

Tax Map/Block/Parcel  
No. 70-12-138

Building Permit/Zoning  
Certificate No. 94-4086

Case 3997

OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND

**APPELLANT:** Karen White Kane  
4301 Baptist Road  
Taneytown, Maryland 21787

**ATTORNEY:** John T. Maguire, Esquire  
189 East Main Street  
Westminster, Maryland 21157

**APPEAL:** An appeal of the Zoning Administrator's denial of Building Permit/Zoning Certificate Application 94-4086 for a new dwelling

**LOCATION:** 6200 Ridge Road (Md. Rt. 27) in Election District 13

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

**HEARING HELD:** February 24, 1995

On February 24, 1995, the Board of Zoning Appeals heard testimony and received evidence concerning the appeal of the Zoning Administrator's denial of Building Permit/Zoning Certificate Application 94-4086 for a new dwelling at 6200 Ridge Road.

In accordance with the provisions of Article 17, Sections 17.6.6 and 17.7 of the zoning ordinance and the Board's long standing policy of visiting sites prior to the public hearing, the Board visited the site February 1, 1995. The purpose of the visit was for the Board to view the site and adjacent properties so that the Board would be reasonably familiar with the properties to assist in the Board's appraisal of testimony and evidence, either pro or con, presented during the public hearing.

The Notice of Appeal, testimony and evidence comprising the record of this case are hereby included by reference in this decision. Based on the record and in accordance with the state Open Meetings Act, the Board overruled the Zoning Administrator and ordered that Building Permit and Zoning Certificate 94-4086 be approved and issued.

The pertinent findings determining the Board's decision include the following facts:

FINDINGS OF FACT

The 1.0035± acre lot, which is the subject of this appeal, resulted from LaVerna M. White selling 1.4727 acres of the 2.54± acre parcel shown on a recorded subdivision plat, Ridge Crest Manor, Section 2, and identified as "Parcel" and "(Selling as tract)". The adjoining lot to the south is also shown on the plat and is identified as "Tavern" and "Snouffer Property". The plat was approved by the Secretary of the Carroll County Planning Commission December 28, 1964. (Applicant's Exhibit 3.)

The tavern has since become a restaurant known as Quail Ridge Inn.

If the 2.54± acre parcel was owned by Fulton E. Green and Rose C. Green, owners of the land being subdivided when the subdivision plat was recorded, then the right to construct a dwelling on the parcel--subject to applicable regulations--would have passed to the subsequent owner(s) with the recordation of a deed of conveyance.

Ten years later, the 2.54± acre parcel was conveyed from Richard T. White to LaVerna M. White in a deed dated December 12, 1974. (Applicant's Exhibit 4.)

Nine years later, in a deed dated December 30, 1983, Ms. White sold the 1.4727 acre lot to the owners of Quail Ridge Inn, Frederick W. Isemann and Patricia Sue Isemann, subject to a covenant and restriction that the land within 150 feet of the remaining 1.0035± acre lot retained by Ms. White not be developed commercially. (Applicant's Exhibit 5.)

Although the intended use of the 1.4727 acres conveyed to Mr. and Mrs. Isemann was not expressed in either the deed or on the surveyor's plat, Applicant's Exhibit 2, Ms. White testified that the purpose was to provide additional parking spaces for the restaurant and drill a new well to supply water to the restaurant. In addition, Ms. White testified that Mr. Isemann knew that she intended to convey the remaining 1.0035± acre lot to her daughter for construction of a dwelling.

Ms. White conveyed the 1.0035± acre lot to her daughter, Karen White Muller, by deed dated December 30, 1983, the same day as the deed conveying the 1.4727 acres to Mr. and Mrs. Isemann. (Applicant's Exhibit 4.)

A written statement by James M. Frey, submitted on behalf of Ms. Kane, substantiates Ms. White's testimony. (Applicant's Exhibit 10.)

Evidently without incorporating, or combining, the 1.4727 acre lot with the premises of Quail Ridge Inn, additional parking was subsequently constructed, Applicant's Exhibit 8, and a water supply

well drilled, Applicant's Exhibit 7, both to serve the restaurant. The drawing, part of the Application to Install Individual Sewerage Disposal and/or Water Supply System, Applicant's Exhibit 7, depicts the well on the 1.4727 acre parcel, and that an "...area around the well site must be incorporated into restaurant property." Whether the Carroll County Health Department's requirement has been complied with is not known.

Furthermore, there is no specific information regarding where the additional parking spaces are located.

Part of the 1.4727 acres was also used to establish an ornamental garden including lighting, paths for strolling, and tables and benches for the enjoyment of patrons of the restaurant.

Now, Mr. and Mrs. Isemann evidently wish to sell the 1.4727 acres, or part of it, for residential development. However, no specific information was introduced regarding the land that they may be offering for sale.

#### REASONING

The 2.54± acre parcel may have qualified for a building permit and zoning certificate for a dwelling prior to the subdivision plat, but the evidence presented is not conclusive. Whether the 2.54± acre parcel was entitled to a building permit and zoning certificate for single family dwelling based on Ridge Crest Manor subdivision plat is arguable. Why Snouffer's property and the 2.54± acre parcel, which were not identified as being part of the land being subdivided, were shown on the plat is not known.

Regardless of those questions, the plat was approved for recordation and the subsequent deed transferring ownership of the parcel established--without question--that the parcel complied with the zoning requirements pertaining to a building permit and zoning certificate for a single family dwelling.

#### CONCLUSION

From the record, it is evident, and the Board is convinced, that the 1.0035± acre lot qualifies for a building permit/zoning certificate. Accordingly, the Board hereby overrules the Zoning Administrator and orders approval and issuance of Building Permit/Zoning Certificate 94-4086 for construction of the single family dwelling.

3-20-95  
Date

Claude B. Rash  
Claude Rash, Chairman