoning Enforcement dated November 13, 1989, pertaining to Building Permit and Zoning Certificate 88-0433 for a pole shed on the premises of 5780 Oakland Road. Mr. Kartalia appeared before the Board as counsel for Mr. and Mrs. Brunnett.

The Board visited the site on January 19, 1990, prior to the public hearing.

The appeal, testimony and evidence comprising the record of this case are hereby included by reference in this decision. Based on the record, the Board will affirm the appeal and dismiss the revocation of the Certificate of Use and Occupancy for permit 88-0433. The pertinent findings of the Board determining the decision include the following facts.

**FINDINGS OF FACT**

This case arises from a Permit Application and Zoning Certificate filed February 24, 1988, for a pole shed, 20 feet by 48 feet, to be constructed on property at 5780 Oakland Road. The zoning

office approved the zoning certificate on February 26, 1988, subject to the removal of two garage buildings as noted on the plot plans submitted with the application. The pole shed was subsequently erected, but the two garage buildings were not removed. Thereafter, the failure to remove the two garage buildings was held to be a zoning violation.

The Zoning Administrator, and Mr. and Mrs. Brunnett now disagree regarding why the garages were to be removed. Mr. Brunnett testified that he intended to erase the note when he was correcting the location of the pole shed and new driveway on the plot plan, but that he failed to do so. In addition, neither the Permit Application nor the accompanying plot plan correctly depicted the property as two lots improved with a semi-detached two-family dwelling and individual detached garage buildings.

As indicated by a copy of Mr. and Mrs. Brunnett's deed, Appellants' Exhibit 1, the lots were created prior to the adoption of the Carroll County Zoning Ordinance on August 17, 1965. Apparently, the semi-detached two-family dwelling was also constructed before adoption of the ordinance.

As stated on the permit issued on February 26, 1988, special conditions governing the shed prohibit its use commercially, for living quarters, or for animals. The Certificate of Use and Occupancy, which was issued in error for reason that the garage buildings had not been removed as noted on the plot plan submitted with the application, also stated the special conditions.

In a letter dated June 9, 1989, the Zoning Administrator advised Mr. and Mrs. Brunnett that the storage of farm equipment listed in their letter of May 31, 1989, on the property would be permitted in conjunction with farming of other land in the county.

As stated by Mr. James Douglas Brunnett, son of Mr. and Mrs. Brunnett, the pole shed was constructed for the storage of tractors. Presently, three farm tractors, and antique truck, a mud bog tractor under construction, and parts are stored in the shed.

Concerns expressed by adjacent residents including permitting another pole shed, maintaining junk on the properties, and noise were not elements of the decision of the Chief of Zoning Enforcement revoking the Certificate of Use and Occupancy for permit 88-0433. This case is limited to the appeal of that decision as filed by Mr. and Mrs. Brunnett.

APPLICABLE LAW

The properties in this case are zoned "R-20,000" Residence District as shown on zoning map 69B. Neither the two-family dwelling, nor lots conform with the land use provisions (a two-family dwelling) and dimensional regulations (front yard setback and lot widths) for the "R-20,000" Residence District as stated in Article 7 of the Carroll County Zoning Ordinance, and are therefore classified as nonconforming uses.

Article 4, Section 4.3(a)(2) of the ordinance states:

Where an existing single or two family dwelling is classified as a nonconforming use because of dimensional regulations of the zoning district in which it is located, the Zoning Administrator may approve the structural alteration, or enlargement, of such a dwelling if the structural alteration, or enlargement will not project further into a substandard yard than the existing dwelling; provided that such structural alteration, or enlargement, will not alter the existing use of the dwelling, and subject to written confirmation from the appropriate agencies to the Zoning Administrator that the structural alteration or enlargement will not conflict with future construction on a State or County road. This provision shall not apply to mobile homes.

As depicted by the plot plan, the relocation of the pole shed exceeds the minimum side yard requirement of 5 feet for accessory buildings, as regulated by Article 15, Section 15.2(b), and is not so located as to conflict with either a state or county road.

In accordance with the provisions of Article 17, Section 17.4.10 of Ordinance 1E, the Board extended the time for issuing this decision.

REASONING

If the permit application and plot plan had correctly identified the property as separate lots improved with a semi-detached two-family dwelling with detached garages on each lot, and the note stating that the garages were to be removed had been erased, it is likely that this case would not be before the Board.

Each dwelling is entitled to a garage as a customary incidental accessory use. In addition, and as determined by the Zoning Administrator, farm equipment may be stored on the property in conjunction with farming of other land in the county.

Decision  
Page 4 of 4 pages

Accordingly, the pole shed is considered to be an accessory use, and incidental to the storage of farm equipment on the property.

CONCLUSION

Therefore, the Board hereby affirms the appeal of Mr. and Mrs. Brunnett from the decision of the Chief of Zoning Enforcement pertaining to Building Permit and Zoning Certificate 88-0433 for the pole shed, and dismisses the revocation of the Certificate of Use and Occupancy for permit 88-0433.

Mar. 5, 1990  
Date

JDN/bmb/C3312dec  
March 2, 1990

John Totura  
John Totura, Chairman