

Tax Map/Block/Parcel  
No. 77-16-263

Building Permit/Zoning  
Certificate No. 90-3447

Case 3460

OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND

**APPLICANT:** Vivian Leatherwood  
801 Hoods Mill Road  
Woodbine, Maryland 21797

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

**REQUEST:** Variances reducing the minimum required area for two campsites from 5,000 square feet each, to 2,900 square feet and 2,800 square feet, and reduction of the minimum setback line of 100 feet to distances ranging from 35 feet to 90 feet for seven campsites

**LOCATION:** Ramblin Pines Campground on the premises of 801 Hoods Mill Road in Election District 14

**BASES:** Article 14, Division IX, Section 14.9(b);  
Article 15, Section 15.5; 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 for variances reducing the minimum required area for two campsites from 5,000 square feet each, to 2,900 and 2,800 square feet, and reduction of the minimum setback line of 100 feet to distances ranging from 35 feet to 90 feet on seven campsites within Ramblin Pines Campground on the premises of 801 Hoods Mill Road.

In accordance with provisions of Article 17, Section 17.6.6 of Ordinance 1E, the Board visited the site on November 21, 1990, prior to the public hearing and again on November 28, 1990, following 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 approve the variances, subject to the conditions of authorization imposed below.

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

FINDINGS OF FACT

The Board of Zoning Appeals authorized the commercial camping area as a conditional use in its written decision dated December 15, 1972, in accordance with the Development Plan and testimony presented to the Board in Case 749. Thereafter, Mr. Leatherwood initiated development and operation of the commercial camping area.

The site development plan, depicting 80 family campsites and 15 primitive campsites, was planned using contour lines with intervals of 20 feet. The locations of the access driveways providing vehicular circulation, and campsites shown on the plan were restricted by the topography, woodland required for the camping area by the zoning ordinance, configuration of the property, and the agricultural zoning line forming the southeasterly boundary of the camping area.

In the process of constructing the access driveway to serve the respective campsites, Mr. Leatherwood had to select and establish the alinement consistent with the site development plan and the above restrictions. Apparently his first priority was to utilize the natural topography for the alinement where possible to reduce, or eliminate, the necessity of grading and filling. Once the access driveway was constructed, Mr. Leatherwood selected, cleared, and graded the individual driveways and parking areas, and installed sanitary sewerage hookups for recreation vehicles and potable water supply lines and hydrants on each of the campsites.

Following Mr. Leatherwood's death last year, Mrs. Leatherwood proceeded, in the spring of this year, to complete establishment of the eight campsites by installing electrical supply lines and service boxes to each campsite. County permits were obtained for the work.

In the spring of this year, Zoning Enforcement received a complaint regarding the then completed campsites. After the camping area was inspected, Mrs. Leatherwood was advised that the campsites did not conform with either the minimum lot area or setback from the side property line, and that the campsites should not be rented. At that time it was not known that the eighth campsite would comply with the minimum requirements. Accordingly, Mrs. Leatherwood did not rent any of the campsites.

Thereafter, Mrs. Leatherwood employed a surveying firm to prepare a sketch plan, Applicant's Exhibit 1, depicting the campsites. The plan was prepared and dated September 26, 1990. The requested variances to the setback from the side property line and reduction of the minimum required areas are listed on plan. The variances to the setback are listed as:

Lot 1 - 100' to 35'  
Lot 2 - 100' to 35'  
Lot 3 - 100' to 47'  
Lot 4 - 100' to 56'  
Lot 5 - 100' to 78'  
Lot 6 - 100' to 90'  
Lot 7 - 100' to 90'

Lot 8 complies with the minimum requirement of 100'.

The variances to the minimum required area are noted as:

Lot 5 - 5,000 square feet to 2,900 square feet  
Lot 6 - 5,000 square feet to 2,800 square feet  
Lots 1, 2, 3, 4, 7 and 8 comply with the minimum requirement of 5,000 square feet.

In preparing the sketch plan, the surveying firm attempted to satisfy the minimum area and setback requirements, while retaining the individual water, sewerage, and electrical services on each campsite.

The proposed setback lines, as depicted on the sketch plan, were established as far as possible from the property line and still retain the services on the individual campsites. The topography, to the east of the access driveway, precludes establishment of individual campsites fronting on the access driveway. Evidently Mr. Leatherwood planned and constructed the access driveway and the individual campsites based on the topography of the area and to minimize clearing of trees and ground cover.

Of the original 100 campsites depicted on the site development plan, 92 have been completed. No additional campsites are planned to be developed.

Since authorization of the commercial camping area in 1972, a six lot residential subdivision known as Jennifer Acres, with vehicular access from Hoods Mill Road, has been created on the land adjoining the northwest side property line. Lots 1, 2, 3 and 4 abut the northwesterly property line. Only Lot 4 is adjacent to campsites 1 through 8. The owners of Lot 4, Mr. and Mrs. Pumphrey, purchased the lot in 1988, and have constructed their home and a large agricultural barn there. The barn, which includes stalls for six horses and an indoor riding arena, is located to the side and rear of the dwelling. The barn, which is about 140 feet from the property line, and a fenced paddock area are closer to the first campsite than the dwelling. However, at least several of the campsites are partially visible from the rear of the dwelling.

Mrs. Pumphrey's concerns involve visibility of the campsites from their home, noise from the camping area, and Case 3460

actions of campers near their property that would disturb horses in the paddock whether the horses were being ridden or not.

The owners of Lot 3 of Jennifer Acres subdivision, which abuts crop or pasture land of the farm--not the commercial camping area--also indicated objections to the requests based on noise from the camping area and visibility of the campsites.

