

Case 3205

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

APPELLANT: Main Street Associates Limited Partnership  
c/o P. Fred'k Obrecht Realty Company, Inc.  
9475 Deereco Road  
Timonium, Maryland 21093

ATTORNEY: H. John Bremermann, III, Esquire  
9475 Deereco Road  
Timonium, Maryland 21093

APPEAL: An appeal of the Zoning Administrator's Notice of Violation dated May 8, 1989, regarding erection of a double-faced business sign, 8 feet by 15 feet, prior to issuance of permit application 88-2816, and that the sign located on the northeast corner of Main Street and 140 Village Road intersection interferes with traffic visibility (The public hearing notices incorrectly listed May 3 as the date of the Notice of Violation.)

LOCATION: 412 Malcolm Drive in Election District 7

BASES: Article 4, Section 4.14; Article 14, Division II, Section 14.23(e); Article 17, Section 17.4; Ordinance 1E (The Carroll County Zoning Ordinance)

HEARING HELD: November 29, 1989

On November 29, 1989, the Board of Zoning Appeals heard testimony and received evidence concerning the appeal of the Zoning Administrator's Notice of Violation dated May 8, 1989, erection of a double-faced business identification sign, 8 feet by 15 feet, prior to issuance of Building Permit Application and Zoning Certificate 88-2816, and that the sign located on the northeast corner of East Main Street and 140 Village Road intersection interferes with traffic visibility.

The Board visited the property on November 28, 1989, prior to the public hearing.

The application, testimony and evidence comprising the record of this case are hereby included by reference in this decision. Based on the record, the Board will affirm the Zoning Administrator's Notice of Violation. The pertinent findings include the following facts.

FINDINGS OF FACT

The sign identifies a planned business center, Main Street Exchange and tenants of the center. A variance increasing the maximum allowable area of the double-faced sign from two hundred square feet to two hundred forty square feet was authorized by this Board in its written decision dated February 7, 1989. (Case 3079.) Permit Application and Zoning Certificate 88-2816, dated 8/11/88 for the internally illuminated sign were included in the record of case 3079. The decision in that case states in part:

The proposed location of the double faced [sic] sign adjacent to 140 Village Road is in effect a change in the proposed location of the sign as shown on the site development plan, and constitutes an amendment of the site development plan. In considering these facts, including the slight increase per side of the double faced sign, there is no indication that establishment of the sign as proposed will unduly affect the adjoining properties or public interest.

As expressed in Mr. Riehl's letter of March 27, 1989, on February 10, Mr. Pappas telephoned Mr. Keeney--a Zoning Inspector not a Building Inspector--and upon being advised that the sign was approved and the certificate mailed, the sign was installed. Regardless of any such conversation, the sign was erected contrary to the provisions stated on the application. (The provisions are quoted below under APPLICABLE LAW.) The building permit was not approved or issued, and the Zoning Certificate would not have been issued separately.

The Permit Application and Zoning Certificate lists Gardenville Signs, Inc. as the contractor.

Mr. Dominic C. Dattilio, Traffic Control Supervisor of the Carroll County Bureau of Roads Operations testified that thereafter several complaints were received regarding the sign interfering with motorists' vision at the intersection. Mr. Dattilio performed an investigation, advising the Zoning Administrator in a memorandum dated April 24, 1989, that the sign interferes with the sight line of drivers preparing to turn onto East Main Street. Mr. Dattilio indicated that in order to correct the problem, the sign would have to be relocated so that it would not interfere with motorists' vision to the east.

The Zoning Administrator issued a Notice of Violation, dated May 8, 1989, which reads:

1. The sign was constructed without a building permit/

zoning certificate. Zoning approval for permit application 88-2816 was withdrawn as of March 10, 1989 and the permit has not been issued. Section 16.2(a).

2. The sign interferes with visibility at the intersection as prohibited under Sections 4.14 and 14.23(e).

The Zoning Administrator indicated that the violation could be corrected by relocating or redesigning the sign.

In a memorandum to the Zoning Administrator dated July 19, 1989, Mr. Dattilio advised that the sign could either be moved 48 inches away from East Main Street, or the sign raised 24 inches, either of which would allow motorists to view oncoming vehicular traffic from the east from the intersection of Md. Rt. 97 and East Main Street.

The Zoning Administrator forwarded a copy of the memorandum to the attention of Mr. Riehl in a letter dated August 11, 1989, requesting a response within 15 days. However, Mr. Riehl did not respond timely to the Zoning Administrator's inquiry. Eventually, in a letter dated October 16, 1989, the appellant disagreed with Mr. Dattilio's conclusions. Thereafter, the Notice of Appeal which had been timely filed on May 22, 1989, following issuance of the Notice of Violation, was processed for public hearing.

