

Tax Map/Block/Parcel
No. 28/29-18-212/295

Building Permit/Zoning
Certificate No. 90-2169

Case 3410

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

APPLICANTS: Robert E. Kegel and Jacqueline N. Kegel
980 Trevanion Road
Union Bridge, Maryland 21791

ATTORNEY: Clark R. Shaffer, Esquire
6 North Court Street
Westminster, Maryland 21157

REQUEST: A conditional use for a commercial recreation
area consisting of a dude ranch with an
activities building and an inn

LOCATION: 1775 Trevanion Road in Election District 2

BASIS: Article 6, Sections 6.3(o) and 6.7; Article 4,
Section 4.12; Ordinance 1E (The Carroll
County Zoning Ordinance)

HEARING HELD: August 23, 1990

On August 23, 1990, the Board of Zoning Appeals heard testimony and received evidence concerning establishment of a commercial recreation area consisting of a dude ranch with an activities building and an inn as a conditional use on the premises of 1775 Trevanion Road.

The Board visited the site August 20, 1990, prior to the public hearing.

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 approve the request, subject to conditions noted below.

The pertinent findings determining the Board's decision include the following facts:

FINDINGS OF FACT

The applicants, Mr. and Mrs. Kegel, own two properties located on Trevanion Road about one mile northwest of Clear View Road intersection. The smaller property, containing 28 acres, is located on the southwest side of Trevanion Road. The larger property, containing slightly more than 243 acres, is located on the northeasterly side of Trevanion Road. The land use of the properties is agriculture, consisting primarily of raising and

selling beef cattle and crops. The major farm buildings, including three tenant dwellings, are located on the larger parcel on the northwest side of the road.

Approximately 13 acres of the 243 acres is proposed for establishment of the commercial recreation area. Of that area, one acre must be allocated to each of the tenant dwellings. The site is surrounded entirely by Mr. and Mrs. Kegel's property, and none of the existing buildings are planned to be used in conjunction with the proposed use. A new activities building, including an inn with dining facilities, and a new show barn are planned for the site. Agriculture will continue to be the principal use of the properties.

The purpose of the dude ranch will be to foster appreciation and education pertaining to raising and selling cattle. Both family and individual activities will be available, including overnight camping and trail riding (horseback). However, most activities will be planned around the activities building and barn.

Camping will be limited to a particularly appropriate site area of about one acre. As proposed, the riding trails and camping site will be located outside of the principal area of the proposed facility.

The hours of activities will generally be typical of the agricultural operation. The acreage which is not part of the proposed use will be kept in an agricultural preservation district established about seven years ago. Application has been made to the state pertaining to sale of easement rights of the land limiting its use to agricultural purposes.

The commercial recreation area will comply with the minimum required lot area, width, yard, and distance requirements.

There is no intent to establish an amusement park, or county fair operation.

APPLICABLE LAW

Unless otherwise noted, Articles and Sections cited below are of Ordinance 1E.

As depicted on zoning maps 28B and 29A, the property is zoned "A" Agricultural District. The land use provisions for the district are specified in Article 6 of the zoning ordinance. Section 6.3, Conditional Uses (requiring Board authorization), paragraph (o) reads in relevant part:

Commercial...recreation areas...; provided such use shall be two (2) times the distance requirements specified in Section 4.12,....

Article 4, General Provisions; Section 4.12 states:

Any uses or buildings subject to compliance with this section shall be located at least 200 feet from:

- (a) any lot in an "R" District; or:
- (b) any lot of less than 3 acres occupied or intended to be occupied by a dwelling not located on the same lot as the said use or buildings; or,
- (c) any lot occupied by a school, church or institution for human care; or,
- (d) the curtilage area within a lot of 3 or more acres improved by a dwelling.

As noted above, the use will comply with the minimum distance requirements.

Article 17, Board of Appeals, Section 17.7, Limitations, Guides and Standards governs the Board in considering conditional use requests.

REASONING

The preamble of Article 6 specifies:

(The purpose of this district is to provide for continued farming activities, conserve agricultural land, and reaffirm agricultural uses, activities and operations as the preferred and dominant use of land within the District. While relatively small existing hamlets, villages and residential communities appear within, as do occasional dwellings, and other uses, the District is primarily composed of lands which, by virtue of their highly productive soils, rolling topography and natural beauty, are the very essence of the County's farming heritage and character. A substantial portion of the residential development in the County has previously taken place in the Agricultural District. This has the effect of taking agricultural land out of production and creating a demand for public facilities and services - roads, water and sewerage, schools, police and fire protection - in areas where provision for such additional services and facilities is not consistent with the purpose of the Agricultural District. The intent of this article is to recognize the need for and appropriateness of very limited residential development in the Agricultural District, but to prohibit residential development of a more extensive nature. It is the further purpose of this

district to maintain and promote the open character of this land as well as to promote the continuance and viability of the farming and agri-business uses.)

Section 6.1, Agriculture Preferred Use, states:

Agriculture is the preferred use in the Agricultural District. All agricultural operations shall be permitted at any time, including the operation of farm machinery and no agricultural use shall be subject to restriction because it interferes with other uses permitted in the District.

With regard to horseback riding and the riding trails as proposed, Section 6.2, Principal Permitted Uses, paragraph (g) specifies, "Riding academies, livery (boarding) stables, subject to the distance requirements specified in Section 4.12."

Both the horseback riding and camping activities are considered to be accessory uses, which may be customarily incidental--and are in this case--to the conditional use for the commercial recreation area requested.

With the activities building, inn, and show barn, the character of the commercial recreation area will be similar to a country inn, with recreational activities including camping and horseback riding available.

Accordingly, the Board finds that the commercial recreation area, as proposed and subject to the conditions imposed below, will be an appropriate use in the "A" Agricultural District, compatible with the intent of the provisions of Section 17.7 regarding conditional uses, and will not unduly affect adjoining properties or the public interest.

CONCLUSION

The Board hereby authorizes the request, subject to the following conditions which are imposed in order to promote the intent and purpose of the zoning ordinance:

1. Establishment of the commercial recreation area shall be subject to approval of a site development plan, including on-site parking, by the zoning administrator. The applicants shall submit a copy of the approved plan to the Office of Administrative Hearings for incorporation in the file of this case.

2. Camping, solely by paying guests, shall be restricted to the general area indicated on the Applicants' Exhibit 1, and shall be limited to tents only.

Recreation vehicles or mobile homes shall not be permitted in the camping area.

3. The applicants' attention is directed to the fact that the use is subject to the requirements of the Carroll County Health Department.

Sept. 18 1990
Date

John Totura
John Totura, Chairman

JDN/bmh/c3410dec
September 18, 1990