

**Tax Map/Block/Parcel
No. 30-15-79**

**Building Permit/Zoning
Certificate No. 06-1414**

Case 5234

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

APPELLANT: Lorraine D. Stair
1742 Hughes Shop Road
Westminster, MD 21158

ATTORNEY: Harry W. Blondell for Appellant

REQUEST: An Appeal of the Zoning Administrator's Notice of Violation concerning an obstruction to vision for the proposed driveway entrance.

LOCATION: The site is located at 1742 Hughes Shop Road, Westminster, on property zoned "A" Agricultural District in Election District 7.

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

HEARING HELD: June 28, 2006

FINDINGS AND CONCLUSION

On June 28, 2006, the Board of Zoning Appeals (the Board) convened to hear an appeal of the Zoning Administrator's Notice of Violation concerning an obstruction to vision for the proposed driveway entrance. The Board made the following Findings and Conclusion:

The Appellant, Lorraine D. Stair (Stair) resides at 1742 Hughes Shop Road, Westminster, MD. The Appellee, William G. Miller (Miller) owns 6 acres of land adjacent to the Stair property with no road frontage. The Stair property separates the Miller property from Hughes Shop Road. Miller was granted a right-of-way by necessity (the future Mimi Drive) by the Circuit Court for Carroll County in 1981. The location of the driveway was altered by consent of the parties in 1995. In 2005, in Case No. 5013, the Board overturned a determination of the Zoning Administrator, and found that a fence erected on the Stair property constituted an obstruction to vision for motorists who would exit Miller's driveway.

In March of 2006, Miller applied for a building permit to develop 3 residential lots. The building permit was again denied based on the determination of the Carroll County Bureau of Roads that there was inadequate sight distance for the driveway due to the Stairs' fence. At the request of Miller, the Zoning Administrator investigated the matter. The Zoning Administrator determined that the fence constituted an obstruction to vision for those traveling from Mimi Drive to Hughes Shop Road, and therefore violated § 223-179 (c) of the Zoning Code. Stair has filed an appeal of the Zoning Administrator's determination to the Board.

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The Zoning Code at §223-179 (c) exempts fences and walls from building line and yard requirements “unless they cause obstructions to vision”. It is undisputed that the Stair fence, in its current location does not meet the current yard depth requirements (40 feet) as set forth in § 223-75 of the Zoning Code. Therefore, the issue for the Board to consider is whether the fence constitutes an obstruction to vision for the purpose of Mimi Drive. The term “obstruction to vision” is not defined in the Zoning Code. However, the Zoning Administrator relied on advice from James Mirfin, the Carroll County Roads Administrative Supervisor, that despite the Stair’s removal of a portion of their fence, there is only 270 feet of sight distance on Hughes Shop Road from the left side of the proposed driveway. This is inadequate under applicable highway safety standards. The Board heard testimony from Mr. Mirfin, who was found to be credible, that, absent a removal of this portion of fence, a building permit for the driveway apron could not be approved by the Bureau of Roads.

Based on the testimony of the Zoning Administrator and Mr. Mirfin, which was uncontroverted, as well as our own visit to the site, we conclude that the Zoning Administrator was correct in designating the fence an obstruction to vision. Although the Stairs removed a portion of the fence which would allow adequate sight distance for 1 lot, it still constitutes an obstruction to vision for Miller’s proposed 3 lots. If Miller is entitled to 3 lots, those residents should have safe access to Hughes Shop Road. Accordingly, the Notice of Violation issued April 13, 2006, is upheld.

7/19/06
Date


Jacob M. Yingling, Chairman