

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(6217-6227 Glen Falls Road)</b>		
4 <sup>th</sup> Election District	*	OFFICE OF
3 <sup>rd</sup> Council District		
	*	ADMINISTRATIVE HEARINGS
Robert A. & Joyce T. Wetzler		
<i>Legal Owners</i>	*	FOR BALTIMORE COUNTY
Petitioners	*	<b>Case No. 2016-0116-SPH</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of Robert A. and Joyce T. Wetzler. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve a nonconforming animal boarding place use in the RC 8 zone.

Robert A. and Joyce T. Wetzler and professional engineer Rick Richardson appeared in support of the petition. Adam Baker, Esq. with Whiteford, Taylor & Preston, LLP, represented the Petitioners. Michael Snyder, Esq., an attorney and neighbor, was also in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR). Those agencies did not oppose the request, but provided certain conditions for inclusion in the final Order.

The subject property is 17.29 acres and zoned RC 8. The property is improved with a single-family dwelling and a commercial kennel operation known as “Tail End Kennel.” Petitioners purchased the property in 1989, and have operated the kennel continuously since that time.

Counsel explained the property was initially zoned RDP, which permitted kennels by right. In 1976, the property was rezoned to RC 4, a designation that does not permit kennels, by right or special exception. Thus, in order to establish a lawful nonconforming use, Petitioners must establish the kennel was in operation prior to 1976. Based on the documents presented at the hearing, it is clear that Petitioners made such a showing.

Petitioners submitted a series of Baltimore County Holding Facility/Kennel licenses, the earliest of which was issued in 1976. Petitioners' Exhibit 1A-1H. In addition, Petitioners also submitted affidavits of the prior owner (Robert Krasniewski) and a former kennel employee (Gail Warniek) which establish the kennel has been in "continuous operation on the property since 1971." Petitioners' Exhibit 2. As such, Petitioners have proven the kennel operation qualifies as a lawful nonconforming use under B.C.Z.R. § 104. Petitioners conceded at the hearing that they enlarged the kennel after acquiring the property in 1989, at which time they were informed by County officials that they had extended the nonconforming use by 25%, as permitted under B.C.Z.R. § 104.3. As such, no further extension of the nonconforming kennel is permitted. Mr. Snyder, who lives nearby, requested the plan be amended to reflect the area of the overall site in which the kennel use has historically been conducted. Mr. Richardson amended the site plan to identify that area and a condition concerning that issue is included in the Order below.

THEREFORE, IT IS ORDERED this 27<sup>th</sup> day of **January, 2016** by this Administrative Law Judge, that the Petition for Special Hearing pursuant to B.C.Z.R. § 500.7 to approve a non-conforming animal boarding place use in the RC 8 zone, be and is hereby GRANTED.

