

Board of Zoning Appeals
Town of Washington Grove
Washington Grove, MD 20880

Minutes of a public meeting on the application of Ken and Joli McCathran for a variance to the setback rules for a playhouse.

The board held a public meeting on July 15, 1993 at McCathran Hall. Attending were all three members of the board: Emmette Keese, Marc Hansen, and Phil Edwards. Also present were John McClelland, George Paine, Donald McCathran, and Bob Booher, member-elect of the board.

The meeting came to order at 8:00 p.m.

There was general discussion among the board about the issue of street addresses, specifically whether the Circle could legitimately (for the purposes of measuring setbacks) be the boundary for a front yard. Marc Hansen was able to demonstrate that the pathway around the Circle could be considered an Avenue under the town's definition of Avenue, and is therefore eligible in the case of the McCathran house to border the front yard. Since the McCathrans consider their address to be on the Circle (though their house also lies on Second Avenue), their front yard will, for purposes of this appeal, border on the Circle.

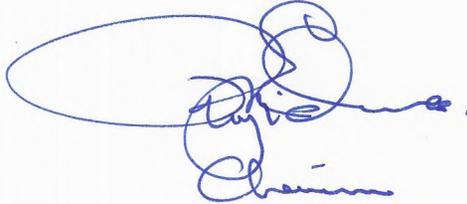
There was also general discussion about the 'undue burden' test in the ordinances. Marc Hansen suggested that the intention of the statute might be to attempt to balance the burden to the individual with the burden on the town. It was generally acknowledged among the board that, whether intended or not, the concept of 'balance' tended to enter into the thought process when exceptions were considered. Marc presented a memo suggesting the town look into revising the words in the ordinance to make clear whether 'balance' should be a specific consideration. The memo was endorsed by all three members.

Emmette Keese moved that the variance be granted. Marc seconded, with the right to suggest a change. He reasoned that if the board finds that the building is not contrary to the public interest, and passes the practical difficulty test, it passes because it is a playhouse; if it were a tool shed, for example, that would be another matter. He moved to amend the motion to restrict the structure to use as a playhouse. The amendment was accepted.

Taking note of the present location of the playhouse, its area and height, and particularly that it is without foundation of any kind, the board agreed that the application passes all the tests for a variance.

Phil Edwards then introduced the possibility of adding a time constraint of say, ten years, to allow the children to have use of it until they outgrow it. Marc reasoned that if it merits a variance now as a playhouse, it will merit a variance in the future as a playhouse, so no time restriction is appropriate or necessary. The members agreed, and the amended motion was passed unanimously.

The meeting adjourned at 8:45.



5/3/93