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Office of Zoning Administration
Joe Varrone
Acting Zoning Administrator

Notice of Decision

Case # ZA-995
Permit # 06-0258

Variance Request: For a variance from the required minimum setback of 200 feet to 150 feet from the east property line and 125 feet from the south property line for a livestock barn at 3922 Hooper Road, New Windsor, MD, in Election District 09. The applicants and property owners are John and Linda Lawler.

Basis for Variance: §§ 223-16, 70 and 181 of the Carroll County Code of Public Local Laws and Ordinances.

Decision: Denied

Basis for Decision: In making this determination, I find that the following criteria provided in Section 223-191 of the Carroll County Code apply and that:

1. The effect of the proposed use would negatively effect the peaceful enjoyment of people in their homes.
2. A livestock barn is not the most appropriate use of land.

Appearing before me as applicants were John and Linda Lawler. Attendees included Larry Lovell, Chip Ridgely, Jandell Haines, George and Brenda Greenwalt, Terri Harshman, and Sheri Roden.

The applicants would like to put a livestock barn on their property to enhance their children's 4-H learning experience and participation. The Lawlers anticipate that they would have approximately 4 cows and 4 or 5 pigs, and that the barn would be approximately 40 feet by 60 feet in size. As evidence in support of their application, the Lawler's presented photographs of their property, a survey plat of their property with the proposed location of the barn, testimony and letters from fellow 4-H members, and examples of typical 4-H projects. Additionally, both Mr. Ridgely and Ms. Haines testified in support of the Lawlers request.

Several neighbors (George and Brenda Greenwalt, Terri Harshman, and Sheri Roden) attended the hearing in opposition to the Lawlers' application. The neighbors were concerned about the effect the animals and barn would have on the peaceful enjoyment of their homes, the odors associated with the animals, the small size of the lot, and the possibility of rodents being attracted to the site. The opposed neighbors also submitted letters prior to the hearing.

In deciding this case, I focused on the guidelines set forth by the Maryland Court of Special Appeal in Cromwell v. Ward. *102 MD. App. 691, 651 A.2d 424 (1995).* Cromwell v. Ward cites a two-prong requirement for variances in Maryland – (1) that being a substantiation that the property whereon structures are to be placed is unique and unusual in a manner different from the nature of the surrounding properties, and (2) that an unreasonable hardship (or practical

difficulty) resulting from the disproportionate impact of the ordinance [the setback requirement] caused by the property's uniqueness exists. Both prongs of the test must be met for a variance to be approved.

First, the Lawler's lot is approximately 3 acres in size, and the rear of the property is approximately 200 feet wide making it impossible to meet the 200 foot setback required by 223-16. The survey submitted by the Lawlers reflects an oddly shaped lot, which according to the testimony, is a combination of two lots: the lot directly on Hooper Road is approximately 1 acre; and the rear lot is 2 acres in size. Based upon the size and shape of the lot, I find that the first prong of the test set forth in Crowmell v. Ward is satisfied.

However, I do not find that denying the variance would result in practical difficulty or unreasonable hardship to the applicants. No evidence was presented to me regarding what unreasonable hardship would be felt by the Lawlers by denying the variance. The only apparent hardship is one of convenience, in that the animals that the children care for would not be located on the property. The children are already involved in 4H, and can continue to do so regardless of this decision.

The Lawler's made a good faith effort to place the livestock barn in the least obtrusive spot on their property. While their intentions and efforts are admirable, and 4H is a very worthwhile program, I do not find that there was sufficient evidence to meet the test set forth in Cromwell; therefore, the requested variance is denied.

13 March 2006

Joseph Varrone
Acting 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.