

Tax Map/Block/Parcel
No. 53-1-765

Building Permit/Zoning
Certificate No. 90-3535

Case 3468

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

APPLICANT: Mr. Glen A. Swain
1731 Old Taneytown Road
Westminster, Maryland 21157

REQUEST: A conditional use for an indoor shooting range within the existing building, and variances reducing the minimum required lot area, rear yard, and distance requirements pertaining thereto.

LOCATION: 1938 Bethel Road in Election District 4.

BASES: Article 11, Section 11.2(e); Article 10, Section 10.2(a); Article 6A, Sections 6A.2(v) and 6A.5; Article 4, Section 4.12; 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 for a conditional use for an indoor shooting range within the existing building, and variances reducing the minimum required lot area, rear yard, and distance requirements pertaining thereto at 1938 Bethel Road.

The Board visited the site 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 requests.

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

FINDINGS OF FACTS

The 1.716 acre site is located on the northwest side of Bethel Road about 800 feet northeast of Westminster Pike (Md. Rt. 140) intersection. It is improved with a building located 148 feet from the front property line, over 100 feet from each side property line, and 39 feet from the rear property line. The building was constructed sometime in the past, and has apparently been used for business purposes since then.

Initially, Mr. Swain proposes to establish 4 firing lanes, with the possibility of 4 additional lanes in the future. Shooting would be limited to fire arms using moderate velocity ammunition within the building. Safety training is contemplated with the potential of selling ammunition, accessory items, and firearms in association with operation of the range. Parking would be provided on the premises, and a business identification sign erected on the building.

Only rudimentary plans of the site and floor plan of the building were submitted. The plans do not provide sufficient information in order to comment upon noise that might affect adjoining properties, or public safety.

Testimony and evidence confirmed that there are a number of single family dwellings located within 500 feet of the property, and that the vehicle emissions testing center is located to the rear of the property.

APPLICABLE LAW

Articles and Sections cited below are of Ordinance 1E.

The property is zoned "B-G" General Business District as shown on zoning map 53A. The land use provisions for the district are specified in Article 11. Section 11.2(e) provides for conditional uses as regulated in the "B-L" Local Business District. Section 10.2(a) permits conditional uses as regulated in the agricultural district and transitional district, with listed exceptions. Sections 6A.2(v) and 6A.5 provide for firing ranges as a conditional use, and specify minimum lot area, width and yard requirements. Ranges are subject to 5 times the minimum distance requirements specified in Section 4.12, and to all safety standards of county, state, and federal agencies. Five times the minimum distance requirement is equal to 1,000 feet. In addition, the minimum required lot area is 3 acres, and the minimum required rear yard is 50 feet.

Article 4, General Provisions; Section 4.12, Distance Requirements (amended 7/5/77) reads in relevant part:

Any uses or buildings subject to compliance with this section shall be located at least 200 feet from:

- (b) any lot of less than 3 acres occupied or intended to be occupied by a dwelling not located on the same lot as the said use or buildings; or
- (d) the curtilage area within a lot of 3 or more acres improved by a dwelling.

Article 20, Section 20.39 defines 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; Sections 15.0, Generally, and 15.5, Variance, read 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... lot area,...yard regulations,...and distance requirements specified in Section 4.12....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:

- (b) to hear and decide conditional uses to the ordinance upon which such Board is required to pass.
- (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.

Section 17.7 governs the Board in considering conditional use requests.

REASONINGS

The issues in this case involve establishment of the indoor shooting range as a conditional use, and variances for reduction of the minimum required lot area, rear yard, and distance requirements.

Based on the record, the Board is convinced that use of the property, as proposed, would not contribute to the orderly growth of the community, and cannot be considered to be an appropriate use of the premises.

The request for reduction of the minimum lot area, rear yard, and distance requirements pertaining to the indoor shooting range can only be considered to be a matter of convenience for the applicant. There is no evidence of practical difficulty and unreasonable hardship in the use of the property that would warrant authorization of the variances. Accordingly, the variances must be denied.

As the site does not comply with the minimum requirements for the conditional use and the variances must be denied, the conditional use must be denied.

However, assuming that the site did comply with the minimum requirements, the request for the conditional use would have been denied because it is not an appropriate use of the premises, and it would not contribute to the orderly growth of the community.

CONCLUSION

Accordingly, the Board hereby denies the conditional use request and variances necessary for the establishment of the indoor shooting range.

Dec. 28, 1990
Date

John Totura
John Totura, Chairman