As Mr. Dattilio testified, the sign is located 14 feet 6 inches from the curb line of East Main Street, and 14 feet from the curb line of 140 Village Road. (County's Exhibit 1.) The solid white stop line on 140 Village Road, behind which vehicles in the left and right turn lanes are required to stop to comply with the stop sign, is now 6 feet from the parallel edge of East Main Street. The stop line can not be moved any closer to East Main Street without creating a hazardous traffic situation. Presently, motorists in the left turn lane preparing to turn east on East Main Street, with their vision blocked by the sign, encroach beyond the stop line in order to view traffic to the east. Such vehicles further obstruct the vision of motorists in the right turn lane, forcing them to encroach further beyond the stop line in order to view the eastbound lanes of East Main Street prior to turning right.

Encroachment of the stop line by motorists preparing to turn left reduces the space available for motorists proceeding eastbound on East Main Street who wish to turn left onto 140 Village Road, further compounding the hazardous traffic situation.

APPLICABLE LAW

Unless otherwise noted, Articles and Sections cited below are of Ordinance 1E.

Section 16.2, Zoning certificates, paragraph (a) reads:

It shall be unlawful for an owner to use or to permit the use of any building, structure or land or part thereof, hereafter created, erected, changed, converted, or enlarged, wholly or partly, until a zoning certificate shall have been issued by the Zoning Administrator. A zoning certificate shall be revocable, subject to the continued compliance with all requirements and conditions.

Article 14, Division II, Section 14.22 reads in relevant part:

- (a) The following signs are permitted in accordance with zoning district regulations and require a zoning certificate:
  - (1) Signs, business
- (b) All signs shall be subject to the following general provisions:
  - (1) No sign shall be permitted which...interferes with...traffic sight lines.

Section 14.23, "Use on the premises" sign specifies in relevant part:

Business signs pertaining to "use on the premises", as enumerated in Section 14.22(a), are permitted as an accessory use in all districts, provided the following provisions are adhered to:

- (b) Any sign which is attached to the ground shall be located in such a manner that traffic visibility is not impaired.
- (e) No business sign shall be so located to obstruct the vision of traffic using entrance ways, driveways, or any public road intersection.

Permit Application and Zoning Certificate 88-2816 includes the following statement:

**CAUTION:** I/we have carefully examined and read this application and know the same is true and correct. I/we are also aware that whoever is indicated as the 'Contractor' assumes full responsibility for this application and for the construction and will comply with all provisions of the Carroll County Regulations and State Laws whether herein specified or not. I/we further understand that the Contractor, Plumber and Electrician are the only persons authorized to request inspections and the plumbers and electricians must file for their own applications. To start construction before a building permit is issued and to use and occupy the premises before a U & O Certificate is obtained is in violation of the law.

In accordance with the provisions of Article 17, Section 17.4.9, the Board extended the time to issue this decision.

#### REASONING

Appellant's contractor, Gardenville Signs, Inc., erected the sign prior to issuance of the building permit and zoning certificate. Presumably, the contractor acted at the direction of the appellant.

The appellant argues that they proceeded in good faith with erection of the sign; the sign does not interfere with motorists' line of sight; it is not economically feasible to raise the sign to correct the sight obstruction; and, relocating the sign would be expensive. Yet, the appellant suggests that the stop line be moved closer to East Main Street, thereby improving the line of sight of motorists of oncoming traffic from the east.

The arguments and the suggested solution to improve the line of sight are without merit. Erection of the sign prior to receipt of the building permit and zoning certificate was reckless and illegal.

During the visit to the site prior to the public hearing, the Board observed the sign, intersection, stop sign, and stop line from both 140 Village Road and East Main Street. After considering the testimony and photographs (County's Exhibits 2 and 3) presented by Mr. Dattilio, Traffic Control Supervisor for Carroll County, the Board is convinced that the sign, as presently located, obstructs the vision of motorists obeying the stop sign controlling vehicular traffic prior to turning into East Main Street, and that the erection of the sign has created a very dangerous traffic situation.

CONCLUSION

The appellant and appellant's contractor are responsible for erecting the sign without first obtaining the building permit and zoning certificate, and for failure to assure that the sign would not interfere with, or obstruct the vision of motorists at the intersection of 140 Village Road and East Main Street. The sign was erected illegally and interferes with motorists' vision illegally.

Therefore, the Board of Zoning Appeals hereby affirms the Notice of Violation, dated May 8, 1989, issued by the Zoning Administrator.

Feb. 2, 1990  
Date

John Totura  
John Totura, Chairman