

Tax Map/Block/Parcel
No. 21-24-340

Building Permit/Zoning
Certificate No. 91-2362

Case 3613

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Ronald M. Singer
111 Third Avenue
Reisterstown, Maryland 21136

ATTORNEY: Clark R. Shaffer, Esquire
6 North Court Street
Westminster, Maryland 21157

REQUEST: Enlargement of the existing retail store,
classified as a nonconforming use

LOCATION: 2824 Littlestown Pike (Md. Rt. 97) in Election
District 3

BASIS: Article 4, Section 4.3(a)(1); Ordinance 1E (The
Carroll County Zoning Ordinance)

HEARING HELD: September 24, 1991

The Board of Zoning Appeals heard testimony and received evidence concerning the request September 24, 1991.

The Board visited the site September 18, 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 will authorize the request, subject to the conditions of authorization imposed below.

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

FINDINGS OF FACT

The 0.505 acre lot is located on the west side of Littlestown Pike about 1,500 feet north of Crowl Road intersection. As portrayed on zoning map 21B, the property and adjacent properties on the west side of the highway are zoned "A" Agricultural District. The adjacent properties located to the east of the highway are zoned "C" Conservation District.

Although Littlestown Pike is classified as a major road in the county's road plan, it also provides for local access to adjacent properties.

As depicted on the Location and Boundary Survey, identified as Applicant's Exhibit 1, the right-of-way line of the highway is 33 feet from the center line. The building is 42.3 feet from the center line, or 9.3 feet from the right-of-way line. The minimum building setback is now a total of 73 feet--33 feet for the right-of-way of the highway and 40 feet for the front yard. (Section 6.7).

Dwellings are located on the adjoining properties to the north and west. A restaurant, licensed to sell beer, wine and liquor, adjoins the property to the south. From testimony and inspection of the site location map used in this case, it is evident that the established land uses of adjacent properties are other than agriculture.

Use of the premises for retail sales was established prior to the adoption of the zoning ordinance in 1965, and has continued to the present time. The building does not conform with dimensional regulations of the district, and operation of the retail store does not conform with the land use provisions of the district. The store and one apartment are located on the first floor. Another apartment is located on the second floor. In recent years deterioration of the building has accelerated.

The applicant, who recently purchased the property, has begun to renovate the building and proposes a number of improvements, including enlargement of the building. The first floor will be enlarged to provide a walk-in cooler, and storage space. The existing apartment will be converted to sales area for the rental and sales of video cassettes, and a small office. The apartment on the second floor will be retained. Separate entrances to the beverage sales area, video cassette sales area and apartment will be established on the north side of the building. The beverage store will also have a front entrance.

The applicant proposes to separate the rental and sales area for the video cassettes from the existing shop, which is licensed for the sale of packaged beer, wine and liquor. Although the two sales areas will have different hours, the request is for the enlargement of the existing retail sales store, and is in accord with the provisions of Section 4.3(a)(1) of the zoning ordinance.

The detached garage and at least one tree in the rear yard will be removed to provide parking in the northerly side and rear yards. To improve vehicular traffic safety, the existing parking in front of the building will be eliminated, and a new two-way entrance providing for ingress and egress to the parking area will be constructed. The new entrance will be subject to the requirements of the Engineering Access Permits Division of the State Highway Administration.

With construction of the new driveway entrance, the parking area in the northerly side yard will also be changed. From

inspection of Applicant's Exhibits 1 and 2, it is evident that there is insufficient space between the new sidewalk extending along the side of the building and the property line to comply with the minimum parking standards specified in the zoning ordinance (parking stall length of 20 feet and parking aisle width of 25 feet for two-way traffic with perpendicular parking--a total of 45 feet). To compensate for the reduced maneuvering space normally provided by the aisle width of 25 feet, the width of the parking spaces will be increased to 11 feet to facilitate entry and exit. Although Applicant's Exhibit 1 notes that 12 to 15 parking spaces will be provided and indicates 4 of the spaces for handicapped parking, the Board will require a total of 14 spaces for the enlarged sales area, employees, and residents of the apartment.

Parking facilities for disabled people are not regulated by the zoning ordinance. However, the applicant should be aware that it is unlawful for non-disabled people to use parking spaces designated for disabled people. Although Applicant's Exhibit 1 depicts four parking spaces for disabled people, only one space would be required. For disabled parking spaces, the combined width of the parking space (8 feet) and the access space (5 feet) is 13 feet. Each parking space and access aisle must be permanently marked, or defined, including an identification sign. In effect, the adjoining parking spaces 11 feet in width could, if the access aisle would be properly marked, accommodate parking for disabled people, although the spaces need not be so restricted.

As the building is only 9.3 feet from the right-of-way line of Littlestown Pike, the Board will require that the setback of the first parking space not be closer than the setback of the building.

In addition, the Board will require that the new parking facilities located to the rear of the building be constructed in compliance with the minimum standards of the zoning ordinance and that the parking area not be located closer than ten feet to the rear property line, as conditioned below.

