

Tax Map/Block/Parcel  
No. 45-23-47

Building Permit/Zoning  
Certificate No. 96-3390

Case 4165

OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND

APPLICANT: J. Robert Johnson  
11 North Court Street  
Westminster, Maryland 21157

ATTORNEY: Bradford Webb, Esquire  
11 North Court Street  
Westminster, Maryland 21157

ATTORNEYS FOR  
CARROLL COUNTY PLANNING COMMISSION  
AND THE CARROLL COUNTY PLANNING DEPARTMENT:

Laurell E. Taylor, Esquire  
And  
Timothy C. Burke, Esquire  
225 North Center Street, Room 303  
Westminster, Maryland 21157

REQUEST: An appeal of the Carroll County Planning and Zoning Commission's decision denying approval of the final subdivision plat for Sharon's Ridge, Section 2 to be recorded in the plat records of Carroll County

LOCATION: East side of Old Westminster Road about 300 feet north of Ridge Road (Md. Rt. 27) on property zoned "C" Conservation District and "R-40,000" Residence District in Election District 7

BASIS: Article 17, Section 17.2(a); Ordinance 1E (The Carroll County Zoning Ordinance)

On January 3, 1997, at 1:30 p.m., the Carroll County Board of Zoning Appeals held a hearing on the appeal of the Carroll County Planning and Zoning Commission's decision denying approval of the final subdivision plat for Sharon's Ridge, Section 2, located on the east side of Old Westminster Road on property zoned "C" Conservation and "R-40,000" Residence District. The appeal was filed by the owners and developers of the property J. Robert and Sharon Johnson. The Carroll County Planning Commission and the Carroll County Planning Department appeared in opposition to the Appeal. They were represented by Laurell E. Taylor, Senior

Assistant County Attorney and Timothy C. Burke, Assistant County Attorney. The Board continued its deliberations to January 10, 1997, at 1:30 p.m. The following are the Board's findings and conclusions.

The final subdivision plat for Sharon's Ridge, Section 2, containing eight lots was before the Planning Commission on September 17, 1996. The Sharon's Ridge subdivision contains 36 lots of which 28 have been recorded. This section contains the final eight lots. The Planning Commission denied approval of the subdivision based on the certification of inadequacy of the school facilities.

The proposed subdivision will be served by Friendship Valley Elementary School (Friendship Valley), West Middle School and Westminster High School. Friendship Valley was the only school rated inadequate by the Board of Education. The certification of school facilities, before the Planning Commission (Appellant's Exhibit #2) dated July 31, 1996, indicated the local rated capacity<sup>1</sup> for Friendship Valley for 1995 (the year then applicable to the subdivision) to be 575 full time students but an actual enrollment for September 1995 of 651 students. The enrollment for September 1996 at Friendship Valley was 678 full-time students (FTS) (See Appellee's Exhibit #1). The enrollment figures for 1996 were not before the Planning Commission. With the local rated capacity of 575 FTS and actual enrollment of 651 students, the school would have an enrollment of 113% of its local rated capacity. The appellants argue that it was improper for the Planning Commission to use the failure of the Board of Education to certify the adequacy of Friendship Valley as a basis for disapproving the subdivision because of the particular circumstances surrounding Friendship Valley. We agree.

The Board finds that Friendship Valley was constructed to accommodate 600 students. (The number is derived by multiplying the number of class rooms times the School Board's ideal student population per class, i.e., 24 classrooms each housing 25 students). Subsequent to its construction, one of the classrooms was converted to a computer lab. Conceivably, the computer lab could have been located in one of the portable classrooms and the rated capacity would have remained at 600.

Mr. Vernon Smith's testimony indicated there are six portable classrooms at the school, one double and one quad units. Once a portable classroom unit is located at a school, the Principal of the school decides how to use the unit. In this case a whole grade

---

<sup>1</sup>The Board adopts the definitions of "local rated capacity", "core facilities" and "maximum expanded capacity" as defined in the Adequate Facilities Advisory Committee Report (Appellants' Exhibit 5).

was placed in a portable quad unit rather than split the grade between the inside classrooms and the portable. This, in fact, left a classroom in the building vacant. Such decisions are best left to the educators and the Board is not now questioning their value. Rather, the Board is only addressing what the effect the removal of the classroom for use as a computer lab should have on the rated capacity and this subdivision. The Board finds that the capacity of the School facilities did not change as a result of locating the computer lab in the building as opposed to elsewhere and concludes that in this case, the use of the classroom for a lab does not affect the local rated capacity. The bathroom facilities, gymnasium, cafeteria, parking lot, offices and other core facilities were built to accommodate 600 full time students and the removal of one of the classrooms does not alter this fact.

In the case before us, if the Planning Commission had utilized the local rated capacity of 600 FTS for Friendship Valley, then the enrollment of 651 full time students would have meant the enrollment was 109% of the local rated capacity. The subdivision would not have been deferred based on the Planning Commission's Interim Review Standards. Instead the subdivision would have been approved at the September 17, 1996, hearing of the Planning Commission. If this appeal were not a de Novo hearing, the Board would have reversed the decision of the Planning Commission and the matter would be resolved. However, the current enrollment figures for September 1996, not available at the Planning Commission hearing, are before us and exceed the adopted Interim Review standards, (678 FTS is 113% of 600)(see appellee's Exhibit #2).

The appellants argue and the Board notes that the projected relief facility for the overcrowding, Cranberry Elementary School, is projected to be occupied in September 1998 (See Appellant's Exhibit #2). Item B of the Interim Review Standards for Major Subdivisions for final plats indicates that a plan can be approved if the school population does not exceed 115% of the local rating capacity and the relief facility is scheduled for occupancy within 12 months. Accordingly, in light of the particular circumstances on this case, the Board will approve the subdivision requiring the appellants to wait until September 1, 1997, to record the plat. September 1, 1997 will be within twelve months of the scheduled opening of the relief facility. The Board is remanding this matter to Carroll County Planning Commission for affixing the proper notation and signatures consistent with this decision.

2/3/97

Date



James L. Schumacher, Chairman

IM/bmh/c4165dec.bmh  
February 3, 1997