

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Dennis R. Pollock
802 Franklin Avenue
Westminster, Maryland 21157

REQUEST: A variance waiving the minimum required side yard to 12 feet for a proposed garage to be attached to the existing dwelling

LOCATION: 802 Franklin Avenue in Election District 7

BASES: Article 8, Section 8.5; Article 15, Section 15.5; Ordinance 1E

HEARING HELD: March 31, 1989

On March 31, 1989, the Board of Zoning Appeals heard testimony and received evidence concerning a variance waiving the minimum required side yard of 12 feet for a proposed garage to be attached to the existing dwelling at 802 Franklin Avenue. 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.

FINDINGS OF FACT

As shown on the site location map of the case, the lot is located within a relatively large residential subdivision. The lot, as well as the subdivision, are zoned "R-10,000" Residence District as shown on zoning map 46A. A House Location Survey filed with the application shows that the lot is 85 feet in width by 150 feet in depth. The property is improved with a one story dwelling, and an oval swimming pool located in the rear yard near the rear property line. A reservation, 10 feet in width, for an existing storm water sewer abuts the northerly side property line, extending along its entire length.

The House location Survey also shows that a shed, apparently for utility storage and gravel driveway are partially located within the reservation. The dwelling is 48 feet in width as noted on both the House Location Survey and a plot plan, not drawn to scale, filed with the application. However, a minor discrepancy is noted regarding the existing side yards as depicted on the House Location Survey and the plot plan. The House Location Survey notes that the southerly side yard is 15 feet, which would leave a northerly side yard of 22 feet. The plot plan indicates a southerly side yard of 16 feet, which would leave a northerly side yard of 21 feet. The discrepancy is not considered significant.

The dwelling is connected to public water and sanitary sewerage facilities. A request is to waive the minimum required side yard of 12 feet to permit construction of a garage, 21 feet in width by 27 feet in depth to be attached to the northerly side of the existing dwelling. No probative evidence of physical conditions limiting use of the property, including establishment of a garage in compliance with the requirements with the zoning ordinance, are a matter of record.

APPLICABLE LAW

The land use provisions for the "R-10,000" Residence District provide that the minimum required side yards for a single family dwelling are 12 feet for each yard. (Article 8, Section 8.5, Ordinance 1E.) Article 20, 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 result 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, in relevant part, read:

"The regulations specified in this ordinance shall be subject to the following exceptions, modifications, and interpretations:"

"....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

There is no evidence of practical difficulty and unreasonable hardship that would justify elimination of the minimum required side yard of 12 feet. Although the storm water sewer reservation provides a separation of 10 feet between the applicant's property and the adjoining property, the existence of the reservation cannot justify waiver of the minimum side yard requirement.

CONCLUSION

The Board finds no evidence of practical difficulty and unreasonable hardship in the use of the property which would justify authorization of the variance. Accordingly, the request must be, and is hereby, denied.

April 13 1989
Date

John Totura
John Totura, Chairman