Tax Map/Block/Parcel
No. 22-7-27

Building Permit/Zoning
Certificate 94-0295

Case ZA-96

OFFICIAL DECISION
ZONING ADMINISTRATOR
CARROLL COUNTY, MD.

APPLICANT: George W. Mullinix
522 E. Saw Mill Road
Westminster, MD 21158

REQUEST: A variance reducing the minimum required lot area from 3 acres to about 2 acres and variances to the setback requirements for the "C" District as may be required for a new residence.

LOCATION: 200 Block of Kowomu Trail

APPLICABLE REGULATIONS: Art. 5, Sec. 5.5; Art. 15, Sec. 15.5;

HEARING HELD: May 4, 1994

FINDINGS AND CONCLUSION

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

The applicant proposes to use the 2 acre property for a homesite. His statement that the property is intended for a member of his family is not relevant to this decision.

Until June 29, 1972 this property was zoned "A" Agriculture and the minimum lot size was 1 acre. On June 29, 1972 the property was rezoned to "C" Conservation in a comprehensive rezoning of the Union Mills area. The minimum lot area in the Conservation district is 3 acres. The subject property is not eligible for a building permit for a new residence unless a variance is granted.

Mr. Mullinix stated that the family was unaware of the change in zoning classification and relied upon the surveyor to create a buildable lot. The 2 acre parcel was created August 17, 1973 when the Mullinix family transferred all their property on the south side of Kowomu Trail <u>except</u> the 2 acres.

Mr. and Mrs. James Scott, developers of Hi Hopes, a minor subdivision created from the aforementioned transfer by recordation of a plat in 1979 (and which adjoins this property to the southwest) appeared in protest. The Scotts stated that prior to finalizing the lot design for Hi Hopes they were required by the County to offer to sell back to the Mullinix' one acre from their subdivision tract for the purpose of correcting the unbuildable status of the 2 acre remainder.

Reportedly the Mullinix' response was that the reason for retaining the 2 acre tract was to prevent construction of a dwelling directly opposite their farm house and that they were not interested in purchasing additional land to enlarge their lot. Although the hearing for this case was continued for one additional month to allow County staff and the Scotts time to search for documentation of the Scotts' testimony, no documentation was found in County records nor furnished by the Scotts.

Thomas Stansfield, Mr. Mullinix' attorney, pointed out that the acreage owned by the Scotts and their co-owners in the subdivision project was insufficient for them to transfer any property and still divide the property into two 3 acre lots.

Mr. C. Stanley Mayer, adjoining property owner to the southeast, testified that he owns 9 acres of unimproved land and that he is considering selling the property. Mr. Mullinix stated that he has not attempted to acquire part of that land to combine with his lot.

The reason given by the applicant in support of his request for a variance from the minimum lot area and minimum setbacks for construction of a new residence is as follows:

a) The parcel is separated from other land owned by Mullinix by the road bed of Kowomu Trail and comprises all the land which remains from the original parcel on the south side of Kowomu Trail. There is no land currently owned by Mullinix which can be combined with this lot create a lot which complies with the minimum lot area requirement of 3 acres.

This reason is considered insufficient to substantiate practical difficulty or unnecessary hardship since the substandard lot was created by actions of the applicant or his predecessors in title.

In addition, I find that the statement by the protestants raises at least a possibility that the Mullinix's had an opportunity to modify the size of the subject lot to comply with lot area requirements for the Conservation district.

Further, I find no evidence that the applicant has attempted to acquire additional acreage from the adjoining vacant land.

For the reasons given above, the request for variances to minimum lot area and minimum setback requirements is denied.

DATE: May 18, 1994

Solveig L. Smith

Solveig L. Smith, Zoning Administrator

CC: Zoning Enforcement

Code: Case 96.DEC