

Tax Map/Block/Parcel
No. 24-4-374

Building Permit/Zoning
Certificate No. 91-1305

Case 3555

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

APPLICANTS: Paul A. Shipley and Linda E. Shipley
4322 Millers Station Road
Millers, Maryland 21107

REQUESTS: A conditional use for an antique, arts and craft shop in the existing barn, and a variance for a non-illuminated sign to be attached to the existing mailbox

LOCATION: 4322 Millers Station Road in Election District 6; Log Schoolhouse Farm subdivision, Section 2, lot 1B recorded in Carroll County Plat records in book 21, page 3

BASES: Article 6, Sections 6.3(a) or 6.4(b) and 6.7; Article 15, Section 15.5; Ordinance 1E

HEARING HELD: June 27, 1991

On June 27, 1991, the Board of Zoning Appeals heard testimony and received evidence concerning the conditional use and variance requests.

The Board visited the site June 14, 1991.

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 conditional use. From the evidence presented, the variance request for the sign is moot.

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

FINDINGS OF FACT

As depicted on the site location map for this case, the 7.1 acre lot is located to the north of Millers Station Road about one half of a mile east of Warehime and Alesia Road intersection. The lot was created with the resubdivision of lot 1 of Log Schoolhouse Farm Subdivision Number 2. As portrayed by the plot plan submitted with the application, the lot is improved with a dwelling with an attached garage, and a barn 30 feet in width by 48 feet in length. Vehicular access from Millers Station Road is provided by a use-in-common driveway shared with lot 1A of the

resubdivision. Lots 2 and 9 of the subdivision abut the easterly side property line of lot 1B.

Mr. and Mrs. Shipley established two businesses about one year ago. One business involves raising flowers and herbs on the property for sale, and to be dried. The barn is used in the process of raising and preparing the plants for sale. The business is permissible in the "A" Agricultural District. The second business specializes in the sale of dried flowers and herbal products at craft shows, and by consignment or wholesale to craft shops and florists. Sale of agricultural products grown on the premises is allowed by Article 6, Section 6.4(c) of the ordinance.

Mr. and Mrs. Shipley propose to establish a retail and wholesale shop in part of the barn using 678 square feet of sales area. Specialties of the shop would include dried flowers and herbals. Products of other crafts and small antiques would be added to the inventory.

The preferred business hours of the shop would be from 9:00 a.m. until dark, Monday through Saturday, and from 2:00 p.m. until dark, Sunday. Alternative business hours would be from 9:00 a.m. to 3:00 p.m. on weekdays, and by appointment at other times.

Six parking spaces, including one space for handicapped customers, would be established by paving an existing gravel surfaced parking area adjacent to the dwelling. A concrete walkway would be constructed connecting the parking area to the shop.

The use-in-common driveway serving the property is ten feet in width, in excess of 700 feet in length, and surfaced with gravel. Use of 400 feet of the driveway, which is centered on the property line, is shared with the owners and residents of the dwelling on lot 1A. The responsibility for maintaining the driveway is also shared with them.

The owners and residents of the adjoining lots on each side of the use-in-common driveway oppose the request because of the additional vehicular traffic that would be generated. Due to the gravel surfacing of the driveway, dust and noise resulting from traffic adversely affect the peace and quiet of the residents of each dwelling. The residents of lot 2 are particularly affected due to the dwelling's architectural orientation and nearness to the driveway.

APPLICABLE LAW

Articles and Sections cited below are of Ordinance 1E.

The lot and adjacent properties are zoned "A" Agricultural District as depicted on zoning map 24B. The land use provisions for the district are expressed in Article 6. Section 6.3, Conditional Uses (requiring Board authorization), paragraph (a), Amended 9/5/78, provides for antique, arts, and craft shops. As proposed, the shop would comply with the minimum lot area, lot width, and yard requirements specified in Section 6.7 for conditional uses.

Article 14, Special Provisions; Division I, Parking Space Requirements; Section 14.1, Off-Street (on-site) Parking Spaces, subsection (b) Design Standards, paragraph 3 requires that access drives connecting roads and parking areas be a minimum of 20 feet in width to provide for two-way traffic.

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

REASONING

Although the area is zoned "A" Agricultural District, the predominant land use is residential. The use-in-common driveway does not comply with the minimum width requirement of 20 feet for two-way traffic, and the dust and noise resulting from its use has adversely affected the residents and owners of the adjoining lot to the east. The owners and residents of lot 1A, who share the right-of-use and financial responsibility for the maintenance of the driveway, also object to the proposed shop because of the additional vehicular traffic that presumably will be generated by the business.

Widening the driveway to comply with the minimum requirement of 20 feet would not reduce the dust and noise produced by traffic, and would reduce the distance between the driveway and dwelling on lot 2. Such reduction and increase of vehicular traffic would be detrimental to the peace and quiet of the owners and residents of the adjoining properties, and would adversely affect the residential values of those properties--contrary to the provisions of the zoning ordinance.

CONCLUSION

Therefore, the Board hereby denies the conditional use for the antique, arts and craft shop.

July 16, 1991
Date

JDN/bdc/C3555DEC
July 15, 1991

John Totura
John Totura, Chairman