

**Tax Map/Block/Parcel
No. 37-4-387**

**Building Permit/Zoning
Certificate No. 04-0026**

Case 4910

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

APPELLANTS: Donald E. & Nancy L. Bullock
C/o David K. Bowersox, Esquire
24 North Court Street
Westminster, Maryland 21157

ATTORNEY: David K. Bowersox

REQUEST: An appeal of the decision of the Planning and Zoning Commission, dated November 18, 2003, that failed to approve the preliminary plan of the subdivision, Bullock Estates.

LOCATION: The site is located at 2619 Old Taneytown Road, Westminster, MD 21157, on property zoned "R-20, 000" Residential District in Election District 5.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-188B, 223-186 A and 223-186B

HEARING HELD: February 24, and March 25 & 31, 2004

FINDINGS AND CONCLUSION

On February 24, and March 25 & 31, 2004, the Board of Zoning Appeals (the Board) convened to hear an appeal of the decision of the Planning and Zoning Commission, dated November 18, 2003, that failed to approve the preliminary plan of the subdivision, Bullock Estates. Based on the testimony and evidence presented, the Board made the following findings and conclusion:

The Appellants have proposed a minor subdivision preliminary plan known as "Bullock's Estates" at the referenced address. The subdivision would consist of one 4.424-acre lot, one 8.278-acre lot and a 17.224-acre remaining portion. A ten-foot wide private driveway would serve it.

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There is no dispute that the proposed subdivision does not have "in fee" simple frontage to a public road. There had long been a policy that all lots created through the subdivision process must have fee simple access to a County publicly maintained road. The Carroll County Zoning Ordinance actually contained a definition of "lot" that included "having frontage on a street..." in the text that was amended through December 1, 1990. This "frontage" requirement in the definition of lot is not found in the Zoning Ordinance that was amended through August 15, 2000. However it now appears in the Carroll County Code of Public Local Laws and Ordinances at Section 203.4B, which requires that "all lots being created through the subdivision process must be designed to provide in-fee simple frontage to a road". This language was apparently reinserted in November of 2002.

In any event, there has been no vesting of right in this case, and the "fee simple access" regulation is clearly applicable to this project. The Planning staff believes that, absent in fee ownership of a strip to a public road, access issues could arise that could jeopardize the health and safety of persons residing on these driveways. We are required to apply the current regulation to this project. Accordingly, the Appeal is denied.

4-23-04

Date


Jacob M. Yingling, Chairman