

Tax Map/Block/Parcel
No. 74-19/20-821

Building Permit/Zoning
Certificate No. 97-2357

Case 4262

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPELLANT: Prime Venturers Inc.
c/o Charles D. Hollman, Esquire
189 East Main Street
Westminster, Maryland 21157

REQUEST: An appeal of the Carroll County Planning and Zoning Commission's decision denying the final subdivision plat for "Quail Meadow," Section 3, (Lots 65-92) consisting of 15.01 acres

LOCATION: Northeast side of Ridge Road on Fox Sedge Court, Harvest Farm Road and Sweet Clover Court about 600 feet northwest of Quail Meadow Way on property zoned "R-20,000" Residence District in Election District 5

BASES: Article 17, Sections 17.2 and 17.4; Ordinance 1E (The Carroll County Zoning Ordinance)

On September 29, 1997 the Board of Zoning Appeals for Carroll County (hereinafter the Board) heard the appeal of the Carroll County Planning and Zoning Commission's (hereinafter the Commission) August 19, 1997, decision denying the final subdivision plat for "Quail Meadow" Section 3, lots 65-92 consisting of 15.01 acres. The property is zoned "R-20,000" Residence District. The appeal was filed on August 20, 1997, by Prime Venturers Inc., owner and developer. On October 15, 1997, the Board convened in open session for its deliberations. The following are the Board's findings and conclusions.

The preliminary plan approval for the Quail Meadow subdivision was granted on December 21, 1993. The subdivision contains 110 lots; Section 1, recorded on July 7, 1995, contained 30 lots; Section 2, recorded on July 22, 1996, contained 34 lots; Section 3 contains 28 lots; and 18 lots remain to be recorded in Section 4. The final construction mylars for Section 3 were submitted on June 19, 1997. Thereafter, the requests for the adequate facilities certifications were sent to the various agencies. They were returned on July 17, 1997. Only one certificate was returned with a rating of inadequate, i.e., the Board of Education for Carroll County indicated that the elementary school and the high school which serve the subject subdivision were inadequate. As a result, the final subdivision plat was placed on the Commission's agenda of August 19, 1997, due to the Commission's policy of requiring any final subdivision plat that has an inadequate public facilities

certification be brought before the Commission to determine whether the plan should be allowed to be recorded once all conditions of approval have been met.

The schools that serve the Quail Meadows subdivision are Carrolltowne Elementary School, Oklahoma Road Middle School, and Liberty High School. The elementary and high schools received a certificate of inadequacy. The construction of the relief facility for the elementary school, Linton Springs Elementary School, will be completed by September 1999. Applying the Commission's interim development review standards, the elementary school inadequacy no longer is an issue.

The local rated capacity for Liberty High School is 1170 full time students. The enrollment for September 1996 was 1366. Currently there are eleven classrooms located in portable or relocatable buildings. By the year 2000 the student enrollment is expected to be 1843 or 158% of the local rated capacity. The appellant argues that the relocatable classrooms should be considered by the Board of Education in determining the true capacity of the subject school. The site can accommodate enough relocatable or portable buildings to house an additional eight classrooms, i.e., 200 students. The Board rejects this argument as it has done before. The core facilities of a school limit the schools capacity. The core facilities are the cafeteria, gymnasium, library, etc. The use of portable classrooms is but an interim measure intended to solve the problem of expanding student populations until the permanent relief facilities can be constructed. The planned relief facility for the high school is expected to be ready for occupancy in September of the year 2001. The testimony before the Board was that the current student population at the High School was already taxing the available resources. The situation will only worsen in the upcoming years until the relief facility is available for occupancy. Accordingly, Board finds that the high school is inadequate to serve the subject subdivision. This would ordinarily be sufficient to uphold the decision of the Commission.

The appellant however, presents some compelling arguments in favor of the appeal. As noted earlier, this is a multi-phase development and the developer has expended large sums of money in anticipation of being authorized to proceed with the remaining phases of the subdivision. Ridge Road has been widened to accommodate a fourth lane. Curbs, gutters, and sidewalks have been installed. A significant amount of grading and landscaping has been accomplished. Sewer line hookups for eight lots have been installed. Bonds have been posted. In addition, the appellant argues that the Commission changed its policy midstream in the development of the subdivision. The Commission, until 12 to 18 months ago permitted all subdivision with certifications of inadequacy, to be recorded. This Board finds the appellant's argument compelling.

The Board finds that the Commission erred when it did not

consider the special circumstances of this subdivision. The Board notes that Quail Meadow Section 3 is comprised of two phases, Phase 3A consisting of 12 lots and Phase 3B consisting of 16 lots. The phases can be easily separated, and thereby stagger the development so as to enable the developer to continue the construction of the subdivision while taking into consideration the school inadequacy. Therefore, considering the special circumstances here, the Board will approve the subdivision subject to the following conditions:

The appellant must separate Section 3 into the two phases.

I. Phase 3B, consisting of the sixteen lots, will be allowed to be recorded with the following notation on the record plat:

None of the lots shown on this plat shall be eligible for a building permit until July 15, 1998. The owner of the lots shall not enter into a contract of sale nor convey any of the individual lots shown on this plat until July 15, 1998.

II. Phase 3A, consisting of 12 lots, will be allowed to be recorded on or after July 15, 1998 with the following notation on the record plat:

None of the lots shown on this plat shall be eligible for a building permit until July 15, 1999. The owner of the lots shall not enter into a contract of sale nor convey any of the individual lots shown on this plat until July 15, 1999.

The Board directs the Bureau of Development Review to process the subdivision upon receipt of the plat so noted. When the plat is ready for final signature approval, it shall be submitted to the Chairman of this Board for execution or the Secretary of the Planning Commission.

November 14, 1997
Date


James Schumacher, Chairman

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