

Tax Map/Block/Parcel
No. 67-23-460

Building Permit/Zoning
Certificate No. 91-0353

Case 3636

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

APPLICANTS: Robert Stader and Mylinda Stader
641 Buckhorn Road
Sykesville, Maryland 21784

AGENT: Lee Schwaderer, Jr.
5810 Leslie Lane
Mount Airy, Maryland 21771

REQUEST: A variance reducing the minimum required rear yard of 50 feet to about 22 feet for a proposed addition, including a garage, to the existing dwelling

LOCATION: 641 Buckhorn Road in Election District 14; Arthur Ridge subdivision, Section 1, lot 2A recorded in Carroll County Plat Records in book 21, page 63

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

HEARING HELD: November 26, 1991

On November 26, 1991, the Board of Zoning Appeals heard testimony and received evidence concerning a variance reducing the minimum required rear yard of 50 feet to about 22 feet for a proposed addition, including a garage, to the existing dwelling at 641 Buckhorn Road.

The Board visited the site November 19, 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 authorize the variance.

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

FINDINGS OF FACT

The 3.6729 acre heavily wooded lot is located on the west side of Buckhorn Road north of Lee Avenue intersection. The property is improved with a single-family dwelling and attached garage. Due to topography, a Minimum Building Line of at least 220 feet, and an 100 year flood plain and drainage easement, all of which severely restrict use of the property, the dwelling is located near the northwest corner of the lot, approximately 87 feet from the side property line to the north and slightly more than 60 feet from the rear property line to the west.

Mr. and Mrs. Stader propose to convert the existing garage into guest quarters with a bathroom, add a mud room, and attach a three car garage as depicted by plans identified as Applicants' Exhibit 1 and depicted on page 4 of 8 pages. The addition includes storage space on the second floor above the proposed mud room and a workshop or game room above the new garage. (Page 5 of Applicants' Exhibit 1.)

From inspection of the plot plan filed with the application, only one corner of the addition projects to 22 feet, plus or minus, from the rear property line. The remainder of the addition would be further from the property line, with slightly more than half of the garage located within the minimum required rear yard of 50 feet. The remaining portion of the addition would be in compliance with the requirement.

APPLICABLE LAW

Articles and Sections cited below are of Ordinance 1E.

The property is zoned "R-40,000" Residence District as depicted on zoning map 67B. The land use provisions for the district are expressed in Article 5C. Single-family dwellings are allowed as a principal permitted use, and residential garages are considered to be customary and incidental accessory uses to dwellings. Section 5C.5 specifies a minimum required rear yard of 50 feet for dwellings. As the garage is included in the construction of the dwelling, the garage is subject to the same minimum rear yard requirement as the dwelling.

Section 20.40(b) defines a rear yard as:

A yard extending across the full width of the lot and lying between the rear lot line and the nearest line of the principal building.

Section 20.39, Variance, reads:

A variance is a relaxation of the terms of the zoning ordinance where such a variance will not be contrary to the public interest and where, owing to conditions peculiar to the property not the results of the actions of the applicant, literal enforcement of the ordinance would result in unnecessary and undue hardship.

Article 15, Exceptions and Modifications; Sections 15.0, Generally, and 15.5, Variance, 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

Even though the area of the lot is almost 3.7 acres, its use is severely restricted because of the topography, the Minimum Building Line, and the 100 year flood plain and drainage easement.

In considering possible alternatives, it is evident that plans for the addition could possibly be designed differently; however, a variance to the minimum required rear yard would remain necessary in order for the dwelling to be enlarged.

To avoid the necessity of a variance, a detached garage, including a game room or workshop on the second floor, could be located as close as 10 feet from the rear property line in accordance with the provisions of Article 15, Section 15.2(b). However, the amenities of the attached addition would be lost, including the compatibility of the proposed addition with the existing architecture of the dwelling.


After considering the proximity of the dwelling to the rear property line and the limited area available for improvements, and comparing the proposed plan with the alternative of a detached garage 10 feet from the rear property line, the Board is convinced that authorization of the variance as requested is justified and will not unduly affect the adjoining properties or public interests.

CONCLUSION

In accordance with the findings of fact, applicable law, and reasoning expressed herein, the Board hereby authorizes the variance as requested.

Date

Dec. 5, 1991


John Totura, Chairman

JDN/bdc/C3636DEC
December 4, 1991