

Tax Map/Block/Parcel
No. 68-11-58
Case 5769

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: James M. Sanders
1302 Brockton Drive
Eldersburg, MD 21784

ATTORNEY: N/A

REQUEST: A request for a variance to lower the setback requirement from 7 feet to 2 feet, 6 inches.

LOCATION: The site is located at 5094 Hodges Road, Eldersburg, MD 21784, on property zoned "C" Conservation District in Election District 5.

BASIS: Code of Public Local Laws and Ordinances, Section 158.071 and 158.130(B)

HEARING HELD: September 24, 2014

FINDINGS AND CONCLUSION

On September 24, 2014, the Board of Zoning Appeals (the Board) convened to hear the request for a variance to lower the setback requirement from 7 feet to 2 feet, 6 inches. Based on the testimony and evidence presented, the Board made the following findings and conclusions.

James M. Sanders testified on behalf of the applicant. He purchased this house about a year and a half ago in an "as is" condition. He did not plant the oak trees on the property. There are other trees owned by the state to the side. The property includes a shed in the back. He uses the shed for storage. He wants to construct a double carport (20' X 20') and attach it to his house at the address above. The plans for the carport were drawn by an architect and approved by an engineer. The carport would be an open structure. Cars were damaged from falling tree limbs, and that is the main reason for the construction of the carport. He stated that the neighborhood is upscale and that the carport would be aesthetically pleasing.

Robert Erb testified that he was not in opposition to the construction of the carport. However, he wanted to make sure that County officials saw to it that the carport would comply with the plans. He said that prior permission to put a shed on the property did not comport with the plans given to the County.

In an August 29, 2014 letter from Philip R. Hager, Secretary, Planning & Zoning Commission he wrote that “while there do not appear to be comprehensive plan consistency conflicts, the applicant has not met the legal requirements associated with the granting of a variance. Additionally, it is inescapable that the need for the variance is a result of anything other than the applicant’s actions. Again, this presents a legal conflict relating to the issuance of a variance.”

An August 25, 2014 memorandum from Lynda Eisenberg, Chief Bureau of Comprehensive Planning, and Scott E. Graf stated that the property was consistent with the policies and recommendations contained in the Carroll County Master Plan, the Carroll County Master Plan, the 2001 Freedom Community Comprehensive Plan, the Carroll County Water & Sewerage Master Plan, and other functional plans. The surrounding area is comprised primarily of publicly owned land and residential neighborhood. Planning staff does not believe that granting the variance for the construction of a carport would have an adverse impact on the immediate neighborhood. The request is compatible with the vision and goals for the area as expressed in the plan. The Board accepted and agreed with the findings of Lynda Eisenberg and Scott E. Graf.

The Board found that the need for protection against falling tree limbs was not a condition created by Mr. Sanders. The Board disagreed with the statements made by Mr. Hager. The property was unique based on the placement of the house in relationship to the road and based on the placement of the septic system. There was no opposition to the requested variance.

The Board was convinced that authorization of the request for a variance with regard to the carport was consistent with the purpose of the zoning ordinance, appropriate in light of the factors to be considered regarding conditional uses of the zoning ordinance, and would not unduly affect the residents of adjacent properties, the values of those properties, or public interests. The Board approved the requested variance.

Date

Brian DiMaggio, 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 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.