

Tax Map/Block/Parcel  
No. 73-11-339

Building Permit/Zoning  
Certificate No. 91-3240

Case 3650

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

**APPLICANTS:** Ronald M. Nicholls and JoAnn Nicholls  
4377 Bartholow Road  
Sykesville, Maryland 21784

**REQUEST:** A conditional use for a beauty and barber shop;  
and, variances reducing the minimum requirements  
of lot area, and front setback from Md. Rt. 32  
and a planned road tentatively identified as  
Piney Ridge Parkway

**LOCATION:** 6328 Sykesville Road (Md. Rt. 32) in Election  
District 5

**BASES:** Article 8, Section 8.2(a); Article 7, Sections  
7.2(b) and 7.5; Article 15, Section 15.5;  
Ordinance 1E. (The Carroll County Zoning  
Ordinance)

**HEARING HELD:** December 27, 1991

On December 27, 1991, the Board of Zoning Appeals heard testimony and received evidence concerning the conditional use request for the beauty and barber shop; and variance requests for reduction of the minimum requirements of lot area, and front setback from Sykesville Road (Md. Rt. 32) and a planned road tentatively identified as Piney Ridge Parkway at 6328 Sykesville Road.

The Board visited the site December 20, 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 conditional use and variances necessary to establish the beauty and barber shop.

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

**FINDINGS OF FACT**

The 17,282 square feet lot is located on the west side of Sykesville Road (Md. Rt. 32) about 1,600 feet south of Liberty Road (Md. Rt. 26) intersection. The property is improved with a one story building presently used as a church. The building may have been constructed prior to the adoption of the zoning

ordinance August 17, 1965. Presently, the building does not conform with the minimum setback requirements from Sykesville Road, or the planned road tentatively identified as Piney Ridge Parkway.

The applicants propose to purchase the property and establish a beauty and barber shop within the building. Services will include hair styling, manicuring, pedicuring, tanning booths and massage therapists. Tentative plans are for as many as nine hair stylists, three nail care technicians, two massage therapists, one shampoo assistant, and one or two receptionists. The business hours of the shop will be from 9:00 a.m. to 9:00 p.m. Monday through Saturday. The shop will be closed Sundays.

As portrayed by a surveyor's plat, part of the building is one foot, plus or minus, from the northerly side property line, and as scaled on the plat, about 20 feet from the front property line. The front property line is also the right-of-way line of Sykesville Road. As depicted by another survey plat, the paved section of the highway is located some distance from the right-of-way line.

The driveway connection to the highway was apparently constructed some time in the past, and in compliance with the requirements of the State Highway Administration. The location and dimensions of the driveway connection are depicted on the parking plan. In addition, the parking plan depicts a privacy fence to be erected along the southerly side property line and the rear property line.

However, as the parking plan does not comply with the minimum requirements of the zoning ordinance, a revised plot plan will have to be prepared and submitted to the Division of Zoning Enforcement to insure compliance with the minimum requirements of the zoning ordinance governing on-site parking spaces and standards.

No testimony or evidence was presented which would indicate that establishment and operation of the beauty and barber shop would unduly affect the adjoining properties or public interests.

#### APPLICABLE LAW

Articles and Sections cited below are of Ordinance 1E.

The property is zoned "R-10,000" Residence District as depicted on zoning map 73B. The land use provisions for the district are expressed in Article 8. Section 8.2, Conditional Uses (Requiring Board Authorization) provides for any conditional use permitted and as regulated in the "R-20,000" Residence District. Section 8.5, Lot Area, Lot Width and Yard Requirements, also specifies that the regulations of the

"R-20,000" Residence District governing conditional uses apply to conditional uses in the "R-10,000" Residence District.

Section 7.2(b) lists beauty and barber shops as conditional uses. Section 7.5, Lot Area, Lot Width and Yard Requirements, specifies the following minimum requirements for conditional uses:

Lot area	-	20,000 square feet
Lot width	-	100 feet
Front yard depth	-	40 feet
Side yard	-	25 feet
Rear yard	-	50 feet

Section 20.09 defines a conditional use as:

Uses which are specified for Board of Appeals approval prior to authorization and which uses, after public hearing, may be approved conditionally or disapproved in accordance with Section 17.2. The term "conditional use" shall constitute the same meaning as "special exception" specified as one of the general powers of the Board of Appeals in accordance with Article 66B of the Annotated Code of Maryland.

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..., lot area, ...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.

The parking requirements and standards for the beauty and barber shop are specified in Article 14, Special Provisions, Division I.

Article 17, Section 17.7 governs the Board in considering conditional use cases.

In addition to the provisions of Section 17.7, the Board is also governed by court decisions. The standard as expressed in *Schulz v. Pritts*, 291 Md. 1, 22, (1981) reads in relevant part:

We now hold that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. (Citations omitted.)

#### REASONING

The site does not conform with the minimum requirements for the church, or for conditional uses allowed in the district. In addition, the building does not conform with the location requirements for uses allowed in the district. Consequently, authorization of the variances is necessary to remove any question regarding the ability to use the building in the future for a permitted or conditional use allowed in the district, and to preclude practical difficulty and unreasonable hardship that would otherwise occur with ownership or use of the property.

Furthermore, the record indicates that establishment of the beauty and barber shop would not unduly affect the adjacent properties or public interest, and that the authorization would be in accordance with the purpose and intent of the zoning ordinance and the standard expressed above in the case of *Schulz v. Pritts*.

#### CONCLUSION

Accordingly, the Board hereby authorizes the conditional use and variance requests, subject to the applicants' submission of a

revised plot plan to the Division of Zoning Enforcement to assure compliance with the minimum requirements governing on-site parking for the beauty and barber shop.

Jan. 2 1992  
Date

John Totura  
John Totura, Chairman

JDN/bdc/C3650DEC  
January 2, 1992