

Tax Map/Block/Parcel
No. 39-13-352

Building Permit/Zoning
Certificate No. 90-3448

Case 3459

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

APPLICANT: William E. Borisevic
24 Sullivan Road
Westminster, Maryland 21157

REQUEST: To allow replacement of an existing mobile home, classified as a nonconforming use, with a new and larger mobile home

LOCATION: 24 Sullivan Road, and known as 22 Sullivan Road, in Election District 7

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

HEARING HELD: November 26, 1990

On November 26, 1990, the Board of Zoning Appeals heard testimony and received evidence concerning the request to allow replacement of an existing mobile home, classified as a nonconforming use, with a new and larger mobile home on the premises of 24 Sullivan Road, and known as 22 Sullivan Road.

The Board visited the site on November 21, 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 must deny the request. The pertinent findings determining the Board's decision include the following facts.

FINDINGS OF FACT

The .73 of an acre lot is located on the west side of Sullivan Road about 500 feet north of Westminster Bypass (Md. Rt. 140). It is improved with a two-story dwelling, detached garage, a barn, a small shed, and a mobile home. The mobile home, 8 feet in width by 32 feet in length, was placed on the property by a prior owner about 1960. It is located near the southerly side property line. Sometime thereafter, the mobile home was enlarged by construction of an addition of 10 feet by 13 feet on the northerly side of the mobile home.

In December of 1967, Baltimore Gas and Electric Company provided service to the mobile home, and assigned it a billing address of 22 Sullivan Road. The Chesapeake and Potomac Telephone Company

of Maryland also provided service to the mobile home. In March of 1979, the mobile home was connected to public water and sanitary sewerage facilities of the City of Westminster.

Mr. Borisevic, who purchased the property in 1986, now proposes to replace the mobile home and addition with another mobile home. During the public hearing, Mr. Borisevic amended his request by reducing the size of the proposed mobile home from 14 feet by 60 feet to 14 feet by 48 feet.

Since its establishment on the property prior to the adoption of Ordinance 1E in 1965, the mobile home has been used exclusively for rental purposes. Mr. Borisevic indicated that the mobile home would continue to be rented for an indefinite period, with the possibility that his mother may eventually establish her residence there.

In 1960, when the mobile home was placed on the property, the area was rural, with four dwellings nearby. Since then, a residential subdivision (Sullivan Heights) has been developed on the east side of Sullivan Road, opposite the property, and three two-family homes have been constructed on the west side of Sullivan Road, south of the property. Additional development to the north and south has also occurred, and the area is now residential.

The adjoining property owner to the south testified that the previous owner of his property had planted the pine trees on that property which now screen the view of the mobile home from the south. The property owner also indicated opposition to establishment of a larger mobile home on the property, its placement adjacent to the southerly property line, and possible adverse affects of the mobile home to his property.

As indicated by Mr. Borisevic, the mobile home is not readily visible from the north, east, and south. It is visible to a greater degree from the property to the west which is the Westminster Community Pond.

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 39A. The land use provisions of the district, as specified in Article 8, do not permit mobile homes as principal permitted or conditional uses. Although mobile homes are permitted as an accessory use to agriculture, the property does not qualify for the use. (Section 8.3(a).)

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 continued 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 of 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....

With amendment of Article 17, Section 17.6 was changed to Section 17.7.

Article 17, Board of Appeals; Section 17.7 reads in relevant part:

Where in these regulations certain powers are conferred upon the Board or the approval of the Board is required before a conditional use may be issued, the Board shall study the specific property involved, as well as the neighborhood, and consider all testimony and data submitted. The application for a conditional use shall not be approved where the Board finds the proposed use would adversely affect the public health, safety, security, morals or general welfare, or would result in dangerous traffic conditions, or would jeopardize the lives or property of people living in the neighborhood. In deciding such matters, the Board shall give consideration, among other things, to the following:

- (a) The number of people residing or working in the immediate area concerned.
- (b) The orderly growth of a community.
- (e) The conservation of property values.
- (g) The most appropriate use of land and structures.
- (h) The purpose of this ordinance as set forth herein.

REASONING

The neighborhood was essentially undeveloped when the mobile home was established on the premises. The property is now surrounded by dwellings and the community pond, which is in a park setting and used for limited recreational purposes.

Although the mobile home may not be readily visible from all adjacent properties, it is visible from the adjacent property to the north and the community pond park. Therefore, its presence is, and would continue to be, known in the neighborhood.

As a nonconforming use, the mobile home is incompatible with the permitted uses in the district. Accordingly, replacement of the existing mobile home with another mobile home would preserve the inappropriate use of the property, likely impairing marketability of adjacent dwellings and adversely affecting residential property values in the area.

CONCLUSION

To authorize the request to replace the existing mobile home would be contrary to the intent and purpose of the zoning ordinance. Therefore, the request is hereby denied.

Dec. 11, 1990
Date

John Totura
John Totura, Chairman

JDN/bmh/c3459dec
December 10, 1990