Tax Map/Block/Parcel
No. 74 2 601

Building Permit/Zoning
Certificate 98-1540

Case ZA-420

Official Decision
Zoning Administrator
Carroll County, Maryland

APPLICANT:	Joseph F. & Betty J. Markowski 5805 Westchester Hills Court Sykesville, MD 21784
REQUEST:	A variance reducing the minimum front yard requirement from 40 feet to about 27.2 feet and a minimum side yard from 12 feet to 2.2 feet for a shed
LOCATION:	5805 Westchester Hills Court, Election District 5
APPLICABLE REGULATIONS:	Article 15, Section 15.5
HEARING HELD:	October 7, 1998

FINDINGS & CONCLUSIONS

Based on the testimony and evidence presented at the hearing, the variance is denied.

Facts which support the request for relief from the strict terms of the Ordinance, in this case, a reduction of the minimum front and side yard requirements for a shed, are as follows:

Article 66B of the Annotated Code of Maryland is the state enabling act which gives Counties in Maryland the authority to hear variances to their adopted zoning ordinance. Most states in adopting their enabling statutes utilized the Standard State Enabling Act to structure their statutes.

Maryland's statue is nearly identical to the language of the Standard Act in the case of granting variances and the requirement of practical difficulty and undue hardship. Maryland goes a step farther in stating it authorizes the granting of a variance where such "... will not be contrary to the public interest and where owing to conditions peculiar to the property, and not the results of any action taken by the applicant, a literal enforcement of the ordinance would result in unnecessary hardship."

Undue hardship was the applicant's claim in their presentation of this case. It is the opinion of this writer that the hardship was self imposed and does not meet the test of the ordinance for granting a variance. The hardship created was the result of actions taken by the applicants.

The applicants applied for a permit and were advised of the requirement for a plot plan and that front yard setbacks were 40 feet and side yard 12 feet. A plot plan was submitted showing a front set back of 45 feet and a side yard of 15 feet.

The shed was placed on the property by the applicants who apparently failed to check the setbacks they showed on their plot plan as there is a great disparity between 2 feet to 15 feet and 45 feet to 27 feet. Secondly, the permit issued to the applicants (98-1540) clearly indicates the required minimum setbacks and the setbacks that the applicants indicated.

Further complicating this issue is a 7-1/2 foot drainage and utility easement on side yards of this property. Had the variance request met the true test of hardship, a variance to 2 feet could not be granted as authority to grant variances in easements is not available to the Zoning Administrator or the Board of Zoning Appeals.

Standards are set in order that the intent of the ordinance is met. Discretion to vary those standards is available when certain criteria are met that establish undue hardship. These criteria have not been met in this application.

NOTE: Appeals

Appeals of decisions made pursuant to Section 15.5 may be made to the Board of Zoning Appeals within thirty (30) days of the date of the Zoning Administrators decision in accordance with Section 17.4 of the Carroll County Zoning Ordinance 1E.

A decision of the Zoning Administrator made pursuant to Section 15.5 is final, and constitutes a zoning action. Unless timely appealed, parties may not thereafter challenge the Zoning Administrator's decision.

October 22, 1998

Date

George L. Beisser
Zoning Administrator

cc: Zoning Enforcement

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