

STANDARD APPLICATION
Harford County
Board of Appeals
Bel Air, Maryland 21014

RECEIVED

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HARFORD COUNTY COLLEGE

Case No. 5731
Date Filed 1/20/11
Hearing Date _____
Receipt _____
Fee \$400.00

Shaded Areas for Office Use Only

Type of Application

- Administrative Decision/Interpretation
- Special Exception
- Use Variance
- Change/Extension of Non-Conforming Use
- Minor Area Variance
- Area Variance
- Variance from Requirements of the Code
- Zoning Map/Drafting Correction

Nature of Request and Section(s) of Code

CASE 5731 MAP 57 TYPE Special Exception ELECTION DISTRICT 01
LOCATION 2605 Creswell Road, Bel Air 21015
BY David Cullum
Appealed because a special exception pursuant to Section 267-88H(6) of the Harford
County Code to have pet grooming in the AG district requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Owner (please print or type)

Name David R. Cullum Phone Number 410-734-6262
Address 2605 Creswell Road Bel Air MD 21015
Street Number Street City State Zip Code

Co-Applicant _____ Phone Number _____
Address _____
Street Number Street City State Zip Code

Contract Purchaser _____ Phone Number _____
Address _____
Street Number Street City State Zip Code

Attorney/Representative _____ Phone Number _____
Address _____
Street Number Street City State Zip Code

Land Description

Address and Location of Property 2605 Creswell Road
Bel Air, MD 21015

Subdivision Harford Furnace Lot Number 5

Acreage/Lot Size 3.0 Election District F Zoning Agricultural

Tax Map No. 57 Grid No. D-3 Parcel 78 Water/Sewer: Private X Public

List ALL structures on property and current use: Stone Building -> Creswell Veterinary Clinic

Estimated time required to present case: 15 minutes

If this Appeal is in reference to a Building Permit, state number N/A

Would approval of this petition violate the covenants and restrictions for your property? No

Is this property located within the County's Chesapeake Bay Critical Area? Yes No X

If so, what is the Critical Area Land Use designations: N/A

Is this request the result of a zoning enforcement investigation? Yes No X

Is this request within one (1) mile of any incorporated town limits? Yes No X

Request

I am requesting a special exception to permit pet grooming as an adjunctive service at the Creswell Veterinary Clinic.

Justification

Pet grooming is a service which complements the services already offered at Creswell Veterinary Clinic. Many of my clients have expressed an interest in grooming services, and I feel that it would enhance my business with a minimal impact on the intensity of the land use. No physical changes to the site are proposed.

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

**APPLICANTS: David Cullum and
Bayline Construction, Inc.**

**REQUEST: Special Exception to permit a
veterinary clinic in the Agricultural District**

HEARING DATE: August 24, 2009

**BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS**

Case No. 5695

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: David Cullum and Bayline Construction, Inc.

LOCATION: 2605 Creswell Road, Bel Air
Tax Map: 57 / Grid: D3 / Parcel 78 / Lot: 5
First (1st) Election District

ZONING: AG / Agricultural District

REQUEST: Special Exceptions, pursuant to Section 267-88H(10) of the Harford County Code, to permit a veterinary clinic in the Agricultural District.

TESTIMONY AND EVIDENCE OF RECORD:

Robert Wilson, of Wilson Deegan and Associates, was offered and accepted as an expert site planner, testified for the Applicants. Mr. Wilson prepared a revised record plat to increase the subject lot to 3 acres for the proposed use. He visited the property and met with Dr. Cullum, the Co-Applicant, and prepared a site plan for the proposed use.

Mr. Wilson referred to Exhibit No. 3, the aerial photograph, and described the property as Lot 5 of the property known as "Harford Furnace". He described the land use in the area as primarily agricultural, with some residential. There are four other lots as part of the original purchase of Harford Furnace that are owned by the Co-Applicant, Kenneth Heaps, of Bayline Construction, Inc. Three of the lots are vacant residential lots. One other lot is currently under construction. The zoning is predominately agricultural.

Lot No. 5, the subject property, contains a stone house which the Co-Applicant, Dr. Cullum, intends to convert into a veterinary clinic. The subject Lot No. 5 has been amended to 3 acres.

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Mr. Wilson testified that the home on Lot No. 5 will remain intact. Dr. Cullum will only make interior modifications. Mr. Wilson referenced the exhibits and identified James Run and areas protected by a forest buffer. The property slopes down to James Run. Mr. Wilson also testified that Lot No. 5 has access to MD Route 543, which is an arterial road. A sign will be placed on the entrance to the property.

