

Tax Map/Block/Parcel  
No. 39-20-893

Building Permit/Zoning  
Certificate No. 93-0583

Case 3833

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

**APPLICANT:** Meyer and Meyer Partnership  
501 Goldenrod Terrace  
Westminster, Maryland 21157

**ATTORNEY:** Charles M. Preston, Esquire  
Stoner, Preston & Boswell, Chartered  
188 East Main Street  
P.O. Box 389  
Westminster, Maryland 21158-0389

**REQUEST:** A conditional use to allow a "B-L" Local Business District use in the "I-R" Restricted Industrial District, to wit: a professional and business office and clinic building

**LOCATION:** 492 Goldenrod Terrace in Election District 7; Cranberry Hill subdivision, Lot 1 recorded in Carroll County Plat Records in book 30, page 175

**BASES:** Article 12, Section 12.2(b); Article 10, Sections 10.1(d), 10.6 and 10.7; Article 4, Section 4.26; Ordinance 1E (The Carroll County Zoning Ordinance)

**HEARING HELD:** April 27, 1993

On April 27, 1993, the Board of Zoning Appeals heard testimony and received evidence concerning the conditional use request.

The Board visited the site April 26, 1993, 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 authorized the conditional use.

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

**FINDINGS OF FACT**

As depicted on the site location map in this case, the 1.0282 acre lot having a width of 160 feet, is located between Manchester Road (Md. Rt. 27) and Goldenrod Terrace, a cul-de-sac which provides vehicular access to and from the site. Neither the applicants' property, the adjoining lot to the southwest improved with a racquetball building, nor the adjacent corner lot improved with

a health spa have vehicular access directly to Manchester Road.

Each of these lots and the land opposite them on the southerly side of Goldenrod Terrace is zoned "I-R" Restricted Industrial District. The health spa, which is not presently operating, was established prior to the addition of Section 12.2(b) of the zoning ordinance in September of 1977 and is classified as a nonconforming use. The racquetball building, which is a conditional use, was conditionally authorized in 1979 by the Board of Zoning Appeals after Section 12.2(b) was added to the zoning ordinance. The remaining lots served by the cul-de-sac are zoned "R-10,000" Residence District. In 1976, thirteen two-family semi-detached dwellings were conditionally authorized by the Board as a conditional use in Case 1069.

The topography of the entire area can best be described as a hillside, rising above Manchester Road. Goldenrod Terrace rises from its intersection with Manchester Road, increasing in elevation until near the end of the cul-de-sac. As indicated on the site plan, Applicants' Exhibit 1, the front of the property is 50 to 60 feet above Manchester Road. Initial grading of the site has been accomplished.

The applicants now propose to develop a two-story, 30 feet by 60 feet, building for professional and business offices and clinics (office building). These land uses are allowed, without the necessity of the Board of Zoning Appeals approval, in the "B-L" Local Business District as principal permitted uses. From the northeast side of the property abutting the residential subdivision, the office building will be substantially lower in elevation than the dwelling on the adjoining lot and will appear to be one story. From the southwest side of the property adjoining the racquetball property, the office building will be two stories.

Until the addition of Section 12.2(b) to the zoning ordinance in 1977 these uses would have been allowed as principal permitted uses at this site. With the addition of Section 12.2(b) subjecting business uses to Board authorization as conditional uses, the preamble of the "I-R" Restricted Industrial District was re-written to emphasize that the purpose of the district is industry, not retail sales or services. However, the preamble recognizes that in particular circumstances and locations, business uses may be appropriate in the district.

Mr. Gerald D. Bitzel, a certified real estate appraiser, accepted by the Board as an expert witness, presented testimony and evidence on behalf of the request. In the opinion of Mr. Bitzel, the office building will be a more appropriate use of the site than many principal permitted industrial uses; will be compatible with the orderly growth of the community; and, will not unduly affect the adjacent properties, persons working or residing nearby, or the public interests.

