

**Tax Map/Block/Parcel  
No. 66-14-208**

**Case 5433**

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

**APPLICANT:** Ali Tabassi  
P.O. Box 22  
Germantown, Maryland 20875-0022

**ATTORNEY:** Dan Murphy

**REQUEST:** A variance from the required 20 ft. side yard setback to 7-1/2 ft. for an existing shed.

**LOCATION:** The site is located at 5423 Ridge Road, Mt. Airy, MD 21771, on property zoned "R-40,000" Residential District in Election District 9.

**BASIS:** Code of Public Local Laws and Ordinances, Section 223-66, 223-178 and 223-186

**HEARING HELD:** September 30, and October 23, 2008

**FINDINGS AND CONCLUSION**

On September 30, and October 23, 2008, the Board of Zoning Appeals (the Board) convened to hear a variance request from the required 20 ft. side yard setback to 7-1/2 ft. for an existing shed. Based on the testimony and evidence presented, the Board made the following findings and conclusion:

The Applicant resides at the above address. He was in the process of constructing a shed in the side yard of the property, which, in accordance with Carroll County Public Local Laws and Ordinances, §223-66 must meet a 20 foot setback\*. Belatedly, he applied for a variance. The Applicant obtained a variance from the Zoning Manager for Carroll County on January 7, 2008, in ZA Case 1092. Unfortunately for the Applicant, this variance allowed him to erect the shed within 12 feet of the side yard property line.

\*The Applicant was apparently under the impression that he needed only a 5 foot setback under Carroll County Public Local Laws and Ordinances, §66. However, this provision applies only when the shed is located in the rear yard.

**OFFICIAL DECISION**

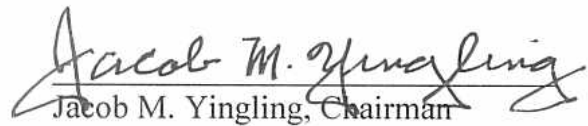
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The owners of the neighboring property at 671 Ridge Road obtained a property survey in connection with their erection of a fence between their property and the Applicant's property. The survey revealed that the Applicant's shed was in fact 7.5 feet from the property line. This information was relayed to the Zoning Manager who notified the Applicant. In response, the Applicant filed this request to the Board for a side yard variance to 7.5 feet from the side property line. The shed remains partially constructed.

The standard for granting a variance as set forth in the Carroll County Public Local Laws and Ordinances, §223-2 is when, due to conditions peculiar to the property and not the result of the actions of the Applicant, a literal enforcement of the setbacks would result in practical difficulty or unreasonable hardship. Based upon the Board's visit to the property and the testimony of the Applicant and his neighbors, the Board concluded that the survey obtained by the neighbors is accurate and that a side yard variance to 7.5 ft. is necessary in this case if the shed is to be allowed to remain. Furthermore, the Board found that there are already 4 outbuildings on this ½ acre (+/-) residential lot. In addition, the Board found the Applicant's lot to be a fairly standard shape, with a flat terrain. There are numerous alternative locations on this lot, including in the rear yard, where a shed of this type could be located. As a result, the Board found that there were no unique features to this lot which would justify the Applicant's encroachment into the side yard setback. Hardship, if any, was the result of the actions of the Applicant, not a result of conditions on his property. Accordingly, the variance request was denied.

11 / 19 / 08  
Date

  
Jacob M. Yingling, Chairman