

Tax Map/Block/Parcel
No. 74-19-671

Building Permit/Zoning
Certificate No. 90-3523

Case 3464

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

APPLICANT: Mr. Charles H. Kramer
7064 Macbeth Way
Eldersburg, Maryland 21784

REQUEST: A variance reducing the minimum building line of 25 feet, parallel to Saddle Drive, to about 14 feet for a proposed garage to be attached to the existing dwelling

LOCATION: 7064 Macbeth Way in Election District 5; Hilltop subdivision, Plat D, lot 77 recorded in Carroll County Plat Records in book 19, page 62

BASES: Article 66B, Section 5.04; Article 14, Division V; Article 15, Section 15.5; Ordinance 1E. (The Carroll County Zoning Ordinance)

HEARING HELD: November 28, 1990

On November 28, 1990, the Board of Zoning Appeals heard testimony and received evidence concerning the request for a variance to reduce the minimum building of 25 feet, parallel to Saddle Drive, to about 14 feet for a proposed garage to be attached to the existing dwelling at 7064 Macbeth Way. The property is further identified as Hilltop subdivision, Plat D, lot 77 as recorded in Carroll County Plat Records in book 19, page 62.

The Board visited the site on November 21, 1990.

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 0.2586 of an acre lot (11,264.6 square feet) is located on the southwest corner of Macbeth Way and Saddle Drive, and is zoned "R-10,000" Residence District as shown on zoning map 74A. It is improved with a dwelling that was constructed some time ago, and which Mr. Kramer purchased in July 1990. The lot was created by recording a subdivision plat of Hilltop, Plat D in the Carroll County Land Records in Plat Book 19, page 62. Sometime

afterward, the single family dwelling was constructed on the lot. The minimum building lines paralleling Macbeth Way and Saddle Drive are 35 feet and 25 feet, respectively, as established by the subdivision plat. As the minimum required front yard specified by Section 8.5 of the Zoning Ordinance is 35 feet, it is presumed that the Planning and Zoning Commission approved Hilltop as a cluster subdivision.

Reduction of the minimum building line of 35 feet to 25 feet parallel to Saddle Drive increases the buildable area of the lot. The reduction also allows dwellings or accessory buildings to be located 10 feet closer to the front property line abutting Saddle Drive than normally allowed.

As depicted on the plot plan submitted with the application, the dwelling fronts on Macbeth Way. A driveway connecting to Macbeth Way provides on-site parking as required by the zoning ordinance. The plot plan, which was originally a location survey of the dwelling, shows the dwelling 18 feet from the south property line (a side yard), 39 feet from Macbeth Way, and 36 feet from Saddle Drive. No dimension is mentioned for the rear yard.

Mr. Kramer has two vehicles and proposes to construct a two car garage, 22 feet in width by 22 and 1/2 feet in depth, attached to the north side of the dwelling. The proposed garage will encroach at least 11 feet into the minimum required front yard abutting Saddle Drive. As depicted on the plot plan, the proposed garage would not project over the minimum building line of 35 feet paralleling Macbeth Way.

Mr. Kramer submitted a second plot plan showing pertinent dimensions of a deck attached to the rear of the dwelling; a flower garden; a drainage and utility easement paralleling the rear property line, which is the side property line of the adjoining lot; and, the approximate location of several trees and a utility box. Although the utility box is shown on the lot, it is most likely within the 50 feet right-of-way of Saddle Drive.

In support of the requested variance, Mr. Kramer cited the existing improvements, limited space for construction of a new driveway connection to Saddle Drive and a detached garage in the rear yard, and greater construction costs of a new driveway and detached garage.

No evidence was introduced to substantiate that the characteristics of the lot are other than a typical corner lot, or that such characteristics cause practical difficulty and unreasonable hardship in the use of the property that would warrant the variance.

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 74A. The land use provisions for the district, as stated in Article 8, Section 8.5, specify a minimum required front yard of 35 feet. Article 14, Special Provisions; Division V, Cluster Subdivisions; Section 14.5, Conditions Prerequisite to Approval allows the planning and zoning commission to approve subdivisions with lots and yards smaller than normally required by the land use provisions of the respective districts.

Accordingly, the planning and zoning commission authorized the minimum building line of 25 feet from Saddle Drive for lot 77. The minimum building line establishes the minimum required front yard.

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, Special Provisions; Sections 15.0, Generally, and 15.5, Variance, 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...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.

Article 17, Board of Appeals; Section 17.2, General Powers, reads in relevant part:

The Board shall have the following powers:

- (c) To authorize, upon appeals in special cases, such variance from the terms of the ordinance as will not be contrary to the public interest, where owing to special conditions, the enforcement of the provisions of this ordinance will result in unwarranted hardship and injustice and which will most nearly accomplish the purpose and intent of the regulations of the zoning ordinance.

REASONING

From the record of this case, there are no unusual circumstances or inherent physical conditions of the lot which interfere with its reasonable use as regulated by the zoning ordinance.

The Carroll County Planning and Zoning Commission, in approving the subdivision plan, increased the buildable area of the lot by reducing the setback of the minimum building line from Saddle Drive to 25 feet. Thus, the dwelling or accessory building could be located 10 feet closer to Saddle Drive than normally allowed. The Planning and Zoning Commission evidently determined that the reduction was appropriate for the lot and compatible with the subdivision plan.

Authorization of a variance that is not clearly justified because of unusual conditions or circumstances of the particular property that restrict its reasonable use would be contrary to, and would detrimentally affect, the purpose of the zoning ordinance.

The request in this case is without merit, and its authorization would be contrary to the purpose of the zoning ordinance.

CONCLUSION

Therefore, the Board hereby denies the requested variance.

Dec. 27, 1990
Date

John Totura
John Totura, Chairman