

Tax Map/Block/Parcel
No. 74-14-515

Building Permit/Zoning
Certificate No. 91-0295

Case 3532

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

APPLICANT: Tracey Kaleo-Schulhoff
6512 Sunset Drive
Eldersburg, Maryland 21784

REQUEST: A conditional use for a nail care shop and image consulting service by a resident within the dwelling, and variances as may be necessary

LOCATION: 6512 Sunset Drive in Election District 5; Sweet Air Estates subdivision, Section 1A, Part Number 1, lot 5 recorded in Carroll County Plat Records in book 5, page 81

BASES: Article 7, Sections 7.2(b) and 7.5; Article 15, Section 15.5; Ordinance 1E

HEARING HELD: April 25, 1991

On April 25, 1991, the Board of Zoning Appeals heard testimony and received evidence concerning the conditional use for a nail care shop and image consulting service, and variances as may be necessary, at 6512 Sunset Drive. The property is further identified as Sweet Air Estates subdivision, Section 1A, Part Number 1, lot 5 as recorded in Carroll County Plat Records in book 5, page 81.

The Board visited the site April 23, 1991.

The application, testimony and evidence comprising the record of this case are hereby included by reference in this decision. After considering the information pertaining to the premises, it was established that the lot area is less than the minimum required lot area. Accordingly, a variance to the requirement is necessary in conjunction with the conditional use request. Based on the record, the Board must deny the requested conditional use and variance to the minimum required lot area.

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

FINDINGS OF FACT

The property is located on the westerly side of Sunset Drive about one block south of Liberty Road (Md. Rt. 26). As noted on the application, the area of the lot is 0.315 of an acre, or 13,721 square feet. It is improved with a single family dwelling. The shop would be located in a one-room studio within the basement.

Manicures, pedicures and image consulting pertaining to personal appearance would be offered at least three days a week from 10:00 a.m. to about 3:30 p.m. by appointment only. A maximum of four appointments per day would be scheduled.

The driveway would be extended and enlarged to provide for parking and maneuvering space so that clients would not have to back their vehicles onto Sunset Drive when exiting.

A business identification sign and entrance sign would be erected in conjunction with operation of the studio.

Residents within the community presented testimony in opposition to the request citing additional vehicular traffic, traffic safety and depreciation of property values.

APPLICABLE LAW

Articles and Sections cited below are of Ordinance 1E.

The property is zoned "R-20,000" Residence District as depicted on zoning map 74A. The land use provisions for the district are expressed in Article 7, Section 7.2, Conditional Uses (requiring Board authorization), paragraph (b) lists beauty parlors. Section 7.5, Lot Area, Lot Width and Yard Requirements specifies a minimum required lot area of 20,000 square feet for other principal or permitted conditional uses. As nail care service is characteristically associated with services offered in a beauty parlor, such service is considered to be a conditional use which requires authorization by the Board of Zoning Appeals.

The provisions of Article 17, Board of Appeals; Section 17.7, Limitations, Guides and Standards, governs the Board in considering conditional use requests.

Article 15, Exceptions and Modifications; Sections 15.0, Generally, and 15.5, Variance, govern the Board in cases of variances. The provisions 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,... 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.

A variance is defined in Article 20, Section 20.39 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.

REASONING

In judging the variance pertaining to the minimum required lot area, the Board finds no evidence of practical difficulty and unreasonable hardship with the use of the property that would justify authorization of the variance. The fact that the area of the lot is less than the minimum requirement for the district does not otherwise affect use of the lot or the existing dwelling for residential purposes. Therefore, authorization of the request would simply be a matter of convenience, which is contrary to the intent and purpose of the Zoning Ordinance.

Although denial of the requisite variance to the minimum required lot area effectively prevents authorization of the conditional use request, the Board believes that it is important to express its reasoning determining denial of the conditional use.

Even though the testimony presented in opposition to the request did not include that of experts, the Board is convinced that the concerns regarding the additional vehicular traffic and traffic safety, including the school bus stop located in front of the property, warrant denial of the conditional use request. In addition, the business identification sign would undoubtedly affect the value of residential properties in the area contrary to the purpose and intent of the Zoning Ordinance. Consequently, authorization of the conditional use at this particular location would result in particularly detrimental affects to the neighborhood.

CONCLUSION

Accordingly, the Board hereby denies the conditional use request for the establishment of the nail care shop and image consulting service, and variance to the minimum required lot area necessary for the establishment of the conditional use.

May 15, 1991
Date

JDN/bdc/C3532DEC
May 13, 1991

John Totura
John Totura, Chairman