Mr. Wilson noted that the adjacent lots are larger than 2 acres and do not meet the definition of an adjacent residential lot; however, the existing landscaping exceeds what is required for a Type "A" buffer. It is his understanding that there will be no outdoor runways or holding areas for animals. There will be no detrimental impact to the surrounding community or properties. Mr. Wilson stated the Applicants can meet the requirements identified in the Staff Report from the Department of Planning and Zoning.

Mr. Wilson was cross-examined by John Gessner, legal counsel on behalf of Robert and Margaret Gilman, owners of Lot No. 1 of Harford Furnace. Mr. Wilson testified it was his understanding that the sign would be illuminated with a light at ground level. There will be exterior lighting attached to the main building. It was his understanding that Dr. Cullum would add more shrubbery and landscaping to the northeast of the entrance to provide more screening.

Pat Mikkonen, owner of a surrounding property located at 3027 Goat Hill Road, inquired as to a dumpster. Mr. Wilson testified that a dumpster will be located to the rear of the property and adequately screened.

Next for the Applicants testified Dr. David Cullum, Co-Applicant. Dr. Cullum has been a veterinarian for 7-1/2 years. He is the contract purchaser of Lot No. 5. The proposal is to convert the existing stone building into a small animal veterinary clinic for dogs and cats. Dr. Cullum also serves farm animals with a mobile veterinary practice.

Dr. Cullum selected this property because of the architectural style of the building and because the area is becoming more business oriented. Dr. Cullum referenced Exhibit No. 8, which was an excerpt from "An Architectural History of Harford County, Maryland", by Christopher Weeks and the area known as Harford Furnace. He noted that the building was, at one time, used as a general store. It was also used as a physician's office in the 1930's.

Dr. Cullum also referred to Exhibit No. 9, which was a photograph of the plaque for the building's registration in the National Registry of Historic Places. Dr. Cullum said there would be no exterior changes to the building.

Dr. Cullum anticipates to have 2-1/2 employees to start.

Dr. Cullum reviewed Exhibit No. 10, which was photographs of the building and described his plans with respect to the property. He also reviewed the interior floor plan, which was Exhibit Nos. 11-A and 11-B. Exhibit No. 11-A shows the current floor plan. Exhibit No. 11-B reflected the proposed revisions to convert the building to the veterinary clinic with an exam room, surgery room, etc.

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Dr. Cullum testified with respect to Exhibit No. 6, which was a colored rendering of the property. He indicated he intends to add shrubbery and trees for additional screening.

As far as access to the property, Dr. Cullum met with the State Highway Administration and the Department of Natural Resources representatives to improve visibility. He said there are 36 trees, varying in size from saplings to 9 inches in diameter that are marked for removal. He has to hire a tree expert and remove these trees at his expense.

Dr. Cullum indicated that he had reviewed the Staff Report from the Department of Planning and Zoning and he can comply with each and every condition.

The dumpster will be shielded by plantings and fencing. As far as the second floor of the building, which is currently a master bedroom and other bedrooms, he intends to convert them to office space and a break room. He has no intention of living on the property.

The Co-Applicant was then cross-examined by Mr. Gessner. He explained the services he would provide on-site would be wellness care, surgery, hospitalization and euthanization of animals. Dr. Cullum said the practice will primarily be cats and dogs. There may be a potential small ruminant such as a sheep or goat. He will not treat any exotic animals or “pocket pets”. He does not intend to handle boarding of animals or grooming. The only exterior change he is considering involves enclosing the balcony underneath the second floor. He anticipates 4 employees in the future. The employees will be cross-trained as receptionists and assistants. He will be the only veterinarian practicing at this facility.

As far as medical waste, he will have an appropriate third party remove sharps on a weekly to bi-weekly basis. Any removal of bodies will be handled by third party vendor on a weekly to bi-weekly basis. Bodily fluids will be put down the drain to the septic system. The dumpster will also be serviced on a weekly basis.

For the Department of Planning and Zoning testified Anthony McClune, Deputy Director. Mr. McClune confirmed that the property is zoned agricultural and the proposed use is consistent with the Harford County Master Land Use Plan. He has reviewed the application, visited the property and the surrounding area. Mr. McClune referenced the Staff Report of the Department of Planning and Zoning, dated August 17, 2009. He testified that the Applicants meet all the requirements of Harford County Code Section 267-88H(10).

