

Case 3227

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Allan A. Dale
5229 Hanover Pike
Manchester, Maryland 21102

REQUEST: Variances reducing the minimum required lot area of 3 (three) acres to 1.9985 acres for a proposed private stable for two horses, and the minimum distance requirements pertaining thereto.

LOCATION: 5229 Hanover Pike (Md. Rt. 30) in Election District 6; Allana Acres subdivision, Lot 1 recorded in Carroll County plat records in book 29, page 100.

BASIS: Article 6, Section 6.4(h); Article 5, Section 5.3(b); Article 4, Section 4.12; Article 15; Section 15.5; Ordinance 1E

HEARING HELD: August 23, 1989

FINDINGS

The property is lot #1 of a three lot subdivision known as Allana Acres, fronting on Hanover Pike (Md. Rt. 30), and is improved with a single family dwelling. The area of the lot is 1.9985 acres and the lot width is approximately 160 feet. Lots #2 and 3 have similar areas and widths as depicted on the plot plan submitted with the application. The topography of the lot slopes gradually downward from the rear of the dwelling to the rear property line. No evidence of unusual conditions peculiar to the property and unduly restricting its use were presented to the Board.

The plot plan submitted with the application indicates the general location of a proposed shelter, twenty-five feet square, for two horses adjacent to the drainage and utility easement paralleling the northerly side property line. Although the location is not established by dimensions, the applicant, Mr. Dale, testified that the structure would be over two hundred feet from the dwelling on lot #2. In addition, Mr. Dale testified that he now plans to erect a thirty feet by forty feet combination garage-private stable, instead of the twenty-five feet by twenty-five feet structure. An unidentified exhibit submitted by Mr. Dale shows the floor plan of only the horse barn.

As noted on the application, the lot and surrounding area are zoned "A" Agricultural District as shown on Zoning Map 6A. The private stable, as defined in Article 20, Section 20.34A of Ordinance 1E, is permitted as an accessory use, subject to a minimum required lot area of three acres. [Article 6, Section 6.4(h); Ordinance 1E.]

The private stable provision first appears in the land use regulations of the "C" Conservation District which requires a minimum lot area of three acres and a minimum lot width of three hundred feet. [Article 5, Section 5.3(e); Ordinance 1E.] In addition, Section 5.3(h) specifies the minimum distance requirements governing private stables. The proposed structure apparently can be located on the lot in compliance with the minimum distance requirements. Therefore, the issue in this case is whether there are circumstances unique to this property that justify reduction of the minimum required lot area of three acres to 1.9985 acres for the private stable.

APPLICABLE LAW

Article 20, Section 20.39 of Ordinance 1E 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 the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship."

Article 15, Exceptions and Modifications, Section 15.0, Generally, and Section 15.5, Variance read respectively in relevant part:

"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...lot area,...and distance requirements specified in Section 4.12.... 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

The requested variance for reduction of the minimum required lot area to allow establishment of the private stable is not supported by evidence substantiating practical difficulty and unreasonable hardship in the use of the property. The request is essentially a matter of convenience to the applicant, and is contrary to the intent and purpose of the Carroll County Zoning Ordinance (Ordinance 1E).

CONCLUSION

As there is no evidence of practical difficulty and unreasonable hardship in the use of the property, the requested variance for the reduction of the minimum required lot area three acres is hereby DENIED.

Although the necessity for a variance to the minimum distance requirements pertaining to the private stable was not documented, if such variance would have been found necessary, it would also be denied for lack of practical difficulty and unreasonable hardship in the use of the property.

Sept. 8, 1989
Date

John Totura
John Totura, Chairman