

Case 3202

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Mari Parker
1539 Wakefield Valley Road
New Windsor, Maryland 21776

ATTORNEY: JoAnn Ellighaus Jones, Esq.

REQUEST: A conditional use for a kennel for more than 10
adult dogs

LOCATION: 1539 Wakefield Valley Road in Election District
11

BASIS: Article 6, Sections 6.3(j) and 6.7; Ordinance 1E
(The Carroll County Zoning Ordinance)

HEARING HELD: July 26, 1989; Continued August 11, 1989

The public hearing of Case 3202 was initially held on July 26, 1989, and continued on August 11, 1989. 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:

FINDINGS OF FACT

The twenty acre property, which is improved with a dwelling, is located to the southeast of Wakefield Valley Road. Vehicular access is provided by right of way, twenty feet in width, connecting to Wakefield Valley Road about 1,200 feet south of Nicodemus Road intersection and extending southerly about 1,000 feet to the site. Due to the topography of the surrounding property and site, the kennel facilities are not visible from adjacent properties. Both the site and the surrounding 126 acre parcel are presently owned by Tidewater Quarries, Inc.

The applicant leases the dwelling and twenty acre property from Tidewater Quarries, Inc. The purpose of the kennel, which is for more than ten dogs, is limited to breeding and occasional showing of the applicant's dogs.

As shown on the plot plan submitted with the application, Applicant's Exhibit 2, two separate kennel enclosures are located adjacent to the dwelling and a third enclosure is proposed. The enclosures, identified as #1 and #2, house eight dogs and six dogs respectively. The proposed enclosure is for six dogs.

The distances noted on the plot plan between the enclosures and the property line are 500 feet for enclosure #1, 300 feet for enclosure #2, and 1,000 feet for the proposed enclosure. As the surrounding 126 acre parcel is undeveloped, the kennel facilities comply with the minimum distance requirements governing their location.

The kennel runs, which are locked to ensure security, are enclosed by chain link fencing, six feet in height. Applicant's Exhibit 3 shows that enclosure #1 has three runs with dog houses located within each run. Applicant's Exhibit 4 depicts six runs, with six dog houses abutting the runs, and a central servicing area. The enclosures are cleaned daily. One or two dogs are exercised on the premises at a time, but are not allowed to run free.

No commercial activities are proposed in conjunction with operation of the kennel, and no kennel identification sign is requested. As proposed, operation of the kennel will not generate significant vehicular traffic to and from the site.

Owners of three adjacent, but not adjoining, properties testified in opposition to the request. The testimony and evidence introduced was primarily directed at a past incident that may or may not have involved dogs owned by the applicant, and is not considered relevant to this case. Other concerns included the affects of noise of barking dogs upon residents of the adjacent properties and residential property values, and the possibility of the dogs running loose. However, no probative evidence substantiating particularly adverse affects that would result from operation of the kennel as now proposed was introduced.

APPLICABLE LAW

The property is zoned "A" Agricultural District as shown by zoning map 50B. (The property, identified as P.266 on the site location map, was divided from the surrounding 126 acre property, identified as P.72 after adoption of the zoning maps in 1978.)

Article 6 of Ordinance 1E contains the land use provisions for the "A" Agricultural District. Section 6.3, Conditional uses, (requiring Board authorization) paragraph (j) provides for kennels for more than ten dogs subject to twice the minimum distance requirements of Section 4.12, or 400 feet. From the record, including applicant's Exhibit 2, the kennel facilities comply with the minimum distance requirements.

Section 6.7 specifies the minimum lot area, lot width, and yard requirements for uses allowed in the "A" Agricultural District, including conditional uses. The kennel facilities comply with the minimum requirements specified in Section 6.7.

Article 17, Board of Appeals, Section 17.7, Limitations, guides and standards of Ordinance 1E govern the Board in considering conditional use requests.

Article 20, Definitions, Section 20.24, Kennel (Amended 2-15-68) of Ordinance 1E reads:

"Any building or structure and/or land used, designed, or arranged for housing, boarding breeding or care of more than three adult dogs kept or bred for hunting, sale, exhibition or domestic use or other domestic animals for profit, but not including those animals raised for agricultural purposes."

In accordance with the provisions of Article 17, Section 17.4.9, of Ordinance 1E, the Board extended the time to issue this decision.

REASONING

The Board finds no probative evidence substantiating any particularly adverse affects to adjacent properties that would result from operation of the kennel as proposed. The opponents' testimony regarding barking of dogs was inconclusive as to whether the dogs were solely the applicant's, and unpersuasive regarding the extent of any barking by the applicant's dogs that would result in depreciation of residential property values.

Accordingly, in considering the various factors specified in Section 17.7 of Ordinance 1E governing condition uses, the kennel, as proposed and conditional below, will not unduly affect the adjacent properties.

CONCLUSION

The Board hereby authorizes the conditional use for the kennel, subject to the following conditions:

1. The authorization is based on the plot plan identified as Applicant's Exhibit 2.
2. Operation of the kennel shall be limited to not more than fourteen adult dogs, one year of age or older, with a maximum of twenty-five canines at any time.

3. Due to the particular circumstances in this case, the conditional authorization is limited solely to the applicant, Ms. Mari Parker, and shall not inure to future lessees or owners of the property. This condition does not preclude application by a lessee or owner in future in accordance with the provisions of Ordinance 1E.

Sept. 20, 1989
Date

John Totura
John Totura, Chairman