

Tax Map/Block/Parcel  
No. 52-10-640

Building Permit/Zoning  
Certificate No. 92-0447

Case 3681

OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND

**APPLICANTS:** Scott Robinson and Patti Robinson  
984 Hook Road  
Westminster, Maryland 21157

**REQUEST:** A conditional use for a beauty shop to be  
operated solely by the owner within the dwelling

**LOCATION:** 984 Hook Road in Election District 4; Wesley's  
Dilemma subdivision, lot 1 recorded in Carroll  
County Plat Records in book 33, page 179

**BASIS:** Article 6, Section 6.4(b); Ordinance 1E (The  
Carroll County Zoning Ordinance)

**HEARING HELD:** March 24, 1992

On March 24, 1992, the Board of Zoning Appeals heard testimony and received evidence concerning the conditional use request for a beauty shop to be operated solely by the owner within the dwelling at 984 Hook Road.

The Board visited the site March 18, 1992, 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 conditional use.

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

FINDINGS OF FACT

The 1.190 acre lot is located on the northeast side of Hook Road about 300 feet west of Sharon Lane intersection. It is improved with a recently constructed single-family dwelling that Mr. and Mrs. Robinson occupied in December of 1991. Evergreen landscape screening extends along the northwesterly side of the lot and across the width of the lot in the rear yard. (Protestants' Exhibits 2, 3, 5, 8, 9 and 10.) A two-car garage is attached to the east side of the dwelling. A paved driveway provides access from Hook Road to a parking pad and the garage.

Mr. and Mrs. Robinson proposed to convert the garage into a one-chair, or one station, beauty shop. Mrs. Robinson, as resident of the dwelling, will operate the beauty shop. In the future, her daughter may assist her as an apprentice. As proposed, operation of the shop would be primarily scheduled by appointments on Tuesday and Thursday from noon to 8:00 p.m., and on Wednesday and Friday from 9:00 a.m. to 4:00 p.m. The shop would normally be closed on Saturdays. However, Mrs. Robinson indicated on that on special occasions, she wished to be allowed to provide services on Saturdays to patrons. The shop would be closed on Sunday.

Parking will be established by enlarging the parking area in front of the existing garage to three parking spaces. The driveway will be extended around the southeast side of the dwelling to provide access to two new parking spaces located adjacent to the rear of the dwelling to provide the required spaces for the dwelling. Landscaping will be established adjacent to the enlarged parking area and extended driveway.

Conversion of the garage to the beauty shop will include enlargement of the entrance door to comply with regulations. Mr. and Mrs. Robinson plan to retain the garage doors initially. However, at sometime in the future, the garage doors may be replaced, or the garage may be enclosed. (Applicants' Exhibits 4, 5, 6, and 7.)

A small double-faced sign will be erected on a decorative lamp post adjacent to the parking spaces in front of the dwelling. The lamp post may be lighted.

As in all instances, the establishment of the beauty shop will be subject to all applicable ordinances and codes including those of the Carroll County Health Department and the Department of Licensing and Regulation of the Board of Cosmetologists of the State of Maryland.

As depicted by the site location map used in this case, two residential lots, the first of which is improved with a dwelling, are located on the southwest side of Hook Road diagonally west of the property; a residential lot improved with a dwelling adjoins the northwest side of the property; a residential lot, which is for sale, abuts the rear of the property; and, two lots, improved with dwellings within Peppermint Park subdivision, are adjacent to the southeast of the property. Peppermint Park subdivision extends to the southeast, and Sharon Oaks subdivision is located on the southwest side of Hook Road, several hundred feet to the east.

Residents of adjacent and nearby properties appeared in opposition to the request. Their concerns included, but were not limited to, additional vehicular traffic to and from the premises; traffic conflicting with school buses serving the area;

effects of chemicals that would be used in the beauty shop on ground water; septic system problems resulting from the beauty shop; depreciation of residential property values; and, the marketability of adjacent residential properties. Their arguments were not persuasive, nor was any probative evidence submitted to substantiate justification of such concerns.

#### APPLICABLE LAW

Article and Sections cited below are of Ordinance 1E.

Mr. and Mrs. Robinson's property is zoned "A" Agricultural District as depicted on zoning map 52B. The properties to the northwest, northeast, and confronting on the southwest side of Hook Road are also zoned "A" Agricultural District. The adjacent residential lots to the southeast located in Peppermint Park subdivision are zoned "R-20,000" Residence District. Sharon Oaks subdivision, which does not adjoin the property, is also zoned "R-20,000" Residence District. Beauty and barber shops are allowed in the "R-20,000" Residence District as conditional uses.

The land use provisions for the "A" Agricultural District are expressed in Article 6. Section 6.4, Accessory Uses, paragraph (b) reads in relevant part:

Incidental home and farm occupations as defined in Section 20.19; provided that...beauty shops, ..., whether in the home or within a detached building on the same premises, shall be subject to Board approval after public hearing.  
(Amended 6/26/80)

Section 14.21, Signs permitted without zoning certificate, paragraph (a) states:

The following signs are permitted without zoning certificate in any district, provided the following conditions are adhered to:

Signs indicating the name and/or premises or accessory use of a home for a home occupation or professional purposes, not exceeding one foot by two feet in area.

