

Tax Map/Block/Parcel
No. 22-17-190

Building Permit/Zoning
Certificate No. 96-1524

Case 4108

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANTS: Stephanie Martucci and Peter Martucci
1322 Bachmans Valley Road
Westminster, Maryland 21158

ATTORNEY FOR
PROTESTANTS: Matthew H. Azrael, Esquire
101 East Chesapeake Avenue
Fifth Floor
Baltimore, Maryland 21286

REQUEST: A conditional use request for a kennel for ten or less dogs

LOCATION: 1322 Bachmans Valley Road(Md. Rt. 496) in Election District 6

BASIS: Article 6, Sections 6.3(j) and 6.7; Ordinance 1E

HEARING HELD: June 28, 1996

FINDINGS AND CONCLUSION

On June 28, 1996, a public hearing in the above entitled case was held wherein the applicants sought a conditional use for a kennel of not more than ten dogs as authorized by Section 6.3(j) of the zoning ordinance. The applicants seek to be able to breed and sell show dogs, i.e. Labrador Retrievers.

Presently, the applicants keep three adult dogs on the premises for breeding purposes, two females and one male. The applicants indicated that they do not breed the bitches until they reach the age of two years. Since the two bitches now in service are getting old and will soon not be able to be bred, suitable replacements are sought. The resulting increase in dog population precipitated this application.

The dogs are kept in the restored barn. The whelping of the pups takes place in the building next to the house. The pups are sold at five weeks and delivered at 8 weeks of age. Since the beginning of the operation, no puppy has remained longer than the eight weeks on the premises. The applicants seek to replace the bitches and to be able to increase the number of dogs they now breed. The only noticeable elements of this operation were the exterior runs which were noticeable from a neighbor's property and the occasional sound of a dog barking. The applicants seek to keep all elements of the operation the same except for the increase in adult dogs.

The lot area and distance requirements for such a conditional use are outlined in Sections 6.7 and 4.12 of the ordinance. The proposed use as depicted on the plot plan [Exhibit No. 15] complies with all the area requirements. The applicants testified and the Board accepts the testimony that the proposed increase will not cause any adverse effects on the adjoining properties or in the community. In so doing, the Board does not accept the testimony of the protestants that the use will have an adverse effect on the property values. While marketability of a property may be affected by its proximity to a kennel, such is not the case here. Marketability is affected when the use is adverse to the surrounding neighborhood. The subject property and the use proposed are assets to the neighborhood and can only serve to increase the property values of adjoining properties. The Board finds that the proposed use may cause an increase in the noise level. However, the increase in the noise level can be minimized with appropriate conditions.

Therefore, the Board grants the request subject to the following conditions:

1. There shall be no commercial boarding or grooming of dogs other than necessary for the breeding operation.
2. The total number of adult dogs shall not be more than 8.
3. The puppies must be kept in the building near the residence.
4. To minimize noise, the kennel is limited to the barn building. Exterior runs must be screened. The screening must consist of the following:
 - (a) The exterior runs must have installed a visual screen riser, 2 feet in height; the purpose of which is to insure that the dogs do not see other dogs and thereby reduce the barking.
 - (b) Suitable landscaping consisting of 75% evergreen trees and 25% deciduous trees must be installed along the southeast and southwest sides of the barn to minimize the noise.

7/3/96

Date

Karl V. Reichlin
Karl V. Reichlin, Chairman