

Tax Map/Block/Parcel
No. 11-20-200

Building Permit/Zoning
Certificate No. 91-1496

Case 3575

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Curtis D. Meadows
3061 Kump Station Road
Taneytown, Maryland 21787

REQUEST: A conditional use for a kennel for not more than ten dogs

LOCATION: 3061 Kump Station Road in Election District 3

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

HEARING HELD: July 26, 1991

On July 26, 1991, the Board of Zoning Appeals heard testimony and received evidence concerning the conditional use request for a kennel for not more than ten dogs on the premises of 3061 Kump Station Road.

The Board visited the site July 24, 1991.

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 authorize the request.

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

FINDINGS OF FACT

As depicted by the site location map used in this case, the 28.89 acre property has frontage on both Kump Station Road and Stone Road. Vehicular access is from Kump Station Road. The property is improved with a single family dwelling, a barn, and a kennel located adjacent to the barn. Mr. Meadows purchased the property in 1974. The kennel is east of the barn and probably in excess of 300 feet from the southeasterly property line. The distances to the other property lines are greater. The kennel is not visible from either Stone Road or Kump Station Road.

Mr. Meadows is particularly interested in raising and training registered AKC Beagles for field trial competition and wishes to keep up to ten adult Beagles in the kennel. Although Mr. Meadows conducts field training elsewhere, this property has also been used for training. The area of the property used for

training is visible from Stone Road, and several nearby residents object to the dogs barking during field training. The characteristics of the dogs' barking are particularly important in judging the qualities of each dog. Apparently, the barking is only annoying to several neighbors during field training.

Mr. Meadows indicated that the dogs would be bred solely for replacement of the older dogs, with possibly one litter a year.

No commercial boarding, breeding, grooming, or business identification sign is proposed.

APPLICABLE LAW

Articles and Sections cited below are of Ordinance 1E.

Article 20, Section 20.24 (Amended 2/15/68) 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.

The site and adjacent properties are zoned "A" Agricultural District as depicted on zoning maps 11A and 20A. The land use provisions for the district are expressed in Article 6. Section 6.3, Conditional Uses (requiring Board authorization), subsection (j) reads in relevant part:

Kennels...; provided such use shall be subject to the distance requirements specified in Section 4.12,....

Section 6.7, Lot Area, Lot Width and Yard Requirements, specifies the following minimums for conditional uses:

Lot area - 3 acres
Lot width - 200 feet
Front yard - 40 feet
Side yards - 30 feet each
Rear yard - 50 feet

Article 4, General Provisions; Section 4.12, Distance Requirements (Amended 7/5/77) 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.

Article 17, Board of Appeals; Section 17.7, Limitations, Guides and Standards, governs the Board in deciding conditional uses.

In addition, the Board must consider decisions of the courts. In the case of *Schultz v. Pritts*, 291 Md. 1, at 22,23 (1981) the court wrote:

We now hold that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. (Citations omitted.)

As a matter of explanation, special exceptions as cited within the state enabling act for zoning and planning, Article 66B of the Annotated Code of Maryland, are also known and referred to in Ordinance 1E as conditional uses. (Section 20.09.)

REASONING

Mr. Meadows has kept up to three adult Beagles on the property since moving there in 1974. He has also field trained dogs there in the past. Barking of the dogs during field training has been more of a problem in the past to several neighbors than keeping the dogs in the kennel. Possibly, the dogs do not bark in the kennel, or the neighbors do not hear the dogs barking in the kennel, or such barking is not as annoying to them as when the dogs are being trained in the field. However, the kennel is the issue before the Board, not the field training, and there is no probative evidence that the kennel, as requested and authorized below, will unduly affect the residents of adjacent properties, or the values of those properties.

For purposes of clarification, the Board does not consider a dog to be adult until one year of age. This policy provides adequate time to determine if a dog will have the characteristics necessary for showing or field trial competition, and provides time for the dogs to be judged properly.

CONCLUSION

The conditional use for the kennel complies with the provisions of the zoning ordinance and the standard expressed in *Schulz v. Pritts*.

However, in order to promote the intent and purpose of the zoning ordinance, the Board hereby imposes the following conditions of authorization:

1. In accordance with the applicant's testimony, establishment and operation of the kennel shall be limited to not more than ten adult Beagles.
2. No commercial boarding, breeding, or grooming are authorized in conjunction with establishment and operation of the kennel. This condition shall not preclude one litter per year for replacement purposes.
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, Curtis D. Meadows, 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.

Aug. 8, 1991
Date

JDN/bdc/C3575DEC
August 7, 1991


John Totura, Chairman