

Case 3291

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

APPLICANTS: Anthony Cimino and JoAnn Cimino
2206 Liberty Road
Sykesville, Maryland 21784

ATTORNEY: Charles O. Fisher, Esq.
179 East Main Street
Westminster, Maryland 21157

REQUEST: To allow structural alterations and enlargement of the second floor attic storage area of the existing beauty and barber shop, classified as a nonconforming use.

LOCATION: 1115 Liberty Road (Md. Rt. 26) in Election District 5

BASIS: Article 4, Section 4.3(a)(1); Ordinance 1E.
(The Carroll County Zoning Ordinance)

HEARING HELD: December 27, 1989

On December 27, 1989, the Board of Zoning Appeals heard testimony and received evidence concerning the request to allow structural alterations and enlargement of the second floor attic storage area of the existing beauty and barber shop, classified as a nonconforming use, at 1115 Liberty Road (Md. Rt. 26).

The Board visited the property on December 19, 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 request will be authorized, subject to the conditions specified below. The pertinent findings include the following facts.

FINDINGS OF FACT

In Case 2960 the Board authorized an enlargement of the existing shop in its written decision dated August 11, 1988. The authorization was based on the testimony and evidence comprising the record of the case presented to the Board at the public hearing.

The enlargement included a new barber shop area on the first floor, and two offices and a bathroom within the enlargement on

the second floor. As presented to the Board, the enlargement on the second floor was proposed for only part of the rear portion of the existing one story building.

Subsequently, the architectural and construction plans were changed to provide a complete second story addition above the existing first story of the building. Construction proceeded using the revised plans. The request, now before the Board, is for the structural alteration and enlargement of the building as now existing. The request does not involve any change in the use of the building, except for storage in the newly constructed second floor area.

On April 3, 1989, the Zoning Administrator issued a Notice of Violation concerning enlargement of the building in excess of that authorized by the Board in Case 2960, and contrary to Building Permit/Zoning Certificate 88-3169. An appeal of that notice, Case 3184, was filed with this Board. Following the public hearing on June 28, 1989, the Board affirmed the Zoning Administrator's Notice of Violation.

As now substantiated, the problem involves architectural and construction efforts to control storm water runoff from the roof of the building; a misunderstanding by the builder of the Board's directions in the decision in Case 2960 pertaining to minimizing the effects of storm water runoff on the adjoining property to the west; and, the resulting discrepancy reflected by the Permit Application, the construction plans, and the actual construction. The second floor, incorporating a flat roof with parapets on the front and two sides, has been constructed over the entire area of the first floor. The area in addition to the office space authorized by the Board in Case 2960, is proposed to be used for storage only.

An independent builder, employed to review the construction and cost of corrective measures, presented testimony on behalf of the request. In addition, an expert in real estate appraisal testified that, in his opinion, the existing building would have no greater adverse affects on the adjoining properties than the building did prior to the enlargement.

CONCLUSION

Based on the record, the Board hereby authorizes the request, subject to the following conditions:

1. The second floor area as depicted on the plan identified as A3 of 4 and submitted with the Application for Hearing, not previously authorized for two offices and a bathroom in Case 2960, shall be restricted solely to the owners' use or storage.

2. No architectural changes of the exterior of the existing building shall be required, and the stairs planned to serve the emergency exit on the architectural front of the second floor of the building may be constructed.
3. Due to the particular circumstances in the use of the beauty and barber shop, classified as a nonconforming use, this authorization shall be limited solely to the applicants, and shall not inure to the benefit of assigns.

The chairman, John Totura, dissents from this authorization.

Jan. 19, 1990
Date

John Totura
John Totura, Chairman