

**Tax Map/Block/Parcel
No. 33-4-664**

Case 5292

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

APPLICANT: Edward Hughes & Dixie Hughes
Charles Hughes & Sandy Hughes
4501 Dave Rill Road
Hampstead, MD 21074

ATTORNEY: Elwood Swam

REQUEST: Variance for three (3) apartments in an existing dwelling. The property was purchased in 1992 and consisted of an improvement with three (3) existing dwelling units.

LOCATION: The site is located at 2429 Fairmount Road, Hampstead, on property zoned "A" Agricultural District in Election District 8.

BASIS: Code of Public Local Laws and Ordinances, Section 223-70 and 223-186 A (3)

HEARING HELD: January 24, 2007

FINDINGS AND CONCLUSION

On January 24, 2007¹, the Board of Zoning Appeals (the Board) convened to hear a request for a variance for three (3) apartments in an existing dwelling. The Board made the following findings and conclusion:

The subject structure was constructed in the late 1970's. At some point prior to 1988, the building was converted to three separate apartment units, which have been continually leased to tenants to this day. The building is served by two wells and a septic system. In 1992, the Applicants purchased the property, which contained the three apartments. The units were periodically inspected by the Department of Housing and Urban Development. In addition, lead paint remediation on the units was performed by the Applicants or their predecessors in title. State and local taxes were paid on the three units by the Applicants. There is no requirement for apartment registration with the County.

When they proposed to sell the property, the Applicants learned that they could not sell the building as a three apartment dwelling since it was not a permitted use in the Agricultural Zone where the property was situated. Accordingly, the Applicants sought a variance from the Board to continue the three apartment use.

¹ In accordance with 223-188 (J), the Board extended the time period for issuing its written decision in this matter.

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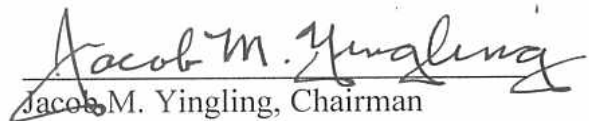
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Given the unique facts of this case, the Board believes the criteria for a variance are met. A variance may be granted by the Board in accordance with the terms of the Zoning Code and where the variance will not be contrary to the public interest, and where, owing to conditions peculiar to the property and not the result of the actions of the Applicants, a literal enforcement of the law would result in practical difficulty or unreasonable hardship. The Board finds that the use has existed for at least 19 years, and significant infrastructure improvements and remediation have been performed by the Applicants or the prior owners under the belief that the three units were viable. If the Board grants the requested relief, everything will continue as is and the Applicants will be able to sell the premises as a three family unit just as they had purchased it as a three family unit. There was no evidence of neighborhood opposition to the request and the use is not out of keeping with the existing neighborhood. Requiring the Applicants to undo what had been done years before, apparently without objection from anyone, would result in significant hardship to the Applicants. There was no evidence of any harmful effects from the use of the building as three units.

Based upon the unique circumstances in this case and on evidence presented by the Applicants, the Board finds that a strict application of the density requirements in the Ordinance would result in practical difficulty and undue hardship to the Applicants. Accordingly, the requested variance to allow continued use of the structure for three apartments is granted.

3/8/07
Date


Jacob M. Yingling, Chairman