

Tax Map/Block/Parcel  
No. 6-21-186

Building Permit/Zoning  
Certificate No. 92-2392

Case 3782

OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND

**APPLICANTS:** Richard B. Jackson and Diane M. Jackson  
5212 Hanover Pike  
Manchester, Maryland 21102

**ATTORNEY:** T. Bryan McIntire, Esquire  
11 North Court Street  
Westminster, Maryland 21157

**REQUEST:** Variances reducing the minimum required front setback of 70 feet from the center line of Mt. Ventus Road Number 2 to 60 feet, and the minimum required rear yard from 50 feet to 40 feet for a proposed dwelling on the existing lot

**LOCATION:** North side of Mt. Ventus Road Number 2 about 560 feet east of Hanover Pike (Md. Rt. 30) in Election District 6

**BASES:** Article 6, Section 6.7; Article 4, Section 4.16; Article 15, Section 15.5; Ordinance 1E. (The Carroll County Zoning Ordinance)

**HEARING HELD:** August 27, 1992

On August 27, 1992, the Board of Zoning Appeals heard testimony and received evidence concerning the variances reducing the minimum required front setback of 70 from the centerline of Mt. Ventus Road Number 2 to 60 feet, and the minimum required rear yard of 50 feet to 40 feet for a proposed dwelling on the existing lot on the north side of Mt. Ventus Road Number 2 about 560 feet east of Hanover Pike (Md. Rt. 30).

The Board visited the site, viewing it from Mt. Ventus Road Number 2, August 13, 1992.

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 variances.

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

FINDINGS OF FACT

The 1.5883 acre lot is located on the north side of Mt. Ventus Road Number 2, between Hanover Pike (Md. Rt. 30) and the

intersection of Mt. Ventus Road Number 1. The lot resulted from acquisition of land for high voltage electric distribution lines by Baltimore Gas and Electric Company.

Although there are no dwellings located on the north side of the road between the electric transmission lines and the intersection of Mt. Ventus Roads 1 and 2, the land on the south side of Mt. Ventus Road Number 2 has been subdivided into relatively large lots for residential development. Testimony indicated that four dwellings are located on the south side of the road.

The configuration of the lot is similar to a triangle, with total frontage of 878.64 feet on the road, a rear property line of 781.37 feet, and a third line connecting the frontage with the rear property line of 215.84 feet. Regardless of the configuration, the lot complies with the minimum required lot area and lot width specified for a dwelling in the "A" Agricultural District. The lot is naturally forested with trees and brushes. The topography of the lot slopes downward from near the edge of the road towards the rear property line. The slope varies from moderate to more pronounced. Due at least in part to the slope, the lot is not suitable for agricultural purposes.

As scaled on the plat of the lot identified as Applicants' Exhibit 2, the distance between Mt. Ventus Road Number 2 and the rear property line gradually increases from 0 feet at their intersection at the west end of the property to a maximum of about 140 feet near the east end of the lot, where the distance diminishes as the third line converges to intersect the front property line.

The total yard requirement of 70 feet from the centerline of the road and 50 feet for the rear yard is 120 feet. Consequently, the distance remaining for construction of a dwelling ranges from about 15 feet at the west end of the proposed dwelling to 20 feet at the east end of the dwelling.

Public water and sanitary sewerage disposal systems are not available in the area. Therefore, a well supplying potable water and a sewerage disposal system, both subject to the approval of the Carroll County Health Department, are required for individual lots in conjunction with construction of a dwelling. The well is proposed adjacent to the northeast property line and the sewerage disposal area is proposed to the southwest of the dwelling. Upon compliance with requirements of the Health Department, a building permit could be issued for a dwelling designed to comply with the minimum yard requirements. However, the dwelling would have to be particularly narrow and would not be in the best interests of the applicants, the adjacent property owners, or the county.

An owner of an adjoining property to the east, Mr. Adam Franklin, objected to authorization of the requested variances.

Mr. Franklin testified he was advised by an employee of the Health Department that the proposed location of the well would prohibit his use of land within 100 feet of the well for a sewerage disposal system for a proposed dwelling on a planned one acre lot abutting the northeast property line. However, no probative evidence was presented in substantiation of his concerns.

From inspection of the plat, Applicants' Exhibit 2, there appears to be sufficient area to allow relocation of the proposed well much closer to the proposed location of the dwelling--to the benefit of both Mr. Franklin and Mr. and Mrs. Jackson. Relocation of the proposed well closer to the northwest property line and dwelling will reduce the affect on Mr. Franklin's property and reduce the costs of connecting the water supply pipe from the well to the dwelling.

#### APPLICABLE LAW

Articles and Sections cited below are of Ordinance 1E.

The lot and surrounding properties are zoned "A" Agricultural District as portrayed on zoning map 6A. The land use provisions for the district are expressed in Article 6. Section 6.2, Principal Permitted Uses, paragraph (d) includes single and two-family dwellings. Section 6.7, Lot Area, Lot Width and Yard Requirements, specifies the following minimums for dwellings:

Lot Area	-	1 acre (43,560 square feet)
Lot Width	-	150 feet
Front Yard	-	40 feet
Side Yard	-	20 feet (each)
Rear Yard	-	50 feet

Article 4, General Provisions; Section 4.16, Front Yard Depth, How Measured (Added 11/27/73), reads in relevant part:

Each front yard (set back) shall be measured at right angles or radially from the nearest street right-of-way line (front property line) where the right-of-way of any existing street is...sixty feet in width in the case of any designated County Collector or major street. Where the respective right-of-way widths of the above type streets are less,...then the minimum front yard depth or set back line shall be determined by adding the distances specified below to the minimum front yard requirement, and measuring from the centerline of the type of road involved:

(b) County Collector or major streets: Add 30 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; Section 15.5 specified in relevant part:

The Board may authorize, upon appeal, in accordance with Section 17.2, variances from... 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, 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

Authorization of the variances will allow construction of a conventional dwelling, as opposed to one severely limited because of the configuration of the lot. Due to the circumstances in this case, the Board is convinced that the best use of the property will be for a conventional dwelling, and that such a dwelling will be beneficial to the nearby residences and those lots intended for residential development. Accordingly, the applicants have met their burden of proof regarding practical difficulty and unreasonable hardship in the use of the lot, and it is evident that the authorization is in the best interests of the owners of adjacent properties, the values of those properties, and the public interests.

#### CONCLUSION

Based on the Findings of Fact, Applicable Law, and Reasoning the variances are approved.

Sept. 16, 1992  
Date

John Totura  
John Totura, Chairman