

DECISION OF ENVIRONMENTAL APPEALS BOARD

RE: William B. Jensen
Property located at lot 96
Cypress Gardens
North Murderkill Hundred
Kent County

Board upholds/Secretary's decision. Appellant's primary contention is that Mary Brown, the Department's Resources Control Specialist, had no authority to question the facial validity of the certificate of zoning compliance which the appellant submitted.

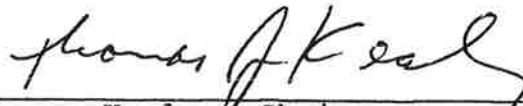
The Board disagrees. Ms. Brown testified that she had prior information regarding the Cypress Gardens subdivision which led her to question the permit. Her action was thus not taken with the intention of harassing Mr. Jensen, but was taken to head off future problems regarding lot 96 which she had reason to anticipate. The Board believes Ms. Brown acted admirably in the execution of her duties.

Thus, the Board finds that the Secretary had the authority to undertake the investigation which showed that the zoning approval certificate issued for lot 96 had been issued by mistake, and that Mr. Jensen's application did not, therefore, meet the requirements of 7 Del. C. §6003(c).

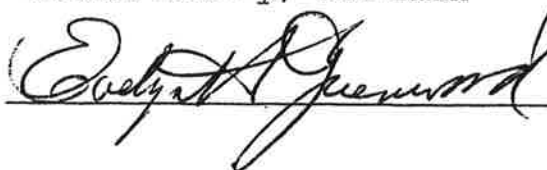
The Board, of course, can not second guess the decisions of the Kent County government. The Board can not waive the statutory requirements of §6003(c) and it is appellant's responsibility to settle his disagreements with the County so that he may be issued the required certificate of zoning compliance.

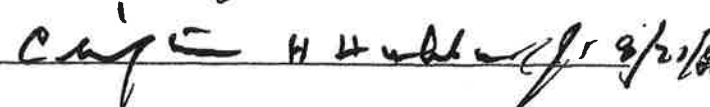
The Board notes that it admitted a great deal of testimony regarding Kent County zoning procedures which are not strictly relevant to the issue of whether the Secretary should have denied the septic system application. The Board found this information necessary as background to fully understand Mr. Jensen's contentions. However, the Board has relied on this information only as background, it does not form the basis of the Board's decision.


IT IS SO ORDERED:




Thomas Kealey, Chairman




_____ Craig H. Hubbard 8/21/85


_____ George A. Wharton


_____ Robert C. James

August 21, 1985