

Tax Map/Block/Parcel
No. 23-8/14-813/814

Building Permit/Zoning
Certificate No. 96-2872

Case 4145

BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPELLANT: Barbara Collins, et al
365 Pleasanton Road #11
Westminster, Maryland 21157

ATTORNEY: Charles O. Fisher, Esquire
179 East Main Street
Westminster, Maryland 21157

REQUEST: An appeal of the Carroll County Planning
Commission's July 16, 1996, decision denying
approval of the preliminary subdivision plan for
Bittersweet Farms consisting of 52.2682 acres

LOCATION: North side of Fridinger Mill Road in Election
District 6

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

ORDER OF DISMISSAL

On August 16, 1996, the Board of Zoning Appeals (Board) received an appeal of the Carroll County Planning and Zoning Commission's July 16, 1996, decision denying approval of the preliminary subdivision plan for Bittersweet Farms consisting of 52.2682 acres located on the north side of Fridinger Mill Road. The appeal was filed with the Board by Barbara Collins, et al.

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).

The rules of the Board require the appeal to be filed within 30 days of the action giving rise to appeal. 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 August 16, 1996, within the prescribed 30 days time limit. The record also reflect that the appeal was never filed with the officer from whom the appeal is taken as required by the statute, i.e., the Planing and Zoning Commission. See *The Wharf at Handy's Point, Inc. vs. Department of Natural Resources, et al.* 92 Md. App. 659 (1992).

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.

9/27/96

Date

Karl V. Reichlin

Karl V. Reichlin, Chairman

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