

Tax Map/Block/Parcel
No. 63-15-135

Building Permit/Zoning
Certificate No. 94-2174

Case 3941

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

APPELLANT: Lawrence Krynski
4220 Home Dale Road
Sykesville, Maryland 21784

**ATTORNEY FOR
APPELLANT:** Thomas F. Stansfield, Esquire
One Court Place
Westminster, Maryland 21157

**ATTORNEY FOR
PROTESTANT:** David Greber, Esquire
129-3 West Patrick Street
Frederick, Maryland 21701

APPEAL: An appeal of decisions of Zoning Administration approving construction of single-family dwellings in Home Dale subdivision, Section 1, lots 1, 3 and 5 recorded in Carroll County Plat Records in book 4, page 27

LOCATION: East of Klees Mill Road about 2,000 feet north of Cherry Tree Lane intersection in Election District 14

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

HEARING HELD: July 28, 1994

Articles and Sections cited below are of Ordinance 1E.

In accordance with the provisions of Article 17, Sections 17.6.6 and 17.7, and the Board's longstanding policy of visiting sites prior to public hearing, the Board visited the site July 21, 1994. 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 premises and adjacent 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 denied the appeal.

FINDINGS AND CONCLUSION

The pertinent findings determining the Board's decision include the facts that Home Dale subdivision was recorded in the plat records of Carroll County

prior to the adoption of the zoning ordinance and subdivision regulations. The subdivision is zoned "C" Conservation District. As the lots do not comply with the dimensional regulations of the Conservation District, they are classified as nonconforming uses in accordance with the provisions of Article 4, Section 4.3.

Although roads have not been constructed to provide vehicular access to the subdivision lots from Klees Mill Road, the ownership of lots 6, 7, 8 and 9 have been transferred and homes constructed on those lots. The question of issuing zoning certificates for the dwellings on lots 6 and 9 came before the Board of Zoning Appeals previously in separate cases. In 1984 in Case 2067, the Board recognized the inherent problem of this nonconforming subdivision and the need for construction of a road to provide vehicular access to the lots within the subdivision. The Board's order to withhold issuance of the zoning certificate for the dwelling on lot 9 until execution of a private street ordinance failed. As noted in the Board's November 24, 1992, decision in Case 3767 under "Findings Of Fact" the zoning certificates for the dwellings on lots 7 and 8 were approved by the zoning administrator, based on the provisions governing lots created by deed and exempted from the subdivision regulations as off-conveyances. Under "Reasoning" in that decision, the Board suggested that the zoning administrator and others within county government seek appropriate solutions to the problems associated with further development.

Initially, the permit applications and zoning certificates for dwellings on lots 1, 3 and 5 were denied, based on the provisions of Section 15.1(b)(3) relative to adequate and safe vehicular access to and from the subdivision. After an agreement was executed between the owner and developer of the lots, Mr. Michael Reeves, and the Director of the Department of General Services, J. Michael Evans, to ensure improvements by Mr. Reeves including, but not limited to, the driveway connection to Klees Mill Road, driveways to provide access to the lots, and stormwater drainage facilities (Protestants' Exhibits 16 and 17), the permit applications and zoning certificates were approved. Prior to the issuance of the building permits and zoning certificates, this appeal was filed, staying their issuance.

The issue in this appeal is whether or not the zoning administrator erred in authorizing the zoning certificates. After weighing the considerable testimony and evidence presented both on behalf of, and in opposition to, the appeal, the Board finds that the zoning administrator did not err in authorizing the zoning certificates. Accordingly, the appeal is denied.

8-4-94
Date

Claude R. Rash
Claude R. Rash, Chairman