

Tax Map/Block/Parcel  
No. 31-2-94

Building Permit/Zoning  
Certificate No. 90-3849

Case 3493

OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND

**APPLICANT:** Daniel Eugene & Cheryl Ann Shell  
1380 Allison Court  
Westminster, Maryland 21157

**ATTORNEY:** David L. Johnson, Esq.  
196 Pennsylvania Avenue  
Westminster, Maryland 21157

**AGENT:** BPR, Incorporated  
359 Manchester Road  
Westminster, Maryland 21157

**REQUEST:** Variances reducing the minimum required lot width of 300 feet to 260 feet, and lot area of 3 acres to 2.08 acres to allow subdivision of the existing lot

**LOCATION:** South side of John Owings Road about .25 of a mile east of Hashawa Road intersection in Election District 7.

**BASES:** Article 5, Section 5.5; Article 15, Section 15.5; Ordinance 1E. (The Carroll County Zoning Ordinance)

The application was processed for public hearing on January 30, 1991.

DECISION

On January 30, 1991, at the legally advertised time, the above case was called. Prior to the commencement of the hearing, counsel for the applicants made a motion for a continuance which was opposed by the protestants' attorney. The basis for the requested continuance was that counsel was recently engaged to represent the applicants, and he did not have time to prepare the case to his high standard. The applicants were not present and their absence was not explained.

The Board found that the motion was not a request for a continuance as provided for in Section 17.6.5 of the ordinance

since the hearing had not started. Rather, the request was for a postponement as stated in Section 17.6.3 of the ordinance, and the requirement of which was not satisfied; i.e., there was no good cause nor extreme hardship shown. Accordingly, the Board denied the requested postponement. At which time counsel for the applicants did not offer any evidence and sought to withdraw the application.

The Board refused to grant the request to withdraw the application. If the request to withdraw the application would have been made prior to the hearing date being set, and advertised, and the property posted, then it could have been properly withdrawn without prejudice. However, to authorize withdrawal of the application at this time would cause undue hardship and expense to the protestants. The protestants were able to retain counsel, prepare for the hearing, and be present at the hearing. The Board cannot expect any less from the applicants.

In the absence of any evidence to support the application, and the application appearing to be in direct conflict with Section 15.5 of the ordinance, the variances requested are therefore denied.

Feb. 11, 1991  
Date

John Totura  
John Totura, Chairman

JDN/bdc/C3493DEC  
February 8, 1991