Another property owner within Jennifer Acres expressed concerns regarding noise from the camping area, particularly during holidays, and that the camping area could affect the values of properties within the subdivision.

An expert in real estate appraisal, testifying in behalf of the applicant, concluded that the proposed campsites would not affect use of the adjoining properties or their property values, but suggested that a box wire fence be erected to provide a buffer between the campsites and the paddock adjoining the barn. The fence would serve as a barrier, keeping campers from approaching horses in the paddock.

The Board generally concurs with the expert's conclusion. As substantiation, the Board looks to the subdivision of adjoining land, sale of lots, and construction of valuable dwellings on those lots as evidence that the commercial camping area had little, if any, influence on the land use and values in the area. Furthermore, the Board is convinced that with appropriate fencing and landscaping of campsites 1 and 2, which are adjacent to the paddock area but a substantial distance from Mr. and Mrs. Phumphrey's dwelling, neither the use nor value of their property, or other adjacent properties, will be unduly affected by authorization of the requested variances.

#### APPLICABLE LAW

Articles and Sections cited below are of Ordinance 1E.

The property is zoned "A" Agricultural District and "I-R" Restricted Industrial District as shown on zoning maps 77A and B. The commercial camping area is located within the "A" Agricultural District. The land use provisions for the district are specified in Article 6, "A" Agricultural District. Section 6.3, Conditional Uses, (requiring Board authorization), subsection (o) includes commercial camping areas, subject to the requirements of Article [sic] 14.9. (Article 14, Special Provisions; Division IX, Commercial Camping Area; Section 14.9, Regulations.)

Section 14.9 reads in relevant part:

Every commercial camping area shall comply with all sanitary and other requirements prescribed by law or regulations, and further:

- (a) Every such area where permitted shall be generally located in a wooded area or be screened either by a wooded area or by the natural topography and be at least... 50 feet from any property line in any case.
- (b) Each campsite shall have an area of at least 5,000 square feet including parking space for one car and no campsite shall be closer than 100 feet to any property line.
- (c) An adequate water supply having the approval of the Maryland State Department of Health shall be provided at one or more convenient locations in every camping area not less than 150 feet from every site.
- (d) Sanitary toilet facilities approved by the Health Department shall be provided...

Subsection (k) provides guidance for preparation of a site development plan for the Board's consideration. The provision addresses:

access points, or driveway connections, providing separation of vehicular traffic at the entrance to the camping area

construction of roads and drives within the camping area

retention of natural vegetation in establishing stable and level (parking) pads for camping vehicles and facilities

the design and development of campsites and groups of sites to promote privacy

establishment of fencing and landscape screening where needed

development of a fire control plan

preparation of the site development plan using contour lines with intervals of 20 feet (USGS topography map)

Neither Section 6.3(o) nor Section 14.9 specify that the site plan is subject to the provisions of Article 10, Section 10.4(d).

Article 15, Exceptions and Modifications; Sections 15.0, Generally, and 15.5, Variance (Amended 2/25/76), read respectively and 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,...yard regulations,...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

When the commercial camping area was authorized in 1972, apparently no one anticipated any difficulty in complying with the minimum required setback of 100 feet from the northwesterly side property line. The problem was not identified until inspection of the site this spring by Zoning Enforcement. With preparation of the sketch plan, it became evident that the setback of the individual campsite utilities was not sufficient, and that two campsites could not meet the minimum area requirement of 5,000 square feet. Although the areas of the two campsites could be increased if the setbacks were reduced, the difference would be of little consequence.

No changes have occurred in the immediate area of the seven campsites since 1972, other than continued growth of underbrush and trees. The topography, woodland, configuration of the property, and zoning line forming the southeasterly boundary line of the camping area are the same as then.

If it had been known that the topography would not permit construction of the access driveway and seven campsites as planned, and in compliance with the regulations, either the site development plan might have been changed or Mr. Leatherwood could have requested appropriate variances to the regulations. Now, revision of the plan is unrealistic. The choice is to either approve the variances, in whole or part, with conditions that will reduce the impact of the campsites on the adjacent residential lots, or deny the variances.

Upon reflection, if Mr. Leatherwood had requested variances in 1972, they most likely would have been authorized because of the restrains in development of the camping area resulting in practical difficulty and unreasonable hardship. In considering the record of this case, it is evident that the circumstances now warrant authorization of the variances, subject to appropriate conditions, in order to preclude practical difficulty and unreasonable hardship that would otherwise occur.

CONCLUSION

The variances are hereby authorized, subject to the following conditions of authorization which are imposed in order to promote the intent and purpose of the zoning ordinance:

1. A wooden stockade fence, 8 feet in height, shall be erected to screen view of campsites 1 and 2 as depicted on the sketch plan (Applicant's Exhibit 1) from the adjacent residential lots to the northwest. The fence shall begin at a point opposite the westerly corner of campsite 2, extending northeasterly 20 feet from and parallel to the property line to a point 20 feet beyond the northerly corner of campsite 1, a distance of approximately 178 feet; hence extending to the southeast 20 feet from and parallel to the boundary line of campsite 1 for a distance of 40 feet, ending not less than 60 feet from the property line. The fence shall be kept in good repair as long as the campsites are maintained.
2. A single row of white pine trees, or similar coniferous trees, 4 feet to 6 feet tall, shall be planted at intervals of 10 feet starting opposite the beginning of the stockade fence, 10 feet from and extending parallel to the entire length of the fence. The trees shall be properly maintained, and any trees that become diseased or die shall be replaced so long as the campsites are maintained.

Dec. 21, 1990  
Date

  
\_\_\_\_\_  
John Totura, Chairman

JDN/bdc/C3460DEC  
December 21, 1990