

Tax Map/Block/Parcel
No. 73-10-26

Building Permit/Zoning
Certificate No. 91-2463A

Case 3621

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

APPLICANT: Philip L. Pickett
5341 Wendy Road
Sykesville, Maryland 21784

REQUEST: A variance reducing the minimum required rear yard of 40 feet to about 32 feet for a proposed single family dwelling with attached garage

LOCATION: Northwest corner of Freedom Avenue and Putnam Road intersection in Election District 5; Freedom Heights Annex subdivision, Section 1, lot 1 recorded in Carroll County Plat Records in book 5, page 15

BASES: Article 8, Section 8.5; Article 20, Section 20.25(b); Article 15, Section 15.5; Ordinance 1E. (The Carroll County Zoning Ordinance)

HEARING HELD: November 26, 1991

On November 26, 1991, the Board of Zoning Appeals heard testimony and received evidence concerning the variance request for reduction of the minimum required rear yard of 40 feet to about 32 feet for a proposed single-family dwelling with attached garage on the northwest corner of Freedom Avenue and Putnam Road intersection.

The Board visited the site November 19, 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 variance.

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

FINDINGS OF FACT

The 19,396 square feet lot is located on the northwest corner of Freedom Avenue and Putnam Road intersection. The lot was created with the subdivision of Freedom Heights Annex, and is identified as lot 1 on the subdivision plat recorded in Carroll County Plat Records in book 5, page 15 on May 8, 1961, prior to the adoption of the Carroll County Subdivision Regulations and Ordinance 1E. Since that time, improvements to Freedom Avenue

have apparently extended onto lot 1 as depicted by plats identified as Applicant's Exhibit 1.

Mr. Pickett now proposes to construct a single-family dwelling with an attached garage of 24 feet by 24 feet. The dwelling and garage are intended to be compatible with the dwellings located adjacent to the property.

Location of the dwelling and garage on the lot is governed by the minimum required front setback from Freedom Avenue, as well as Putnam Road. Due to the configuration of the property, the dwelling is proposed to be oriented to Freedom Avenue. The minimum required setback from the center line of Freedom Avenue and the minimum front yard requirement totals 60 feet (25 feet for the right-of-way of Freedom Avenue and 35 feet for the minimum required front yard). Both Freedom Avenue and Putnam Road are classified as local or minor streets.

In accordance with the provisions of the ordinance even though the lot is a corner lot and location of the dwelling and attached garage is required to comply with the minimum front yard requirements from both Freedom Avenue and Putnam Road, only one rear yard and one side yard is required. As portrayed by page 1 of the plats identified as Applicant's Exhibit 1, the minimum required side yard of 12 feet will be established adjacent to the northerly property line. With the dwelling oriented to Freedom Avenue, the northwest corner of the dwelling will comply with the minimum requirement. The remainder of the dwelling, as it extends to the northeast corner, will exceed the minimum requirement.

While the northwest corner of the dwelling will also comply with the minimum required rear yard of 40 feet, the southwesterly corner of the attached garage will encroach eight feet into the minimum required rear yard, leaving a distance of 32 feet to the westerly property line. As proposed, only a relatively narrow triangular portion of the dwelling and attached garage encroach into the minimum required rear yard.

APPLICABLE LAW

Articles and Sections cited below are of Ordinance 1E.

The lot is zoned "R-10,000" Residence District as depicted on zoning map 73A. The land use provisions for the district are expressed in Article 8. Single-family dwellings are allowed as principal permitted uses, subject to the minimum lot area, lot width and yard requirements specified in Section 8.5. As indicated above, the minimum required front, side, and rear yards are 35 feet, 12 feet, and 40 feet respectively.

Section 20.25 (Amended 4/18/88) defines a lot and reads in relevant part:

A piece or parcel of land occupied or intended to be occupied by a principal building and its accessory buildings and uses, including all open spaces required by this ordinance, and having frontage on the street as defined herein....

- (a) Corner lot. A lot abutting on two or more streets at their intersection, where the interior angle of the intersection does not exceed one hundred thirty-five (135) degrees.
- (b) Lot frontage. (Amended 2/15/68) The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as required herein, except that not more than one rear yard shall be required.

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, Exceptions and Modifications; 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.

REASONING

At the time of the subdivision of the property, Freedom Avenue may or may not have encroached on lot 1. Regardless of when the encroachment occurred, location and construction of a dwelling on the property is now adversely affected by the regulations. Consequently, relaxation of the applicable requirements, in this case the minimum required rear yard, is justified in order to allow construction of the proposed dwelling and attached garage.

CONCLUSION

In accordance with the findings of fact, applicable law, and reasoning, the Board hereby authorizes reduction of the minimum required rear yard of 40 feet to 32 feet as noted and portrayed on the surveyor's plat identified as Applicant's Exhibit 1, page 1 of 3 pages.

Dec. 5, 1991
Date

John Totura
John Totura, Chairman

JDN/bdc/C3621DEC
December 4, 1991