

Tax Map/Block/Parcel
No. 73-13-588

Building Permit/Zoning
Certificate No. 90-3725

Case 3485

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

APPLICANT: Jill L. Maynes
6402 Taper Court
Sykesville, Maryland 21784

ATTORNEY: Stephen P. Bourexis, Esq.
235 East Main Street
Westminster, Maryland 21157

REQUEST: A conditional use for a professional office for counseling by a resident within the dwelling

LOCATION: 6402 Taper Court in Election District 14; Candlewick subdivision, Section 1, lot 13 recorded in Carroll County Plat Records in book 12, page 15

BASIS: Article 5C, Sections 5C.2(a) and 5C.5; Ordinance 1E (The Carroll County Zoning Ordinance)

HEARING HELD: December 27, 1990

FINDINGS OF FACT

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 authorize the establishment of the professional office for counseling as a conditional use within the dwelling, subject to the conditions of authorization imposed below.

The pertinent findings of the Board include the facts. The property is improved with a single family dwelling, including a single car garage with vehicular access from Taper Court which is a cul-de-sac. The driveway, parking and maneuvering area abutting the dwelling and garage are paved. The dwelling is of bi-level design with the garage and proposed professional office in the lower level.

The applicant, Mrs. Maynes is a licensed Certified Social Worker. She and her husband purchased the property in August 1988. Prior to the purchase, it was their understanding that the counseling service could be conducted within the dwelling in accordance with the provisions of the community association, and that it was allowable within the county without particular authorization. Following the establishment of their residence, Mrs. Maynes has conducted counseling for individuals, couples,

and families. In addition, group counseling has been offered. The counseling is conducted within the dwelling, and does not include individuals who are dependent upon controlled substances. No business identification sign was erected for the office, and no sign is proposed in conjunction with this request.

As a result of vehicular traffic to the premises, primarily because of group counseling sessions, a complaint was made to the Division of Zoning Enforcement. Subsequently, a violation notice was issued October 3, 1990.

An owner and resident of an adjacent property testified in opposition to the request regarding vehicular traffic to and from the site, and traffic safety; parking within the right-of-way of Taper Court, instead of on the premises; and, diminished privacy of the nearby residents in the subdivision.

The issue of diminished privacy is evidently related to parking within the right-of-way of Taper court, which would be contrary to the requirements of the zoning ordinance for on-premises parking for the professional office as a conditional use. Although public parking within the right-of-way is not prohibited, on-premises parking facilities are required.

From the record of this case, the Board finds that the group counseling sessions have generated significant vehicular traffic to and from the premises. And that in the particular circumstances of this case such traffic is not appropriate and compatible within the residential subdivision. However, the Board finds no indication that conducting counseling for individuals, couples, or families will result in vehicular traffic problems experienced with group counseling sessions or that operation of the professional office, as conditioned below, would unduly affect the residents of adjacent properties or the value of their properties.

CONCLUSION

In considering the record of this case and the provisions of Article 17, Section 17.7 of the Zoning Ordinance, the Board is convinced that authorization of the professional office for counseling, subject to the conditions imposed below, is in accordance with the provisions of the zoning ordinance and the standard pertaining to conditional uses, which are also known as special exceptions, expressed in the case of Schultz v. Pritts, 291 Md. 1, p. 22. (1981), which reads:

...the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular

location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. Citations omitted.

Therefore, the Board hereby orders authorization of the conditional use request, subject to the conditions imposed below. The conditions are intended to promote the purpose and intent of the zoning ordinance. The conditions of authorization are as follows:

1. Operation of the professional office for counseling is limited to the applicant, Jill L. Maynes, with office hours from Monday through Friday from 9:00 a.m. to 6:00 p.m.
2. In accordance with the applicant's testimony, no business identification sign is authorized for the professional office.
3. Group counseling sessions are specifically prohibited, and shall not be conducted on the premises.
4. Clients visiting the professional office shall park their cars within the parking and maneuvering area adjacent to the dwelling. Not more than two clients' vehicles shall be parked on the premises at one time. In operating the professional office, client's appointments shall be scheduled so as to comply with this requirement.
5. Due to the particular circumstances in this case, this authorization is limited solely to the applicant, and shall not inure to the benefit of heirs or assigns of the applicant. This condition does not preclude re-application to the Board in the future for such use in accordance with the provisions of the zoning ordinance.

Jan. 16, 1991
Date

John Totura
John Totura, Chairman

JDN/bdc/C3485DEC
January 11, 1991