

Tax Map/Block/Parcel
No. 53-21-185

Building Permit/Zoning
Certificate No. 91-1835
and 91-1836

Case 3583

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Patricia C. Scott
2050 Carrollton Road
P.O. Box 404
Finksburg, Maryland 21048

ATTORNEY: William R. MacDonald, Esq.
117 E. Main Street
Westminster, Maryland 21157

REQUEST: Replace two existing mobile homes, classified as nonconforming uses, with two new mobile homes

LOCATION: 2130 Spencer Lane in Election District 4

BASIS: Article 4, Section 4.3(a)(1); Ordinance 1E.
(The Carroll County Zoning Ordinance)

HEARINGS HELD: July 26, 1991; continued July 29, 1991

On July 26, 1991 the Board of Zoning Appeals heard testimony and received evidence concerning the request to replace two existing mobile homes, classified as nonconforming uses, with two new mobile homes on the premises of 2130 Spencer Lane. The public hearing was continued July 29, 1991.

The Board visited the site July 24, 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 request, subject to the conditions of authorization imposed below.

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

FINDINGS OF FACT

The 3.1949 acre lot is located at the northerly corner of Spencer Lane and Old Westminster Pike intersection. At this location, Old Westminster Pike does not extend northwest of the intersection, and Spencer Lane only extends to the northeast. Although not portrayed by the site location map and Applicant's Exhibit 1, Old Westminster Pike provides for local access of vehicular traffic to Spencer Lane. From inspection of

Applicant's Exhibit 1, Spencer Lane is probably not more than 1,000 feet in length, and ends adjacent to lots identified as P. 891 and P. 190. As Spencer Lane is a private road not maintained by the county, the responsibility for maintenance, including removal of snow, rests with the owners of the properties using the lane. Presently Spencer Lane serves the two mobile homes and 13 dwellings including the dwelling on Mrs. Scott's lot. At least three of the dwellings were constructed after the mobile homes had been established on the property.

Mrs. Scott's property is improved with a dwelling and two mobile homes. The mobile homes may have been placed on the property prior to 1957, however, county records confirm that they were existing prior to the adoption of Ordinance 1E, the Carroll County Zoning Ordinance, August 17, 1965. The records also confirm the mobile homes were classified as nonconforming uses.

The previous owner, Mary R. Childs, decided to sell the property to Mrs. Scott, replace one of the mobile homes, and move from the dwelling into the mobile home. Before purchasing the property, Mrs. Scott contacted the county zoning and building permits offices to confirm if replacement of one of the mobile homes would be permissible. Mrs. Scott was advised that if the proposed replacement was of the same dimensions as the existing mobile home, the replacement could be authorized. Mrs. Childs applied for a Building Permit and Zoning Certificate May 24, 1989. The permit, 89-1655, was approved by Zoning May 26, 1989 and issued July 25, 1989. As noted on the permit, Applicant's Exhibit 4, the dimensions of the mobile home are 10 feet in width by 55 feet in length. The Certificate of Use and Occupancy, Applicant's Exhibit 5, was issued with a final date of approval September 14, 1989. Settlement for the property was August 14, 1989. Mrs. Childs moved to the mobile home afterward, maintaining her residence there until moving, apparently the following June. The mobile home was again rented less than a month after she moved.

From testimony, the dimensions of the other mobile home are approximately 9 feet in width by 40 feet in length, including the hitch. The dimensions of the existing mobile homes as noted on Permit Application and Zoning Certificates 91-1835 and 91-1836 are errors. As stated by Mr. Scholl near the close of the public hearing, both of the existing mobile homes are two bedroom models.

Apparently, due to topography, the mobile homes are not directly visible from other dwellings on Spencer Lane except for the dwelling recently constructed on the adjoining lot to the northwest, identified as P. 940 on Applicant's Exhibit 1, and to occupants of vehicles passing the premises on Spencer Lane.

Mrs. Scott now proposes to replace both mobile homes with new models, 14 feet in width by 60 feet in length, excluding the hitch in approximately the same locations as the existing mobile homes. The new mobile homes will have two bedrooms, as the existing mobile homes do. Appliances and heat will be powered by electricity. The remaining heating oil storage tank will be removed, and white pines will be planted for landscaping purposes.

The existing sewerage disposal system is in need of repair, apparently because of unintentional damage caused by one or more dump trucks driving over drainage pipes. A new and larger system will be installed to collectively serve the dwelling and both mobile homes, subject to the requirements of the Carroll County Health Department.

There is no indication that either vehicular traffic to and from the premises, or on-site parking, have been a problem in the past, and there is no indication that a problem will occur as a result of replacing the mobile homes with new models.

A realtor, testifying on behalf of Mrs. Scott, stated that the proposed replacement of the mobile homes and planting of trees (white pines) will improve the appearance of the premises. And, as a consequence, adjacent properties will benefit and the values of the properties will not depreciate. However, the realtor also stated establishment of the new mobile homes would not cause the values of the adjacent properties to increase.

