

**Tax Map/Block/Parcel
No. 53-7-81**

Case 5342

**OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND**

APPELLANTS: William & Wilma Welling
1732 Bollinger Road
Westminster, Maryland 21157

ATTORNEY: N/A

REQUEST: An appeal of a letter from the Zoning Administrator, dated July 10, 2007, concerning an alleged obstruction to sight distance on the property 1800 Bollinger Road.

LOCATION: The site is a vacant lot located beside 1732 Bollinger Road, Westminster 21157, on property zoned "R-40,000" Residential District in Election District 4.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-186 A (1)

HEARING HELD: August 30, 2007

FINDINGS AND CONCLUSION

On August 30, 2007, the Board of Zoning Appeals (the Board) convened to hear an appeal of a letter from the Zoning Administrator, dated July 10, 2007, concerning an alleged obstruction to sight distance on the property at 1800 Bollinger Road. Based on the testimony and evidence presented, the Board made the following findings and conclusion:

The subject property is a vacant lot adjacent to 1800 Bollinger Road owned by Healds. The lot is currently being used by the Healds is landscaped and fenced. The Appellants reside next to the Heald property.

The Appellants asked the Zoning Administrator to investigate whether a row of forsythia bushes on the Heald property constituted an obstruction to vision for motorists entering a publicly maintained road under §223-18.1 of the Code. Specifically, the Appellants complained that the row of bushes obstructed their vision when they were attempting to exit their driveway on to Bollinger Road.

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The Zoning Administrator testified that he visited the site several times. He requested that the Healds trim the bottom of several large evergreen trees and the row of forsythia bushes. The Healds performed the trimming as requested and removed one of the bushes. The Zoning Administrator revisited the site and concluded that the trimming and bush removal had eliminated the obstruction to vision. The Wellings appealed this determination.

The Board visited the Appellant's property prior to the date of the hearing for a visual inspection of the driveway and bushes in question. Neither the case nor any other public business was discussed during the routine site visit. Based upon the site visit, and the testimony and evidence presented by the Appellants, the Board respectfully disagreed with the Zoning Administrator in this instance.

The County Commissioners have enacted §223-18.1 under their police powers to address a public safety concern, namely the obstruction of the visibility of drivers entering a street. At certain points on the Appellants' driveway, the visibility of those attempting to exit on to Bollinger Road is obstructed by the row of forsythia bushes. Thus, the Appellants are unable to see approaching traffic on Bollinger Road until they are at the very edge of their driveway or in the road itself. While the Healds have taken steps to alleviate the problem, the trimming has not resulted in much improvement to visibility. The bushes, in conjunction with a chain link fence and the previously mentioned evergreens, make it unsafe to exit from the Appellants' driveway.

The protection of the driving public is an important goal of zoning. In this case, the Board concluded that the Zoning Administrator erred in concluding that the Healds' forsythia hedge did not constitute an obstruction of vision for motorists entering Bollinger Road from the Appellants' driveway. The bushes are an obstruction to vision and the property should be brought into compliance.

9/26/07
Date


Jacob M. Yingling, Chairman