

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

APPLICANT: Bruce Myers
4305 Old Taneytown Road
Taneytown, MD 21787

ATTORNEY: N/A

REQUEST: A request for a conditional use for the expansion of a private kennel to 20 dogs (previously approved by the Zoning Administrator in ZA-1197, April 2010) and a variance from the required 400 ft. to approximately 292 ft. to the curtilage area of the Dean Kone property.

LOCATION: The site is located at 4305 Old Taneytown Road, Taneytown, MD 21787, on property zoned "A" Agricultural District in Election District 1.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-71 (12) and 223-16 (D)

HEARING HELD: September 26, 2013

FINDINGS AND CONCLUSION

On September 26, 2013, the Board of Zoning Appeals (the Board) convened to hear the request for a conditional use for the expansion of a private kennel to 20 dogs (previously approved by the Zoning Administrator in ZA-1197, April 2010) and a variance from the required 400 ft. to approximately 292 ft. to the curtilage area of the Dean Kone property. Based on the testimony and evidence presented, the Board made the following findings and conclusions.

Bruce Myers testified as the applicant. He stated that his kennel was really a dog rescue operation. His kennel was inspected by the Carroll County Humane Society. He did not sell dogs. However, he accepted donations for the dogs that were adopted by individuals. That donation usually did not cover the cost of veterinarian services, spading and neutering, and necessary shots. He noted that his operation was not a money making one. He would accept dogs from kill centers. The dogs were scheduled to be euthanized in a short period of time. If he had not reached his ten dog limit, then he would rescue the dog about to be killed. Most of the dogs he rescued weigh less than fifty pounds. He brings the rescued dogs into compliance with the proper shots and makes them ready to become adoptable.

Some dogs are unadoptable. Dogs that chase and do not like cats are harder to adopt. Dogs that do not get along with children are harder to adopt. Dogs that have a bite history may not be adoptable. Mr. Myers keeps unadoptable dogs with him. All of the dogs he has, his

personal dogs and any unadoptable dogs, are counted toward his ten dog limit. The dogs are kept inside of the house at night. However, the dogs are outside during the daytime. The dogs usually go outside at 6:00 a.m. and come into the house for the night at 9:00 p.m. Mr. Myers has a fence around his house. He has a privacy fence on a portion of his property. He also has invisible fencing for the dogs. He planted 120 cypress trees when he learned that the Carroll Vista community would be coming. He has adopted out a total of 176 dogs in the three years that he has been in business. In a good month his operation can get from five to ten dogs adopted.

There is a gap in his tree line due to a drainage easement. The gap is between his house and the Carroll Vista community. However, he is still attempting to find some appropriate things to plant in that area.

Mr. Myers did not have the house built for him. His house is located on eleven acres. He stated that he had spoken to his neighbor, Dean Kone, about his request to increase his limit of dogs to twenty. Mr. Kone did not have a problem with the increase. Mr. Kone would have come to the hearing to inform the Board of his position, but Mr. Myers did not believe his testimony would be needed. (The variance requested was based on the distance from the kennel to Mr. Kone's property.)

Mr. Myers testified that there were two kennels near his home. He indicated that some of the barking heard from others came from these kennels and not his dogs.

Carole Pryor testified as a neighbor who lived in the Carroll Vista community, a community of 400 plus homes. She was in opposition to the increase in dogs for the operation. She spoke on her behalf and for the benefit of other similarly situated people. She stated that the 10 dogs were already a nuisance. Some residents do not open windows on one side of their house due to hearing barking. She requested sound barriers if the Board approved the applicant's request. She acknowledged that many of the residents at Carroll Vista have cats and dogs.

Butch Colby testified that he was neither for nor against the request for the increase in the number dogs. He believed that the rescue of dogs was a good and valuable public service. He stated that one third of the residents at Carroll Vista have dogs or cats.

John Macchio testified as a witness in opposition to the request for an increase in the number of dogs. The dogs could be seen and heard during the fall and winter seasons. The dogs frequently congregate as a group and bark as a group. The barking was considered disturbing and a nuisance at times.

The record also included numerous letters from nearby residents in opposition to the applicant's request. Most of the letter was identical or very similar with the exception of the signature being different. The letters were similar to the complaints raised by the people who testified.

Based on an September 9, 2013 letter from Philip R. Hager, Secretary, Planning & Zoning Commission and an September 5, 2013 memorandum from Scott E. Graf, Comprehensive Planner, Bureau of Comprehensive Planning, the property was consistent with the policies and recommendations contained in the Carroll County Master Plan, the Carroll County Master Plan for Water & Sewerage, and other functional plans. The request was also compatible with the vision and goals for the area. The Board accepted and agreed with this finding.

The Board was convinced that authorization of the request with regard to a conditional use was consistent with the purpose of the zoning ordinance, appropriate in light of the factors to be considered regarding conditional uses of the zoning ordinance, and would not unduly affect the residents of adjacent properties, the values of those properties, or public interests. Based on the findings of fact made by the Board above, the Board found that the proposed project would not generate adverse effects (i.e. noise, traffic, dust, water issues, lighting issues, property depreciation, etc.) greater here than elsewhere in the zone. For all of the reasons that the Board granted the conditional use, the Board also granted the requested variance.

9-30-13
Date


Harvey Tegeler, Chairman

Decisions of the Board of Zoning Appeals may be appealed to the Circuit Court for Carroll County within 30 days of the date of the decision pursuant to Article 66B, Section 4.08 of the Annotated Code of Maryland Rules of Procedure.

Pursuant to Section 223-192C of the County Code, this approval will become void unless all applicable requirements of this section are met. Contact the Office of Zoning Administration at 410-386-2980 for specific compliance instructions.

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