

**Tax Map/Block/Parcel
No. 70-5-187
Case 5543**

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

APPELLANTS: D. Jay Hyman and Lynne Schanzle
5905 Kim Court
Sykesville, Maryland 21784

ATTORNEY: Clark R. Shaffer

REQUEST: An appeal of the Zoning Administrator's decision to deny a request for a private kennel, and, in the alternative, request for a conditional use for a commercial kennel with 10 dogs or less and a variance from 200 ft. to 5 ft..

LOCATION: The site is located at 5905 Kim Court, Sykesville, MD 21784, on property zoned "A" Agricultural District in Election District 13.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-71 (12), 223-16 and 223-186 A

HEARING HELD: April 22 and May 26, 2010

FINDINGS AND CONCLUSION

On April 22 and May 26, 2010, the Board of Zoning Appeals (the Board) convened to hear an appeal of the Zoning Administrator's decision to deny a request for a private kennel, and, in the alternative, a request for a conditional use for a commercial kennel and a variance from 200 ft. to 5 ft. Based on the testimony and evidence presented, the Board made the following findings and conclusion:

The subject property is 4.3 acres (+/-) improved with a residence at 5905 Kim Court in Mt. Airy. It is located within a large lot residential subdivision. The Appellants are dog owners who are seeking the Board's confirmation that their keeping of up to 10 dogs at their home constitutes a private kennel which is an accessory use under the Code. The Appellants are semi-retired, and the keeping of the dogs is their hobby.

The Appellants have converted a portion of an existing 3-car garage on the property into a dog kennel and fenced a portion of the lot to enclose the dogs. The dogs are never left unattended when they are outside. The dogs are the Appellants' personal pets, and there is no boarding, grooming or keeping of other dogs occurring at the property. Occasionally, some dogs

OFFICIAL DECISION
CASE 5543
Page 2

are bred and puppies are sold, but due to its limited nature, this does not constitute a commercial breeding operation. No more than two litters of puppies per year are bred at the property and no other puppies are sold from there. These limited sales are made by word of mouth or via the internet, and no purchasers visit the property. The outdoor kennel is well screened from all the neighbors.

The property itself is a long rectangular shape, with short front and rear yards. The septic system is located in the front yard.

Under the circumstances, the Board respectfully reverses the decision of the Zoning Administrator and concludes that, despite the limited breeding of dogs at this location, this use constitutes a private kennel. The Animal Control Ordinance, (Chapter 81 of the Code of Public Local Laws and Ordinances) while not a provision of the Zoning Code, is instructive on this point. It clearly differentiates between a dog fancier, who breeds no more than two litters per year, and a commercial kennel, which is a business for boarding of other dogs, breeding more than two litters per year, and training. No boarding, grooming, training or breeding of other dogs occurs on the property. This is not a commercial, profit making breeding operation, but more akin to the occasional sale of puppies from a residence which doubtless occurs with great regularity throughout the County. In addition, the Appellants have agreed to abide by a set of conditions attached hereto (BZA Case 5543, Exhibit 3) which will reinforce the private nature of this kennel, and distinguish it from a commercial kennel.


As for the variance, the Board noted that although the lot is fairly large, its rectangular shape and the location of the septic system, as well as the natural existing screening for the kennel, severely limit the possible locations on the property for a private kennel. Under the circumstances, strict application of the distance requirements to this property would therefore result in unnecessary hardship and practical difficulty. Accordingly, the requested variance is granted.

June 16, 2010
Date

Charles H. Wheatley III
Charles H. Wheatley, III, Chairman

AGREED CONDITIONS
5905 KIM COURT
MT AIRY, MD. 21771
BZA CASE NO. 5543

1. The permit shall not be transferable.
2. There shall not be more than 10 adult dogs (i.e. dogs with permanent canine teeth) kept on the property.
3. No boarding, grooming, or letting of dogs for money shall occur.
4. No more than two litters per year shall be bred on the premises for the purpose of selling. *Puppies of their own breeding would only be kept on premises.*
5. No sign shall be allowed for the private kennel.


D. Jay Hyman


Lynne S. Schanzle

