

**Tax Map/Block/Parcel**  
**No. 31-13-303**  
**Case 5663**

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

**APPELLANT:** The Maples, Inc.  
c/o James Pue  
3324 Bixler Church Road  
Westminster, MD 21158

**ATTORNEY:** Clark Shaffer

**REQUEST:** An appeal of the Zoning Administrator's decision regarding a variance.

**LOCATION:** The site is located at 75 Lamb Drive, Westminster, MD 21157, on property zoned "A" Agriculture District in Election District 7.

**BASIS:** Code of Public Local Laws and Ordinances, Chapter 223-182 (A) and 223-188

**HEARING HELD:** September 27, 2012

**FINDINGS AND CONCLUSION**

On September 27, 2012, the Board of Zoning Appeals (the Board) convened to hear the request for an appeal of the Zoning Administrator's decision regarding a variance. Based on the testimony and evidence presented, the Board made the following findings and conclusions.

Five witnesses testified at the hearing. Scott Lynn is the co founder and owner of the North Carroll Community School, a nonprofit K-8 school. Laura Colson testified as a teacher at the school. Jay Voight, Zoning Administrator, testified about his Official Decision. Tamara Wilkins testified as someone who worked in the school and as a parent of a student attending the school. Martin Hackett testified as the president of an engineering consultant company known as Carroll Land Services Inc. He testified as an expert in land use consultancy and as a land planner.

The procedural history of the case is that Jay Voight wrote an Official Decision on June 20, 2012 which granted the school a variance from 100' from the property line to 50' from the property line. Thereafter, Clark Shaffer, on behalf of The Maples, Inc., a contiguous property owner and a party to the Zoning Administrator's case appealed the decision to the Board of Zoning Appeals. The appeal stayed all proceedings in furtherance of the action appealed.

The school has been in existence for at least seven years. The school purchased the property in question in over the summer of 2012. The property, which was purchased from a church, had an existing church building on it at the time of purchase. The school's Exhibit 1 demonstrated the plan developed by RTF Associates, Inc. for the school. The plan set forth two singular modulars and a double modular for a total of three portables. So that the school could begin the 2012-2013 school year RTF was requested to prepare another plan for the portable where no variances were needed. RTF prepared a second plan but excluded the double modular, because there was insufficient space for this portable without a variance. Before the beginning of the school year the North Carroll Community School received an occupancy permit from the county. At this time the Health Department would not allow the school to have any more than 125 students due to the septic situation. At the time of the hearing the school had approximately 105 students. The double modular was to be used as a lunch room for the students as well as a multipurpose room for other activities. Without the double modular the students are required to eat their lunches in their classroom modulars. The students must walk more than one hundred and fifty feet in all types of weather to reach one of the portables.

Jay Voight heard an appeal of the variance requested by the school on June 6, 2012. He found that the school proposed to change the use of the church to a private school. He further found that the school was a principal permitted use in the Agriculture Zoning District where the property was located. In granting the variance the Zoning Administrator considered a number of factors: the difficulties that the students would go through without the double modular; the hardship that the school would have in putting the modulars in other locations on the property; and the reduction in existing parking spaces. The objections from The Maples, Inc. involved the school later objecting to the development of the adjoining property which is located in the Restricted Industrial District.

Mr. Hackett testified that The Maples, Inc. was zoned in the Restricted Industrial District and was located in the City of Westminster. He further testified that the school site was not unique or unusual. He noted that the rectangular shape of the property did not make it unique; that the topography was very consistent with other properties in the area; and that there were not a number of jigs and jags with regard to the property lines. He believed that allowing a variance might affect the future of The Maples, Inc. property, because a school parent could object to an industrial use in the future. He mentioned that the septic area may be a condition peculiar to the property. However, he noted that storm water management was not a condition that was peculiar to the property.

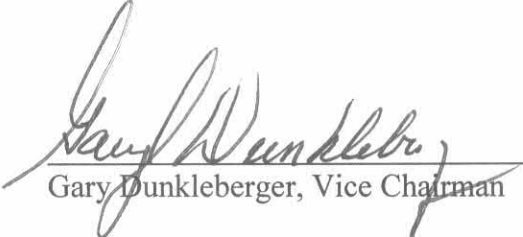
Two stipulations were made during Mr. Hackett's testimony. One, it is possible that The Maples, Inc. will not be developed by 2020; and two, there is no change in setback requirements based on where the school wanted to place its portables.

Mr Hackett's testimony and Protestant Exhibit 4 indicated that the City of Westminster required a 30 foot setback from the property line of The Maples, Inc. for all buildings in the Restricted Industrial Zone. Some special exceptions would require The Maples, Inc. to construct a building 100 or 300 feet away from its property line. Whether the school was near its property

line or fifty feet away as requested in the variance, there would be no change in setback requirements for The Maples, Inc. based on where the school wanted to place its portables.

The Board considered the request for a variance and determined that granting the variance would not unduly affect the residents of The Maples, Inc., the value of that property or the public interests. The Board found that the existence of the church building, the present parking lot and the septic tank were reasons that the variance would be needed. The practical difficulty in moving the double modular to a place where the variance would not be needed was considered. However, the Board decided that the practical difficulty of moving the portables to another location would be too much. The Board also found that the condition of the property created a practical hardship for the school. Therefore, the Board approved the variance as set forth in the school's Exhibit 1.

5 October 2012  
Date

  
Gary Dunkleberger, Vice 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.