

Tax Map/Block/Parcel
No. 61-6-415

Building Permit/Zoning
Certificate No. 95-2386

Case 4045

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: George D. Scheffel
301 Benton Avenue
Linthicum, Maryland 21090

REQUEST: To enlarge an existing mobile home park, classified as a nonconforming use, by the addition of one mobile home

LOCATION: 3515 Ridge Road (Md. Rt. 27) in Election District 9

BASES: Article 6; Article 4, Section 4.3(a)(1); Ordinance 1E (The Carroll County Zoning Ordinance)

HEARING HELD: August 30, 1995; **CONTINUED:** September 29, 1995

Mr. Scheffel owns the mobile home park, which is the subject of this application. Mr. James E. McCarthy owns one of the mobile homes in the park and has resided there for about thirteen years. Mr. McCarthy wishes to sell his existing mobile home, which would remain in the park; establish an additional pad for another mobile home; purchase a newer and larger mobile home and place it on the new pad. Mr. Scheffel favors Mr. McCarthy's plans.

In preparing the application and with Mr. Scheffel's authorization, Mrs. Karen McGregor identified herself as his agent. In a July 19, 1995, letter the Assistant County Attorney advised Mr. Scheffel that it would be contrary to law for Mrs. McGregor, who is not an attorney, to act as his agent in presenting the request to the Board.

The case was called for public hearing shortly after the duly advertised time of 1:30 p.m. August 30, 1995. At that time Mrs. McGregor and Mr. James E. McCarthy, her father, appeared with their attorney, Michelle M. Ostrander. Mr. Scheffel did not appear. An unsuccessful attempt to contact Mr. Scheffel was made, and after a briefly considering the circumstances, the Board continued the public hearing to September 29, 1995.

At that time, Mr. Scheffel appeared and the Board received testimony and evidence in behalf of, and opposition to, the request.

Articles and Sections cited below are of Ordinance 1E.

In accordance with the provisions of Sections 17.6.6 and 17.7 and the Board's long standing policy of visiting sites prior to public hearing, the Board visited the mobile home park August 29, 1995. The purpose of the visit was for the Board to view the site and adjacent properties so that the Board would be reasonably familiar with the properties to assist in the Board's appraisal of testimony and evidence, either pro or con, presented during the public hearing.

There have been three previous applications to the Board for enlargement of the mobile home park. The first two applications, Case 1387 in 1979 and Case 1620 in 1980, were authorized but not implemented, and are no longer relevant. The third application, which is relevant, Case 2591 in 1986, was denied and the Board will refer to that decision.

The application, testimony and evidence comprising the record of this case are hereby included by reference in this decision. Based on the record and in accordance with the state Open Meetings Act, the Board denied the request.

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

FINDINGS OF FACT

The mobile home park has an area of 5.1± acres. Seven mobile homes and three dwellings were lawfully established there prior to the adoption of the zoning ordinance August 17, 1965. As the mobile home park is not listed as either a principal permitted or conditional use in the "A" Agricultural District, it is classified as a nonconforming use.

The premises are essentially unchanged from 1986 when the Board denied an application to enlarge the park by adding twelve mobile home pads and eliminating a nonconforming dwelling (Case 2591). The three dwellings are classified as nonconforming because they have never conformed with the minimum lot area, lot width, and yard requirements governing dwellings in the "A" Agricultural District.

Mr. McCarthy owns one of the mobile homes. He wishes to sell his existing mobile home, which would remain in the park; establish an additional pad for another mobile home on the opposite side of the driveway; purchase a newer and larger mobile home and place it on the new pad. He also proposes to locate an accessory storage shed, not larger than 12 feet by 18 feet, adjacent to the mobile home. The improvements may be accomplished without removing any trees on the premises.

Mr. McCarthy must sell his present mobile home in order to

purchase the proposed mobile home. His existing mobile home is not marketable unless it remains in place within the mobile home park.

Establishment of the additional mobile home pad would benefit both Mr. McCarthy and Mr. Scheffel.

Residents and owners of adjacent homes opposed the request because it would tend to perpetuate the nonconforming mobile home park, and adversely affect adjacent residential property values and the orderly growth of the neighborhood, contrary to the provisions of the zoning ordinance.

APPLICABLE LAW

The mobile home park, which is identified as parcel 415 on the site location map used in this case, and the adjacent properties are zoned "A" Agricultural District as depicted on zoning map 61B. The land use regulations for the district are expressed in Article 6. Single and two-family dwellings are listed as principal permitted uses in Section 6.2(d), but mobile home parks are not included as either principal permitted or conditional uses. (Sections 6.2 and 6.3.)

Article 4, General Provisions; Section 4.3, Nonconforming Uses (Amended 3/17/81) governs land uses established prior to the adoption of Ordinance 1E and 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; subject, however, to the following provisions:

(a) Structural alterations or enlargement of any building, structure or premises which does not comply with the use or dimensional requirements of this ordinance shall be allowed only as follows:

(1) Upon application, the Board may approve structural alterations or enlargement of a nonconforming use, subject to the provisions of Article 17, Section 17.[7];....

Section 17.7, Limitations, Guides and Standards, states:

Where in these regulations certain powers are

In considering the request, it is evident that the application merely reflects Mr. Scheffel's willing participation to accommodate Mr. McCarthy's wishes to improve his residence. Neither the personal nor financial benefits that Mr. McCarthy would derive from establishing a newer and larger mobile home as his residence justify authorization of the request. In fact, authorization of the request would neither promote the orderly growth of the community nor conserve residential property values of adjacent homes. Furthermore, enlargement of the nonconforming mobile home park can not be construed to be an appropriate use of the land. Accordingly, the request must be denied.

CONCLUSION

Based on the findings of fact, applicable law, and reasoning expressed above, the request is hereby denied in accordance with the Board's oral decision at the conclusion of the public hearing.

10-19-95
Date

Claude R. Rash
Claude R. Rash, Chairman