

**Tax Map/Block/Parcel
No. 50-6-251**

**Building Permit/Zoning
Certificate No. 06-0335**

Case 5196

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

APPELLANT: Steven D. Pickett
2070 Brick Church Road
New Windsor, MD 21776

ATTORNEY: N/A

REQUEST: An appeal of the Zoning Administrator's determination concerning the current validity of a prior decision with two extensions (C1799, April 23, 1982) regarding a second dwelling.

LOCATION: The site is located at 2070 Brick Church Road, New Windsor, on property zoned "A" Agricultural District in Election District 11.

BASIS: Code of Public Local Laws and Ordinances, Section 223-186 A (1)

HEARING HELD: March 28, 2006

FINDINGS AND CONCLUSION

On March 28, 2006, the Board of Zoning Appeals (the Board) convened to hear an appeal of the Zoning Administrator's determination concerning the validity of a prior decision with two extensions (C1799, April 23, 1982) regarding a second dwelling. The Board made the following findings and conclusion:

The Appellant owns 9.62 acres (+-) at 2070 Brick Church Road, New Windsor, MD. In 1982, there were 2 existing dwellings located on the property (including Appellant's residence). Both dwellings were built prior to the adoption of zoning in Carroll County, and thus they were non-conforming uses. Under current law, 2 dwellings may not be built on a single lot. The Appellant demolished the second house on October 16, 1981, as it was in a state of disrepair. In addition, the Appellant, in BZA Case 1799 of 1982, obtained Board approval to replace the razed dwelling with a new residence. In Case 1799, the Appellant was granted 2 years to April 23, 1984, to obtain the zoning certificate. In 1986, the Board granted a 2 year extension for the Appellant to obtain a zoning certificate for the new residence. In 1980, the Appellant sent a letter to the Board dated April 2, 1988, asking for "another 2 year extension or possibly a permanent extension...". The Board, on or about April 26, 1988, responded with a letter, stating that "a waiver of the time to apply for the required zoning certificate is appropriate". In addition, the Board's letter stated that "(t)he motion for waiver of the time limit is made by Mr. Thomas with second by Mr. Law and my concurrence". No further requests for extensions of the time limit were made by the Appellant. The previous Zoning Administrator, in a letter dated January 10, 2006, issued a letter to the Appellant advising him that the Board's approval for replacement

OFFICIAL DECISION

C5196

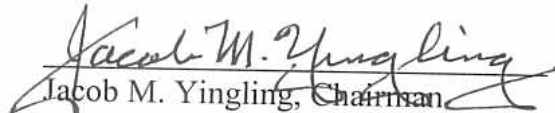
Page Two

of the demolished dwelling on the property expired April 26, 1990. The Appellant has appealed this determination.

This case appears to stem from confusion about the Board's letter to the Appellant dated April 26, 1988. In that letter, the Board, in response to the Appellant's request for a "permanent" extension, granted what it termed a "waiver" of the time limit to apply for a zoning certificate in this case. A "waiver" is an intentional and a voluntary giving up relinquishment or surrender of some known right. It is apparent that the Appellant relied on this "waiver", since he made no further requests for an extension of time. Whether the Board intended it or not, its use of the term "waiver" led the Appellant to reasonably conclude that his extension was "permanent". He has unquestionably relied on the Board's "waiver", to his detriment.

Under the circumstances, the Board finds that an extension of the time limit to obtain a building permit/zoning certificate for an additional residence on Appellant's property is granted. Thus the time limit is extended an additional one (1) year from the date of this written decision.¹

4/19/06
Date


Jacob M. Yingling, Chairman

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¹ This is not an approval for subdivision of the parcel, which is beyond the authority of the Board in this case.