

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Steven Peregoff and Rona Peregoff
121 Bond Street
Westminster, Maryland 21157

REQUEST: A variance reducing one minimum required side yard of 12 feet to about 1 foot for an existing storage shed

LOCATION: 121 Bond Street in Election District 7

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

HEARING HELD: April 27, 1989

On April 27, 1989, the Board of Zoning Appeals heard testimony and received evidence concerning the requested variance to reduce one minimum required side yard of twelve feet to about one foot for an existing storage shed at 121 Bond Street. 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 plot plan filed with the Application for Hearing, the property is improved with a single family dwelling with an attached garage. An above ground swimming pool is located in the rear yard, offset from the center of the lot, much closer to the northerly side property line than the southerly side property line. The dwelling is served with public water and sanitary sewerage utilities.

In December of 1988 the Bureau of Zoning Administration received a complaint regarding placement of a storage shed in the side yard of the property adjoining 119 Bond Street. Subsequent inspections by a Zoning Inspector confirmed that a storage shed had been placed in the side yard of the dwelling at 121 Bond Street, creating a violation of the minimum required side yard of 12 feet. As noted on an Investigation Report prepared by the Zoning Inspector, a Permit Application and Zoning Certificate form, numbered 88-4063, was filed for the shed by December 22, 1988, the date of the first inspection. A Notice of Violation was issued by the Zoning Administrator February 7, 1989 directing that the shed either be relocated to comply with the provisions of the zoning ordinance or be removed from the premises. At the time of the last reinspection on March 9, 1989, the violation had not been corrected. The violation was referred to the County

Attorney's Office March 10, 1989. Later, the applicant filed the Application for Hearing requesting the variance to the minimum required side yard of twelve feet to about one foot.

The applicant, Mrs. Peregoff, testified that when the site was being prepared for placement of the shed the person performing the grading and constructing the retaining walls advised her that no building permit was required for temporary structures. Mrs. Peregoff indicated that relocation of the shed to the rear yard would be difficult to do and would conflict with their present use of the area. However, there is no evidence that such relocation could not be reasonably accomplished, without significant difficulty. The temporary removal of a portion of the fence pictured in two of the applicants' photographs to allow placement of the shed in the rear yard is judged to be an inconvenience, not a practical difficulty and unreasonable hardship. The cost of correcting the violation by either removing the shed from the premises or relocating it in compliance with applicable requirements in the rear yard may be an economic problem for the applicant, but it is not a problem peculiar to, and preventing use, of the property in compliance with the provisions of the zoning ordinance.

The owners and residents of the adjoining property to the north testified in opposition to the request, noting that the shed is too close to their property to allow maintenance from the applicants' property, and that it is so close that snow slides off of the roof onto their property. Another adjoining property owner testified in opposition to the request, indicating that there did not appear to be any justification for the authorization of the requested variance, other than it being a matter of convenience.

APPLICABLE LAW

The property is zoned "R-10,000" Residence District as shown on zoning map 45B. Article 8, "R-10,000" Residence District; Section 8.5, Lot area, lot width and yard requirements of the zoning ordinance specifies that each side yard of single family dwellings have a width of twelve feet.

Article 20, Section 20.39 of the zoning ordinance 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 results of 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 (Amended through 2-25-76) of the zoning ordinance read respectfully:

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

"The Board may authorize, upon appeal, in accordance with Section 17.2, variances from height, lot area, lot width, yard requirements, parking space requirements, sign regulations, and distance requirements specified in Section 4.12 and Section 14.3(c)4. 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."

Section 15.2, Setback modifications, paragraph (b) of Article 15 specifies:

"Accessory buildings must be separated from the principal building by at least six (6) feet; and they must adhere to minimum front and side yard requirements unless they are located totally in the rear yard, in which case the side and rear setbacks shall be a minimum of five (5) feet."

REASONING

There are no conditions peculiar to the property that prevent its use in compliance with the provisions of the Carroll County Zoning Ordinance (Ordinance 1E). Any difficulty or hardship that the applicant may experience because of locating the storage shed on the property in violation of the provisions of the zoning ordinance is directly attributable to the applicant.

CONCLUSION

The request is without merit and is hereby DENIED.

DATE

May 31, 1989

John Totura
JOHN TOTURA, Chairman