Tax Map/Block/Parcel
No. 46 15 222

Building Permit/Zoning
Certificate BP98-3127

Case ZA-432

Official Decision
Zoning Administrator
Carroll County, Maryland

APPLICANT:	Marshall & Tammy Fesche 603 Nursery Road Westminster, MD 21157
REQUEST:	A reduction in the minimum side and rear yard requirement for two additions
LOCATION:	Corner of Malcolm Drive and Old Baltimore Road E. D. 7
APPLICABLE REGULATIONS:	Article 8, Section 8.5; Article 15, Section 15.5; Zoning Ordinance 1E
HEARING HELD:	December 2, 1998

FINDINGS & CONCLUSIONS

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

Facts which support the request for relief from the strict terms of the Ordinance, in this case, a reduction in the minimum side and rear yard requirement for two additions, are as follows:

This property although residentially zoned lies at the end of that zoning and within a corridor of properties which have commercial zoning or commercial uses. A history of five (5) Board of Zoning Appeals cases accompanies the property. The property is now designated as a legal non conforming use. The current zoning requires that to establish this type of use now, the physician must reside in the dwelling on the property.

On 2/21/74 Section 7.2(i) was added to the Zoning Ordinance and allowed for the professional office of a "resident" physician under Text Amendment. On 9/22/77 Section 7.2(i) was amended under Text Amendment T40 and the resident requirement was struck from the ordinance. On January 31, 1985, text amendment T66 again changed Section 7.2(i) and "resident" requirement was reinstated.

During the period not requiring residency the site expanded to two (2) dentist, during a variance hearing, BZA 3329, this was further supported to be a non conforming site at this hearing. Section 4.3(a)(2) of the Zoning Ordinance allows "where an existing single or two family dwelling is classified as a non conforming use because of dimensional regulations of the zoning district in which it is located, the Zoning Administrator may approve the structural alteration or enlargement, of such a dwelling if the

structural alteration, or enlargement will not project further into a substandard yard than the existing dwelling; provided that such structural alteration or enlargement, will not alter the existing use of the dwelling; and subject to written confirmation from the appropriate agencies to the Zoning Administrator that the structural alteration or enlargement will not conflict with future construction on a State or County Road."

The Zoning Ordinance further under Section 15.5 provides though that the Zoning Administrator may grant variances to height, lot area, lot width, yard regulations, parking space requirements, sign regulations and distance requirements. In granting these variances the consideration set forth in Section 17.7 were used as a guide.

Testimony from the applicant stated that one addition was needed for enlargement of the waiting room and the other for sterilization equipment and other equipment in addition to needed storage space. No additional physicians or staff are being hired that necessitate this enlargement.

Granting of these variances are based on the following conditions.

1. The occupancy of the building must remain at only two (2) dentist and existing assisting staff.

2. Additional landscape screening be placed along the property line of the abutting residential property if deemed necessary.

3. That all existing parking be clearly defined including employee parking.

4. Permits for construction will not be issued until 12 parking spaces are delineated on an amended site plan as so directed in BZA Case 3329.

December 11, 1998

Date

George L. Beisser

George L. Beisser
Zoning Administrator

cc: Zoning Enforcement

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