

Tax Map/Block/Parcel  
No. 46-15-100

Building Permit/Zoning  
Certificate No. 90-3009

Case 3444

OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND

**APPLICANT:** Johnson Graphics, Inc.  
620 Old Westminster Pike  
Westminster, Maryland 21157

**ATTORNEY:** Charles M. Preston, Esquire  
188 East Main Street  
P.O. Box 389  
Westminster, Maryland 21157

**REQUEST:** To enclose an existing porch to increase office space of the printing company, classified as a nonconforming use, and provide additional off-street parking

**LOCATION:** 620 Old Westminster Pike in Election District 7

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

**HEARING HELD:** September 27, 1990

On September 27, 1990, the Board of Zoning Appeals heard testimony and received evidence concerning the request to enclose an existing porch to increase office space of the printing company, classified as a nonconforming use, and provide additional off-street parking at 620 Old Westminster Pike.

The Board visited the site September 24, 1990.

The application, testimony and evidence comprising the record of this case are hereby included by reference in this decision.

The applicant submitted two plans for expansion of the nonconforming use, identified as Applicant's Exhibits 1 and 2. Exhibit 1 was submitted with the application prior to the public hearing. Exhibit 2 was submitted and proposed at the public hearing. Based on the record, the Board will authorize increasing the office space by sanctioning enclosure of the print shop's front porch as it presently exists, subject to the conditions of authorization imposed and specified below. This authorization is not depicted by either Exhibit 1 or 2. The Board will also authorize expansion of the off-street parking spaces to provide a total of 16 parking spaces in accordance with the conditions imposed below.

The Board will deny enlargement of the print shop by increasing the use of the residential garage as first proposed during the public hearing and depicted on Exhibit 2.

The Board exercised notice of two previous cases, 1675 and 2440, for enlargement of the print shop. The property was further identified in each case as Buckingham View subdivision, Section F, Lots 1 through 6 as recorded in Carroll County Plat Records in Plat Book 2, page 15. The address of the dwelling is 622 Old Westminster Pike.

The pertinent findings determining the Board's decision include the following facts:

#### FINDINGS OF FACT

Mr. Robert J. Johnson is owner and president of Johnson Graphics, Inc. Mr. Johnson first appeared before the Board in March of 1981, requesting enlargement of the print shop, which was also classified as a nonconforming use at that time. (Case 1675.) The Board authorized the request, subject to conditions prescribed in the decision dated March 5, 1981.

In condition 1, the Board required that 9 parking spaces be established perpendicular to the front of the print shop building and dwelling. The ninth space and the driveway were to provide parking for the dwelling. The condition specified that the first space not be located closer than 10 feet to the northwesterly property line adjoining Willow Avenue. The condition was founded on the plot plan filed in Case 1675, which has now been discovered to be in error, as explained below.

In December of 1985, Mr. Johnson requested further enlargement of the print shop by enclosing the existing front porch of the building. (Case 2440.) The Board denied the request in its written decision dated February 14, 1986. In the conclusion of that decision, the Board noted that the shop had "created a vehicular traffic safety problem on Willow Avenue and Old Westminster Pike." The problem involved parking of vehicles in violation of the conditions imposed in Case 1675 and provisions of the zoning ordinance.

The purpose of this request is to provide shop space for a new multi-color offset printing press, and additional on-site parking spaces. Presently, a number of employees park their vehicles adjacent to, or within, the right of way of Old Westminster Pike and Willow Avenue. (Applicant's Exhibits 3a-e.)

Although the new press may affect work schedules, no increase in the number of employees is planned. There are presently twenty employees, including Mr. Johnson. Fifteen employees normally work the day shift. Mr. Johnson and two other employees are responsible for sales and visiting clients. Two or three

employees work the night shift. Mr. Johnson testified that customers generally do not come to the shop, and that traffic is usually limited to one or two vehicles a day.

In comparing the plot plan filed in Case 1675 to Exhibits 1 and 2, a discrepancy involving the setback of the print shop building from Willow Avenue is evident. The plan in Case 1675 shows a setback of 15 feet. As now depicted by the exhibits, the building's setback, as scaled on the plans, is about 6 feet from Willow Avenue.

The discrepancy is material for reason that the first or nearest parking space to Willow Avenue is not setback 10 feet from the property line as required in Condition 1 of Case 1675; and only 8 parking spaces, each at least 9 feet in width, can be located between the setback and the driveway providing access to the rear yard.

