

Case 3293

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Shields Inc.
7636 Old Westminster Pike
Finksburg, Maryland 21048

AGENT: Smith-Miller Associates, Inc.
13054 Tarragon Road
Reisterstown, Maryland 21136

REQUEST: A request to allow expansion of an existing mobile home park, classified as a nonconforming use.

LOCATION: North side of Gorsuch Road about 2,300 feet northeast of Westminster Pike (Md. Rt. 140) intersection in Election District 7

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

HEARING HELD: December 28, 1989

On December 28, 1989, the Board of Zoning Appeals heard testimony and received evidence concerning the request to allow expansion of an existing mobile home park, classified as a nonconforming use, on property located on the north side of Gorsuch Road about 2,300 feet northeast of Westminster Pike (Md. Rt. 140) intersection.

The Board visited the site 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 Board will deny the request. The pertinent findings of the Board determining the decision include the following facts.

FINDINGS OF FACT

The 7.585 acre property is presently improved with four mobile homes and a single family dwelling. The dwelling was established with authorizations of variances to the minimum lot area, width, and yard requirements for conversion of a building existing in 1965.(Case 862.) The existing mobile homes and converted dwelling are located adjacent to the frontage of the property in an area which has been graded and prepared for the mobile homes. The driveway provides vehicular access to and from Gorsuch Road.

The proposed enlargement involves construction of a cul-de-sac extending about 600 feet up the hillside from Gorsuch Road, and development of fourteen lots having minimum areas of 6000 square feet for fourteen "double-wide" mobile homes.

As depicted by Applicant's Exhibits 1 and 2, the property is on a hillside and increases in elevation approximately 100 feet from the entrance on Gorsuch Road to the northerly, or rear, property line. The road would be built to county standards, but remain in applicant's ownership and be maintained as a private road. Potable water would be supplied by connection to the City of Westminster's public water supply system. Private sanitary sewerage disposal facilities would be constructed on the premises, subject to the requirements of the Carroll County Health Department. The proposed site plan, Applicant's Exhibit 1, would be subject to change in compliance with applicable regulations and requirements.

Only a small part of the 7.585 acre site has been devoted to the nonconforming use from the adoption of Ordinance 1E on August 17, 1965. Much of the site is wooded, and would have to be cleared and graded for construction of the proposed lots and access road. However, the trees would be retained, where possible, to provide natural screening of the nonconforming use from adjoining properties.

The applicant in this case cited the Board's decision in Case 822 regarding this property. The written decision in that case, dated September 25, 1973, notes:

- as a nonconforming use, the maximum number of mobile homes constituting the mobile home park was 10
- at the time of the case, there were four mobile homes on the property
- the request was to reestablish six mobile home pads, or stands, by increasing the land used for the mobile homes
- the proposed increase of land to be used for the nonconforming mobile home park was in excess of the maximum allowable increase of 35 percent, which required a variance
- no increase in the number of mobile homes constituting the nonconforming mobile home park was proposed

The Board's authorization in that case specified conditions intended to promote the intent of the Zoning Ordinance and improve the quality of the nonconforming mobile home park.

Since that time, the Zoning Ordinance has been amended deleting the maximum limitation for enlargement of a nonconforming use.

In this case the request is to use the entire site for the nonconforming use, and increase the number of mobile homes allowed within the park from ten to eighteen.

A lesser issue involves the "double-wides," which if constructed to standards of modular homes would not comply with the definition of a mobile home and would not be permitted. For purposes of this case, the Board will presume that the "double-wides" would be constructed to specifications of mobile homes.

Mr. Edwards, the owner and resident of the home on the adjoining lot identified as parcel 1,286 on the site location map, expressed concerns regarding springs in the area of the proposed sewerage disposal system, and the feasibility of attempting to establish such a large sewerage disposal system in that area. However, the regulations governing the provision of a potable water supply and sanitary sewerage disposal system rests with the Carroll County Health Department.

Mr. Daniel B. Stoner, Jr., an associate of Westminster Nurseries, Inc. (parcel 917) testified in opposition to the request. Mr. Stoner's concerns included the fact that enlargement of the nonconforming use would be contrary to the land use regulations governing the "R-10,000" Residence District, and that the enlargement would tend to depreciate the residential property values of the adjoining property in the county, as well as the land now within the corporate limits of the City of Westminster.

Mrs. Mildred Stoner, wife of Daniel B. Stoner, owners of parcel 1439, also appeared in opposition to the request.

APPLICABLE LAW

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

The property and adjoining properties to the east, north and west are zoned "R-10,000" Residence District as depicted on zoning map 46A. The land located to the south of Gorsuch Road, and identified as Parcel 917 on the site location map used to post the hearing notice sign, is within the corporate limits of the City of Westminster.

The land use provisions for the "R-10,000" Residence District, as specified in Article 8, do not include mobile home parks.

Article 20, Section 20.26 defines a mobile home and mobile home parks as:

Any vehicle or preassembled structure, so constructed and located, regardless of its foundations, as to permit occupancy thereof for living or sleeping, or the conduct of any business, and so designed that it may be moved or transported on roads by means of attached wheels, or hauled on a separate conveyance, or propelled or drawn by its own motor power; and arriving at the site where it is to be occupied complete and ready for occupancy, except for minor and incidental unpacking or assembly operations, connection to utilities and the like; including automobile trailers, truck trailers, trailer coaches, trailer homes, mobile homes, busses, streetcars, and all similar devices; but not including modular homes which are constructed to the specifications for single family dwellings as set forth in the local building code and which are transported to the site in several pieces, requiring completion of construction on the site.

(a) *Mobile home park.* (Amended 6-25-71) Any site, lot, parcel or tract of land which is designed, used or intended to be a rental location for accommodations of three or more mobile homes for living purposes.

Article 20, Section 20.27 defines a nonconforming use as:

A use of a building or of land lawfully existing at the time this ordinance becomes effective and which does not conform with the use regulations of the zone in which it is located.

Article 4, General Provisions; Section 4.3(a)(1), Nonconforming Uses (Amended 3/17/81) and Article 17, Section 17.7 (Amended 7/12/88) govern the requested enlargement of the mobile home park.

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

REASONING

This request is substantially different than the conditional use and variance requests conditionally approved in Case 822. In addition, the circumstances pertaining to the use of the surrounding property have also changed. As noted in Article 8, the purpose of the "R-10,000" Residence District is to provide for lots having a minimum of 10,000 square feet for development

with single and two family dwellings served with public water and [sanitary] sewerage [disposal] facilities.

In considering the standards of Section 17.7 the Board is convinced that the proposed enlargement would be incompatible with the existing zoning regulations of the "R-10,000" Residence District, and as such, would lead to the depreciation of the value of adjacent properties.

The fact that an auto parts and automobile recycling facility classified as a nonconforming use is located on the adjoining properties to the east, identified as parcels 813, 1388 and 1465 on the site location map, does not warrant expansion of the mobile home as requested.

CONCLUSION

The request to allow expansion of the existing mobile home park, from the relatively small area now utilized to the entire 7.585 acre site, and increase from four mobile homes to 18 mobile homes, would be contrary to the purpose and intent of the Carroll County Zoning Ordinance and is hereby denied.

Feb. 26, 1990
Date)

John Totura
John Totura, Chairman