

**Tax Map/Block/Parcel
No. 65-18-33**

Case 5402

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

APPLICANT: Tim Hicks
5339 Buffalo Road
Mt. Airy, Maryland 21771

ATTORNEY: n/a

REQUEST: A variance from the required 5 ft. rear setback to 3 ft. for bldg. #1 and variances from the required 20 ft. side setback to 11 ft.* and from the required 40 ft. front setback to 37 ft. for bldg. #2 which sits forward of the front of the dwelling.

LOCATION: The site is located at 5339 Buffalo Road, Mt. Airy, MD 21771, on property zoned "A" Agricultural District in Election District 13.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-75

HEARING HELD: April 23, and June 24, 2008

FINDINGS AND CONCLUSION

On April 23, and June 24, 2008, the Board of Zoning Appeals (the Board) convened to hear a variance from the required 5 ft. rear setback to 3 ft. for bldg. #1 and variances from the required 20 ft. side setback to 11 ft.* and from the required 40 ft. front setback to 37 ft. for bldg. #2 which sits forward of the front of the dwelling. Based on the testimony and evidence presented, the Board made the following findings and conclusion:

The Applicant resides on .30 of an acre at 5339 Buffalo Road in Mt. Airy. He purchased the property in 1987. Over the years he constructed several accessory buildings on the property. This case concerns only two of the structures; namely building #2, a woodshed which is 10 feet off the property line (the wood "shed") and 37 feet from the front yard setback; and building #1, a screened in patio area ("screen room") which is 3 feet from the rear yard property line. The woodshed was constructed *circa 1995*. The screen room was built *circa 1990*.

The two structures were built without the required permits or the approval of the Office of Zoning Administration. Nevertheless, the Board applied the standard variance principles to the application.

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The screen room is an outdoor leisure area, which the Applicant uses for picnics and similar uses. The woodshed is used for storing firewood which is used to heat the residence.

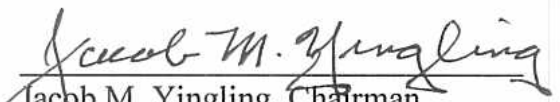
The property is undersized and nonconforming in the Agricultural zone. It is served by a well which is located in the rear yard. In addition, it is served by a septic system. The property is rectangular in shape and slopes downward.

After hearing the evidence, the Board considered the following factors. First, the Applicant testified forthrightly that the screen room was moveable and was located where it was for the Applicant's convenience. There was no undue hardship or practical difficulty proven with regard to the location of the screen room. As for the woodshed, the Board found that due to the shape of the property, the location of the driveway, well and septic system on the relatively small size of the property, there are no other feasible locations on the property where the woodshed could have been located.

The Board concluded that no variance for the screen room to 3 feet from the rear property line was warranted and it was denied, as no undue hardship or practical difficulty proven. Any hardship with regard to the screen room was solely the result of actions of the Applicant. Turning to the other building, the Board found that the Applicant, in proving that there were no other possible locations on the lot for the woodshed, had carried the burden of proof for a variance. Removal of the woodshed would cause practical difficulty and undue hardship. Accordingly, a side yard variance to 10 feet and front yard variance to 37 feet was granted.

*Amended by oral motion of the Applicant to 10 feet at the hearing.

7/23/08
Date


Jacob M. Yingling, Chairman