

Tax Map/Block/Parcel
No. 73-10-306

Building Permit/Zoning
Certificate No. 92-2057

Case 3760

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Salerno's Restaurant
1043 Liberty Road
Eldersburg, Maryland 21784

ATTORNEYS: Charles O. Fisher, Esquire
179 East Main Street
Westminster, Maryland 21157

Kenneth Holniker, Esquire
147 East Main Street
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Jeffrey Griffith, Esquire
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REQUEST: A request to authorize enlargement of a
restaurant classified as a nonconforming use

LOCATION: 1043 Liberty Road in Election District 5

BASIS: Article 4, Section 4.3(a)1; Ordinance 1E. (The
Carroll County Zoning Ordinance)

HEARING HELD: July 29, 1992

FINDINGS AND CONCLUSION

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

On April 23, 1982, the Board of Zoning Appeals conditionally authorized substitution of a restaurant, as a nonconforming use, for the then existing offices which were nonconforming uses. The conditional authorization was subject to the provisions of the zoning ordinance governing site development plans.

In the preparation and approval of those plans, covered decks of 20 feet by 24 feet and 11 feet by 11 feet were approved. In order to compensate for the additional seating capacity of the decks, it was agreed that the seating within the restaurant would be reduced accordingly. Although addition of the decks, as depicted on the plot plan filed with this application,

constituted enlargement of the nonconforming use, they were constructed without being authorized by the Board of Zoning Appeals.

Based on the agreement to reduce the seating capacity within the restaurant to compensate for the additional seating capacity of the two decks, the use and occupancy permit for the premises was issued. Issuance of the permit was contingent upon reapplication to the Board of Zoning Appeals by the management of the restaurant at that time. However, reapplication was never made. Later, the management closed the restaurant. Upon execution of a new lease, the restaurant was opened under new management, eventually closing and leading to the applicant in this case leasing the premises.

From the record of this case, it is evident that the new management of the restaurant intends to be a good neighbor to the residents of the homes that have recently been constructed adjoining the premises. Accordingly, and in light of the history of the existing decks, authorization of the request is reasonable and proper in order to preclude practical difficulty and unreasonable hardship in the use of the property.

As the condition of authorization in Case 1797 regarding the submission and approval of a site development plan was accomplished, there is no necessity for resubmission of a site development plan as a result of this decision. However, the plan should be amended to show the additional parking spaces as portrayed on Applicant's Exhibit 1.

Aug. 5, 1992
Date

JDN/bdc/C3760dec
August 3, 1992

John Totura
John Totura, Chairman