

Tax Map/Block/Parcel
No. 46-20-88 Lot 65
Case 5600

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPELLANT: Constance Farley
705 William Avenue
Westminster, MD 21157

ATTORNEY: N/A

REQUEST: An appeal of the Zoning Administrator's decision regarding a private kennel as an accessory use.

LOCATION: The site is located at 705 William Avenue, Westminster, on property zoned "R-10,000" Residential District in Election District 7.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-188 B

HEARING HELD: July 26, 2011

FINDINGS AND CONCLUSION

On July 26, 2011, the Board of Zoning Appeals (the Board) convened to hear an appeal of the Zoning Administrator's decision regarding a private kennel as an accessory use. Based on the testimony and evidence presented, the Board made the following findings and conclusion:

The Appellant resides at 705 William Avenue in the "R-10,000" Residential Zone. The neighborhood consists of closely situated residences on small ¼ acre lots. The Appellant owns 3 (three) dogs. She wishes to keep another two (2) dogs at the home, for a total of 5 (five). The dogs are four (4) beagles and one (1) "blue heeler" cattle dog. The home is a three bedroom rancher with a finished basement.

The house is equipped with a dog door which allows the dogs to enter and exit the house at will. The front of the property facing the street has been fenced with a solid stockade style fence to create a small dog run area. The rear yard has a swimming pool which has fallen into disrepair and which takes up a large portion of the useable yard space.

Private kennels with more than three (3) dogs are permitted as an accessory use in the "R-10,000" zone. Accessory uses are uses of land which are customarily incidental to and secondary to the principal use of the property. In analyzing this case, the Board is guided by the criteria set forth in § 223-191 of the Code of Public Local Laws and Ordinances, which will be discussed later.

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There was significant opposition to the private kennel. Numerous neighbors appeared and testified as to constant uncontrolled barking of the five dogs at the property. Others testified that the dogs frequently escape from the yard and run through the neighborhood. A representative from the County's Animal Control Office testified that he visited the property on numerous occasions, and found the dogs outside and unattended, often without sufficient water. No neighbors testified in support of the Appellant. One neighbor whose house is for sale, testified that the sale fell through due to the situation with the dogs.

The Board, after hearing the evidence, applied the standards set forth in § 223-191. The Board considered the noise generated by the barking dogs at all hours of the day and night, the number of dogs, the frequency of the dogs being unattended outdoors, and the effect of this number of dogs on the peaceful enjoyment of the property. In addition, the Board considered the small size of the Appellant's lot and the close proximity of the neighbors. Based on the above, the keeping of five (5) dogs on a small sized lot in such a densely populated area is not a use "customarily incidental" to the residence. What may be appropriate on a larger lot in a less populated area is not appropriate here. The Board concluded, after applying, § 223-191, that the appeal should be Denied.

8/18/2011
Date


Richard J. Simmons, Chairman

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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.