

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Aaron Eugene Green
2907 Bird View Road
Westminster, Maryland 21157

ATTORNEY: V. Lanny Harchenhorn, Esq.
263 East Main Street
P.O. Box 542
Westminster, Maryland 21157

REQUEST: A request to amend conditions of authorization imposed in Case 2839 pertaining to the existing dog kennel classified as a non-conforming use on the premises.

LOCATION: 2907 Bird View Road in Election District 4

BASES: Article 17, Section 17.2; Ordinance 1E.

HEARING HELD: April 27, 1989

FINDINGS OF FACT

The record of this case is hereby included by reference in this decision. Based on the testimony, and evidence comprising the record, the Board will order amendment of the conditions of authorization specified in Case 2839. The pertinent findings include the following facts.

Establishment, location, and operation of the kennel was found to be a nonconforming use in case 2839. In that case, the Board authorized enlargement of the kennel facilities subject to certain conditions. The applicant, Mr. Aaron Green, now requests that:

- The kennel not be restricted solely to Beagles
- Increases from fifteen to fifty adult dogs, one year of age or older, and from a maximum of thirty five to one hundred canines at any time
- No security fence be required to enclosed the kennel area
- The requirement for landscape screening be eliminated

The requests to allow additional species of dogs is for the purpose of allowing fox hounds and coon hounds in addition to Beagles. However, removal of the condition limiting the species to Beagles will allow other types of dogs to be kept as pets or for use in hunting.

A animal control officer employed by the Animal Control Division of the Humane Society of Carroll County, Inc., testified that the dogs appeared to be in "good flesh," the metal drums used as dog shelters do not conform with the standards of the Humane Society, the security chains attaching the dogs to the individual shelters are acceptable, and the requested increases in adult dogs and maximum number of canines within the established area of the kennel are excessive and would promote spread of communicable disease. The testimony was persuasive, and the Board finds that the proposed increases are excessive and unreasonable.

With regard to the landscaping screening specified in condition 3 of the Board's decision in Case 2839, Mr. Green testified that white pine trees were planted on five acres, but that only twelve trees grew. He also indicated that he was advised that the area was not suitable for growing the trees. In addition, security fencing and landscape screening would conflict with farming practices.

In response to a suggestion by an adjoining property owner that the Board order relocation of the kennel area to minimize the affects of the dog barking upon residents of adjacent properties, the Board revisited the site on May 1, 1989 after the close of the Public Hearing on April 27, 1989. After viewing the area adjacent to Mr. Green's home and existing farm buildings, the Board concluded that relocation of the kennel area was impractical, and that as a nonconforming use the existing site was the most suitable location for the kennel.

ORDER

Based on the record of this case, the Board hereby **ORDERS** amendment of the conditions of authorization in Case 2839 as follows:

1. The condition limiting operation of the kennel solely to Beagles is deleted. The number of dogs kept on the premises is of significance, the species of dogs are of less importance.
2. Operation of the kennel shall be limited to fifteen adult dogs, one year of age or older, and a maximum of thirty five canines at one time. This is an increase of three adult dogs from the number of twelve adult dogs originally authorized. The maximum number of thirty five K-9s at any time is unchanged.
3. The requirements for a security fence to enclose the kennel area and the landscape screening are deleted. No enlargement of the kennel area established as a non-conforming use in Case 2839 is authorized.

4. The requirement for submission of a sketch of the kennel facilities, including the security fence and landscape screening is deleted. All dog shelters shall comply with the requirements of, and shall be subject to the approval of the Animal Control Division of the Carroll County Humane Society, Inc. The existing metal drums used for individual dog shelters are not acceptable shelters as described by Exhibit 1 of the Humane Society of Carroll County, Inc.
5. Operation of the kennel shall be subject to the requirements of the Carroll County Health Department. This condition is unchanged.
6. The applicant is directed to comply with all conditions of authorization not later than July 25, 1989, and to continue to comply thereafter as long as the kennel is maintained on the premises.

The applicant's attention is directed to Carroll County Ordinance #26, which is known as the Animal Control Ordinance and any unduly adopted amendment or ordinance pertaining to kennels for dogs.

May 23, 1989
Date

John Totura
John Totura, Chairman