

adjoining land owned by the defendant. This section compared with section 7. *Filston Farm Co. v. Henderson*, 106 Md. 374.

Where two lots though contiguous, are wholly distinct, and the buildings are not located on the smaller lot, which is not necessary for the ordinary and useful purposes of the buildings, the latter will not be sold in enforcing the lien. *Fulton v. Parlett*, 104 Md. 71.

Cited but not construed in *Beehler v. Ijams*, 72 Md. 195.

See sec. 15 and notes.

1904, art. 63, sec. 5. 1888, art. 63, sec. 5. 1800, art. 61, sec. 5.
1838, ch. 205, sec. 4.

5. The owner of any lot or farm who may be desirous of erecting any building or of contracting with any person for the erection thereof may define in writing the boundaries of the lot or land or curtilage appurtenant to such building previously to the commencement thereof and file the same with the clerk of the circuit court for the county, or of the superior court of Baltimore city, as the case may be, for record, and such designation of boundaries shall be obligatory upon all persons concerned.

Where the owner fails to avail himself of this section, or of sections 6 or 8, the decree will not be reversed because more land was directed to be sold than was necessary for the ordinary and useful purposes of the buildings. *Fulton v. Parlett*, 104 Md. 70.

Cited but not construed in *Filston Farm Co. v. Henderson*, 106 Md. 373.

Ibid. sec. 6. 1888, art. 63, sec. 6. 1860, art. 61, sec. 6. 1838, ch. 205, sec. 5.
1845, ch. 287, sec. 6.

6. In default of such designation of boundaries previous to the commencement of any building, it shall be lawful for the owner of such lot or piece of ground, or for any person having a lien upon the same by mortgage, judgment or otherwise, or entitled to a lien by virtue of this article, to apply by petition in writing to the judge of the circuit court for the county or the superior court of the city of Baltimore to designate the boundaries.

Cited but not construed in *Nicolai v. Baltimore*, 100 Md. 585.

See notes to sections 5 and 7.

Ibid. sec. 7. 1888, art. 63, sec. 7. 1860, art. 61, sec. 7. 1838, ch. 205, sec. 6.

7. It shall be the duty of said court to issue an order to the county or city surveyor or some other surveyor to examine the building or place at which such building is being erected and to make a report to such court, in which he shall sufficiently designate and describe by metes and bounds with their courses and distances, and by a draft if necessary, the limits and extent of grounds necessary for the convenient use of such building for the purpose for which it was designed and such report shall be entered at length upon the record book hereinafter mentioned and if approved by the court shall be conclusive upon all persons concerned.

Where a petition is filed under section 6 as a part of a pending lien case, and the surveyor's report is not acted on until the final decree in such case, the report may be reviewed on appeal. This section and the word "designed" as used therein, construed. *Filston Farm Co. v. Henderson*, 106 Md. 372.

Cited but not construed in *Fulton v. Parlett*, 104 Md. 70; *Nicolai v. Baltimore*, 100 Md. 585.