

Tax Map/Block/Parcel
No. 71-19-261
Case 5590

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPELLANT: Diane L. Zwinak and Bernard J. Zwinak, Jr.
7000 Di-Mar Drive
Mt. Airy, MD 21771

ATTORNEY: N/A

REQUEST: An appeal of the Zoning Administrator's decision regarding a side yard setback for a farm storage building.

LOCATION: The site is located at 7005 Di-Mar Drive, Mt. Airy, on property zoned "A" Agricultural District in Election District 13.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-188 B.

HEARING HELD: May 25, 2011

FINDINGS AND CONCLUSION

On May 25, 2011, the Board of Zoning Appeals (the Board) convened to an appeal of the Zoning Administrator's decision regarding a side yard setback for a farm storage building. Based on the testimony and evidence presented, the Board made the following findings and conclusion:

The Appellants are the adjoining neighbors of Roy J. Gregory, who resides at 7005 Di-Mar Drive in Mt. Airy. Mr. Gregory kept livestock in a 50 year old (+/-) barn on his property. The Gregory property is 13 acres (+/-) in the Agricultural District. Mr. Gregory constructed a 36 ft. x 47 ft. extension onto the old barn. The extension was located 31 feet from the side yard property line, necessitating the need for a variance.

At first Mr. Gregory intended to keep livestock in the new building. However, at a hearing before the County Zoning Administrator on March 2, 2011, at this hearing before the Board, Mr. Gregory stated that the new portion of the barn would only be used for the storage of materials, and that animals will not be kept in this new building.

The Appellants complained to the Board that the intended building is located 102 feet from their residence. They are concerned about well contamination from the animals, regardless of where they are kept in the barn or the extension. They complained of noise and stench resulting from the animals. They asked the Board to order the new barn removed.

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The Board was not unsympathetic to the complaints of the Appellants. However, the Board noted that the smells and noise complained of exist even if the farm animals are kept in the old portion of the barn. Allowing the new portion of the barn to be used for the storage of materials and equipment will neither solve nor, more significantly, exacerbate the Appellants' problems with the farm animals and their attendant noise or smells are to be expected.

The Board found the old barn was a non-conforming structure which was erected in this location prior to 1963. The extension to the building had to be connected to the old barn, so there were no other feasible locations on the property where such an extension could be located absent a variance. An order to remove the barn would result in undue hardship to the Gregory family. A strict application of the setback would require the barn's removal absent a variance.

The variance was granted, with a condition that no animals are to be kept in the new 36 ft. x 47 ft. extension of the barn.

23 June 2011
Date

Gary Dunkleberger
Gary Dunkleberger, Chairman

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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.