

Tax Map/Block/Parcel  
No. 45/46/51,24/19/6,648

Building Permit/Zoning  
Certificate No. 97-1982

Case 4251

OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND

**APPLICANT:** Nicholas A. And Carole B. Samios  
P.O. Box 867  
150 East Main Street  
Westminster, MD 21158

**ATTORNEY:** John T. Maguire  
189 East Main Street  
Westminster, MD 21157

**REQUEST:** An appeal of the Carroll County Planning and Zoning Commission's decision denying approval for the final subdivision plat for "Friendship Overlook" (Lots 1-43) consisting of 31.1138 acres

**LOCATION:** North side of Gist Road at Hook Road intersection on property zoned "R-20,000" Residence District in Election District 7

**BASIS:** Article 17, 17.2(a); Ordinance 1E (The Carroll County Zoning Ordinance)

On August 29, 1997, the Board of Zoning Appeals for Carroll County (hereinafter the Board) heard the appeal of the Carroll County Planning and Zoning Commission's (hereinafter the Commission) decision denying the final subdivision plat for "Friendship Overlook" (lots 1-43). The appeal was filed by Mr. Nicholas A. Samios and Mrs. Carole Samios, owners<sup>1</sup> and developers on July 16, 1997. The Board, pursuant to Article 17, Section 17.4.10 of the Zoning Ordinance, extended the time to issue this written decision.

The facts are not in dispute and can be summarized as follows. The subject property consists of 31.1138 acres and is zoned "R-20,000". It is located on the north side of Gist Road at Hook Road in Carroll County. The preliminary plan approval for the subdivision was granted on April 2, 1996, (the subdivision was then named King's Grant). The construction mylars were submitted on May 27, 1997. Thereafter, the adequate Facilities Certifications were sent to the various agencies. They were returned on June 17, 1997.

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<sup>1</sup>Carole Samios is the joint owner of the subject property and by letter dated 8/29/97 and received at the hearing joined in the appeal.

Only one Certificate was returned with a rating of inadequate; Friendship Valley Elementary School, which serves the subject subdivision, was rated inadequate.

The matter was before the Commission on July 15, 1997, due to the Commission's policy requiring any final subdivision plat which has an inadequate public facilities certification to be brought before the Commission for a determination whether the plan should be allowed to proceed to recordation once all conditions of approval have been met. (This practice was adopted by the Commission since the adoption of the Interim Development Control Ordinance.)

Friendship Valley Elementary School, has a local rated capacity of 575 full time students. The actual enrollment for September 1996 was 676 or 118% of local rated capacity. Mr. Samios sought to address the inadequacy by proposing a phasing plan similar to others this Board had approved. However, relying on the certification of inadequacy, the Commission denied approval, giving rise to this appeal.

The Board finds the Friendship Valley Elementary School to be inadequate to serve the proposed subdivision. The inadequacy will be addressed with the new Cranberry Elementary School which has received construction funds and has anticipated date of completion of August of 1999. Accordingly, the Board finds the instant case similar, in part to Board of Zoning Appeals case 4165 (known as Sharon's Ridge) and BZA Case 4243 in part (Willow Pond number 2). The Sharon's Ridge case involved the denial of a final plan based on the inadequacy of the same school. The case is also similar to Willow Pond number 2 in that the appellant has offered an identical phasing plan as was accepted previously by this Board to address the overcrowding. Due to the similarities noted, the Board hereby affirms the appeal, and authorizes the appellant to proceed with the plat recordation subject to the following condition:

The plat shall contain the following note in addition to all other required, placed in a conspicuous place as directed by the Bureau of Development Review, to read as follows:

None of the lots shown on this plat shall be eligible for a building permit until 90 days after the first footer for the Cranberry Station Elementary School, or whatever name is chosen for the new Westminster area elementary school, is poured (as certified by the Carroll County Board of Education) or until January 1, 1999, whichever is later to occur.

The owner of the lots shall not enter into a contract of sale nor convey any of the individual lots shown on this plat until the date 90 days after first footer for the Cranberry Station Elementary School, or whatever name is chosen for the new Westminster area elementary school, is poured (as certified by the Carroll County Board of Education) or until January 1, 1999, whichever is later to occur.

The Board directs the Bureau of Development Review to process the subdivisions upon receipt of the plats so noted. When all conditional subdivisions have been addressed and the plat is ready for final signature approval, they shall be submitted to the Chairman of this Board for execution or the secretary of the Planning Commission.

October 21, 1997

Date

IM/bmh/c4251dec.bmh  
October 21, 1997



James L. Schumacher, Chairman