

Case 3209

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

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

REQUEST: To increase the number of dogs allowed to be kept
on the property to 25, allow commercial grooming,
and a business identification sign previously
conditioned in Cases 2125 and 2980.

LOCATION: 125 Kate Wagner Road in Election District 7

BASES: Article 17, Section 17.2; Article 6, Sections
6.3(j) and 6.7; Ordinance 1E

HEARING HELD: July 27, 1989

On June 27, 1989, the Board of Zoning Appeals heard testimony and received evidence concerning the requests cited above. The application, testimony and evidence comprising the record of this case are hereby included by reference in this decision. Based on the record, the Board will deny the request to increase the number of dogs and the request for a business identification sign. The board will authorize the addition of commercial grooming to the boarding services offered by the kennel. The pertinent findings include the following facts:

FINDINGS OF FACT

The conditional use request for a kennel for ten dogs or less, presented to the Board of Zoning Appeals June 27, 1984, was conditionally authorized in its decision dated July 11, 1984. The second condition imposed by the Board in authorizing the conditional use prohibited commercial boarding, grooming or breeding in conjunction with the establishment of the kennel.

Following issuance of a Notice Violation by the Zoning Administrator regarding commercial boarding in violation of condition 2 in Case 2125, the applicants filed an appeal, and requested amendment of condition 2. (Board of Zoning Appeals Case 2980.) In its written decision dated August 5, 1988, the Board denied the appeal of the Zoning Administrator's Notice of Violation. However, condition 2 was amended by deleting the prohibition of commercial boarding in conjunction with the establishment of the kennel. The prohibitions of commercial grooming or breeding were continued. Consistent with the applicant's testimony that no business identification sign was proposed, the Board specified that no sign was authorized. In conjunction with the increase of the number of dogs that may be boarded, Mrs. Stewart now wishes to erect a business identification sign, 3 feet in height by 8 feet in length, advertising dog boarding. Mrs. Stewart also mentioned intention to erect a sign to assist identifying the property and driveway connection to the recently relocated Kate Wagner Road.

Mrs. Stewart noted that she owns and maintains four dogs on the premises. The dogs are included in the maximum of ten dogs permitted on the premises with authorization of the condition use for the kennel. Thus, the number of dogs that may be boarded at the kennel is six. In addition Mrs. Stewart provides care for stray dogs from time to time, which further reduces the number of dogs that may be boarded. The requested increase to twenty-five would allow up to twenty-one dogs to be boarded at one time. The facilities for boarding, presently consisting of six runs, would be increased to twelve runs by converting an existing structure. However, with a total of twelve runs and authorization of twenty-five dogs for the kennel, more than one dog would have to be placed in a run at the same time.

Concerns expressed by Mr. David Stair, an officer with the Animal Control Division of the Carroll County Humane Society included the necessity to have an adult present on the premises and responsible for the care of dogs brought to the kennel for grooming and boarding, erection of security fencing, and provision of separate runs for boarding of each dog.

Opposition expressed by neighbors to the requests cited the substantial increase in the number of dogs, the adverse affects of the dogs barking at night, vehicular traffic that would be generated by the kennel, the developing residential characteristics of the neighborhood, concerns for security, and depreciation of residential property values.

APPLICABLE LAW

As indicated on Zoning Map 51B, the property is zoned "A" Agricultural District. Article 17, Board of Appeals; Section 17.2, General powers, paragraph (b) of Ordinance 1E provides the board with the power to hear and decide applications involving conditional uses. Article 17, Section 17.7 governs the Board considering the conditional use request.

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

REASONING

The concerns of adjacent residents opposed to the requests are credible and convincing. The proposed increase of the number of dogs and enlargement of the kennel facilities would undoubtedly affect the peaceful enjoyment of adjacent residents, as well as the residential property values--contrary to the purpose and intent of Ordinance 1E. However, authorization of commercial grooming services without increasing the number of dogs or allowing the business identification sign appears to be reasonable, and without undue affects to the adjacent residents. A property identification sign, not larger than 1 foot by 2 feet in area, is allowed without obtaining a Zoning Certificate. (Article 14, Division II, Section 14.21(a), Ordinance 1E.) That type of sign would satisfy the need to identify the property without adversely affecting the adjoining properties.

CONCLUSION

Based on the record of this case, the Board hereby amends condition 2 of its decision in Case 2125 to read:

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

The requests to increase the number of dogs allowed to be kept on the property to twenty-five, and to allow a business identification sign are hereby DENIED.

Sept. 7, 1989
Date

John Totura
John Totura, Chairman