Exhibit 1 depicts the porch extending in front of the print shop and the attached two story dwelling, a distance of about 76 and 1/2 feet as scaled on the plan. Both the shop and the dwelling architecturally front on Old Westminster Pike. Although attached, the print shop building and dwelling are separate structures. The print shop is 50 feet in width. The existing porch is inset from the southwest corner of the print shop building about 3 feet, as scaled on the plan. (The distance is not dimensioned on the plan.) Thus, the porch in front of the print shop is about 47 feet in length. ( $50' - 3' = 47'$ .) The width of the porch, also as scaled on the plan, is about 7 and 1/2 feet. Nine parking spaces are indicated perpendicular to, and setback about 5 feet from the porch. The first parking space is less than 4 feet from the property line adjoining Willow Avenue--not 10 feet as required by the Board's decision in Case 1675, and Article 14, Division I, Section 14.1(b)4 of Ordinance 1E.

As further depicted on Exhibit 1, eight on-site parking spaces are proposed to the architectural rear of the print shop and dwelling, adjacent to the northeasterly property line. An existing garage is shown in the rear yard of the dwelling, with a notation that it is to be razed. The purpose of razing the garage is to provide for vehicular access to the parking spaces.

The parking plan (Exhibits 1 and 2) is for one-way traffic. Entry is indicated from Old Westminster Pike, using the driveway formerly serving the garage, with exit onto Willow Avenue. The driveway exit to Willow Avenue is obstructed by a utility pole located adjacent to the paved section of the street and several feet outside the property line. The utility pole, located near the center of the driveway, will prohibit use of the full width of the driveway. Although the driveway width exceeds 15 feet in width, the utility pole as presently positioned, will divide the

exit into two lanes. Each lane will be about 10 feet in width. The minimum required width for one-way traffic is 15 feet.

As noted on the plans, the parking spaces and access driveway will be paved.

No variance was requested to reduce, or relax, the minimum standards governing new parking facilities, or the existing access area between Old Westminster Pike and the parking spaces in front of the print shop and dwelling, which is nonconforming. Therefore, the minimum design standards specified in Article 14, Division I, Section 14.1(b) of the zoning ordinance are applicable.

During the public hearing on September 27, 1990, Mr. Johnson submitted a revised plan, identified as Applicant's Exhibit 2. The new plan depicts a proposed addition, extending the full width of 50 feet of the print shop building and projecting 15 feet, or twice the distance of the existing porch, from the building. The addition would encroach into the area of 6 parking spaces facing the front of the building, forcing the spaces closer to Old Westminster Pike. This reduces the available on-site maneuvering space to 6 feet.

The existing maneuvering space does not meet the minimum requirement of 25 feet, and further reduction would increase the need for drivers to use the shoulder and paved section of Old Westminster Pike to maneuver vehicles entering or leaving the parking spaces. This is contrary to the intent and purpose of the zoning ordinance to promote vehicular traffic safety.

The existing garage would be retained for storing used materials from the print shop for recycling. No evidence was presented to substantiate that use of the garage did not conform to the residential zoning of "R-10,000" Residence District established on August 17, 1965, with the adoption of Ordinance 1E.

The dwelling was used for residential purposes in 1968, and that use continued to the present time. Accordingly, the Board finds that use of the garage was for residential purposes until recently when Mr. Johnson began storing used materials from the print shop in it. Such use was not authorized by this Board and is illegal.

Retention of the existing garage would limit access to the proposed spaces along the rear property line, thereby reducing the number of parking spaces from 8 to 5 spaces.

Three additional parking spaces are depicted on the southeasterly side of the driveway (Exhibit 2). These spaces are proposed in an area that was not previously used in conjunction with the print shop.

As noted on this application to the Board, the present request is "for expansion of a nonconforming use pursuant to Section 4.3(a)(1) of Zoning Ordinance 1E to enclose an existing porch for increased office space at a printing company and to provide additional off-street parking."

The revised proposal and sketch plan (Exhibit 2) presented during the public hearing, including enlargement of the print shop building by constructing the 15 feet by 50 feet addition, and extending the nonconforming use of the print shop to include the residential garage exceeds the description of the request expressed in the Application for Hearing and used as a basis for the public hearing notice.

#### APPLICABLE LAW

Articles and Sections cited below are of Ordinance 1E.