The applicant proposes a privacy fence, six feet in height, to be erected along the northerly side property line to minimize the affects of the traffic and parking area on the residents and owners of the adjoining dwelling. However, the Board disagrees with the proposed setback of 80 feet from the center line of Littlestown Pike for the fence as indicated on Applicant's Exhibit 1. With the building and parking spaces 42 feet from the center line, the Board will require that the privacy fence start 50 feet from the center line of the highway instead of 80 feet. The reduced setback for the fence will provide additional protection to the adjoining property without obstructing the vision of drivers proceeding in either direction on the highway, or preparing to enter onto the highway from either the applicant's property or the adjoining property.

In considering the provisions of Article 17, Section 17.7 of the zoning ordinance as they apply to this request, it is evident that the improvements including the proposed enlargement, as conditioned below, will be beneficial to the property without unduly affecting the adjacent residential properties. However, the applicant's plans as presented to the Board do not adhere to the provisions of the zoning ordinance, and in the opinion of the Board the conditions of authorization must be imposed in order to promote the intent and purpose of the zoning ordinance.

CONCLUSION

The Board hereby authorizes enlargement of the existing retail store, subject to the following conditions of authorization:

1. This authorization is limited solely to the applicant, who shall not lease or otherwise convey operation of the rental and sales of video cassettes to any other person, corporation, or partnership.
2. The applicant shall submit a revised plot plan, drawn to scale with appropriate dimensions and explanations, to the Division of Zoning Enforcement and the Board of Zoning Appeals, for inclusion in the case file, depicting:
 - a. The new driveway connection to Littlestown Pike in accordance with the requirements of the Division of Entrance Access Permits of the State Highway Administration.
 - b. The privacy fence, six feet in height, to be erected along the northerly side property line beginning 50 feet from the center line of the highway and extending to the rear property line.
 - c. The parking spaces to be established, including designation of the parking space for disabled people, the access aisle to that parking space, the appropriate dimensions of the parking aisle (driveway), and width and depth of the parking spaces.
 - d. The proposed addition to the existing building.
 - e. A notation that the detached garage has been removed, or will be removed prior

to issuance of the Use and Occupancy Certificate.

- f. Additional information in keeping with the remaining conditions of authorization, and as necessary for compliance with applicable ordinances and regulations.
3. Exterior lighting of the building shall be shielded to prevent glare, or reflection, from adversely affecting the adjoining residential properties or drivers proceeding in either direction on the highway.
4. The privacy fence, 6 feet in height, shall be erected along the northerly side property line beginning 50 feet from the center line of Littlestown Pike and extending to the rear corner of the property.
5. One parking space 8 feet in width with an access aisle of 5 feet for disabled people and four non-restricted parking spaces, each at least 11 feet in width, shall be established perpendicular to the northerly side of the building. The setback of the first parking space from the right-of-way line of the highway shall be the same as that of the building. The width of the parking aisle (driveway) and depth of the parking spaces perpendicular to the building may be less than the minimums required by Section 14.1(b) of the zoning ordinance.
6. The width of the parking aisle (driveway) extending past the building, paralleling the side property line, shall be at least 25 feet as specified in Section 14.1(b)2 of the zoning ordinance. Nine additional parking spaces, 9 feet in width by either 20 feet in depth or 18 feet with a 2 feet overhang as specified in Section 14.1(b), shall be established extending the row of parking spaces toward the rear property line. The last parking space shall not be closer than 10 feet to the rear property line.

This setback is necessary for appropriate landscaping to be established to minimize the impact of the parking area on the adjoining residential property.

As an alternative to the landscaping, the privacy fence may be extended along the rear property line for a distance of at least 45 feet from the northwesterly corner of the property. The al-

ternative does not alter the requirement to comply with the Carroll County Landscape Manual.

The revised plot plan shall depict whether or not the privacy fence is to be extended along the rear property line.

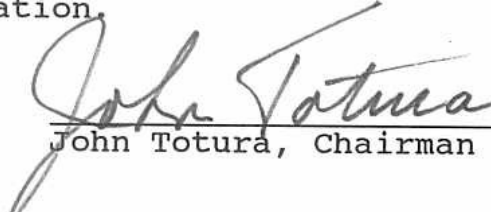
Each parking space shall be clearly and permanently marked, and any parking space for the disabled shall be properly identified as well as defined in accordance with applicable regulations.

Lighting of the parking facilities shall be shielded to direct the light downward to prevent glare from adversely affecting the adjoining residential properties.

To minimize storm water runoff, surfacing of the parking spaces and aisle may be stone.

7. The applicant shall submit a revised floor plan to the Board of Zoning Appeals providing for owner, manager and employee access, within the building, between the existing beverage sales area and the area for video cassettes. The access shall consist of at least one doorway between the sales areas. This condition shall not be construed as a requirement for customer access between the existing sales areas.
8. Expansion of the existing retail sales area shall be limited solely to the rental and sale of video cassettes and incidental items.
9. Enlargement of the nonconforming use is subject to the requirements of the Carroll County Health Department, the Carroll County Landscape Manual, and all other applicable ordinances.
10. The Division of Zoning Enforcement shall not authorize issuance of the Use and Occupancy Certificate except in accordance with these conditions of authorization.

Oct. 8, 1991
Date


John Totura, Chairman

JDN/bmh/c3613dec
October 7, 1991