

Tax Map/Block/Parcel
No. 14-16-524

Building Permit/Zoning
Certificate No. 90-3717

Case 3478

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

APPLICANT: Candy Farrow Cole
4229 Hanover Pike
Manchester, Maryland 21102

REQUEST: An appeal of the Notice of Violation dated October 30, 1990, regarding operation of a business; and in the alternative, a conditional use for a commercial recreation center, including a mini golf course and small amusement arcade; and variances as may be necessary

LOCATION: 4231 Hanover Pike (Md. Rt. 30) in Election District 6

BASES: Article 6A, Sections 6A.2(u) and 6A.5; Article 10, Section 10.2(a); Article 12, Section 12.2(b); and Article 15, Section 15.5; Ordinance 1E.

HEARING HELD: January 4, 1991

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 conditional use for the commercial recreation center, including the miniature golf course and small amusement arcade; and, a variance to the minimum distance requirements pertaining to the commercial recreation center as requested. As Mrs. Cole did not pursue her appeal of the Notice of Violation, the appeal is dismissed without prejudice. The pertinent findings determining the Board's decision include the following facts.

FINDINGS OF FACT

The 3.88 acre property is located on the northeast side of Hanover Pike (Md. Rt. 30) about .25 of a mile northwest of Tracey's Mill Road intersection. In the past a cannery was located on the property, and later, an auction was operated there. More recently, the sale of produce was authorized. Presently, the area to the rear of the existing building in which the amusement arcade is proposed is used for storage of carnival and contractor's equipment. The dimensions of the single story building are 30 feet by 48 feet. A second building is also located to the rear of the first building. The miniature golf course and on-premises parking are planned in front of the proposed amusement arcade building. The existing fence to the

front and sides of the proposed miniature golf course is planned to be completed to enclose the course. The properties adjoining the area of the proposed miniature golf course are also owned by Mrs. Cole's father, Mr. Jerome F. Farrow.

The purpose of the amusement arcade and miniature golf course is to provide supervised entertainment for children's parties. Activities will include, but are not limited to pony rides, a moonwalk exercise facility, video games, and the miniature golf course. The video games are free play, and Mrs. Cole intends to acquire additional games for placement in the amusement arcade. These games will also be free play. The miniature golf course is not intended to be an elaborate commercial facility, but is planned to provide recreation with minimum permanent construction.

The zoning of the property is "B-L" Local Business District and "I-R" Restricted Industrial District as shown on zoning map 14B. The "B-L" Local Business District extends northeasterly from Hanover Pike to a point in front of the proposed amusement arcade building. The actual dimension of the "B-L" Local Business District, extending from the front property line to the "I-R" Restricted Industrial District, was not established with the record of this case, but it appears to be not more than 200 feet. The properties on the opposite side of the highway and adjoining the site to the north and south are also zoned "B-L" Local Business District. The proposed amusement arcade building is located within the area zoned "I-R" Restricted Industrial District.

The Articles and Sections cited hereafter are of Ordinance 1E.

The area where the miniature golf course is proposed is zoned "B-L" Local Business District. Uses allowed in the district include commercial recreation centers as regulated in the "T" Transitional District. (Article 6A, Sections 6A.2(u) and 6A.5.) The miniature golf course does not comply with the minimum distance requirements of Article 4, Section 4.12 pertaining to lots of less than 3 acres improved with dwellings.

The amusement arcade building is first allowed as a principal permitted use in the "B-L" Local Business District. (Article 10, Sections 10.1(k) and 10.6.) As provided by Article 12, Section 12.2(b), the use is allowed in the "I-R" Restricted Industrial District as a conditional use and complies with the minimum setback and yard requirements specified in Section 10.6.

The owner of adjoining property testified on behalf of Mrs. Cole, that the commercial recreation center had not adversely affected the adjoining properties in the past, and that the business was unique and needed in the community.

The provisions of both Article 10 and Article 12 require submission and approval of a site development plan. (Sections 10.4(d) and 12.6.) In addition, the use will be subject to the requirements of the Carroll County Landscape Manual.

CONCLUSION

As there is no evidence indicating that the commercial recreation center, including the miniature golf course and amusement arcade, as proposed, will unduly affect the adjoining properties or public interest, the Board hereby authorizes the conditional uses and variance to the minimum distance requirements cited above.

Jan. 17, 1991
Date

JDN/bmh/c3478dec
January 14, 1991

John Totura
John Totura, Chairman