

Tax Map/Block/Parcel
No. 51/14,15/38,116,282,442

Building Permit/Zoning
Certificate No. 96-3883

Case 4191

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPELLANT: Western Maryland College
2 College Hill
Westminster, Maryland 21157

ATTORNEY: J. Brooks Leahy, Esquire
Dulany & Leahy, LLP
127 East Main Street
P.O. Box 525
Westminster, Maryland 21158

REQUEST: An appeal of the Carroll County Planning & Zoning Commission's decision November 19, 1996, denying approval of the preliminary subdivision plat for Phase One, Seven (7) Lot Subdivision Plat for Singleton-Mathews Farm

LOCATION: West of Stuller Road about 400 feet south of Stone Chapel Road on property zoned "A" Agricultural District in Election District 7

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

ORDER OF DISMISSAL

On December 20, 1996, the Board of Zoning Appeals (Board) received an appeal of the Carroll County Planning and Zoning Commission's November 19, 1996, decision denying approval of the preliminary subdivision plat for Phase One, Seven (7) Lot Subdivision for Singleton-Mathews Farm located west of Stuller Road about 400 feet south of Stone Chapel Road. The appeal was filed with the Board by Western Maryland College, Inc.

The authority under which the appeal was filed, Article 66B, § 4.07(e) of the Annotated Code of Maryland, states:

Appeals; transmission of record. - Appeals to the board of appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the jurisdiction affected by any decisions of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, **by filing with the officer from whom the appeal is taken and with the board of appeals a notice**

of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. (Emphasis added).

Section 17.4.2 of the Zoning Ordinance provides that: "[a]n appeal from an order, requirement, determination or a decision of an administrative official enforcing the provisions of Article 66B, or this Ordinance shall be filed within thirty (30) days from the date of the action being appealed." The record before the Board reflects that the notice of appeal was filed with the Board on December 20, 1996, within the prescribed 30 days time limit. The record also reflects that the appeal has never been filed with the officer from whom the appeal is taken as required by the statute, i.e., the Planning and Zoning Commission. See *The Wharf at Handy's Point, Inc. vs. Department of Natural Resources, et al.* 92 Md. App. 659 (1992). The thirty (30) days for the filing of the notice have expired.

The rule governing the time and manner of appeals is mandatory and jurisdictional. Accordingly, the appeal is not properly perfected and not properly before the Board. It is therefore, ordered that the appeal in this matter be and is hereby dismissed.

Jan. 3, 1997

Date


James L. Schumacher

c: Philip Rovang, Secretary
Carroll County Planning & Zoning Commission