

Tax Map/Block/Parcel
No. 59-16-380

Building Permit/Zoning
Certificate No. 91-2983

Case 3640

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

APPLICANTS: Linda Barnhardt and Timothy Taylor
2970 Bloom Road
Finksburg, Maryland 21048

REQUEST: A variance reducing the minimum distance
requirements of 200 feet pertaining to a private
stable

LOCATION: 2970 Bloom Road in Election District 4

BASES: Article 5C, Section 5C.3(g); Article 5, Section
5.3(b); Article 15, Section 15.5; Ordinance 1E
(The Carroll County Zoning Ordinance)

HEARING HELD: November 25, 1991

On November 25, 1991, the Board of Zoning Appeals heard testimony and received evidence concerning the request for a variance reducing the minimum distance requirements of 200 feet pertaining to a private stable on the premises of 2970 Bloom 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 must deny the variance.

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

FINDINGS OF FACT

As depicted by the plot plan filed with this application, the property consists of two parcels. The larger parcel, 2.398 acres is improved with a dwelling and detached garage. The applicants propose construction of a pole barn, 24 feet by 24 feet, for use as a private stable on the smaller 0.876 of an acre parcel abutting the northeasterly side property line of the larger parcel. The stable would be 58 feet from the northeasterly side property line of the smaller parcel and 170 feet from the southwesterly side property line of the larger parcel; and, approximately 110 feet from the dwelling on the adjoining property to the northeast, and 165 feet from the dwelling on the adjoining property to the southwest.

The stable would not comply with the requirements that it be at least 200 feet from either dwelling, and at least 100 feet from the abutting lot to the northeast.

Initially, the applicants proposed to keep one horse in the private stable, and possibly acquire a pony in the future.

The topography of the property is relatively flat adjacent to Bloom Road and then gently slopes downward toward the rear property lines. While most of the property has been cleared of trees, it appears that the slope of the property increases toward the rear property lines, and the parcels are heavily wooded in this area.

To comply with the minimum lot area requirement of three acres for a private stable, and an accessory use to the residence, the parcels must be reassembled into one parcel, eliminating the common line of division.

From inspection of the plot plan, the stable can be located at least 100 feet from the abutting lots to the northeast and southwest, and 200 feet from the dwellings on the respective lots.

No evidence was introduced, nor is the Board aware of any circumstances that would preclude the location of the stable in accordance with the regulations.

APPLICABLE LAW

Articles and Sections cited below are of Ordinance 1E.

The applicants' property and abutting properties to the northeast, southeast and southwest are zoned "R-40,000" Residence District as depicted on zoning map 59B. The property to the northwest is zoned "C" Conservation District. The land use provisions for the "R-40,000" Residence District are expressed in Article 5C. Section 5C.3, Accessory Uses, paragraph (g) provides for one private stable as regulated by the provisions of Section 5.3(b).

Article 20, Section 20.34A defines a private (horse) stable as:

An accessory structure designed for the shelter, feeding and care of no more than two (2) horses or ponies maintained on the property as pets or for domestic use as distinguished from agricultural or commercial stables.

Section 5.3(b) reads in relevant part:

One private stable as defined in Section 20.34A in a rear yard on a lot or tract of three acres or more and as hereinafter regulated:

1. No less than one-half the distance requirements of Section 4.12 provided 200 feet from a dwelling on an adjoining lot or tract of land,....

The minimum distance specified in Section 4.12 is 200 feet.

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 the actions of the applicant, a 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... distance requirements specified in Section 4.12.... 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

There is no evidence of conditions peculiar to the property which preclude location of the proposed private stable in compliance with the minimum requirements of the zoning ordinance. From the record, the Board must conclude that the variance, as requested, is essentially a matter of convenience to the applicants, and is unnecessary to provide relief from the strict enforcement of the provisions of the zoning ordinance in use of the property.

CONCLUSION

Without reasonable evidence establishing practical difficulty and unnecessary hardship in the use of the property, the Board is without justification to authorize the requested variance. Accordingly, the Board hereby denies the request.

Dec. 2, 1991
Date

John Totura
John Totura, Chairman

JDN/bmh/c3640dec
November 29, 1991