

Case 2904

OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY MARYLAND

APPLICANTS: Larkin H. Birmingham and Vince Birmingham  
1619 Brimfield Circle  
Eldersburg, Maryland 21074

ATTORNEY: David K. Bowersox, Esquire  
Dulany, Parker & Scott  
127 East Main Street, P.O.Box 525  
Westminster, Maryland 21157

REQUESTS: A conditional use for a child care center, and variances as may be necessary.

LOCATION: 2772 Kays Mill Road in Election District 4; Wildorlyn Estate subdivision, lot 1A recorded in Carroll County Plat Records in Book 13, page 54.

BASES: Article 5C, Sections 5C.2(b) and 5C.5; Article 15, Section 15.5; Zoning Ordinance 1E.

HEARING HELD: March 28, 1988

The application, testimony and evidence comprising the record of this case are hereby included by reference in this decision. The pertinent findings include the following facts:

The 1.2226 acre lot is part of a residential subdivision known as Wildorlyn, and is zoned "R-40,000" residence district. The zoning ordinance provides that nursery schools or child care centers are permitted as conditional uses within the district, subject to the provisions of Article 17, Board of Zoning Appeals; Section 17.6, Limitations, Guides and Standards, which govern this board as well as cases brought to this board.

The record of this case clearly establishes that vehicular traffic conditions and facilities are the primary concerns of those factors specified in Section 17.6 which require consideration by this board in deciding the request. For purposes of clarification, variances to the dimensional requirements governing the child care center are unnecessary, and the request is moot.

In the process of subdividing the property for residential development, provision was made for future relocation of part of Kays Mill Road, which presently connects to Maryland Route 140 about 340 feet northeast of the proposed driveway connection planned to serve the child care center. Testimony presented in opposition to this request confirmed that the grade of Kays Mill Road extending southwesterly from Maryland Route 140 is severe, and constitutes a dangerous traffic condition particularly when snow or ice accumulate on the road and adversely affect the traction of vehicles attempting to either ascend or descend the hill. In addition, visibility of the proposed entrance connection is reduced by existing evergreen trees located within the right-of-way of Kays Mill Road. Although the applicants indicated that the center would be closed similar to the closing of public schools, snow or ice occurring after the children would be brought to the center would likely require that they be picked up on Kays Mill Road would be particularly hazardous to vehicular traffic. There are presently no plans for the relocation of Kays Mill Road as indicated on the plot plan submitted with this application and identified as Applicants' Exhibit 1.

CONCLUSION

Under the prevailing circumstances, establishment of the day care center as proposed would result in dangerous traffic conditions. In accordance with the provisions of Article 17, Section 17.6 of Zoning Ordinance 1E and the above findings, the Board hereby denies the conditional use request.

April 5, 1988  
Date

John Totura  
John Totura, Chairman