

Case 3013

OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND

APPLICANT: Stephen P. Minor  
1406 Warehime Road  
Westminster, Maryland 21157

REQUEST: Conditional use for an office to conduct mail order and catalog sales of guns.

LOCATION: 1406 Warehime Road in Election District 2.

BASES: Article 6, Section 6.3(w) and 6.7; Ordinance 1E.

HEARING HELD: September 30, 1988

On September 30, 1988 the Board of Zoning Appeals heard testimony and received evidence concerning a conditional use for an office to conduct mail order and catalog sale of guns at 1406 Warehime Road by Stephen P. Minor. Based on the record of the case, the Board hereby denies the request. The application, testimony and evidence comprising the record of this case are hereby included by reference in this decision. The pertinent findings are as follows:

FINDINGS OF FACTS

The 2.083 acre lot is part of a large residential subdivision located on the west side of Warehime Road. Vehicular access to the lot is provided by a use in common driveway shared with adjoining lot nineteen. The property is improved with a single family dwelling, attached garage, and improved parking area. The lot is surrounded by in excess of 7 lots, within the subdivision, improved with dwellings.

The lot and adjoining properties are zoned "A" Agricultural District as shown on map 37B. The land use provisions for the "A" Agricultural District are specified in Article 6 of Ordinance 1E. Section 6.3 Conditional uses (requiring Board authorization), (w) reads:

"Offices to conduct mail order and catalog-type operations where operated by a resident of the property, provided no inventory or merchandise is kept on the premises for sale (except samples and the like) and provided the Board may approve no more than two nonresident employees."

Section 6.7, Lot area, lot width and yard requirements specifies, under Other Principle Permitted or Conditional Uses, the minimum required lot area is 3 acres. The applicant, Mr. Minor, was evidently under the impression that the lot complied with the minimum lot area requirement. In any event, Mr. Minor did not request a variance for the reduction of the minimum required lot area, and the application was processed for public hearing as filed.

Mr. Minor is a member of a gun club and proposes to sell guns to friends, associates and persons referred to him. Catalogs would be used for orders, and about 10 samples of guns would be stored under lock in the office. Ammunition would not be offered for sale. Operation of the office would be on an appointment basis, and parking provided adjacent to the dwelling. Although a business sign is shown on the sketch plan depicting the driveway from Warehime Road to the dwelling and parking area, the proposed sign was withdrawn from consideration during the hearing. Mr. Minor also indicated that he has no experience selling, or operating a catalog gun shop.

A number of adjacent residents of the subdivision appeared before the Board and testified in opposition to the request. In addition, a number of statements from adjacent residents and property owners within the subdivision were presented to the Board. The gist of the opposition involves the restrictions and covenants recorded in the Carroll County Land Records, Liber 644, pages 499-501 (Protestants' Exhibit 1), the residential character of the subdivision, and the additional vehicular traffic generated to and from the premises and using the use in common driveway. The first three restrictions and covenants read:

- "1. Said parcels shall be used for single family residences only.
2. No advertising sign or any other advertising device shall be permitted, erected or suffered to remain upon any of the aforesaid parcels except such signs as may be temporarily placed for the purpose of inducing sale thereof, the dimension of which shall not be more than two by two feet.
3. No noxious or offensive trade or hobby shall be carried on upon any parcel, nor shall anything be done thereon which may become an annoyance or nuisance in the neighborhood."

Article 17, Section 17.7, as amended with the adoption of Ordinance Number T-77, now governs the Board in consideration of cases brought before it.

Among the factors which the Board must consider are the following:

- "(a) The number of people residing or working in the immediate area concerned.
- (b) The orderly growth for the community.
- (c) Traffic conditions and facilities.
- (d) The effect of the proposed use upon the peaceful enjoyment of people in their homes.
- (e) The conservation of property values.
- (f) The effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the use of surrounding property values.
- (g) The most appropriate use of land and structures.
- (h) The purpose of this Ordinance as set forth herein.
- (i) Type and kind of structures in the vicinity where public gatherings may be held, such as schools, churches, and the like."

#### REASONING

Comparing the restrictions and covenants with Section 17.7, it appears that the purpose, as well as the spirit, of the restrictions and covenants are at least similar to the purpose of the Zoning Ordinance. The concerns involved adverse effects that would otherwise result from establishment of incompatible and inappropriate uses within the exclusively residential subdivision. The proposed catalog office would generate a greater volume of vehicular traffic than would otherwise be expected, conceivably affecting the orderly growth of the community adversely and diminishing the property values of adjacent residences.

#### CONCLUSION

The Board finds that in this particular location, the proposed mail order and catalog sales office can not be established and operated without adversely affecting the

residents of the adjacent properties, the property values of the adjacent residences, and the exclusively residential subdivision. Accordingly, the conditional use request for the establishment of the office to conduct mail order and catalog sale of guns is hereby denied.

Regardless of the fact that the application for hearing failed to include a variance for reduction of the minimum required lot area of three acres, and was processed for public hearing as though the site complied with the minimum requirements, the Board emphasizes that the conditional use request would have been denied, even though the site complied with the minimum lot area requirement, or a variance for reduction of the minimum required lot area had been included with the request.

Nov. 18, 1988  
DATE

John Totura  
JOHN TOTURA, Chairman