

Tax Map/Block/Parcel
No. 61-8-589

Case 5324

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

APPLICANT: Tami & Tom Krcma
3801 Roop Road
New Windsor, MD 21776

ATTORNEY: Clark R. Shaffer

REQUEST: A variance for an existing 30 ft. x 30 ft. garage from the required 20 ft. side yard setback to 1.7 ft.

LOCATION: The site is located at 3801 Roop Road, New Windsor, on property zoned "A" Agricultural District in Election District 9.

BASIS: Code of Public Local Laws and Ordinances, Section 223-75 A

HEARING HELD: April 26 and May 29, 2007

FINDINGS AND CONCLUSION

On April 26 and May 29, 2007, the Board of Zoning Appeals (the Board) convened to hear a request for a variance for an existing 30 ft. x 30 ft. garage from the required 20 ft. side yard setback to 2 ft. The Board made the following findings and conclusion:

The Applicants purchased this 1.24 acre lot, improved with a residence, in 2003. In August of 2004, the Applicants decided to construct an attached garage. They proceeded to start construction without the benefit of a required building permit. The construction was brought to the attention of the County Bureau of Permits, which stopped work on the garage and advised the Applicants that the project required several variances from the setbacks. The Applicants pursued administrative variances to the rear yard setback from 50 feet to 39 feet, and to the required side yard setback from 20 feet to 15 feet for the left side and from 20 feet to 18 feet to the right side to enable them to complete the attached garage. The Zoning Administrator, in Case No ZA-870, granted the required variances on October 13, 2004. No one appeared in opposition at the Zoning Administrator's hearing on the matter. The Applicants obtained a building permit for a 24 ft. x 30 ft. attached garage.

The Applicants proceeded to construct a 30 ft. x 30 ft. garage. In August 2006, the adjoining neighbors had a survey done of their property in connection with their plans to subdivide their property. The survey revealed that the garage had been constructed 22 inches from the property line, which was much closer than the distance approved in Case No. ZA-870.

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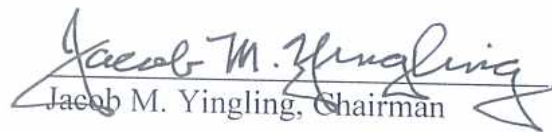
The Applicants have now requested a variance from the required side yard setback from 20 ft. to 2 ft. (\pm) to accommodate the existing garage.

Testimony presented by the Applicants established that the Applicants' lot has several unique peculiar features. This is a "pie shaped" lot with topographic hardships, including steeply sloped contours. The lot has almost no side or back yard. The property is served by a well and a septic system, with the required septic reserve area. All of these features severely restrict the area available to build for the garage. The house was in its present location when the Applicants purchased it. A detached garage could not in all practicality be located on the lot.

Based on all of the above factors, the Board finds that the Applicants have proven that there are conditions peculiar to this property such that a literal enforcement of the side yard setback would result in practical difficulty and unwarranted hardship to the Applicants. In addition, the Board finds that the grant of a variance to allow the garage would not be contrary to the public interest. While an aggrieved neighbor argued to the Board that the location of the attached garage could limit their ability to develop their lot, their testimony was not supported by any evidence.

The actions of the Applicants in this case were hardly above reproach, and the Board does not countenance the commencement of construction without building permits. In addition, we considered this case as if the construction had not yet occurred. Accordingly, the requested side yard variance to 19 inches from the property line is granted.

6/20/07
Date


Jacob M. Yingling, Chairman