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

Notice of Decision

Case # 978
Permit # 05-3815

Variance Request: For a variance from maximum height for a building from 35 feet to 39 feet, 10 inches for a three story office building at MD Rt. 97 and Poole road, Westminster, MD in Election District 07 by Chitrachedu and Vimala Naganna.

Basis for Variance: § 223-81, § 223-88, § 223-180 and § 223-181 of the Carroll County Code of Public Local Laws and Ordinances.

Decision: Approved

Basis for Decision:
It is the opinion of the Zoning Administrator that approval of the variance request will not:

- Adversely affect the public health, safety, security, morals, or general welfare.
- Result in dangerous traffic conditions or jeopardize the lives or property of people living in the neighborhood.

In making this determination, the Zoning Administrator cannot answer in the affirmative to the criteria provided in Section 223-191 of the Carroll County Code that:

- There would be a detrimental effect on the people working or residing in the area
- There would a negative impact on the orderly growth of the community
- There would be a detrimental effect on the peaceful enjoyment of people in their homes.
- That the use would have a negative effect on the conservation of property values.
- That there would be any effect from odors, dust, gas, smoke, fumes, vibrations, glare, and noise upon surrounding property values.

Drs. Naganna were represented by attorney J. Brooks Leahy. Mr. Ken Hunter and Mr. Martin Hackett of Carroll Land Services were present to discuss the technical aspects of the variance. Mr. Leahy indicated that a two story building of similar capacity could not be constructed on the site due to the environmental constraints. To be fiscally practical a building of approximately 73,000 square feet is necessary; the environmental features of the Naganna property demand a three story structure to meet the desired size. Similar office buildings which exceed 40 feet in height are the Carroll Hospital Center, the medical services building at Malcolm Drive and MD Rt. 97, Billingslea Medical Center on Stoner Avenue and the County Office Building on Center Street.

A letter and construction detail from architect William Willard was entered into evidence. In brief, the letter explains the necessity for a height of 39′ 10″ building to construct a three story building on the Naganna site.

Use of the site for a medical offices building was granted by the Board of Zoning Appeals in Case # 5021. A three story structure was presented to the BZA at that time; however, the owners were not aware at that time of the need for a structure over 35 feet in height or they would have simultaneously asked the BZA for the variance at that time. A "balloon" demonstration was performed by Carroll Land Services for the BZA case but neighbors stated it was inconclusive because of high winds on the day of the test. I believe that is logical to conclude that residents on

Fairfield Avenue will be able to see as much as two stories of the new building from portions of their properties.

Ms. Ann Norris, Ms. Dixie Elms, and Ms. Nan Sanders appeared in opposition to the variance. Their concerns were with lighting glare extending off the subject site and a desire for more privacy than a three story structure would allow. There was also concern that a three story structure on this property would diminish property values in. Mr. Bill Lipman, owner of an adjoining tract expressed concerns about blowing trash and construction impacts on trees located on his property but was not opposed to the variance.

In response, Mr. Leahy cited a real estate market report by Bitzel and Associates which concluded that medical / dental clinics of similar size near the Washington Center subdivision did not negatively impact real estate values and comes to the same consequence in the instance of the proposed building on Poole Rd. In addressing the lighting glare issue, Mr. Hackett testified that unlike older office buildings, the new building will utilize "low E" type glass which is heavily tinted , primarily for energy savings, but which will also reduce glare form the building's internal lighting. Parking lot lighting will have to be addressed in the Site plan approval process but it was mentioned that the site will likely use "shoebox" type fixtures on 15 ft. tall poles to confine outdoor lighting to the site. .

I believe the neighbors on Fairfield Ave. and N. Denton drive are valid but that they can be assuaged in the Site Plan process with comprehensive landscape and lighting plans. The building design cal for an attractive contemporary-style building which will not detract from the community so long as the designs presented in the BZA and Variance hearings are adhered to. Again, the Site Plan approval process should assure that there are no major reductions in the caliber of architectural design. There will be additional opportunity for public input and plan review as the plans move to the Subdivision Advisory Committee and Planning Commission phases.

The gist of this variance request centers on 4 feet ten inches in height. The Carroll County Code clearly allows for three story buildings. The developer is not requesting a variance for a fourth floor, merely an allowance to allow for a proper three story structure. The developer has successfully established a basis in Maryland case law for the variance, that being the uniqueness of the site and a practical hardship if the variance is not granted. I cannot see deterring the construction of a viable office building over a matter of less than 5 feet when, in fact, the County Code requirements for a 3 story structure in §223-180 do not take into consideration the practical, architectural requirements for a building of three stories. Sub grading an additional floor of the building is impractical and it may well not alleviate all of the residents concerns about light intrusion from the interior of the building. Given the R-10,000 zoning of the site it could be utilized for dense residential development, whereas the proposed office building may offer greater benefit to the public by providing office space for medical practicians serving a growing community. I believe the request is within reason and anticipate that the building will not detract from the neighboring property resale values or the neighbors quality of life.

14 December 2005

Neil M. Ridgely
Zoning Administrator

Per Section 223-182 or the Carroll County Code of Public Local Laws and Ordinances, appeals of this decision must be made within 30 days of the date of the decision to the Board of Zoning Appeals pursuant to Section 223-188 of the Carroll County Code. Unless timely appealed, parties may not thereafter contest the Zoning Administrator's decision.