CARROLL COUNTY GOVERNMENT
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Office of Zoning Administration
Neil M. Ridgely
Zoning Administrator

16 September 2003

Mr. William Cunningham
C/O Rainbows and Reasons Corporation
2103 Sykesville, Rd.
Westminster, MD 21157

Re: Variance for construction of building for a Childcare Center
Case ZA-776, Permit 03-2679

Dear Mr. Cunningham:

Based on the testimony and evidence presented at the hearing on the above referenced case, the variance is denied

Facts which may support the request for relief from the strict terms of The Code of Public Local Laws and Ordinances for Carroll County are cited as Section 223-66 for a reduction to the required setback from 75 ft. to 28 ft. for construction of an additional building for child care at the existing day care center.

Mr. Robert Sears, an adjoining property owner, and his counsel Brian Bowersox appeared in opposition to the variance, citing that the addition could bring children too close to their equestrian operations and that the proposed building could be located elsewhere on the property. It was also noted that Mr. Sears has entered into a contract with Grayson Homes for development of his property and that percs were difficult to locate in the area of the Sears property closest to Rainbows and Reasons; that the construction of the new building at the proposed location would negatively impact the development potential and lot yield on the residential development planned for the Sears property.

Mr. Bowersox cited the 1995 Court of Special Appeals decision Cromwell v Ward III in arguing that the necessity of locating the building in the proposed location is a self imposed hardship because there are other viable areas on the property for new building. Mr. Cunningham's arguments that locating the building as proposed was both logical and convenient fail to meet the test of Section 223-181 C of the Carroll County Code of Public Local Laws and Ordinances which also stipulates practical difficulty and unreasonable hardship as criteria for variances. While there is a certain logic apparent in locating the building as proposed, there are other places on the site available which would not require a variance.

In determining the decision to deny this variance, it is only the matter of practical difficulty or unreasonable hardship that is considered. The matters of lot yield and percolation tests on the Sears property fail to persuade that this variance would have an adverse effect or

cause undue risk to the health, safety or general welfare of the Sears. While Section 223-191 E of the County Code does address "conservation of property values" as a guideline in issuing / denying variances, I feel that the property value issue raised by Mr. Sears and Mr. Bowersox are insinuated more to "future" property values as a subdivision, not those inherent in the existing use. Were the property to remain in its current residential and agricultural use, it is not likely that the property value would be negatively impacted; at least no expert testimony was provided to substantiate either case.

Also, Mr. Sears did note that with one notable exception, the children at the day care center have not approached the horses on his property. Mr. Cunningham's arguments that precautions have been taken to prevent such a recurrence were convincing.

The property was inspected by the Zoning Administrator, and it does appear that either an addition to the existing building or locating a new building elsewhere on the property without need for a variance were possible.

Decisions by the Zoning Administration may be made to the Carroll County Board of Zoning Appeals within 30 days of the date of this determination.

Sincerely,

Neil M. Ridgely
Zoning Administrator
CC: Adjoining property owners
file ✓