

Tax Map/Block/Parcel  
No. 51-16-60

Building Permit/Zoning  
Certificate No. 90-3658

Case 3473

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

**APPLICANTS:** G. William Pearl & Michael W. Pearl  
386 Hilltop Lane  
Annapolis, Maryland 21403

**AGENT:** Nora B. Crushong  
O'Connor, Piper & Flynn, Realtors  
2101 Bethel Road  
Finksburg, Maryland 21048

**REQUEST:** A conditional use for a wood crafts shop within the existing accessory building; and, variances pertaining to the minimum required front yards from Ridge Road (Md. Rt. 27) and Regent Street, and on-site parking facilities on the premises

**LOCATION:** 810 Regent Street in Election District 7; Addition to Canterbury Hill subdivision, lots 2, 3 and 17 recorded in Carroll County Plat Records in book 3, page 22

**BASES:** Article 5C, Sections 5C.2(e) and 5C.5; Article 14, Division I, Sections 14.1(a) 8 and 14.1(b); Article 15, Section 15.5; Ordinance 1E. (The Carroll County Zoning Ordinance)

**HEARING HELD:** January 4, 1991

On January 4, 1991, the Board of Zoning Appeals (Board) heard testimony and received evidence concerning the request for a conditional use for a wood crafts shop within the existing accessory building; and, variances pertaining to the minimum required front yards from Ridge Road (Md. Rt. 27) and Regent Street, and on-site parking facilities on the premises of 810 Regent Street. The premises are further identified as Addition to Canterbury Hill subdivision, lots 2, 3 and 17 as recorded in the Carroll County Plat Records in book 3, page 22.

The Board visited the site on December 19, 1990, prior to the public hearing.

Thomas M. Stansfield, Esq. appeared on behalf of the owners of the property, James E. Taylor and Jeannette Taylor, and participated in presentation of the case.

William R. MacDonald, Esq. appeared on behalf of protestants of the requests. The property has been before the Board in two

previous cases. On August 5, 1984, in Case 2138 the Board denied an amended variance request for reduction of the minimum required front setback of 40 feet to 36 feet from Ridge Road (Md. Rt. 27) for a proposed detached residential garage, 30 feet by 64 feet, to be used for storage of commercial vehicles as an accessory use to the dwelling.

Thereafter, the dimensions of the building were reduced to 26 feet by 64, and the proposed location of the building changed to comply with the minimum required front setbacks. Permits were approved for the construction and use of the building as a residential garage, subject to the special condition that it was not to be used for commercial purposes, and the building was constructed.

An appeal of the issuance of the Use and Occupancy Certificate finalizing Building Permit and Zoning Certificate 84-8540 for the garage was filed in Case 2302. (Applicants' Exhibit 5.) The appeal was subsequently found to not have been filed timely. The remaining findings in the Board's decision of that case are not relevant to this case.

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 requests.

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

#### FINDINGS OF FACT

The 1.239 acre property is part of a 56 lot residential subdivision known as Addition to Canterbury, and consists of 3 adjoining lots situated on the northeast corner of Ridge Road and Regent Street intersection. A single family dwelling is on lot 17, which fronts on Regent Street. The building, which is accessory to the dwelling, is 26 feet in width by 60 feet in length. The building is located partially on lots 2 and 3. Lot 2 fronts on Ridge Road. Lot 3 fronts on both Ridge Road and Regent Street. The accessory building was approved September 17, 1984, by the Zoning Administrator for construction and use as a residential garage in accordance with the provisions of Article 6A, Section 6A.3 and Article 20, Section 20.17(a) of the zoning ordinance. At that time the property was zoned "T" Transitional District. Section 6A.3, paragraph (a) reads in relevant part:

Accessory buildings and uses customarily incidental to any principal use or authorized conditional use....Section 20.17, paragraph (a) specifies:

Garage, residential. An accessory building, portion of a main building, or building attached thereto, used for the storage of private motor vehicles, fifty (50%) percent

of which may be for the storage of a commercial vehicle.

As the property is a corner lot, the minimum required front yard for the accessory building, as a residential garage, is 40 feet from the right-of-way of both streets. However, as the right-of-way of Regent Street is only 40 feet, the minimum setback from the center line of the street is 65 feet. The accessory building was located and constructed in compliance with the minimum requirements of Section 6A.5 and Article 4, Section 4.16 of the zoning ordinance.

Since that time the property has been rezoned to "R-40,000" Residence District, as shown on Zoning Map 51B. The land use provisions for the district are specified in Article 5C of the zoning ordinance. Section 5C.3, Conditional Uses, paragraph (e) states, "Antique shops; and arts and crafts shops where operated solely by the resident." Section 5C.5, Lot Area, Lot Width and Yard Requirements specifies a minimum front yard depth of 60 feet for other permitted and conditional uses not individually listed. Therefore, the existing front yards of the accessory building does not comply with the minimum front yard requirement from either Ridge Road or Regent Street for use of the building as an arts and craft shop, and variances of 10 and 20 feet, respectively, are necessary in conjunction with the conditional use for the craft shop.

