

Tax Map/Block/Parcel  
No. 76-18-198

Building Permit/Zoning  
Certificate No. 90-3564

Case 3467

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

**APPLICANT:** Mr. Steven L. Embrey  
2111 Flag Marsh Road  
Mt. Airy, Maryland 21771

**REQUEST:** A variance reducing one minimum required side yard of 20 feet to about 14 feet for a proposed breezeway and garage to be attached to the existing dwelling

**LOCATION:** 2111 Flag Marsh Road in Election District 13.

**BASES:** Article 6, Section 6.7; Article 15, Section 15.5; Ordinance 1E. (The Carroll County Zoning Ordinance)

**HEARING HELD:** November 28, 1990

On November 28, 1990, the Board of Zoning Appeals heard testimony and received evidence concerning the request to reduce one minimum required side yard of 20 feet to about 14 feet for a proposed breezeway and garage to be attached to the existing dwelling at 2111 Flag Marsh Road.

The Board visited the site on November 21, 1990, prior to the public hearing.

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 must deny the request.

The pertinent findings determining the Board's decision include the following facts.

**FINDINGS OF FACT**

The 0.9660 of an acre lot is located on the south side of Flag Marsh Road, and is improved with a single family dwelling, 26 feet in depth by 56 feet in length.

Mr. Embrey proposes to construct an addition attached to the west side of the dwelling, consisting of a breezeway 6 feet in width and a garage of 26 feet by 26 feet.

As depicted by the plot plan submitted with the application, the existing side yard is approximately 46 feet. With the proposed construction, the side yard would be reduced to 14 feet.

As also depicted on the plot plan, the on-site sewerage disposal system is located to the rear of the dwelling. Although the system is within the rear yard, the record of this case does not substantiate that a detached garage could not be located at least 6 feet from the dwelling, totally within the rear yard, and 5 feet from the westerly side property line.

In considering the testimony and evidence, the Board finds no substantiation of limitations of the property which restrict its use, and would justify authorization of the variance.

APPLICABLE LAW

Articles and Sections cited below are of Ordinance 1E.

The property is zoned "A" Agricultural District as shown on zoning map 76B. The land use provisions for the district are specified in Article 6. Section 6.7 requires a minimum side yard of 20 feet for dwellings.

Article 20, Section 20.39, 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, Special Provisions; Sections 15.0, Generally, and 15.5, Variance, read respectively and in relevant part:

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...yard regulations....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.

Article 17, Board of Appeals; Section 17.2, General Powers, reads in relevant part:

The Board shall have the following powers:

- (c) To authorize, upon appeals 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 and injustice and which will most nearly accomplish the purpose and intent of the regulations of the zoning ordinance.

REASONING

There are several options available to Mr. Embrey for the addition of the attached garage that would not require a variance, presuming that the garage would not extend closer than 20 feet to the side property line. If the breezeway were eliminated, a garage of 26 feet in width, attached to the dwelling, could be constructed. Other options would be to reduce the combined width of the breezeway and garage to not more than 26 feet. A third possibility would be for a detached garage, as mentioned, at least 6 feet from the dwelling, wholly within the rear yard (not encroaching into the side yard), and not closer than 5 feet to the west side property line.

There is no evidence in this case which substantiates practical difficulty and unusual hardship in the use of the property which would justify authorization of the variance. To the contrary, the request simply represents a matter of convenience, and is without merit.

CONCLUSION

Accordingly, the Board hereby denies the requested variance.

Dec. 27, 1990  
Date

John Totura  
John Totura, Chairman

JDN/bdc/C3467DEC  
December 27, 1990