

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

JANIS NEILANDS
3260 KAETZEL ROAD
ROHRERSVILLE, MD 21779
Appellant

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Appeal No. AP2008-042

OPINION

This action is a request for a special exception to establish and continue operation of an existing kennel, runway, and boarding facility and a variance from the minimum 400' right side yard setback to 150'. The subject property is located at 3260 Kaetzel Road, Rohrersville, Maryland, is owned by the Appellant, and is zoned Preservation.

A public hearing was held before the Board on August 27, 2008. The Appellant offered evidence and testimony in support of the appeal. No opposition was presented to this appeal.

FINDINGS OF FACT

The following findings of fact are made by the Board, based upon the testimony given and all data and other evidence presented, and upon a study of the specific property involved, as well as the neighborhood:

1. Appellant seeks permission to operate a kennel on the 47-acre property.
2. Appellant has been operating the kennel for 11 years.
3. The kennel facilities are located near Appellant's house so that she can keep an eye on the dogs.
4. A stream and existing trees on the property prevent placement of the kennel at a different site.
5. The kennel has capacity for 18 dogs.
6. No one testified in opposition to this appeal.
7. The proposed use is compatible with the existing neighborhood and conforms to the

Comprehensive Plan.

RATIONALE

The Board has authority to grant a special exception pursuant to Section 25.2(b) of the Zoning Ordinance for Washington County, Maryland. A special exception is defined as “a grant of a specific use that would not be appropriate generally or without restriction; and shall be based upon a finding that the use conforms to the plan and is compatible with the existing neighborhood.” This Board has authority to grant a variance upon a showing by the Appellant of practical difficulty or undue hardship. Sections 25.2(c) and 25.56. A “practical difficulty” may be found by the Board when: (1) strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome; and (2) denying the variances would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief; and (3) granting the variance would observe the spirit of the Ordinance and secure public safety and welfare. Section 25.56(a).

Appellant’s proposal is a reasonable, and permitted, use of the subject property. The property is of adequate size to provide an ameliorative buffer for the kennel, and the practice of conducting business by appointment will serve to prevent undue traffic generation or concentration at certain periods. No evidence was presented that the proposed use was incompatible with the neighborhood; disruptive of neighbors’ quiet enjoyment of their properties; detrimental to surrounding property values; generative of excessive odors, dust, gas, smoke, fumes, vibrations, or glare; generative of traffic that would exceed the capacity of existing infrastructure; or that the proposal was an inappropriate use of land or structure. Moreover, as the use involves existing structures, a lesser relaxation of the setbacks is impractical, and the grant of the variance is appropriate.

Based upon all of the testimony and evidence presented, this Board finds that the subject request does not adversely affect the public health, safety, security, morals, or general welfare, nor does it result in dangerous traffic conditions, or jeopardize the life and property of neighborhood residents. Accordingly, for the reasons set forth herein, this appeal is hereby GRANTED by a 5-0 vote.

Issued September 25, 2008.

BOARD OF APPEALS
By: Bert Iseminger, Chair