The property is zoned "R-10,000" Residence District as shown on zoning map 46A. The land use provisions for the district as specified in Article 8 of Ordinance 1E, do not permit print shops as either a principle permitted use or a conditional use.

Article 4, General Provisions; Section 4.3, Nonconforming Uses (Amended 3/17/81) reads in relevant part:

Any building, structure or premises lawfully existing at the time of the adoption of this ordinance, or lawfully existing at the time this ordinance is amended, may continue to be used even though such building, structure or premises does not conform to use or dimensional regulations of the zoning district in which it is located; subject, however, to the following provisions:

- (a) Structural alterations or enlargement of any building, structure or premises which does not comply with the use or dimensional requirements of this ordinance shall be allowed only as follows:
  - (1) Upon application, the Board may approve structural alterations or enlargement of a nonconforming use, subject to the provision of Article 17, Section 17.6;

Section 4.23, Compliance with Landscape Manual (Ordinance 77, 5/25/89) Subsections 4.23.1 and 4.23.2 read respectively:

No zoning certificate may be issued for any use of property hereafter started or for any change of use hereafter made, or for any non-conforming use presently existing which hereafter expands or intensifies unless in compliance with the Landscape Manual for Carroll County.

Where a use is required to comply with Section 10.4(d), failure to maintain the property being used in compliance with the Landscape Manual for Carroll County shall be prohibited and each day the property fails to comply shall be treated as a separate violation of this ordinance.

Article 17, Board of Appeals; Section 17.7, Limitations, Guides and Standards (formerly Section 17.6) governs the Board in considering enlargement of nonconforming uses.

#### REASONING

Enclosure of the existing front porch of the print shop, elimination of the first parking space located partially in front of the print shop building and closer than 10 feet to the northwesterly property line adjoining Willow Avenue, and establishment of the 8 parking spaces in the rear yard, as depicted on Exhibit 1, will benefit vehicular traffic safety by substantially improving the provisions for on-site parking without unduly affecting the residents of adjacent properties, the values of those properties, or the public interests.

The porch in front of the dwelling, the residential garage, and proposed parking spaces on the southeast side of the driveway are areas that have not been used as part of the nonconforming use. Expansion of the business into these areas for additional office space, storage, and parking would not be appropriate or compatible in the "R-10,000" Residence District, and would be contrary to the intent and purpose of the zoning ordinance.

#### CONCLUSION

The Board hereby authorizes enclosure of the existing porch in front of the print shop to increase office space of the printing company, and establishment of additional off-street parking, subject to the conditions of authorization imposed below.

Enlargement of the print shop by increasing the use of the residential garage as first proposed during the public hearing and depicted on Exhibit 2 is hereby denied.

The following conditions of authorization are imposed in order to promote the intent and purpose of the zoning ordinance.

1. This authorization is subject to the provisions of Article 4, Section 4.23 and Article 10, Section 10.4(d) of Ordinance 1E.
2. Eight parking spaces shall be established in the rear yard of the property, adjacent to the northeasterly property line as depicted by the sketch plan identified as Applicant's Exhibit 1. The existing garage shall be razed to provide access to the parking spaces.
3. Approval of the enclosure of the existing porch is contingent upon the applicant's successful relocation of the utility pole, located near the center of the driveway exit adjacent to the paved section of Willow Avenue so that it does not obstruct the minimum required width of 15 feet of the driveway exit.
4. The parking space located partially in front of the print shop and less than 10 feet from the northwesterly property adjoining Willow Avenue shall be eliminated to comply with condition 3 of the Board's decision in Case 1675 and Article 14, Division I, Section 14.1(b)4 of Ordinance 1E.
5. Eight parking spaces, 9 feet by 20 feet, shall be established in front of the print shop and dwelling. To refrain from diminishing the on-site maneuvering space (access area) of approximately 14 feet between the right of way of Old Westminster Pike and the parking spaces, which does not comply with the minimum requirement of 25 feet, plus a setback of 10 feet for reason that it parallels the road, the parking spaces shall be established immediately next to the new addition with suitable wheel bumpers to protect the building from being damaged by vehicles.
6. The existing front porch of the print shop, 7 and 1/2 feet by 47 feet, may be enclosed to increase office space of the printing company.

Oct. 25, 1990  
Date

John Totura  
John Totura, Chairman

JDN/bmh/c3444dec  
October 24, 1990