The owners of four of the properties located on Spencer Lane, but not adjoining Mrs. Scott's property, testified in opposition to the request. They opposed replacement of the mobile homes for various reasons including, but not limited to, the following:

- the mobile homes are nonconforming uses that have outlived their usefulness
- there is a problem with the sewerage disposal system for the property
- the mobile homes have, or will have, a detrimental affect upon the property values and marketability of dwellings on Spencer Lane
- the lack of maintenance and appearance of the premises
- use of Spencer Lane, which is a private road

In addition, Mr. Scholl who was one of the persons that testified in opposition, introduced ten identical form letters that he had prepared for individual signatures as Protestants

Exhibits 1 through 10. The letters, which were signed by residents of Spencer Lane, expressed opposition to the request, and authorized Mr. Scholl to speak on behalf of the individuals.

APPLICABLE LAW

Articles and Sections cited below are of Ordinance 1E.

The site and adjacent properties, except to the northwest, are zoned "R-20,000" Residence District as depicted on zoning map 53A. The adjacent properties to the northwest, identified as P. 868 and P. 706 on Applicant's Exhibit 1, front on Westminster Pike (Md. Rt. 140) and are zoned "B-L" Local Business District. The land use provisions of the "R-20,000" Residence District are cited in Article 7. Mobile homes are not allowed as principal permitted or conditional uses in the district. Although Section 7.2, Accessory Uses, subsection (a) provides for mobile homes in connection with interim agricultural use, subject to the provisions of Section 14.31(c), the provisions are not applicable in this case.

Article 4, General Provisions; Section 4.3, Nonconforming Uses (Amended 3/17/81) reads in relevant part:

Any building, structure or premises lawfully existing at the time of the adoption of this ordinance, or lawfully existing at the time this ordinance is amended, may continue to be used even though such building, structure or premises does not conform to use or dimensional regulations of the zoning district in which it is located; subject, however, to the following provisions:

- (a) Structural alterations or enlargement of any building, structure or premises which does not comply with the use or dimensional requirements of this ordinance shall be allowed only as follows:
 - (1) Upon application, the Board may approve structural alterations or enlargement of a nonconforming use, subject to the provision of Article 17, Section 17.6;....

Section 17.6 has been amended and the applicable provisions are now expressed in Article 17, Board of Appeals; Section 17.7, Limitations, Guides and Standards, which also govern the Board in deciding conditional use cases.

Attention is directed to Article 4, Sections 4.23, 4.23.1, and 4.23.3. Replacement of the existing mobile homes with new

mobile homes will be subject to the provisions of the Carroll County Landscape Manual.

REASONING

The mobile homes are lawfully existing nonconforming uses as substantiated in the Zoning Administrator's memorandum of July 14, 1991. The provisions of Article 4, Section 4.3(a)(1) are applicable in this case.

In considering the protestants' concerns regarding the affects of the mobile homes on the marketability and property values of the dwellings on Spencer Lane, it is evident that the existing mobile homes were not a sufficient deterrent to prevent Mr. and Mrs. Carpenter from recently purchasing the adjoining lot (P. 940) for their home. In addition, it appears that for two other properties the mobile homes were not sufficient deterrents to dissuade either building or buying a home on Spencer Lane. Therefore, the idea that the new mobile homes will adversely affect the marketability and property values of the homes on Spencer Lane appears to be merely opinion, not fact.

Conservation of property values is one of the purposes of the zoning ordinance, and is one of the factors that the Board must consider in deciding the request. Replacement of the existing mobile homes with new and slightly larger mobile homes, and planting white pines will improve the appearance of the property substantially. The improved appearance of the property will be beneficial to the adjacent properties, and tend to conserve the values of those properties. However, the owners and property values of the dwellings located at, or near, the end of Spencer Lane will benefit less than the owners and properties abutting Mrs. Scott's property because the mobile homes will not be readily visible from properties further away.

In considering the merits of replacing the mobile homes relative to the various factors expressed in Section 17.7 that the Board must consider, it is evident that although the mobile homes are nonconforming uses, they have not detrimentally affected the adjoining properties, growth in the neighborhood, or nearby residents' peaceful enjoyment of their properties. Although the premises could have been better maintained in the past, the proposed plans are an indication that greater care will be exercised in the future.

CONCLUSION

Therefore, the Board is convinced that replacement of the mobile homes with slightly larger mobile homes and planting of white pines, pursuant to the requirements of the Carroll County Landscaping Manual, and the conditions of authorization imposed below, will not unduly affect the adjoining properties or public

interest, and is in accord with the provisions of the zoning ordinance.

In order to promote the intent and purpose of the zoning ordinance, the Board hereby imposes conditions of authorization as follows:

1. The dimensions of the new mobile homes shall not be larger than 14 feet in width by 60 feet in length as depicted by Applicant's Exhibit 7.
2. The new mobile homes shall be placed in the same locations on the premises as the existing mobile homes.

Aug. 20, 1991
Date

JDN/bdc/C3583DEC
August 20, 1991

John Totura
John Totura, Chairman