

**Tax Map/Block/Parcel
No. 62-12-255**

**Building Permit/Zoning
Certificate No. 02-4587**

Case 4788

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

APPLICANT: Gary V. & Victoria L. Peltier
445 Bartholow Road
Eldersburg, Maryland 21784

ATTORNEY: Richard R. Titus

REQUEST: An appeal from the denial of a building permit application and a variance from the 3 acre minimum lot area and 300 ft. front yard minimum lot width.

LOCATION: The site is located at Ben Rose Lane, Sykesville, MD 21784, on property zoned "C" Conservation District in Election District 14.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-188(b), 223-186(A), and 223-37(a)

HEARING HELD: April 23, 2003

FINDINGS AND CONCLUSION

On April 23, 2003, the Board of Zoning Appeals (the Board) convened to hear the appeal from the denial of a building permit application and a variance from the 3-acre minimum lot area and 300 ft. front yard minimum lot width. Based on the testimony and evidence presented, the Board made the following findings and conclusion:

This case stems from the efforts of the Appellant, to construct a home on a 2.1-acre lot in the Conservation zone. The Conservation zone has a 3-acre minimum lot size and a 300 Ft. front yard requirement. The Appellant was denied a building permit due to the lot size and appealed the denial of the permit and requested a variance from the front yard requirements.

The parcel was originally a part of a 134-acre farm. The owner of the farm apparently considered carving off two parcels in 1965 and survey work was prepared. The Carroll County Zoning Ordinance was enacted on August 17, 1965, and the 3-acre minimum lot size in the Conservation zone became law. The farm owner took no action until 1968, when she transferred 3.1 acres to her brother. Her brother was permitted, for reasons unknown to the

OFFICIAL DECISION

C4788

Page Two

Board, to transfer 1 acre to another party despite the 3-acre minimum lot size requirement in the law.

The Appellant purchased the remaining 2.1-acre lot, and now wishes to construct a home on it, despite the 3-acre requirement. The Appellant and the sellers of the lot were apparently unaware of the defect in creating the lot during the entire process. A well was drilled on the 2.1-acre lot, prior to the current issue coming to light.

The Board finds no error in the denial of the building permit. While the previous owner of the property apparently took some preparatory action in 1965, there was a change in law (the adoption of the Zoning Ordinance) prior to the actual creation of the lots, which renders the 2.1-acre parcel undersized and "non-buildable". While the Board is sympathetic to the Appellant, we cannot contravene the law to approve the lot creation. Accordingly, the appeal is denied. There is also therefore no need to address the variance request.

5/13/03

Date

Karl V. Reichlin

Karl V. Reichlin, Chairman