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Mr. McClune specifically reviewed Section 267-88H(10) and noted that the parcel area for Lot No. 5 is the required 3 acres. The property has direct access to MD Route 543 and is a major collector rural road. He also pointed out that the adjacent lots are larger than 2 acres and do not meet the definition of an adjacent residential lot and a Type “A” buffer is not required. Further, there are no outdoor holding areas or runs planned by the Applicant.

Mr. McClune then reviewed Section 267-9I and noted that the property met all requirements of that Section, as contained in the Staff Report, which was identified as Applicants’ Exhibit No. 2 and accepted into evidence.

Mr. McClune also reviewed the conditions that would be placed on approval of the special exception: require the Applicants to prepare a site plan to be reviewed and approved through the Development Advisory Committee (DAC); to obtain all necessary permits and inspections; security lighting be directed away from adjacent lots and the road; the final plat that increases the lot to 3 acres be recorded; limit the hours of operation from 8:00 am to 5:00 pm, Monday through Friday, and 8:00 am to 5:00 pm on Saturdays, with no business hours on Sunday; and there also shall be no outdoor runways or holding areas.

On cross-examination by Mr. Gessner, Mr. McClune indicated that he did not have the exact information on additional plantings of shrubbery and trees proposed by Dr. Cullum.

Mr. Gessner, who was present on behalf of Robert Gilman and Margaret Gillman, then called Robert Gillman, who is the owner of Lot No. 1. He described the address as 2597 Creswell Road. He purchased the lot in August 2008 from the Co-Applicant, Bayline Construction, Inc. He had no knowledge that Lot No. 5 was going to be the location of a veterinary clinic. He has reviewed and understands the application. He is concerned about the increased traffic, the waste, and increased lighting.

Mr. Gillman was cross-examined by the Applicants’ counsel, Robert Lynch. Mr. Gillman testified that he started construction on his home in September 2008. Settlement has been delayed for multiple reasons. He said he was in Iraq for a time. He said there have also been liens filed by the builder. He hoped that construction would be moving forward. Mr. Gillman testified he is unhappy with his builder and has no settlement date at the present time. Mr. Gillman also testified that he spoke with Dr. Cullum by phone. Dr. Cullum had made himself available to address any concerns that he had.

On re-direct by Mr. Gessner, Mr. Gillman testified that regardless of the issues he is having with his builder, he is concerned with a commercial building being located next to his property. Mr. Gessner was provided the opportunity to submit a brief or letter to further support his client’s position. A letter dated August 31, 2009 was submitted and reviewed. The Applicants did not submit a reply letter or brief.

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APPLICABLE LAW

Special Exception requests for veterinary clinics are governed by Harford County Code Section 267-88H(10):

“Veterinary clinics or hospitals or veterinary practice, large animals. These uses may be granted in the Ag District, provided that:

- (a) A minimum parcel area of 3 acres is required.*
- (b) The use shall be located with direct access to an arterial or collector road.*
- (c) A type “A” buffer, pursuant to Section 267-30 (Buffer Yards), shall be provided between the parking area and any adjacent residential lot.*
- (d) Any runways or outdoor holding areas shall be set back at least 200 feet from any lot line.”*

Furthermore, Section 267-9I of the Harford County Code, “Limitations, Guides and Standards” is also applicable and will be discussed in detail below.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Co-Applicant, Dr. David Cullum, intends to operate a veterinary clinic on the subject property. The proposed business will primarily be engaged as a small animal vet clinic for dogs and cats. The proposed renovations to the building will be to the interior of the building. Dr. Cullum intends to have 2-1/2 employees at first, and anticipates up to 4 employees. The only exterior change considered is enclosing the area under the exterior balcony. He will be the only veterinarian working at the veterinary clinic. Dr. Cullum also testified that he intends to add additional shrubbery and trees to complete the screening from adjacent lots.

Given the location of the property off of MD Route 543, the proposed modifications made to the interior of the building, and the existing landscaping and proposed supplemented screening that acts as a screen for both the neighbors and passersby, there can, in truth, be no finding of adverse impact. The use is in an agriculturally zoned area and, as discussed below, meets the requirements of the Harford County Code for a veterinary clinic in an Agricultural District. The screening is adequate. The Co-Applicant, Dr. David Cullum, has also agreed to the conditions contained in the Staff Report from the Department of Planning and Zoning, which will limit the use and its impact.

Accordingly, the use as described, and as will be conditioned, will have no adverse impact on the neighborhood and certainly no impact greater than that which would normally expect from such a use in an agriculturally zoned district.

