

Tax Map/Block/Parcel
No. 23-6-320

Building Permit/Zoning
Certificate No. 03-3915

Case 4887

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPELLANTS: Robert and Kathleen Huber
3610 Water Tank Road
Manchester, MD 21102

ATTORNEY: Elwood E. Swam

REQUEST: An appeal of a letter from Development Review, dated October 1, 2003, denying two (2) off-conveyance lots with the remainder parcel being less than three (3) acres; request for a variance in the lot size for the remainder parcel.

LOCATION: The site is located west of Water Tank Road, Manchester on property zoned "C" Conservation District in Election District 6.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-186 A (1) and 223-188 B

HEARING HELD: January 7, 2004; Continued January 28, 2004

FINDINGS AND CONCLUSION

On January 7 and 28, 2004, the Board of Zoning Appeals (the Board) convened to hear an appeal of a letter from Development Review, dated October 1, 2003, denying two (2) off-conveyance lots with the remainder parcel being less than three (3) acres; request for a variance in the lot size for the remainder parcel. Based on the testimony and evidence presented, the Board made the following findings and conclusion:

The total acreage of the parcel is 8.3 acres. The Applicants submitted an off-conveyance application consisting of two, three (3)-acre lots and a remaining portion of 2.23 acres. The parcel is located in the "C" Conservation zone, where the minimum lot size is three (3) acres. The Bureau of Development Review rejected the application, due to the substandard size of the remaining portion. The Appellant has sought a reversal of the Bureau's action, and a variance from the requisite minimum lot size of three (3).

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Clayton Black testified to the rationale for the Bureau's action. Mr. Black testified that since the late 1970's, it has been the practice and policy of the Planning Commission to proscribe the creation of "non-buildable" parcels, which are unable to be used as building lots.

The Board finds no fault with the Bureau's reasoning in this case. It was not an error to allow the creation of a non-buildable lot. The creation of such lots where no building rights will exist will invariably result in confusion and is inconsistent with good planning principles. Furthermore, we have heard no evidence of uniqueness or hardship in this matter, which would justify the grant of a variance. Any hardship in this case is self-created.

For the foregoing reasons, the appeal and application for a variance is denied.

Feb 19, 2004

Date

Jacob M. Yingling
Jacob M. Yingling, Chairman