The applicants, Mr. G. William Pearl, Mrs. Helen V. Pearl, his wife, and his son, Mr. Michael W. Pearl, have contracted to purchase the property (Applicants' Exhibit 2). The contract is contingent upon the applicants obtaining approval for use of the accessory building for establishment of a wood craft shop.

The accessory building would be used to manufacture products from lumber. The products are displayed and sold by the applicants at craft shows, and by dealers who apparently submit orders for particular items. The public rarely comes to the shop to purchase an item, and there would be no employees other than the members of the family. Although Mr. Pearl is retired, he would work from 40-50 hours per week in the shop. His son, Michael, would work less, or about the same, depending on employment elsewhere.

All of the floor space of the accessory building would be used for the shop. Supplies would be delivered about once a year. Work would be performed from as early as 9:30 a.m. to as late as 9:00 p.m. The shop would not require water or gas. The accessory building is presently served with electricity. Manufacture of the products is dependent upon electrical power tools and hand tools.

The applicants testified that the noise generated by operation of the equipment would not be significant and would not adversely affect the residents of neighboring properties.

The applicants argue that as they normally do not sell items from the premises and have no employees, other than themselves, they have no need for on-site parking as required by the zoning ordinance and request a variance waiving the requirements.

Numerous photographs were presented depicting the various items manufactured. The products include bases for penholders, dollhouses, mirror frames, lamp bases, bookends, dry sinks, cabinets, hutches, blanket holders, wall shelves, magazine racks, bulletin boards, bookshelves, tables and benches, and work tables. The products are not single additions, but are designs that may be reproduced any number of times. The outstanding characteristic of the products is the custom carpentry. In fact, many of the items are furniture, and would not be thought of as products or items that would be produced and could be purchased in an arts and crafts shop.

Residents within the subdivision oppose the request on the grounds that it would be a commercial use of the property, contrary to a restrictive covenant within deeds of ownership within the subdivision, and that use of the properties within the subdivision is restricted to residential purposes only.

Mrs. Taylor contends that there are existing business or commercial uses within the subdivision. However, no proof of existing illegal uses within the subdivision was introduced. In any event, that could be the responsibility of Zoning Enforcement--not this Board.

The requests were attacked for reason that the proposed shop would not be, in fact, a craft shop, but would be a furniture manufacturing shop. In addition, the protestants assert that there was no practical difficulty and unreasonable hardship in the use of the property that would justify authorization of the requested variances.

#### APPLICABLE LAW

Articles and Sections cited below are of Ordinance 1E.

In considering request to authorize conditional uses, the Board of Zoning Appeals is governed by the provisions of Article 17, Section 17.7. In the interests of brevity, the Section will not be quoted.

In Article 20, Definitions, Section 20.39 defines a variance as:

...is 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; Sections 15.0, Generally, and 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 ...yard regulations, parking space requirements.... 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

Simply alleging that the wood crafts shop is an arts and crafts shop ignores the differences between carpentry and arts and crafts work. The proposed wood crafts shop is a custom carpentry and woodworking shop which is a conditional use first listed in Article 10, "B-L" Local Business District; Section 10.2, Conditional Uses, paragraph (a) of Ordinance 1E. Accordingly, the conditional use cannot be authorized.

However, assuming for purposes of argument that the wood crafts shop could be construed to be an arts and craft shop, the use, in this location, would have a particularly detrimental affect to the adjacent residential properties within the subdivision for reason that it would not promote the orderly growth of the community or conservation of property values; would not be an appropriate use of the accessory building because of the inherent noise of the electrical equipment--contrary to the unsubstantiated testimony of the applicants; would not be compatible with the existing residential development within the subdivision, and therefore would not be an appropriate use in this location; and, would be contrary to the intent and purpose of the zoning ordinance. Accordingly, the conditional use could not be authorized.

With respect to the variances to the minimum required front yards and waiver of the on-site parking requirements, there is no evidence of practical difficulty and unreasonable hardship that would justify authorization of the requests. It is, however, evident that the variances are necessary to authorize the requested conditional use, and that there is nothing in the record which would justify such authorization other than convenience to the applicants. Accordingly, the requested variances are without merit and must be denied.

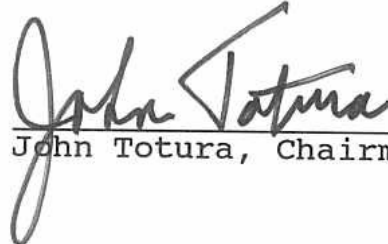
As the variances are necessary for the conditional use to be authorized, that request too, must be denied.

CONCLUSION

The Board hereby denies the conditional use request for the wood crafts shop within the existing accessory building; and, the variances reducing the minimum required front yards from Ridge Road and Regent Street, and waiver of the requirements for the on-site parking facilities on the premises.

Feb. 4, 1991  
Date

JDN/bdc/C3473DEC  
February 4, 1991

  
John Totura, Chairman