

**Tax Map/Block/Parcel
No. 71-10-22
Case 5605**

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

APPLICANT: Happy Hounds Lodge, LLC
14004 Harrisville Road
Mount Airy, MD 21771

ATTORNEY: MacKenzie A. Kantruss
P.O. Box 619
Mount Airy, Maryland 21771

REQUEST: An application for a conditional use for a commercial kennel for up to 60 dogs (30 daycare/30 boarding) with no breeding, sales, or outdoor kennels and a variance from the required 400ft. to 300ft. to the curtilage area from a lot improved by a dwelling.

LOCATION: The site is located at 6245 Davis Road, Woodbine, on a property zoned "C" Conservation District in Election District 13.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-34 (B) and 223-16 (D)

HEARING HELD: July 27, 2011

FINDINGS AND CONCLUSION

On July 27, 2011, the Board of Zoning Appeals (the Board) convened to hear the request for a conditional use for a commercial kennel for up to 60 dogs (30 daycare/30 boarding) with no breeding, sales, or outdoor kennels and a variance from the required 400ft. to 300ft. to the curtilage area from a lot improved by a dwelling. Based on the testimony and evidence presented, the Board made the following findings and conclusion:

Happy Hounds Lodge (herein Applicant) is currently located in the town of Mt. Airy, in Frederick County, Maryland. It has operated at its present location for roughly two (2) years. The kennel offers short and long term boarding of dogs in addition to daily care. Currently the Applicant services anywhere from seven (7) to ten (10) dogs at any given time.

The Applicant is operated by three individuals currently, but employs four other individuals on a part time/as needed basis. The Applicant's operation currently sits upon four and seven tenths (4.7) of an acre of real property improved by a dwelling.

Due to an increase in interest in the Applicant's services, Applicant is seeking to expand the operations of their business and has contracted to purchase twenty-one (21) acres of real

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property that is improved by a dwelling located at 6245 Davis Road in Woodbine. Applicant has not yet purchased the property. The sale of said property is contingent upon the Board's decision on this application.

In addition to the application for a conditional use, the Applicant has applied for a variance. Due to the irregular shape of the parcel, the Applicant has requested of the Board a variance from the required 400ft. to 300ft. to the curtilage area from a lot improved by a dwelling.

The Applicant intends to further improve the existing single family home with the addition of a roughly 200'x400' fenced in paddock to be attached the house which is to act as a dog run for the animals proposed to be boarded at the home.

There is significant neighborhood opposition to the proposed use. The consistent complaint amongst those neighbors present at the hearing (including a Protestant, Laura Clark, by and through her attorney) is that there exists insufficient infrastructure to adequately service a use as heavy as the one proposed by the Applicant. The Protestant and other citizens present supplied testimony to the Board that the roads surrounding Davis Road will not be able to support an increased number of vehicles coming and going from the property from 60 dog owners. Furthermore, the Protestant and other citizens argued that the proposed use would be in disharmony with the neighborhood in general.

Notwithstanding the opposition presented, the Board finds that the proposed location for the Applicant's anticipated use is in the Conservation District, is an isolated, heavily wooded area, and is suitable and appropriate for the proposed use. Further, the Board finds that proposed use will have no greater adverse effects on the surrounding community than it would anywhere else in the County. That being said, the Board is cognizant of the fact that the allowance of sixty (60) dogs on the property could have an adverse effect on the neighborhood at large, particularly with regard to noise and traffic. Therefore the Board will limit the number of dogs permissible to a maximum of forty (40).

Finally, the Board finds that testimony of witness John Lemmerman, Land Surveyor, is persuasive and concurs that given the irregular shape of the parcel in question, there is no other suitable location on the property for the kennel and as such approves the requested variances as to avoid an undue hardship.

Based on the testimony presented the Board accordingly approved the request for a conditional use as submitted by the Applicant, subject to the following conditions:

1. Applicant is not permitted to expand the fenced area (as currently proposed) at any time.
2. Applicant shall not conduct business before 6:00 AM nor after 9:00 PM.

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3. Applicant shall take all measures necessary to mitigate any barking or other noise generated by the use.
4. Applicant shall take all measures necessary to mitigate reasonable complaints from the neighborhood.
5. Applicant shall be limited to forty (40) dogs on the property (20 boarding/20 day care).

8/18/2011
Date


Richard Simmons, Chairman

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Pursuant to Section 223-192C of the County Code, this approval will become void within 1 year from the date of this decision unless the use or variance is implemented. Please contact the Zoning Administrator at (410) 386-2980 to obtain a zoning certificate.

Decisions of the Board of Zoning Appeals may be appealed to the Circuit Court for Carroll County within 30 days of the date of the decision pursuant to Article 66B, Section 4.08 of the Annotated Code of Maryland Rules of Procedure.