

Tax Map/Block/Parcel
No. 38-8 & 14-95 & 628

Building Permit/Zoning
Certificate No. 91-3296

Case 3664

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Charles Mooshian
1411 Old Taneytown Road
Westminster, Maryland 21158

ATTORNEY: Charles D. Hollman, Esquire
189 East Main Street
Westminster, Maryland 21157

REQUEST: An appeal of a Notice of Denial dated December 18, 1991 pertaining to a change of use of a garage to an office; and, a conditional use for a professional office of a resident chemist and two nonresident employees, and variances to the minimum required lot area, lot width, one side yard, a rear yard, all as presently existing, and parking requirements

LOCATION: 1411 Old Taneytown Road (Md. Rt. 832) in Election District 7

BASES: Article 17, Section 17.4; Article 6, Sections 6.3(v) and 6.7; Article 14, Division I, Section 14.1; Article 15, Section 15.5; Ordinance 1E. (The Carroll County Zoning Ordinance)

HEARING HELD: February 21, 1992

On February 21, 1992, the Board of Zoning Appeals heard testimony and received evidence concerning the conditional use for a professional office of a resident chemist and two nonresident employees, and variances to the minimum required lot area, lot width, one side yard, a rear yard, all as presently existing, and parking requirements on the premises of 1411 Old Taneytown Road.

The appeal of a Notice of Denial pertaining to a change of use of a garage to an office was withdrawn.

The Board visited the site February 18, 1992. During the visit, the Board observed uneven paving of the driveway apron on the property at, or near, the end of the paving opposite the connection to Old Taneytown Road.

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 approve the

conditional use and variances to the minimum required lot area, lot width, and a side yard, all as presently existing, and to the minimum required width of the access driveway connecting Old Taneytown Road to the parking area, subject to the condition of authorization imposed below requiring correction of the uneven pavement of the driveway apron.

Variances to the minimum required front and rear yard were determined to be unnecessary, based on the surveyor's plat of the applicant's property identified as Applicant's Exhibit 1.

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

FINDINGS OF FACT

The premises consists of two parcels of land having a total area of 2.405 acres and a combined lot width of about 170 feet, measured between the midpoints of the side property lines. The parcels were created prior to the adoption of the zoning ordinance on August 17, 1965. Improvements, also established prior to the adoption of the ordinance, include the principal dwelling, a garage that has been converted into an office and laboratory on the first floor and living quarters on the second floor, and two sheds. The dwelling and the converted building do not comply with the minimum dimensional regulations of the zoning ordinance and are governed by the provisions of Article 4, General Provisions; Section 4.3, Nonconforming Uses (Amended 3/17/81) of the zoning ordinance.

The applicant, Mr. Mooshian is a chemist and resides on the premises. He also owns and manages Fountain Valley Analytical Laboratory, Inc., which specializes in bacteriological and chemical testing of water. The laboratory is licensed by the State of Maryland Department of Health for testing water quality. Mr. Mooshian initially established the laboratory in 1986 as a home occupation within a shed adjacent to the newly converted building. With the conversion of the garage into the office and laboratory in 1991, and hiring of two nonresident employees, the office no longer qualifies as a home occupation. The shed, in which the laboratory was located, is now used as an accessory building for storage and incidental purposes.

The floor area of the office and laboratory is about 672 square feet. Based on a requirement of one parking space for each 150 square feet of office floor area, the office will require five parking spaces. An area of approximately 45 feet square, adjoining the office, is proposed for on-site parking to comply with the requirements of the zoning ordinance. The parking spaces and maneuvering area will be surfaced with gravel.

Samples of water are usually brought to the office by a subcontractor. Individual clients seldom visit the office.

Consequently, vehicular traffic to and from the office is typically six or less trips a day.

Although the width of the existing driveway serving the parking area is apparently less than the minimum requirement of 20 feet, the driveway is sufficiently wide to provide for the limited vehicular traffic to and from the professional office. In addition, there is no evidence of an urgent need to require that the driveway be widened to comply with the requirement.

There are no unusual characteristics inherent with operation of the professional office.

APPLICABLE LAW

Articles and Sections cited below are of Ordinance 1E.

The site is zoned "A" Agricultural District as depicted on zoning map 38A. The land use provisions for the district are expressed in Article 6. Section 6.3, Conditional Uses, (Requiring Board Authorization), paragraph (v) (Added 9/5/78) reads:

The professional office of a resident realtor, attorney, accountant, insurance agent or other similar professional office of the resident, provided the Board may approve no more than two nonresident employees.

For conditional uses, Section 6.7, Lot Area, Lot Width and Yard Requirements, specifies:

Lot area	- 3 acres
Lot width	- 200 feet
Front yard depth	- 40 feet
Side yards	- 30 feet
Rear yard	- 50 feet

Section 17.7, Limitations, Guides and Standards, governs the Board in considering requests for conditional uses.

Article 15, Exceptions and Modifications; Section 15.0, Generally; and, Section 15.5, Variance, apply to requests for variances and read respectively 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, lot width, yard regulations, parking space requirements.... 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.

Article 4, General Provisions; Section 4.3, Nonconforming Uses (Amended 3/17/81) reads in relevant part:

Any building, structure or premises lawfully existing at the time of the adoption of this ordinance, or lawfully existing at the time this ordinance is amended, may continue to be used even though such building, structure or premises does not conform to use or dimensional regulations of the zoning district in which it is located;....

REASONING

Although the office is not a typical example of professional offices listed in Section 6.3(v), the Board is convinced that the characteristics of the office are similar to those of offices listed, and that the office qualifies as a conditional use.

From the record, there is no indication that authorization of the professional office as a conditional use will unduly affect the residents of adjacent properties, the values of those properties, or the public interests.

Section 4.3 provides that the building may continue to be used regardless of it not complying with the dimensional regulations of the zoning district. However, in order to remove any doubt of whether the building can be used for the professional office without complying with the regulations, the Board will authorize the variances to the minimum required lot area, lot width, and access driveway width. Even if the provisions of Section 4.3 were not in question in this instance, relaxation of the regulations would be appropriate and consistent with the remaining provisions of the zoning ordinance, and preclude practical difficulty and unreasonable hardship that might otherwise occur.

CONCLUSION

Therefore, based on the above findings of fact, applicable law, and reasoning, the Board hereby authorizes the conditional use for the establishment of the professional office and variances to the minimum required lot area, lot width, and access driveway width, subject to the condition that the uneven paving

Case 3664 Decision
Page 5 of 5 pages

of the driveway apron be corrected to conform with residential entrance requirements and provide a smooth transition between the paved apron and the parking area to be surfaced with gravel. The existing width of the driveway shall be maintained, but need not be increased.

March 6, 1992
Date

John Totura
John Totura, Chairman

JDN/bdc/C3664DEC
March 6, 1992