

Tax Map/Block/Parcel
No. 73-20-97

Building Permit/Zoning
Certificate No. 05-2606

Case 5142*

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

APPELLANT: Kennard Warfield, Jr. Family LLLP
14451 Triadelphia Road
P.O.Box 30
Glenelg, MD 21737

ATTORNEY: Ronald L. Spahn

REQUEST: An appeal of the Zoning Administrator's decision regarding the denial of a building permit due to the failure to meet setback requirements and variances to the required 50 ft. side yard setback to 10 ft., or 10% of the width of the lot.

LOCATION: The site is located at 411 Carroll Street (Lot 1), Sykesville, on property zoned "C" Conservation District in Election District 5.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-37, 223-177 B (1, 2 & 3) and 223-186 A (1 & 3)

HEARING HELD: October 24, 2005

FINDINGS AND CONCLUSION

On October 24, 2005, the Board of Zoning Appeals (the Board) convened to hear an appeal of the Zoning Administrator's decision regarding the denial of a building permit due to the failure to meet setback requirements and variances to the required 50 ft. side yard setback to 10 ft., or 10% of the width of the lot. Based on our review of the file and arguments made by the Appellant and the Zoning Administrator, we made the following determination.

The facts are essentially not in dispute. The subject lot is shown on a recorded plat for the Carroll Heights subdivision. The plat was recorded in 1960, which predates the adoption of the Carroll County Zoning Ordinance in 1965. The lot was lawfully created, and there is no evidence of any irregularity in this regard. No setbacks were required in Carroll County in 1960.

The property was at one time zoned "R-10,000" but is now zoned "C" Conservation. The .3868 acre lot is vacant and is located on Hollenberry Road.

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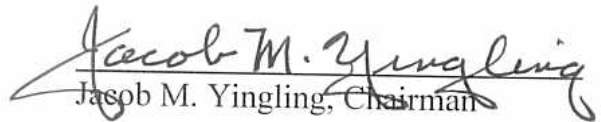
Section 223-177 (B) (2) of the Zoning Ordinance provides that lots created prior to the adoption of the Carroll County Zoning Ordinance (August 17, 1965) must have side yards equal to 10% of the lot width but they need not exceed the side yard requirements of the district in which the lot is located. This provision does not include any mandates regarding front or side yard setbacks. The lot at issue meets the required side yard setbacks.

The Board concludes that the lot lines shown on the Carroll Heights subdivision plat recorded in 1960 govern this case, except for the side yard setbacks, because the Zoning Ordinance at Section 223-177 (B) (2) clearly governs the side yard setbacks. As to the non-conforming front and rear yard, no variance is required, as the lines were lawfully created by the plat. Accordingly, we respectfully reverse the determination of the Zoning Administrator in this instance.

*Consolidated with Case 5141.

Date

11/16/05


Jacob M. Yingling, Chairman