CARROLL COUNTY GOVERNMENT
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Office of Zoning Administration
Neil M. Ridgely
Zoning Administrator

15 July 2003

Mr. & Mrs. Douglas Waskiewicz
3957 Baptist Road
Taneytown, MD 21787

Re: Variance from the minimum lot size for the keeping of Animals
Case ZA-766, Sections 223-75 and 223-181 of the Carroll Zoning Code

Dear Mr. and Mrs. Waskiewicz:

Based on the testimony and evidence presented at the hearing on the above referenced variance, the variance is granted.

Facts which support the request for relief from the strict terms of The Carroll County Zoning Ordinance, in this case a reduction to the generally recognized interpretation of the Carroll County Code Section 223-77 that a minimum of three acres is required for the keeping of more than two animals for farm or domestic purposes are as follows:

The property is zoned Agricultural and is 2.152 acres in size. The general nature of the surrounding area is remote / rural with large farms throughout. The Waskiewicz's provided written and verbal testimony that the animals on the property are maintained largely as domestic pets as part of their family's involvement with the 4-H; the chickens and goats provide the family with milk, cheese, soap and eggs. An inspection of the property inventoried the number of animals on the site as 2 ponies, 4 goats, 34 chickens, and 4 rabbits. The barnyard area appeared very organized, fenced and with adequate stabling for the larger animals. Mr. Waskiewicz cited several passages from the Carroll County Right to Farm law (Section 173 of the Carroll County Code of Public Local Laws and Ordinances) which are generally supportive of the use of agricultural land for the production of food and other agricultural products. Waskiewicz explained that he began erecting a more substantial wooden fence to contain the animals but stopped the project in anticipation of the decision on this Variance.

The property has been visited by Officer Miller of the Carroll County Humane Society and no objectionable animal welfare conditions were noted, however advice was offered on improved confinement of the animals in response to incidents when animals strayed off the property.

In granting this variance the following rulings and law were considered:

- *Declaratory Ruling 1-93 "Keeping of Domestic Animals as Pets" by then Zoning Administrator Solveig Smith. The Ruling specifically mentions that "In making this*

interpretation [on the number of animals acceptable] it is important to determine what is 'customary' in a particular zone or a particular neighborhood."

- *Carroll County Zoning Code, Section 223-72 G pertaining to accessory uses in the Agriculture Zone. " Keeping of animals or fowl for pets or for domestic use."*
- *Carroll County Code of Public Laws and Ordinances Section 173-4 B (1) which places the adjudication of complaints regarding an interference with the use or enjoyment of property from agricultural operations conducted on agricultural land.*
- *Carroll County Code of Public Laws and Ordinances Section 173-4 A (1) which places the responsibility for investigation of complaints regarding nuisances to public health with the Health Officer of the Carroll County Health Department.*
- *Variance Case #ZA 713 (Lewis) pertaining to the maintenance of Alpacas on a lot in the Conservation District.*
- *Cooperative Extension Service Fact Sheet, "Pasture Management, Maintaining Permanent Pastures for Livestock." [#720] Table 1, Animal Unit values for various livestock classes and species.*

Opposing testimony was made by Mrs. Allen Robinson of 3917 Baptist Rd, an adjoining property owner. Mrs. Robinson explained the nature of her complaints with the maintenance of animals on the property and at least two instances where some of the animals escaped the confines of the barnyard fencing. There is a history of a property line dispute with the Waskiewicz's mowing part of the Robinson pasture in the past. The Waskiewicz's admitted to both having mowed beyond their property line at least twice in the past and to two instances where animals strayed from their property. Mrs. Robinson articulated concerns for her safety when she maintained tree plantings along the property lines and possible contamination of groundwater from animal wastes.

This decision is guided by the propensity of regulations in Carroll County supporting the prioritization of customary agricultural uses within the agricultural district. Any decision must be site specific, as indicated in Declaratory Ruling 1-93. In this instance, the residential use of properties in the area is virtually "accessory" to agricultural production. Neighboring properties are farms much larger in size than the Waskiewicz residence. Indeed the neighboring Robinson property is forty-seven (47) acres and supported by traditional barns and outbuildings in addition to the residence. It is reasonable to expect that the residential lots which the County has allowed to be created in the Agricultural district as part of the Master Plan may also support some number of domestic animals. Each lot, its size and its specific circumstances must be weighed when considering the appropriate number of animals which zoning permits.

While trying to address the number of animals per acre appropriate to confined animal operations (CAFO's) and pasture management provided by the Cooperative Extension Service, I find that that material is largely inapplicable to barnyard circumstances similar to those found in many 4-H projects, such as the Waskiewicz's where the animals are fed grain and hay as any domestic pet or even as a thoroughbred horse would be. Pasture is not the object of such areas as it is largely provided for the exercise of the animals and the enjoyment of the people keeping the animals.

The standard used for a variance decision of this nature must allow for the ability of each property owner to fully enjoy the use of their property and whether the granting of a variance would adversely affect the public health, safety, security, morals or general welfare

of the people living in the neighborhood. In that regard I see no evidence where stormwater runoff or animal manures adversely impact any of the neighboring properties. Odors and noises from the animals are minimal and within the expected context of this specific location in an area which is as rural as any still available in Carroll County.

Per Section 223-181, strict compliance with the terms of the zoning ordinance would be impractical and cause undue hardship on the petitioners.

Appeals to this decision may be filed with the Board of Zoning Appeals within 30 days of the date of the approval.

Sincerely,

Neil M. Ridgely
Zoning Administrator

CC: Adjoining property owners
file