

Tax Map/Block/Parcel
No. 40-6-482/428

Building Permit/Zoning
Certificate No. 97-2826

Case 4271

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANTS: Jeffrey Franklin and Charen Rubin
18606 New Hampshire Avenue
Ashton, Maryland 20861

REQUEST: An appeal of the Zoning Administrator's denial of Building Permit/Zoning Certificate 97-2826 regarding variance requests for a reduction of the required lot area from three acres to 1.9458 acres and reduction of the required width of 300 feet on Parcel 482, lot 2; and, reduction of the front and side yard setbacks from the required 50 feet to 10 feet for an existing barn proposed to be converted to a residence on Parcel 428

LOCATION: West of Brodbeck Road at Hampstead-Mexico Road intersection on property zoned "C" Conservation District in Election District 8

BASIS: Article 17, Section 17.2(a); Ordinance 1E (The Carroll County Zoning Ordinance)

On December 3, 1997 and December 16, 1997, the Board of Zoning Appeals convened to hear the appeal of the Zoning Administrator's denial of variance requests for a reduction of lot area and lot width, front yard and side yard setbacks filed by Jeffrey Franklin and Charen Rubin on property zoned "C" Conservation.

The facts in this case are somewhat confusing but are not in dispute. The applicants purchased two parcels of land some time ago. One parcel was on the west side of Brodbeck Road and the other was on the east side of Brodbeck Road (Parcel 428). Some time later, the owners applied for and received a variance to permit the larger parcel on the east side of Brodbeck Road to be subdivided into three lots. The variance request permitting the subdivision was the subject of Board of Zoning Appeals Case 3160. Among the reasons for the variance request was the need for land necessary to establish a sewage disposal site for one of the adjoining lots to the east.

The applicants thereafter sold lot #1 consisting of 2.381 acres. They marketed lot #2 improved by a residence, with Parcel 428, the lot on the west of Brodbeck Road which is improved by a barn, (hereinafter referred to as the Barn property). The Barn property is 8.9115 acres. The owners have been unable to sell lot #2 with the Barn property. The Barn property is a separate

buildable lot but has no percolation site suitable for a conventional septic system.

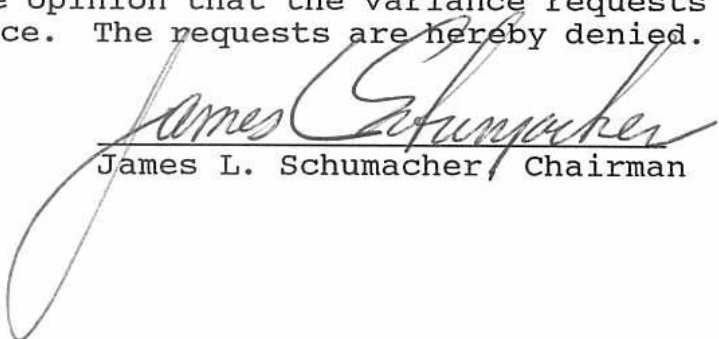
The applicants now seek to reconfigure lot #2 and the Barn property. The new configuration would reduce lot #2 by .4423 acre which would be added to the barn property. The .4423 acre would be used as the septic field for the Barn property. In addition, the applicants seek to convert the Barn into a residence.

The requests would require a variance for the reduction of the area lot #2 from 2.3881 acres to 1.9458 acres. The Barn property would require a variance to the front and side yard setback requirement from 50 feet to 10 feet. The hardship alleged is that lot #2 and the Barn property have been difficult to market. The testimony reflected that the owners had received several offers for purchase by different parties but that none settled. The Board cannot find that a hardship exists for several reasons. The owners acquired the Barn property in its present form and configuration and can use it still as such. The fact that if the lot would generate a greater return on the investment with the variance is not a hardship. Furthermore, there was no testimony that the Barn property was ever marketed separate from lot #2. Reducing the area of lot #2 would be contrary to the intent of the Conservation zoning. In addition, the location of the Barn is far too close to Brodbeck Road for it to be safely considered as a residence. In conclusion, the Board is of the opinion that the variance requests are not supported by the evidence. The requests are hereby denied.

1/20/98

Date

IM/bmh/c4271dec.bmh
January 13, 1998


James L. Schumacher, Chairman