

**Tax Map/Block/Parcel
No. 67-10-238**

**Building Permit/Zoning
Certificate No. 00-1091**

Case 4497

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

APPELLANT: Jeannine Lafiner
5011 Freter Road
Sykesville, MD 21784

ATTORNEY: Elwood E. Swam, Esquire
P. O. Box 176
Hampstead, MD 21074

REQUEST: An appeal of a determination of the Director of Planning disqualifying a tract of land for subdivision and referring to an inaccurate deed concerning land quantity.

LOCATION: Located at 5011 Freter Road, Sykesville, Maryland 21784 on property zoned "A" Agricultural District - Election District 14

BASIS: Basis: Article 17; Section 2(a); Ordinance 1E (The Carroll County Zoning Ordinance)

HEARING HELD: June 27, 2000

FINDINGS AND CONCLUSION

On June 27, 2000, the Board of Zoning Appeals (the Board) convened to hear the appeal of Jeannine Lafiner concerning a determination of the Director of Planning rejecting a tract of land for subdivision.

The subject project is 6.00020 acres of land zoned "A" Agricultural. (The Board finds that the Planning Director relied upon erroneous acreage figures supplied by the Appellant.) The legal provision at issue is Section 6.6(f) of the Carroll County Zoning Ordinance, which specifies that "(r)econfguration for the purpose of increasing overall density beyond individual lots yielded from the tracts or lawfully reconfigured tracts which existed as July 1, 1989 is prohibited".

The factual background is as follows: The property was owned by Susan E. Sleager until her death on April 3, 1985. Her will was sent to probate on August 21, 1985. The personal representative of the estate was Samuel "Bill" Sleager, the son of the decedent. The decedent also

had a daughter Naomi Lafiner, who was married to Mayo James Lafiner, Sr. As early as 1988, an oral agreement was reached between the personal representative "Bill" Sleager and Naomi Lafiner that Naomi was to receive an additional 5(+) acres from the Sleager Estate, which she would then combine with her own acreage to create 6(+) acres. Naomi intended to take the combined 6(+) acreage and transfer it to her children, Jeannine Lafiner (the Appellant), and Mayo James Lafiner so that it can be subdivided for use for their residences. Unfortunately, "Bill" Sleager, for reasons unclear to the Board, became obstinate and refused to execute the legal documents necessary to effect the transfer of the 5(+) acres to Naomi. This stalemate continued through 1988 and 1989, resulting in litigation against "Bill" Sleager in his capacity as personal representative. Finally, the documents were signed after July 1, 1989. Naomi died in 1983. Her husband, Mayo James Lafiner, Sr., transferred the 5(+) acres to Jeannine Lafiner (the Appellant) on June 29, 1994. When she attempted to subdivide the property, she was advised in a letter dated March 28, 2000 from the Director of Planning that it was prohibited under Section 6.6(f) of the Zoning Ordinance.

The Board finds this to be a truly unique situation. We are convinced that an agreement was in fact reached between Naomi Lafiner and "Bill" Sleager regarding the transfer of 5(+) acres prior to the 1989 date referenced in Section 6.6(f). Unfortunately, the inexplicable refusal of "Bill" Sleager to sign documents making Naomi the legal title holder to the property resulted in the documents not being executed until after the Section 6.6(f) deadline, thereby rendering the project impossible for subdivision. While the decision of the Planning Director in this matter is technically correct, it was an error not to take into account the factual background to achieve an equitable result, which is to permit the subdivision proposed by the Applicant. The Board emphasizes that these are unique circumstances, and it is unlikely they will recur. Accordingly, the Appeal is granted. Further, it is ordered that Applicant submit plans for further processing with the correct acreage of 6.0002 acres.

7/26/00
Date

Karl V. Reichlin
Karl V. Reichlin, Chairman