

**Tax Map/Block/Parcel
No. 46-15-100**

Case 5463

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

APPLICANT: Mark J. & Ellen A. Dorenfeld
4 Sunday Court
Reisterstown, Maryland 21136

ATTORNEY: Isaac Menasche

REQUEST: A conditional use for a dog kennel for boarding, grooming, daycare¹ and obedience training for a maximum of 75 dogs with a small accessory retail space for pet products.

LOCATION: The site is located at 2616 Cape Horn Road, Westminster, MD 21157, on property zoned "A" Agricultural District in Election District 8.

BASIS: Code of Public Local Laws and Ordinances, Section 223-71 A (12)

HEARING HELD: January 27, 28, & 29, 2009

FINDINGS AND CONCLUSION

On January 27, 28, & 29, 2009, the Board of Zoning Appeals (the Board) convened to hear a request for a conditional use for a dog kennel for boarding, grooming, daycare and obedience training for a maximum of 75 dogs with a small accessory retail space for pet products. Based on the testimony and evidence presented, the Board made the following findings and conclusion:

The Applicant is the contract purchaser of 48 acres of land located off of Cape Horn Road in the vicinity of Maryland Route 482. The property is zoned "A" Agricultural. The Applicant intends to locate a commercial dog kennel for up to 75 dogs on the property. The property is improved with a two-story home and a barn with a total floor area of 1,875 square feet. In addition, there are horse paddocks on the property, which was previously used to board horses. The property is served by a well and septic system. Dog kennels with more than 10 dogs are a permitted use in the "A" Agricultural zone with a conditional use permit.

¹ The request for daycare was withdrawn during the hearing.

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The Applicant hopes to reside on the property. He intends to renovate the existing barn to convert it to an office, grooming area, and kennel for 14 dogs. In addition, he intends to construct a 2-story pole building on the property to house 32 additional dogs. The second floor will be used exclusively for storage. In the future, another one-story building is to be erected to house an additional 30 dogs. The two new buildings will have outdoor runs for the dogs on each side. There will be no outdoor runs in the existing barn.

Proposed hours of operation for the kennel are Monday through Friday 8:00 a.m. to 6:00 p.m. and Saturdays from 8:00 a.m. to 3:00 p.m. The kennel will be closed on Sundays. The Applicant will work at the kennel. In addition, to the boarding operation, the Applicant hopes to offer dog grooming services. He anticipates 20 grooming appointments per week. Also, the Applicant will conduct dog obedience classes in the evening. These sessions will be held two times per week. The sessions will run for approximately one hour and will have 15 participants. There will also be an outdoor fenced in play area for periodic use by individual dogs throughout their stay. All dogs would be taken indoors at 6:00 p.m.

The Applicant intends to use soundproofing materials within the buildings to lessen possible barking noise. In addition, an architect engaged by the Applicant has recommended that an earthen berm be constructed around the kennel buildings to absorb noise. A septic system will be installed for dog waste. A new well may be needed for the kennel operation.

A traffic expert engaged by the Applicant testified that, based upon traffic counts conducted at a neighboring kennel on January 15, 2009, the Applicant's kennel would generate 8 morning peak hour customer trips and 11 afternoon peak hour customer visits. Customers would drive to the site via a driveway connecting to Cape Horn Road.

Several neighbors appeared in opposition to the proposed kennel. One testified that their property line is 3 feet from the kennel's driveway and that customer traffic would invade their privacy. Other neighbors testified that they already hear dog barking noise from the "Lucky Stars" kennel, which is a 125 dog kennel located approximately ½ mile from the proposed kennel. Several residences surround the subject property. Some homeowners testified about an existing storm water runoff problem from the long driveway serving the subject property, which they believe would be exacerbated by the proposed berm. Other neighbors noted that the Applicant's traffic impact report was based on trips occurring in January, despite the fact that the Applicant testified that the kennel will be busy over the summer and over the holidays, and that the winter was a down time.

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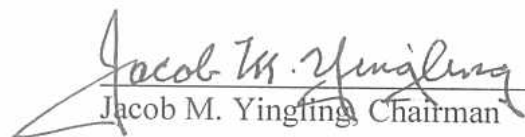
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In considering conditional use cases, the Board must determine whether there are facts and circumstances that show that the proposed use at the particular location would not have any adverse effects above and beyond those inherently associated with such a use irrespective of its location in the Agricultural zone. In so doing, the Board must apply the standards set forth in Section 223-191 of the Code. These considerations include:

- A. The number of people residing or working in the immediate area concerned.
- B. The orderly growth of a community.
- C. Traffic conditions and facilities.
- D. The effect of the proposed use upon the peaceful enjoyment of people in their homes.
- E. The conservation of property values.
- F. The effect of odors, dust, gas, smoke, fumes, vibrations, glare, and noise upon the use of surrounding property values.
- G. The most appropriate use of land and structures.
- H. The purpose of this chapter as set forth herein.
- I. Type and kind of structures in the vicinity where public gatherings may be held, such as schools, churches, and the like.
- J. Compatibility
- K. Public convenience and necessity.

The Board found that the proposed use at this location will have adverse impacts above and beyond those normally associated with such a use. Specifically, the Board notes the close proximity (1/2 mile +/-) of the property to another dog kennel. The other kennel has been approved for 125 dogs, and neighbors testified credibly that barking from the existing kennel is already disturbing the peaceful enjoyment of their homes, such that windows must be shut to alleviate the noise. It is logical to conclude that even more barking would emanate from the new proposed kennel which will further interfere with the neighbors' peace and quiet. In addition, the neighbors also testified that storm water runoff from the top of the hill, particularly the driveway, is already a problem, and one neighbor's pool was contaminated by the runoff at one point. A berm will worsen this problem. The surrounding houses are served by well and septic, and the evidence presented by the Applicant regarding the proposed kennel's impact on the neighbors water wells was sketchy at best. The proposed use was found to be incompatible with the surrounding residential uses, due to dog noise and traffic from customer visits. In short, the noise, traffic, and intrusion into the existing neighborhood would be worse here than elsewhere in the Agricultural zone. Accordingly, the conditional use request was denied.

 2/18/09
Date



Jacob M. Yingling, Chairman