

Tax Map/Block/Parcel
No. 45-23-697
Case 6011

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: James M. Christiansen
3500 Old West Falls Road
Mt. Airy, MD 21771

ATTORNEY: N/A

REQUEST: An appeal of the Zoning Administrator's decision to deny a variance to construct a detached garage in Case #ZA-1701.

LOCATION: The site is located at 782 Link Drive, Westminster, Maryland, on property zoned "C" Conservation District in Election District 7.

BASIS: Code of Public Local Laws and Ordinances, Section 158.071(G)(1).

HEARING HELD: March 30, 2017

FINDINGS AND CONCLUSION

On March 30, 2017, the Board of Zoning Appeals (the Board) convened to hear an appeal of the Zoning Administrator's decision to deny a variance to construct a detached garage in Case #ZA-1701. Based on the testimony and evidence presented, the Board made the following findings and conclusions.

Jay Voight testified as the Zoning Administrator who heard and decided the case of ZA-1701. He testified that the setbacks in the Conservation Zone were 50' on all sides of the property. In the Conservation zoning district there is usually a requirement of three acre lots. The applicant's lot is heavily wooded and slopes steeply from the front to the rear of the lot. The applicant proposed to build a 30' X 40' garage. Based on the location of the proposed garage it would be 16.5 feet from the front property line. The variance being requested was in the front yard. The lot adjacent to the applicant's lot is approximately one acre in size and is zoned R-40,000. The side yard setback for the adjacent property is 20'. The house that is located on this lot, known as 780 Link Drive, sits very close to the property line that is also Mr. Adam's front property line. Mr. Voight testified that if the garage was placed in the back yard that a setback could be as low as 5' there. Mr. Voight testified that he believed if the garage was placed in line with the house that it could meet setback requirements. He stated that the creation of the garage would require some fill but not an excessive amount of it. He further believed that the septic system was down in the woods.

Mr. Voight pointed things out to the Board with regard to Exhibit 2. He mentioned the minimum building lot lines for the applicant and for adjoining owners. He discussed another plat which was included as an exhibit in the Board's file. Zoning Exhibit 1 was entered into evidence, which was an aerial photograph of the properties.

Mr. Voight decided to deny the applicant's request for a number of reasons. One reason is because the proposed garage site would be crowding the adjoining lot in the R-40,000 zone. Two, the house at 780 Link Drive was closer to the property line by virtue of the R-40,000 zoning district and its shorter setbacks. Three, he believed that there were other areas of the property where the proposed garage could be placed that do not crowd the neighbor's property.

Richard Adams testified as the owner of the property. He stated that there were slopes in the side yards. He believed that a bigger footprint would be needed to put the garage on the side of the house. He stated that where he proposed to place the garage was better aesthetically. He stated that if he were to put the garage where the Zoning Administrator stated that it would be on or near the septic area. He planned to keep a boat, a vehicle, and other machine/equipment to be used in clearing the road at Link Drive. The owner wanted to keep the aesthetics of the garage in line with the house so that it would look like the house and garage were built at the same time. Exhibit 1 was entered into evidence, which was a letter from the property owners at 780 Link Drive.

James Christiansen testified as the contractor for Mr. Adams that would build the proposed garage. He has been in the construction business for approximately forty years. He believed if the garage was built closer to the back yard that it would require a lot of foundation. He stated that foundation-wise that a lot of fill would be needed. He stated that the cost for eleven to twelve feet of fill would be exorbitant. He discussed a tremendous amount of fill and retaining walls. He suggested that to move the garage to another location would be a tremendous amount of money and not a few thousand dollars. He stated that one could not put fill around a septic system. He stated that if the Board so found that it would be possible to reduce the setback of 16.5 ' to 20'. The owner wanted to keep the aesthetics of the garage in line with the house.

A March 13, 2017 memorandum by Lynda Eisenberg, Chief, and Clare Williams, Planning Technician, stated that the matter had been reviewed for consistency with the policies and recommendations contained in the *Carroll County Master Plan, the 2007 Westminster Environs Community Comprehensive Plan, the Carroll County Water & Sewer Master Plan*, and other plans. The staff finding was that the applicant's request is not inconsistent with the *2014 Carroll County Master Plan, the 2007 Westminster Environs Community Comprehensive Plan* and would not have an adverse effect on the current use of the property or its environs.

On an appeal of the Zoning Administrator's decision in case ZA-1701, the Board has a standard of "unwarranted hardship and injustice" to consider a variance denied by the Zoning Administrator. This standard is higher than the standard of practical difficulty or unreasonable hardship as found in the definition of variance in the zoning code.

At one point the contractor stated that the reason the Board should grant the variance was because it was what Mr. Adams wanted. He suggested that Mr. Adams getting what he wanted was a basis for the approval. The Board was not satisfied that the garage could not be built in an area that did not require variances. The Board did not believe that 16.5 feet of the neighbor's property line was a sufficient distance to build the garage at its proposed location.

The Board was convinced that authorization of the request with regard to the request for a variance was inconsistent with the purpose of the zoning ordinance, inappropriate in light of the

factors to be considered regarding conditional uses of the zoning ordinance, would unduly affect the residents of adjacent properties, the values of those properties, or public interests. The Board denied the variance requested by the applicant.

April 3, 2017
Date

Melvin E. Baile, Jr.
Melvin E. Baile, Jr., 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 Land Use Article, Section 4-401 of the Annotated Code of Maryland.

Pursuant to Section 158.133 (H)(3) 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.