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The Applicants must, nevertheless, meet the specific requirements of the requested special exception. A veterinary clinic is permitted in the Agricultural District, only upon satisfactory conformance with the requirements of Section 267-88H(10), as follows:

“(10) Veterinary clinics or hospitals or veterinary practice, large animals. These uses may be granted in the Ag District, provided that:

(a) A minimum parcel area of 3 acres is required.

A plat has been submitted and recorded in the County increasing the size of Lot No. 5 to 3 acres.

(b) The use shall be located with direct access to an arterial or collector road.

As indicated in the Staff Report from the Department of Planning and Zoning, the property will have approximately 1,600 feet of frontage on the east side of MD Route 543. This portion of MD Route 543 from Wheel Road to MD Route 7 is designated as a major collector-rural road.

(c) A type “A” buffer, pursuant to Section 267-30 (Buffer Yards), shall be provided between the parking area and any adjacent residential lot.

The adjacent lots are larger than 2 acres and, therefore, do not meet the definition of an adjacent residential lot. The existing vegetation and topography adequately screen the parking area from the adjacent properties and the road.

(d) Any runways or outdoor holding areas shall be set back at least 200 feet from any lot line.”

The Applicant has indicated that there will be no outdoor runways or holding areas.

Furthermore, in addition to the specific applicable special exception requirements, the Applicant must meet the more generalized considerations of the Limitations, Guides and Standards – Section 267-9I of the Harford County Development Regulations, discussed as follows:

(1) The number of persons living or working in the immediate area.

As discussed above, there will be no adverse impact on individuals living or working in the area. The subject parcel is within an agricultural area with large residential lots. The Applicant’s proposed business will compliment the area and no significant renovations are proposed.

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- (2) *Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic, and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.*

There will be no adverse impact on traffic. As discussed above, the subject property is located on MD Route 543. MD Route 543 is designated as a major collector – rural road. The proposed veterinary clinic will not adversely impact traffic on MD Route 543. It is noted that the existing residential driveway entrance will need to be upgraded to a commercial entrance and meet all State Highway Administration standards.

- (3) *The orderly growth of the neighborhood and community and the fiscal impact on the County.*

There should be no fiscal impact on the County.

- (4) *The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.*

There will be no outdoor runs or pens. Since there will be no outdoor runs or pens, there will be no impact on surrounding properties regarding noise.

- (5) *Facilities for police, fire protection, sewage, water, trash and garbage collection and disposal and the ability of the County or persons to supply such services.*

The Harford County Sheriff's Office and the Maryland State Police will provide police protection. Fire service will be provided by the Bel Air and Riverside Volunteer Fire Departments. Water and sewerage is provided by on-site private well and septic systems. Trash and garbage will be handled by a company of the Co-Applicant's choice.

- (6) *The degree to which the development is consistent with generally accepted engineering and planning principles and practices.*

As special exceptions, these uses have been determined by the Harford County Council to be principally permitted in this agriculturally zoned district, provided that all specific and general conditions are met. It is, accordingly, found that such conditions are met and therefore, this use is consistent with accepted planning principles and practices and with the Harford County Master Land Use Plan.

- (7) *The structures in the vicinity, such as schools, houses or worship, theaters, hospitals, and similar places of public use.*

No such structures have been identified.

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- (8) *The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.*

It is found that the proposal is consistent with the Development Regulations and with the Harford County Master Land Use Plan.

- (9) *The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.*

The proposal should not have an impact on any sensitive natural features in the area.

- (10) *The preservation of cultural and historic landmarks.*

There should be no impact to any cultural or historic landmarks.

CONCLUSION:

Accordingly, it is recommended that the requested special exception be granted, subject to the following conditions:

1. The Applicant shall prepare a site plan to be reviewed and approved through the Development Advisory Committee (DAC).
2. The Applicant shall obtain all necessary permits and inspections for the conversion of the dwelling.
3. Any proposed security lighting shall be directed away from adjacent lots and the road.
4. The Applicant shall record the final plat that increases the lot to 3 acres.
5. The hours of operation shall be limited from 8:00 am to 9:00 pm, Monday through Friday, and 8:00 am to 5:00 pm on Saturdays. There shall no business hours on Sunday.
6. There shall be no outdoor runways or holding areas.

Date September 17, 2009

MICHAEL H. DANAY
Zoning Hearing Examiner

Any appeal of this decision must be received by 5:00 p.m. on October 16, 2009.