

Case 2980

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY MARYLAND

APPELLANTS: Linda Stewart and Frank Stewart
125 Kate Wagner Road
Westminster, Maryland 21157

APPEAL: An appeal of the Notice of Violation, dated May 13, 1988 regarding commercial boarding in violation of condition 2 of the Board of Zoning Appeals decision in Case 2125; and, a request to amend condition 2 of Case 2125 which prohibits commercial boarding, grooming or breeding in conjunction with the establishment of the kennel.

LOCATION: 125 Kate Wagner Road in Election District 7.

BASES: Article 17, Section 17.2 and 17.4; Zoning Ordinance 1E.

HEARING HELD: July 27, 1988

FINDINGS

The application, testimony and evidence comprising the record of this case are hereby included by reference in this decision. The pertinent findings include the following facts:

A conditional use for the establishment of a kennel for 10 dogs or less was conditionally authorized on July 11, 1984 in Case 2125. The Board's decision in that case was based upon testimony and evidence comprising the record of the public hearing held on June 27, 1984. The decision in that case specifically notes: "the request is for non-commercial purposes; and, there is no indication that the authorization as conditioned below will unduly affect the adjoining properties or public interest." Accordingly, the Board imposed condition 2 which reads:

"No commercial boarding, grooming or breeding is authorized in conjunction with the establishment of the kennel."

Following investigation of a complaint, the Zoning Administrator issued a Notice of Violation dated May 13, 1988 citing commercial boarding, including pet sitting for a fee in violation of Condition 2. From the record, it is

evident that boarding and pet sitting have been conducted on the premises in return for payment of fees. Regardless of Mrs. Stewart's understanding, or opinion, such activities constitute a violation of condition 2 of the Board's conditional authorization in Case 2125.

In conjunction with the appeal of the Notice of Violation, Mrs. Stewart requested consideration for removal of restrictions from the original authorization. As the request was in response to the Notice of Violation, the intent was assumed to be to amend condition 2 regarding the prohibition of commercial boarding, grooming or breeding in conjunction with the operation of the kennel. The Notice of Public Hearing forwarded to the adjoining property owners, published in the newspaper, and posted on the premises limits consideration to amendment of condition 2 in Case 2125. The evidence presented in support of the amendment focused solely on limited commercial boarding, including pet sitting. The plot plan submitted with this request, and identified as Applicants' Exhibit 1 establishes that the location of the kennel complies with the minimum distance requirements of the zoning ordinance. The floor plan of the kennel, Applicants' Exhibit 2, shows 6 individual interior and exterior runs. No employees, other than members of the immediate family, are proposed in conjunction with the kennel and offering commercial boarding services.

CONCLUSION

The appeal of the Zoning Administrator's Notice of Violation is hereby denied.

As now presented to the Board in the form of Applicants' Exhibits 1 and 2, the Board hereby authorizes amendment of condition 2 in Case 2125 to read:

2. No commercial grooming or breeding is authorized in conjunction with the establishment of the kennel.

In accordance with Mrs. Stewart's statement that no business identification sign was proposed in conjunction with the establishment and operation of the commercial boarding in the kennel, no sign shall be authorized.

Aug. 5, 1988
Date

John Totura
John Totura, Chairman