

Tax Map/Block/Parcel  
No. 24-21-16

Building Permit/Zoning  
Certificate No. 94-4116

Case 3993

OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND

**APPLICANTS:** Mark B. Laird and Valerie M. Laird  
4222 Maple Grove Road  
Hampstead, Maryland 21074

**REQUEST:** A conditional use for a kennel for not more than ten dogs and a variance reducing the minimum required rear yard of 50 feet to 15 feet ±, as presently existing

**LOCATION:** 4222 Maple Grove Road in Election Districts 6 and 8

**BASIS:** Article 6, Sections 6.3(j) and 6.7; Article 15, Section 15.5.4.(d); Ordinance 1E (The Carroll County Zoning Ordinance)

**HEARING HELD:** January 24, 1995

FINDINGS AND CONCLUSION

The application, testimony and evidence comprising the record of this case are hereby included by reference in this decision. Based on the record and in accordance with the state Open Meetings Act, the Board authorized the conditional use for the kennel, but denied the variance for reduction of the minimum required rear yard of 50 feet.

The pertinent findings determining the Board's decision include the facts that the 34.8 acre property is improved with the applicants' home, a large barn and at least one smaller building. The purpose of the request is to allow the applicants to keep four adult dogs on the property, using a previously constructed kennel structure, approximately 12 feet in width by 30 feet in length. The structure, located adjacent to the dwelling, is approximately 15 feet from the rear property line and complies with the yard requirements governing accessory buildings. However, the structure does not comply with the minimum rear yard requirement of 50 feet for use as a kennel, as defined in the zoning ordinance, for more than three adult dogs.

Although the dogs are considered to be pets, since 1989 an average of slightly less than one litter of puppies a year has been bred for sale. One of the dogs is normally kept within the applicants' home at night.

Although several adjacent property owners expressed concerns regarding authorization of the kennel, primarily because of barking at night, others testified that barking did not disturb them.

In considering conditional use requests, the Board is governed by the provisions of Article 17, Section 17.7 of the zoning ordinance, as well as the standard governing conditional uses--also known as special exceptions--established in the decision of *Schultz v. Pritts*, 291 Md. 1, 22 (1981), which states:

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.)

From the record, the Board is convinced that authorization of the kennel to allow four adult dogs to be kept on the property will not unduly affect the residents of adjacent properties, the values of those properties, or public interests.

However, there is no evidence of either practical difficulty or unreasonable hardship in the use of the property that justifies authorization of the requested variance. In fact, the variance would apparently be nothing more than a matter of convenience to the applicants in the use of the property. Accordingly, the Board must deny the requested variance.

2-14-95  
Date

Claude R. Rash  
Claude R. Rash, Chairman