

Tax Map/Block/Parcel
No. 69-20-271
Case 5627

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPELLANTS: David C. Jones, Sr. & Sylvia L. Rollins Jones
6609 Marvin Avenue
Eldersburg, Maryland 21784

ATTORNEY: Clark R. Shaffer

REQUEST: An appeal of the Zoning Administrator's decision to deny a variance to the required lot size and variances to the required minimum setbacks (ZA-1334) to allow creation of a 1.980 acre building lot.

LOCATION: The site is located at Conan Doyle Way, Eldersburg, MD 21784, on property zoned "C" & "R-40,000" Conservation and Residential District in Election District 5.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-37 and 223-182

HEARING HELD: March 28, 2012

FINDINGS AND CONCLUSION

On March 28, 2012, the Board of Zoning Appeals (the Board) convened to hear the appeal of the Zoning Administrator's decision to deny a variance to the required lot size and variances to the required minimum setbacks (ZA-1334) to allow creation of a 1.980 acre building lot. Based on the testimony and evidence presented, the Board made the following findings and conclusion:

DECISION

This case concerns an existing lot referred to as Lot 105 in a residential subdivision known as Sherlock Holmes Estates. The Applicants were represented by Clark Shaffer, Esquire. He stated that Lot 105 is zoned both "C" Conservation and R-40,000 Residential, and is approximately 2.19 acres, as recorded. It consists of areas of steep slopes and also includes an area subject to an existing Forest Conservation Easement.

At 2.19 acres, Lot 105 should not have been approved; the minimum lot size in the Conservation Zone is three acres. Several other lots in the subdivision also have both R-40,000 and Conservation Zoning, are even smaller than Lot 105, and have houses on them. Mr. Shaffer argued that these facts render Lot 105 unique and unusual, and therefore, appropriate for the requested variances.

Randy Bachtel, of BPR, Inc., was accepted by the Board as an expert in land use planning and design. He testified that he was working with the Applicants, Mr. and Mrs. Jones, to develop both Lot 105 and another adjacent lot they own, Lot 104. Mr. Bachtel testified that Lot 105 is a difficult lot to develop as currently configured, with issues of topography, soil types, and the extant Forest Conservation Easement. After he did a significant amount of work on this project, including providing new perc tests for both lots, Mr. Bachtel submitted an Amended Plat for Lot 105 with a new perc area and a modification of the lot line between Lots 104 and 105, reducing the size of Lot 105 from 2.19 acres to 1.98 acres. This was reviewed and approved by the Carroll County Planning and Zoning Commission. Mr. Bachtel subsequently received correspondence from the County stating that the new dimensions for Lot 105 were unacceptable; the lot was already smaller than required and the County would not authorize its' further reduction.

The Applicants then requested the variances herein. There was a hearing on this matter before Jason Green, acting as Zoning Administrator. He denied the variances, and this appeal to the Board followed.

Mr. Green testified that Lot 105 is a buildable lot, and therefore, no variances were necessary.

The Board determined that construction of a residence on Lot 105, while technically possible, would be practically very difficult, owing to the issues particular to the lot and not the fault of the Applicant. Denial of the requested variances, including the reduction of lot size, would result in unwarranted hardship and injustice to the Applicants; granting the variances would not be contrary to the public interest. Accordingly, the decision of the Zoning Administrator in Case ZA-1334 is reversed and the requested variances granted.

April 13, 2012
Date

Richard J. Simmons
Richard J. Simmons, Chairman

Decisions of the Board of Zoning Appeals may be appealed to the Circuit Court for Carroll County within 30 days of the date of the decision pursuant to Article 66B, Section 4.08 of the Annotated Code of Maryland Rules of Procedure.

Pursuant to Section 223-192C of the County Code, this approval will become void unless all applicable requirements of this section are met. Contact the Office of Zoning Administration at 410-386-2980 for specific compliance instructions.