

**Tax Map/Block/Parcel
No. 21/17/181**

**Building Permit/Zoning
Certificate No. 99-1319**

Case 4407

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

APPLICANT: Patricia A. Herschman
3116 Littlestown Pike
Westminster, Maryland 21158

REQUEST: A request for a conditional use for a kennel for less than 10 dogs, a variance from the distance requirements of Section 4.12 of Ordinance 1E and a variance from the lot size requirements of 3 acres to .51 acres.

LOCATION: Located at 3116 Littlestown Pike on property zoned "A" Agricultural District in Election District 3.

BASES: Article 4, Section 4.12 and Article 6, Section 6.3(j); Ordinance 1E (The Carroll County Zoning Ordinance)

HEARING HELD: June 21, 1999

FINDINGS AND CONCLUSION

On June 21, 1999, the Board of Zoning Appeals (the Board) convened to hear the application of Patricia A. Herschman for a conditional use for a kennel for less than 10 dogs, a variance from the distance requirements of Section 4.12 of Ordinance 1E and a variance from the lot size requirements of 3 acres to .51 acres.

The applicant, Ms. Patricia A. Herschman, appeared before the Board and presented the following testimony. Since May, 1998, she has been renting the property at 3116 Littlestown Pike from Richard K. Grooms, Jr. She currently has seven adult Golden Retrievers at the location including two males and five females. Of the seven dogs, three are older and are no longer being bred. Two are being bred, and two are show dogs. Her male dogs are not used for breeding. She stated that she has bred and shown dogs for 25 years as a hobby and is known for breeding some of the top dogs in the world. She breeds approximately one litter of puppies per year. She currently maintains a waiting list for Golden Retriever puppies. The property she is renting does not meet the three acre requirement of Ordinance 1E for housing more than three dogs. She was not aware of the zoning law prior to moving to the location. When she is at work, the dogs are kept in the house. The Applicant stated that they are outside for no more than 20 minutes a day when she is at home and all dogs are taken into the house at dusk. The outside run is approximately a 15 foot by 15 foot area and it contains removable cement patio blocks. The area between the run and the house, approximately (40 feet by 50 feet) contains a 6 foot high fence and area is grassed. The dogs have escaped from the fenced area two times. She has no plans for the public boarding of dogs.

Ms. Joann Pilachowski, Ms. Joan Prokop, Ms. Michelle Thomas, Ms. Christine Eckard, and Mr. Charles Hann testified in opposition to the request. Common concerns included: 1) The dogs could escape from the fenced area and cause injury to children in the area; 2) The property is approximately 50 feet in width and too close to adjoining properties for the 7 dogs; 3) Odors from the dogs are recognizable; 4.) The dogs are left outside longer than 20 minutes a day; 5.) Unsanitary conditions may result with the seven dogs being kept in a small home; 6.) The kennel may result in a decrease in the property values of nearby homes and a change in the character of the residential neighborhood; and 7) The applicant may change the breed of dogs to something less docile, such as a Rottweiler.

The Zoning Ordinance (1E) defines "kennel" as "(p)roperty which is used or designed for keeping, boarding, breeding, training or sale of more than three (3) dogs or other canines that are more than one year old". Kennels are permitted in the Agricultural zone as conditional uses. A conditional use must be granted unless the adverse effects at this particular location would be greater than the adverse effects ordinarily associated with the particular use. Based on the testimony of the Applicant and her neighbors, the Board finds that the proposed use is located in a cluster of homes within the Agricultural zone. Atypical of the Agricultural zone, this area features long, compact residential lots (1/2 acre or smaller) with narrow widths. As a result, the homes are in very close proximity to one another. The Board finds that the operation of a kennel (even a well run kennel) at this location is not appropriate due to the small lot sizes, and will result in noise, odors, and occasional escapes which will be greater her than in the typical Agriculturally zoned area. In addition, the operation of a kennel here is inconsistent with the existing uses in the neighborhood.

The applicant is also seeking a variance from the lot size requirements and distance requirements of Ordinance 1E, Article 4, Section 4.12 and Article 6. A variance may be granted when it will not be contrary to the public interest, and where, owing to conditions peculiar to the property and not the result of actions by an applicant, the literal enforcement of the Ordinance would result in practical difficulty or unreasonable hardship. The Board finds that any hardship in this case to the Applicant was self inflicted, and resulted from her unfamiliarity with the law rather than an unfair application of the law. In addition, a variance in this case would be contrary to the public interest. This conclusion is based upon the Applicant's own testimony as well as the character of the existing neighborhood and its unusual lot sizes. The Board hereby denies the requests of Patricia A. Herschman for a conditional use for a kennel for less than 10 dogs, a variance from the distance requirements of Section 4.12 of Ordinance 1E, and a variance from the lot size requirements of 3 acres to .51 acres.

7/2/99
Date

Karl V. Reichlin
Karl V. Reichlin, Chairman

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June 25, 1999