

Tax Map/Block/Parcel
No. 67-18-36/451

Building Permit/Zoning
Certificate No. 97-0279

Case 4208

APPELLANT: Marion Carpenter and Evelyn Carpenter
1740 Carpenter Drive
Marriottsville, Maryland 21104

ATTORNEY: John T. Maguire, Esquire
189 East Main Street
Westminster, Maryland 21157

**ATTORNEY FOR
PLANNING
COMMISSION:** Laurell E. Taylor, Esquire
225 North Center Street, Room 303
Westminster, Maryland 21157

REQUEST: Request for Reconsideration by the Carroll County
Planning & Zoning Commission of the Board's
decision or April 21, 1997, granting approval of
the preliminary plan for "Cedar Grove"
subdivision, lots 1-8, consisting of 9.8 acres

LOCATION: North side of Old Liberty Road (Md. Route 850),
directly northwest of Jim Pickett Road on property
zoned "R-40,000" Residence District in Election
District 14

**ORDER
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND**

On May 19, 1997, the Board of Zoning Appeals (Board) convened to hear arguments regarding the Planning Commission's request for a reconsideration of the Board's decision dated April 21, 1997. The Planning Commission was represented by Laurell E. Taylor, Senior Assistant County Attorney. John T. Maguire appeared on behalf of the appellants, Marion and Evelyn Carpenter. The Planning Commission argues that the Board incorrectly interpreted the Interim Review Standards for Major Subdivisions (Exhibit 2A) in rendering its decision. The Board disagrees and hereby denies the request for reconsideration.

The Planning Commission argues that the Board's interpretation of the Interim Review Standards, renders paragraph C of the

standards as surplusage, and leads to absurd consequences¹. The Board is not persuaded by the arguments presented. The plain reading of paragraphs A and B of the standards indicates that they apply when there is a relief school facility scheduled within 24 months; Item A addresses *actual* student population at a school district; Item B addresses *projected* student population at a school district. The plain reading of paragraph C is that it addresses student populations when there is no relief facility scheduled. Paragraph A clearly states that when the "full-time student and population exceeds 110% of the local rated capacity," that major subdivisions will be denied "unless [a] relief facility is scheduled for occupancy within 24 months." Paragraph B clearly states that when "the *projected* full-time student enrollment for that school will exceed 115% prior to scheduled relief" major subdivisions will be denied unless [a] "relief facility is scheduled for occupancy within 24 months." In all other cases where there is no relief facility scheduled and the full time student enrollment exceeds the local rated capacity by 120% or more, Paragraph C would apply and then the subdivision will be denied. Finally, in situations where the proposed subdivision does not fit into one of the enumerated categories, then the Planning Commission can exercise its discretion. This interpretation gives meaning to every paragraph and every word within each paragraph, and does not render any portion of the standards as surplusage.

It is therefore Ordered that the request for reconsideration by the Planning Commission be and is hereby denied.

5.21.97



James L. Schumacher, Chairman

¹The Planning Commission submitted a memorandum of law in support of its position. The Board notes that the exhibit attached to the Planning Commission's memorandum (PC Exhibit) and titled Interim Review Standards for Major Subdivisions was not the same as the Joint Exhibit 2A which was part of the record. The PC Exhibit attached differed in several ways from the Exhibit 2A, i.e., the notes on the 2 documents are different from each other ; note 1 on the exhibit is conspicuously missing from Exhibit 2A; Exhibit 2A states that Subdivisions "will be denied when:" whereas the PC Exhibit states that Subdivisions "will be deferred when:" The Board in deciding this matter relied on Exhibit 2A.