

Tax Map/Block/Parcel  
No. 73-20-533

Building Permit/Zoning  
Certificate Nos. 94-3155 & 94-3166

Cases 3960 and 3962

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

**APPELLANT:** M. Kathleen W. Blanco Losada  
(Case 3960) 6966 Hollenberry Road  
Sykesville, Maryland 21784

**ATTORNEY:** Jeff Griffith, Esquire  
147 East Main Street  
Westminster, Maryland 21157

**APPEAL:** An appeal of the Planning Commission's decision to: 1) Waive the fall zone requirements for the proposed communications tower on the premises of 7001 Hollenberry Road in Election District 5. 2) Preclude participation by the alternate member in the vote to waive said requirement

**APPELLANT:** The Town of Sykesville  
(Case 3962) 7547 Main Street  
Sykesville, Maryland 21784

**ATTORNEYS:** Dennis J. Hoover and Cynthia K. Hitt, Esquires  
Siskind, Grady, Rosen & Hoover, P.A.  
2 East Fayette Street  
Baltimore, Maryland 21202

**APPEAL:** An appeal of the Planning Commission's approval of the site development plan for a proposed communications tower on the premises of 7001 Hollenberry Road in Election District 5, and that the procedures set forth in the Sykesville Town/County Agreement were not followed in the process of reviewing the site development plan

**APPELLEE:** West Shore Communications, Incorporated  
c/o Mark Sapperstein  
8373 Piney Orchard Parkway  
Odenton, Maryland 21133

**ATTORNEY:** Clark R. Shaffer, Esquire  
6 North Court Street  
Westminster, Maryland 21157

**BASIS:** Article 17, Section 17.4; Ordinance 1E (The Carroll County Zoning Ordinance)

**HEARING HELD:** October 26, 1994

On October 26, 1994, the Board of Zoning Appeals heard testimony and received evidence concerning the appeals in the respective cases. As the appeals pertain to the proposed communications tower on the premises of 7001 Hollenberry Road, the public hearings were conducted jointly.

The Notices of Appeal, testimony and evidence comprising the records of the respective cases are hereby included by reference in this decision. Based on the record and in accordance with the state Open Meetings Act, the Board denied the appeals in each case.

#### FINDINGS AND CONCLUSION

Section 4.07(d) of the Annotated Code of Maryland states:

The Board of Appeals shall have the following powers:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this article or of any ordinance adopted pursuant thereto. (Emphasis added.)

In considering the appeal in Case 3960 regarding waiver of the fall zone requirements for the proposed communications tower, Article 4, Section 4.11(d)(3) of Ordinance 1E authorizes the Planning Commission to require a fall zone, but does not legislatively require a fall zone. Hence, the Planning Commission's decision was in accordance with the provisions of the zoning ordinance.

As the Planning Commission's rules are not an ordinance adopted pursuant to Article 66B, the question of precluding the alternate member's participation in the Planning Commission's vote to waive the fall zone requirement is not an appealable action to this Board.

In Case 3962, although the language of the appeal differs from that in Case 3960, the issue is waiver of a fall zone for the proposed tower. As noted above, the zoning ordinance does not specify a fall zone requirement.

With respect to the Town/County Agreement, it is evident that the document is not an ordinance adopted pursuant to Article 66B, and is therefore not within with the purview of this Board as noted above.

Accordingly, the appeals in Case 3960 and 3962 are hereby denied.

11-22-94  
Date

Claude R. Rash  
Claude R. Rash, Chairman