

Tax Map/Block/Parcel
No. 32-20-430

Building Permit/Zoning
Certificate No. 91-0516

Case 3543

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

APPLICANT: Eric L. Johnson
1600 Auburn Court
Westminster, Maryland 21157

REQUEST: Variances reducing the minimum building line of 100 feet to 60 feet and one minimum required side yard of 20 feet to 10 feet for a proposed detached garage

LOCATION: 1600 Auburn Court in Election District 6; Sylvan Park subdivision, Plat B of Section 2, lot 42 recorded in Carroll County Plat Records in book 19, page 33

BASES: Article 66B, Section 5.04 of the Annotated Code of Maryland; Article 5C, Section 5C.5; Article 15, Sections 15.2(b) and 15.5; Ordinance 1E (The Carroll County Zoning Ordinance)

HEARING HELD: May 23, 1991

On May 23, 1991, the Board of Zoning Appeals heard testimony and received evidence concerning the request for variances reducing the minimum building line of 100 feet to 60 feet and one minimum required side yard of 20 feet to 10 feet for a proposed detached garage at 1600 Auburn Court. The property is further identified as Sylvan Park subdivision, Plat B of Section 2, lot 42 recorded in Carroll County Plat Records in book 19, page 33.

The Board visited the site on May 20, 1991, prior to the public hearing.

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 variances.

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

FINDINGS OF FACT

The 3.1828 acre property is improved with a single-family dwelling and attached two-car garage. The property is within a residential subdivision, and is surrounded by homesites. The lot

is located within a heavily wooded area on the side of a hill, and its topography is irregular.

The garage, 26 feet in width by 40 feet in length, is proposed to be located adjacent to the northerly side property line, 60 feet from the front property line of the lot. The location abuts the driveway leading to the attached garages of the dwelling. Mr. Johnson testified that the proposed site would be the least intrusive to the neighbors view, and that to locate it elsewhere would require the removal of more trees and relocation of a power line.

APPLICABLE LAW

The property is zoned "R-40,000" Residence District as depicted on zoning map 32A.

As a subdivision lot, the minimum building line was established by the recorded subdivision plat at 100 feet from the front property line. In addition, a minimum building line of 75 feet parallels the rear property line.

The provisions of Article 66B, Section 5.04 of the Annotated Code of Maryland apply. Section 5.04, Approval and Disapproval of Plats reads in relevant part:

The commission shall the power to agree with the applicant upon use, height, area or bulk requirements or restrictions which are designated to promote the purposes of the zoning ordinance of the jurisdiction. Such requirements or restrictions shall be stated upon the plat prior to the approval and recording thereof and shall have the same force of law and be enforceable in the same manner and with the same sanctions and penalties and subject to the same power of amendment or repeal as though set out as a part of the zoning ordinance....

The minimum required side yard of 20 feet and minimum required lot area of 40,000 square feet are established by the land use provisions expressed in Article 5C, Section 5C.5 of the zoning ordinance.

In considering requests for variances, the Board is governed by the provisions of the zoning ordinance. 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 actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship.

Sections 15.0, Generally, and 15.5, Variance (Amended 2/25/76), 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.

REASONING

In reviewing the record of this case, the Board is convinced that the substance of this application is solely a matter of convenience, and without merit. Strict enforcement of the provisions of the zoning ordinance, including the minimum building line established by the recorded subdivision plat, will not cause unreasonable practical difficulty and hardship in the use of the property.

CONCLUSION

Accordingly, the variances reducing the minimum building line of 100 feet to 60 feet and one minimum required side yard of 20 feet to 10 feet for the proposed detached garage are hereby denied.

May 29, 1991
Date

John Totura
John Totura, Chairman