Mr. Algis A. Lucas, a professional engineer specializing in vehicular traffic and transportation, was accepted as an expert witness on behalf of the applicants. Mr. Lucas presented a traffic impact study, Applicants' Exhibit 7, pertaining to existing and projected vehicular traffic relative to the proposed

use, Goldenrod Terrace, Manchester Road, and immediate intersections. From the study, Mr. Lucas concluded that establishment and operation of the office building will have negligible impact on the traffic to and from the premises, noting that adjacent traffic signals at the intersections of Hahn Road and Cranberry Mall with Manchester Road "...will provide gaps in the traffic stream to allow the left turn movements from Goldenrod Terrace..." In addition, Mr. Lucas concluded:

To permit the right hand turn of vehicles from Goldenrod Terrace to by-pass those waiting to make a left turn, it is suggested that during site plan review, the approach of Goldenrod Terrace to Maryland 27 intersection be considered for striping with the separate left and right turn lanes.

As Mr. Lucas recommends, the two exiting lanes should be striped to provide two lanes nine feet wide for exiting Goldenrod Terrace and one entering lane twelve feet wide. The Board concurs and agrees with the suggestion that the feasibility of re-striping the entrance be considered during the site plan review for the office building.

Although several residents and property owners within the residential subdivision expressed concerns regarding establishment of the office building, no probative evidence was introduced substantiating that the office building would unduly affect persons working or residing in the immediate area, the values of adjacent properties, or public interests.

#### APPLICABLE LAW

Unless otherwise noted, Articles and Sections cited below are of Ordinance 1E.

The land use provisions for the "I-R" Restricted Industrial District are set forth in Article 12. The preamble of Article 12 reads:

The purpose of this district is to provide locations for some of the lighter manufacturing processes and which may not be as extensive as those provided in the "I-G" District. For the most part, the manufacturing is composed of processing or assembly of previously processed materials. It is not the purpose of this district to promote or encourage the use of land within the district for retail services or planned business centers normally expected to be located within the established business district; however, it is anticipated that there may be areas or locations where retail services or planned business centers can be reasonably and logically considered due to their relationship with other uses existing within the district, as well as their relationship with the

district boundary line or the configuration of the property and the relative scale of the project.  
(Amended 9/22/77)

Section 12.2, Conditional Uses (requiring Board authorization), paragraph (b) was added to the zoning ordinance September 22, 1977. The provision governs this request and reads in relevant part:

Any use permitted and as regulated as a principal permitted use and conditional use in the "B-L" and "B-G" District, except dwellings, mobile homes, and mobile home parks....

Article 10, "B-L" Local Business District; Section 10.1, Principal Permitted Uses, paragraph (d) includes offices and clinics, professional and business, which are regulated by the provisions of Sections 10.3 through 10.7. In addition, the provisions of Article 4, Section 4.26 pertaining to site development plans apply.

In considering conditional use requests, the Board is governed by the provisions of Article 17, Board of Zoning Appeals; Section 17.7, Limitations, Guides and Standards. For brevity, the provision will not be quoted.

In addition to the provisions of Section 17.7, the Board is governed by decisions of the courts. In the case of Schultz v. Pritts, 291 Md. 1, 22, (1981) 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.)

For purposes of clarification, special exception uses are referred to in the zoning ordinance as conditional uses.

#### REASONING

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 applicants have met their burden of proof in both instances.

With no industrial uses served by Goldenrod Terrace and the site abutting the "R-10,000" Residence District in the residential subdivision, the office building is a more appropriate use of the property than a use first allowed in the "I-R" Restricted Industrial District.

As regulated by the provisions of Section 12.1(a) all principal permitted uses allowed in the "I-R" Restricted Industrial District are subject to the requirements of Section 4.12 which include not being located within 200 feet of a residential district. As the width of the lot is less than 200 feet, a variance to the minimum distance requirements would be necessary to allow a restricted industrial use to be established on the site. If that were the case, it is likely that the residents of adjacent properties and the values of those properties would be adversely affected by the industrial use, which the zoning ordinance does not consider to be compatible with dwellings or residential districts.

CONCLUSION

Based on the findings of fact, applicable law and reasoning expressed herein, the conditional use is authorized in accordance with the Board's determination at the conclusion of the public hearing.

5/13/93  
Date

William Law  
William Law, Chairman