

APPLICANTS:
Harriet M. Schneider, Thomas M. Carrigan
Anna M. Carrigan and Marie T. Whyte

REQUEST: A variance to create two lots
with less than the required 200 foot lot width

HEARING DATE: March 7, 2006

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS

Case No. 5587

ZONING HEARING EXAMINER'S DECISION

APPLICANT: Harriet M. Schneider, Thomas M. Carrigan and Anna M. Carrigan

CO-APPLICANT: Marie T. Whyte

LOCATION: 3313 and 3317 Sharon Road, Jarrettsville
Tax Map: 25 / Grid: 3B/C / Parcel: 80
Third (3rd) Election District

ZONING: AG / Agricultural

REQUEST: A variance, pursuant to Section 267-34C, Table II, of the Harford County Code, to create 2 lots with less than the required 200 foot lot width (158 feet and 160 feet proposed) in the Agricultural District.

TESTIMONY AND EVIDENCE OF RECORD:

For the Applicants first testified Robert Wilson, of Wilson-Deegan and Associates. Mr. Wilson had prepared the site plan for the Applicants' property.

Mr. Wilson explained that a variance is requested in order to create lots with a width of less than 200 feet. Harford County Code requires a minimum lot width of 200 feet in the Agricultural District. Mr. Wilson explained that due to the existing configuration of the Applicants' property, and the improvements located thereon, it is impossible to meet this provision of the Development Regulations.

Case No. 5587 – Harriet Schneider, Thomas & Anne Carrigan, Marie Whyte

Mr. Wilson described the property as having been purchased by the Applicants in January 1972. At that time two houses existed on the property, using a shared driveway. These houses continue to exist on the property and are noted on the Applicants' site plan, marked as Attachment 3 to the Harford County Department of Planning and Zoning Staff Report. The houses appear to be almost directly in the center of the Applicants' property, and located approximately 400 feet from Sharon Road. The common drive which is shared by the two houses is located directly between them and is, as a result, almost virtually in the middle of the Applicants' property.

Mr. Wilson explained that the Applicants now wish to create three lots from the total parcel size of approximately 9.51 acres. The Applicants' son, Thomas Carrigan, will be deeded lot 4, which would be a newly created lot to consist of the rear portion of the Applicants' property. The front portion of the Applicants' property will be subdivided into two lots. Mr. Wilson explained that the Applicants are allowed to do so as a matter of right, as these lots would be considered family conveyance lots. However, as the Harford County Zoning Code mandates a 200 foot lot width, the two lots to the front of the property cannot be subdivided without the variance.

Mr. Wilson explained that all other requirements of the Harford County Development Regulations can be met in the subdivision process except for the lot width requirement. Mr. Wilson explained that the location of the existing homes has forced him to subdivide the two parcels to the front of the property in a way as shown on Attachment 3. The line of division between the two parcels on which the homes are to be located would (just barely) conform to the Harford County side yard setback requirements. Mr. Wilson stated the houses were constructed most likely in the 1960's, and at that time they were considered to be conforming.

Next testified Thomas M. Carrigan. Mr. Carrigan explained that he had spoken with three of his neighbors. None of his neighbors expressed any opposition to his request.

Next testified Richard Lynch, a neighbor who resides at 3304 Rocks Road. Mr. Lynch, after examining the site plan, expressed his lack of opposition to the request.

Next for the Harford County Department of Planning and Zoning testified Dennis Sigler who reiterated the Department's position stated that the subject property is unique. While the aerials taken of the property in the late 50's and 60's are not terribly clear, the Department believes that the two homes were constructed on the property sometime in the 1960's. He believes the two primary structures on one lot would, today, be considered non-conforming.

The Applicants are fully able to meet all development requirements, except for the 200 foot lot width requirement. Prior to 1982, the Harford County Zoning Code would have allowed a subdivision of the property with a lot width of 100 feet. Accordingly, there would be no need for the requested variance and the property could have been subdivided as a matter of right.

Case No. 5587 – Harriet Schneider, Thomas & Anne Carrigan, Marie Whyte

Now, however, each lot is subject to a minimum lot requirement of 200 feet, and the lot can only be subdivided by drawing a line between the two existing homes. Accordingly, while the Applicants' have attempted to maximum the lot width, the full 200 foot requirement cannot be met. Mr. Sigler believes this constitutes a unique situation which justifies a granting of the variance.

The Harford County Department of Planning and Zoning Staff Report states:

“The Department finds that the subject property is unique. The property is large enough to create the requested lots. However, due to the irregular shape of the lot and the location of the dwellings, the variance is necessary to create lots around the existing dwellings. It appears that the dwellings were created around 1957. The only permit located was for an addition in 1962 that appears to be for the subject property. The lots and dwellings can meet all of the Code requirements except for the lot width. Each dwelling has its own existing well and septic system.”

There was no testimony or evidence given in opposition.

APPLICABLE LAW:

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

“Variances.

- A. *Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:*
 - (1) *By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.*
 - (2) *The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.*

Case No. 5587 – Harriet Schneider, Thomas & Anne Carrigan, Marie Whyte

- B. *In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.*

- C. *If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”*

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The subject property is a 9+ acre parcel located on Sharon Road, Jarrettsville. This property has been owned by the Applicants for approximately 40 years. The property is improved by two residential structures located to the front of the parcel, within a few hundred feet of Sharon Road. The houses were apparently conforming when built, and lots could have been subdivided from the parcel prior to 1982 without the requested variance.

However, subsequent changes in the Development Regulations now mandate that any subdivided lot the Agricultural District have a 200 foot lot width. It is simply impossible, given the width of the parcel and the location of the homes, to create two such lots. The lot widths proposed by the Applicants are approximately, at the narrowest point, 150 feet.

In truth, the relief requested by the Applicants would represent no unusual or actual change to the location of the houses, or to their use. It would, however, give the Applicants a right which they would otherwise have, i.e., the right to subdivide a parcel into three residential building lots, except for these unusual lot characteristics.

It is according found that as a result of an unusual feature of their property, which is the location of two originally conforming, legal residences on a portion of a lot which is only some 300 feet wide, the Applicants suffer a practical difficulty. The difficult is their inability to subdivide lots having less than the 200 foot minimum lot width.

The requested variances would provide the minimum relief necessary in order to alleviate this hardship. There would be no adverse impact on any adjoining neighbor or property.

Case No. 5587 – Harriet Schneider, Thomas & Anne Carrigan, Marie Whyte

CONCLUSION:

Accordingly, it is recommended that the requested variances be granted, subject to the following:

1. The Applicants shall submit a preliminary plan to the Department of Planning and Zoning for review and approval.
2. The Applicants shall submit a final plat to the Department of Planning and Zoning for approval and recordation among the Harford County Land Records.

Date: March 19, 2007

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on APRIL 16, 2007.