

Tax Map/Block/Parcel
No. 63-3-530

Building Permit/Zoning
Certificate No. 92-0056

Case 3661

**OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND**

APPLICANT: Carolyn Cornwell
3593 Nicholson Road
Westminster, Maryland 21157

REQUEST: A conditional use for a kennel for 10 dogs or less

LOCATION: 3593 Nicholson Road in Election District 4; Sheldon Acres subdivision, lot 1A recorded in Carroll County Plat Records in book 31, page 163

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

HEARING HELD: February 21, 1992

FINDINGS AND CONCLUSION

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 hereby authorizes the conditional use. The pertinent findings determining the Board's decision include the following facts:

The property is zoned "A" Agricultural District as depicted on zoning map 63A. The land use provisions for the district are expressed in Article 6 of the zoning ordinance. Kennels are allowed as conditional uses, which require authorization by the Board of Zoning Appeals. Kennels for not more than ten dogs are subject to the minimum distance requirements of Section 4.12, and the minimum lot area, lot width, and yard requirements specified in Section 6.7.

Mr. and Mrs. Cornwell own four golden retrievers that are kept as pets and sheltered in their home. The dogs are allowed to exercise outside of the home during the day within a fence enclosed yard. The two older dogs have been spayed or neutered, and the two younger dogs will be spayed or neutered soon. Mr. and Mrs. Cornwell's request is solely to comply with the provisions of the zoning ordinance. No commercial boarding, breeding, grooming or business identification sign is proposed.

For purposes of regulating land use, Section 20.24 of the zoning ordinance defines a kennel as:

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. (Amended 2/15/68)

In addition to authorization of the conditional use of the kennel, a zoning certificate for the kennel is required by the provisions of Section 16.2 of the zoning ordinance.

Concerns of adjacent residents expressed to the Board during the public hearing included restricting the authorization to four dogs; ensuring that the dogs' vaccinations and licenses be kept current; that the dogs wear collars and applicable tags; and, that the authorization not be transferrable to future owners of the property.

The Carroll County Animal Control law, Ordinance 26, as amended, is a separate ordinance of the county. The animal control law governs licensing of individual dogs and kennels, identification tags and collars for dogs, and vaccinations of dogs and cats against rabies. The Humane Society of Carroll County, Inc. is the designated licensing authority and is responsible for enforcement of the animal control law.

Due to the respective purposes of the zoning ordinance and the animal control law, the definitions of a kennel differ to satisfy the needs of each ordinance.

The number of dogs proposed to keep on the premises, and whether it would be appropriate to restrict authorization of the kennel to the applicants are questions of both land use and the animal control law. However, each ordinance must be administered separately.

In this case, the record indicates that authorization of the conditional use, as conditioned below, for the one additional dog constituting the kennel will be consistent with the intent and purpose of the zoning ordinance, and will not unduly affect the residents of the adjoining properties, the values of their properties, or the public interests.

Therefore, the Board hereby authorizes the conditional use for the establishment of the kennel, subject to the following conditions of authorization:

1. In accordance with the applicants' testimony, the kennel shall be limited to not more than four adult dogs.

2. No commercial boarding, breeding, or grooming of dogs shall be conducted in conjunction with authorization of the kennel.
3. No business identification sign is authorized for the kennel.
4. Due to the particular circumstances in this case, the authorization is specifically restricted to the applicant, Carolyn Cornwell, and her husband Mark Cornwell, and shall not inure to the benefit of heirs or assigns. This condition shall not preclude reapplication by others to this Board in the future in accordance with the provisions of the zoning ordinance.

Feb. 28, 1992
Date

John Totura
John Totura, Chairman

JDN/bmh/c3661dec
February 27, 1992