

Tax Map/Block/Parcel
No. 63-12-81

Building Permit/Zoning
Certificate No. None

Case 3301

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANTS: J. Hambleton Ray and June E. Ray
3921 Poole Road
Finksburg, Maryland 21048

REQUEST: Variances reducing the minimum required lot area of 3 acres and lot width of 200 feet for a garden supply center authorized in Case 1199

LOCATION: 3921 Poole Road in Election District 4

BASES: Article 6, Section 6.7; Article 15, Section 15.5; Ordinance 1E (The Carroll County Zoning Ordinance)

HEARING HELD: February 28, 1990

On February 28, 1990, the Board of Zoning Appeals heard testimony and received evidence concerning the requests for variances reducing the minimum required lot area of 3 acres and lot width of 200 feet for a garden supply center authorized in Case 1199 on the premises of 3921 Poole Road. This case was originally scheduled for public hearing December 28, 1989, but was postponed on the Board's own initiative.

The Board visited the site on December 19, 1989, and February 26, 1990, 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 requested variances. The pertinent findings of the Board determining the decision include the following facts.

FINDINGS OF FACT

The 4.57 acre property is located on the southeast corner of Poole Road and Sykesville Road (Md. Rt. 32). The configuration of the property is irregular, and may be described as a ten sided polygon. The principal portion of the polygon fronts on Poole Road and Sykesville Road. It is improved with the shell of a building intended for the garden supply center, and a dwelling which was evidently constructed prior to the adoption of Ordinance 1E in 1965. That dwelling has been converted into two apartments.

The property extends into a southeasterly direction from Poole Road to the rear the converted dwelling for a distance in excess of 400 feet. A second dwelling is located in this area more than 100 feet from the rear of the first dwelling.

The remaining portion of the property is located more than 200 feet from the rear of the second dwelling. This portion of the polygon extends slightly to the northeast and, to a greater extent, to the southwest. There are no improvements on this portion of the property.

Vehicular access to the garden supply center, as well as the dwellings, is from two separate driveways connecting to Poole Road. One of the driveways serves the garden supply center, and the second driveway provides access to the dwellings.

As depicted on Applicant's Exhibit 1, the property is proposed to be divided into three lots. The garden supply center and the converted dwelling are located in the area of lot one. The second existing dwelling is located in the area of lot two. The fee simple ownership for lots two and three would extend to connect with Poole Road.

In the authorization of the garden supply center in Case 1199, frontage of the property was determined to be on Sykesville Road (Md. Rt. 32), thereby establishing the lot width--measured at the midpoints of the frontage on Poole Road and the opposite side property line--to be in excess of the minimum requirement of 200 feet for the center. The building was located on the property accordingly, with the southeasterly side yard established at 30 feet.

The proposed division of the property would now require either a variance to the minimum lot width requirement if the designated frontage continued to be on Sykesville Road, or a variance to the minimum required rear yard for the garden supply center's building if the frontage was changed to Poole Road. The variance from the minimum requirement of three acres would be necessary in either case.

APPLICABLE LAW

The property is zoned "A" Agricultural District as shown by zoning map 63B.

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

The land use provisions for the "A" Agricultural District include garden supply centers as stated in Article 6, Section 6.3(q). In

addition, Section 6.7 specifies the minimum lot area, lot width and yard requirements which govern the uses in the district. Principle permitted uses not otherwise listed and conditional uses require a minimum of 3 acres, a lot width of 200 feet, a front yard of 40 feet, side yards of 20 feet, and a rear yard of 50 feet.

Article 20, Section 20.39 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 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, lot width.... 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 property is improved with a converted dwelling, containing two apartments, and a separate single family dwelling. In addition, the garden supply center is authorized as a conditional use.

There is no evidence of practical difficulty and unreasonable hardship inherent with the use of the property which would justify authorization of the requested variances. Authorizations of variances cannot be justified simply as a matter of convenience.

CONCLUSION

Accordingly, the Board hereby denies the requested variances.

Mar. 9, 1990
Date

John Totura
John Totura, Chairman

JDN/bmh/C3301dec
March 7, 1990