Tax Map/Block/Parcel
No. 62 3 348

Building Permit/Zoning
Certificate BP-01-2723

Case ZA-591

Official Decision
Zoning Administrator
Carroll County, Maryland

APPLICANT:	Deborah & Joseph Maggitti 3523 Ellen Drive Westminster, Maryland 21157
REQUEST:	A variance from the required lot size of 5 acres to 3.04 to allow more than two animals, in the Conservation District
LOCATION:	3523 Ellen Drive Westminster, Maryland 21157
APPLICABLE REGULATIONS:	Code of Public Local Laws and Ordinances, Chapters 223-35B and 223-181
HEARING HELD:	September 5, 2001

FINDINGS & CONCLUSIONS

The Applicant purchased this three-acre property approximately two years ago for the sole purpose of placing animals on the property. Prior to the purchase of the property, the Applicant and the Realtor were told by the Zoning Office, that the property was zoned Agricultural. All requirements for the setback on the property line were adhered to the regulations. There are fluctuating numbers of sheep between 25 and 30, consisting of market and breeding animals, currently on the property. The Applicant plans to reduce the number to 15. The Applicant's 15-year-old son is responsible for maintaining the animals, which he shows and markets at the state and local 4-H fairs. The animals are vetted and the manure is removed from the property on a regular basis. The Applicant has expended over $5,000 for fencing and repairs to create shelter for the animals. The market animals are washed at the shows and the breeding animals are not washed since they are bred for their wool.

Several neighbors were present at the hearing voicing their opposition to the request. A petition signed by 41 neighbors in opposition was presented as Exhibit No. 1. Their concerns were noise, odor, manure that attracts flies and rodents to the area, ground water contamination, the amount of sheep allowed on the property, and the water run off caused by the lack of grass. They are also concerned with the amount of water needed to bathe and water more than two animals. It was noted that other variances had been requested within the subdivision for more than two animals all of which have been denied. There is also a concern that the animals do not have adequate space in the shelter on the property. The rule

of thumb is the length times the width of the animal with one foot on either side for the animal to lie down and turn around. Pictures were presented showing that the area is residential. A copy of the Declaration of Restrictions for the sub-division was presented for the record.

The Chapter of the Code of Public Local Laws and Ordinances to which the variance request is being directed is Chapter 223.35B. (Private Stables in a Conservation Zone). Private stables are an Accessory Use in the Conservation Zone.

The definition of a Private Stable (Chapter 223.2) is as follows: "An accessory structure designed for the shelter, feeding, and care of no more than two horses, ponies or cattle or equivalent numbers of sheep, goats or other ruminants, maintained on the property as pets or for domestic use, as distinguished from agricultural or commercial purposes".

Within the above definition of a Private Stable, there are two issues that are pertinent in this case. They are: (1) accessory structure (use) and; (2) equivalent numbers, when considering horses and cattle vs. sheep, goats and other ruminants.

The definition of Accessory Use (Chapter 223.2) is as follows: A use of land or all or part of a building which is **customarily** **incidental** and secondary to the **principal** **use** of the property…"

The keeping of thirty plus sheep on a three (3) acre lot in a residential subdivision in a Conservation Zone does not meet the test of the Definition of Accessory Use as emphasized above.

The question then becomes; how many sheep can be kept on such a lot?

The definition of a Private Stable contemplates the keeping of pets vs. agricultural or commercial stables.

Undisputed testimony provided during the hearing on Case ZA-591 indicated that the sheep being raised on the property were the subject of a 4-H Project overseen by a teenager versus a commercial operation.

Under the definition of a Private Stable, "equivalent numbers" is a factor in determining the number of animals that may be allowed under the Private Stable accessory use.

The recent enactment of nutrient management regulations somewhat addresses animal equivalency by animal units. Under that program, one (1) animal unit = 1,000 lbs.

According to the Carroll County Cooperation Extension Service, one (1) average mature horse weighs 1,200 lbs.; two (2) such horses weigh 2,400 lbs. According to that same source, one (1) mature ram weighs on average, 300 lbs., while an average mature ewe weighs 225 lbs.

Decision: The Private Stables Chapter of the Code of Public Local Laws and Ordinances as it relates to the Conservation Zone is clear. It must be an Accessory Use to the Principal Use of the property and therefore

cannot contain more than two (2) horses, cattle or their equivalent.

Due to the residential nature of the neighborhood, the variance request cannot be granted.

Further, no more sheep may be kept on the subject property at any given time whose combined average weight, as cited above, would exceed 2,400 lbs. A period of six (6) months is herein granted to achieve compliance with this decision.

NOTE:

Appeals of decision made pursuant to Chapter 223-183 may be made to the Board of Zoning Appeals within thirty (30) days of the date of the Zoning Administrators decision in accordance with Chapter 223-188 of the Code of Public Local Laws & Ordinances.

A decision of the Zoning Administrator made pursuant to Chapter 223-183 is final, and constitutes a zoning action. Unless timely appealed, parties may not thereafter challenge the Zoning Administrator's decision.

9/17/01
DATE

ROBERT A. BAIR
ZONING ADMINISTRATOR

cc: Zoning Enforcement