

Tax Map/Block/Parcel
No. 63-5-47

Building Permit/Zoning
Certificate No. 02-1264

Case 4678

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

APPLICANT: Joseph Kos & Nancy Rose
3705 Niner Road
Finksburg, Maryland 21048

ATTORNEY: Clark R. Shaffer

REQUEST: An application for a change from a non-conforming storage or warehouse use to a non-conforming restaurant and bar or, in the alternative, request for confirmation of non-conforming restaurant and bar use.

LOCATION: The site is located at 3600 Sykesville Road, Westminster, MD 21157, on property zoned "R-40,000" Residential District in Election District 4.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-9

HEARING HELD: May 29, 2002

FINDINGS AND CONCLUSION

On May 29, 2002, the Board of Zoning Appeals (the Board) convened to hear the request for a change from a non-conforming storage or warehouse use to a non-conforming restaurant and bar or, in the alternative, request for confirmation of non-conforming restaurant and bar use.

The Board makes the following findings and conclusion. The Applicants are the contract purchasers of the property, which is a two story free standing brick commercial building in the vicinity of the fairly busy intersection of MD Rt. 32 and Klee Mill Road. It was operated as a bar/restaurant for many years prior to its purchase by the Yinger family in 1976. The Yingers owned and operated the bar/restaurant until 1998, when Mrs. Yinger, who ran the establishment, passed away. Since that time, the property was listed for sale by the Yinger estate as a "turnkey" business, namely a bar/restaurant. The Applicants wish to resume operations as a bar/restaurant, with casual dining for lunch and dinner.

The structure constitutes a non-conforming use, since its use as a bar/restaurant predated the adoption of the Zoning Ordinance. The current zoning for the property is "R-40,000 – Residential". The issue is whether the non-conforming use "ceased" for a period in excess of one year, and therefore lost its status.

Official Decision

Case 4678

Page 2

The Board finds that the property remains intact as a bar/restaurant with all necessary equipment and kitchen facilities. Theoretically, the establishment could re-open almost immediately since it is fully equipped. The property has been maintained by the sellers with a new roof and updated heat. It has been marketed as a bar/restaurant. Little or no structural alterations would be required. The seller has periodically visited the property and maintained the bar/restaurant equipment. The pause in operations was necessitated by the death of the last member of the Yinger family who operated it. There was no intent to abandon or cease the non-conforming use. In addition, the Board finds that the application of "R-40,000" zoning and location of this property renders the current structure useless, as its only feasible use is as a tavern, not a residence.

Accordingly, the Board finds that the non-conforming status of the property at 3600 Sykesville Road as a restaurant/bar is confirmed and affirmed.

6/12/02

Date

Karl V. Reichlin

Karl V. Reichlin, Chairman