The minimum lot area, lot width and yard requirements for dwellings which are principal permitted uses within the "A" Agricultural District are, as specified in Section 6.7, a lot area of one acre, a lot width of 150 feet, a front yard of 40 feet, side yards of 20 feet each, and a rear yard of 50 feet. As depicted by the location survey of the property submitted with this application, the lot and location of the dwelling comply with the minimum requirements of Section 6.7.

Article 14, Special Provisions; Division I, Parking Space Requirements (Amended 8/18/81), Section 14.1(a)5 requires three parking spaces for each station in the beauty shop. A single family dwelling requires two parking spaces as specified in Section 14.21(a)24(A). The minimum design standards for parking facilities are specified in Section 14.1(b).

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 17, Board of Appeals; Section 17.2, General Powers, states in relevant part:

The Board shall have the following powers:

- (b) To hear and decide conditional uses to the ordinance upon which such Board is required to pass.

In addition, the Board is governed by Section 17.7, Limitations, Guides and Standards, which specifies:

Where in these regulations certain powers are conferred upon the Board or the approval of the Board is required before a conditional use may be issued, the Board shall study the specific property involved, as well as the neighborhood, and consider all testimony and data submitted. The application for a conditional use shall not be approved where the Board finds the proposed use would adversely affect the public health, safety, security, morals or general welfare, or would result in dangerous traffic conditions, or would jeopardize the lives or property of people living in the neighborhood.

In deciding such matters, the Board shall give consideration, among other things, to the following:

- (a) The number of people residing or working in the immediate area concerned.
- (b) The orderly growth of a community.

- (c) Traffic conditions and facilities.
- (d) The effect of the proposed use upon the peaceful enjoyment of people in their homes.
- (e) The conservation of property values.
- (f) The effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the use of surrounding property values.
- (g) The most appropriate use of land and structures.
- (h) The purpose of this ordinance as set forth herein.
- (i) Type and kind of structures in the vicinity where public gatherings may be held, such as schools, churches, and the like.

The Board is also governed by decisions of the courts. In the case of *Schultz v. Pritts*; 291 Md. 1, 20-21, (1981) the decision read:

Generally, when a use district is established, the zoning regulations prescribe that certain uses are permitted as of right (permitted use), while other uses are permitted only under certain conditions (conditional or special exception use). In determining which uses should be designated as permitted or conditional in a given use district, a legislative body considers the variety of possible uses available, examines the impact of the uses upon the various purposes of the zoning ordinance, determines which uses are compatible with each other and can share reciprocal benefits, and decides which uses will provide for coordinated, adjusted, and harmonious development of the district. (Footnote omitted.) (Citations omitted.)

Because the legislative body, in reaching its determination, is engaged in a balancing process, certain uses may be designated as permitted although they may not foster all of the purposes of the zoning regulations and, indeed, may have an adverse effect with respect to some of these purposes. Thus, when the legislative body determines that the beneficial purposes that certain uses serve outweigh their possible adverse effect, such uses are designated as permitted uses and may be developed even though a particular permitted use at the particular location proposed would have an adverse effect above and beyond that ordinarily associated with such uses. For example, churches

and schools generally are designated as permitted uses. Such uses may be developed, although at the particular location proposed they may have an adverse effect on a factor such as traffic, because the moral and educational purposes served are deemed to outweigh this particular adverse effect.

When the legislative body determines that other uses are compatible with the permitted uses in a use district, but that the beneficial purposes such other uses serve do not outweigh their possible adverse effect, such uses are designated as conditional or special exception uses. (Citations omitted.)

On Page 22, the court wrote:

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

In order for the beauty shop to be established as requested, it must be as an accessory use within the dwelling. Mrs. Robinson proposes that only she and her daughter, as an apprentice, provide services of the beauty shop. Contrary to the concerns of individuals in opposition to the request, the Board is convinced that the enlargement of the parking area, slight increase in vehicular traffic to the premises, and small identification sign will not unduly affect the residents of adjacent properties, the values of their properties, or the public interests. Furthermore, in considering the request relative to the provisions of Section 17.7 and the standard expressed in *Schultz v. Pritts*, the Board is convinced that the beauty shop, as proposed, is in keeping with the intent and purpose of the zoning ordinance, and that Mr. and Mrs. Robinson have successfully met the standard expressed in *Schultz v. Pritts* for determining conditional use requests.

#### CONCLUSION

In accordance with the Findings of Fact, Applicable Law, and Reasoning, the Board hereby authorizes the conditional use as

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requested and as regulated by the Carroll County Zoning Ordinance, and all other applicable regulations and ordinances.

April 9, 1992  
Date

JDN/bmh/c3681dec  
April 8, 1992

John Totura  
John Totura, Chairman