

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

RECEIVED

SEP - 9 2011

HARFORD COUNTY COUNCIL

Case No. 5754
 Date Filed 9/1/11
 Hearing Date _____
 Receipt _____
 Fee \$650.00
 Type Variance / Special Exception

Information to be Submitted with Application

1. A plot plan drawn to scale indicating all pertinent data.
2. A list of all adjoining property owners with mailing addresses.
3. Names and addresses of all persons having legal or equitable interest in the property.
4. All required supporting documentation or additional studies as may be required; including traffic and environmental studies, etc.

NOTE:

All applicants **MUST** schedule a pre-application meeting with the Department of Planning and Zoning prior to filing any application to the Board of Appeals.

To schedule please call 410-638-3119.

Shaded areas for Office Use Only

Nature of Request and Section(s) of Code

CASE 5754 MAP 11 TYPE Special Exception/Variance
ELECTION DISTRICT 05 TAX ID 05049539
LOCATION 1428 Heaps Road, Whiteford 21160
BY Donald and Patricia Webster
Appealed because a Special Exception pursuant to Sec. 267-88H(5) of the Harford County Code to allow a kennel and a variance from 267-88H(5)(b) of the Harford County Code to allow a shelter and runway to be located within 200 feet of the lot line within the AG District requires approval by the Board.

Owner (please print or type)

Name Mr. Donald E. Webster Phone Number Call Attorney
 Address 1428 Heaps Road Whiteford Maryland 21160-1406
Street Number Street City State Zip Code

Co-Applicant Mrs. Patricia A. Webster Phone Number Call Attorney
 Address 1428 Heaps Road Whiteford Maryland 21160-1406
Street Number Street City State Zip Code

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

Kevin J. Mahoney & Keith O. Hinder, Jr.

Attorney/Representative _____ Phone Number (410) 893-7500
 Address 11 South Main Street Bel Air Maryland 21014
Street Number Street City State Zip Code

Land Description

Address and Location of Property 1428 Heaps Road, Whiteford, Maryland 21160-1406

Subdivision 546 Lot Number 8
Acreage/Lot Size 5 Acres Election District 05 Zoning AG Tax ID # 049539
Tax Map No. 0011 Grid No. 0002D Parcel 0164 Water/Sewer: Private Public

List ALL structures on property and current use:

Estimated time required to present case: 30 Minutes

If this Appeal is in reference to a Building Permit, state number _____

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

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

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

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

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

Request

See Attached

Justification

See Attached

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.)

APPLICATION OF DONALD & PATRICIA WEBSTER

I. REQUEST

- 1) Special Exception from the requirements of § 267-88 (H)(5) to allow the establishment of a kennel in the Agricultural District.
- 2) Variance from the requirements of § 267-88 (H)(5)(b) to allow the kennel to be located within 200 feet of the Applicant's lot line.

II. JUSTIFICATION

The Applicants are the owners of property that is located in the Agricultural District. The subject property is 5.00 acres in size and is located at 1428 Heaps Rd, Whiteford, Maryland. Applicants are the owners of a number of domesticated animals; specifically, 16 dogs and 7 cats.

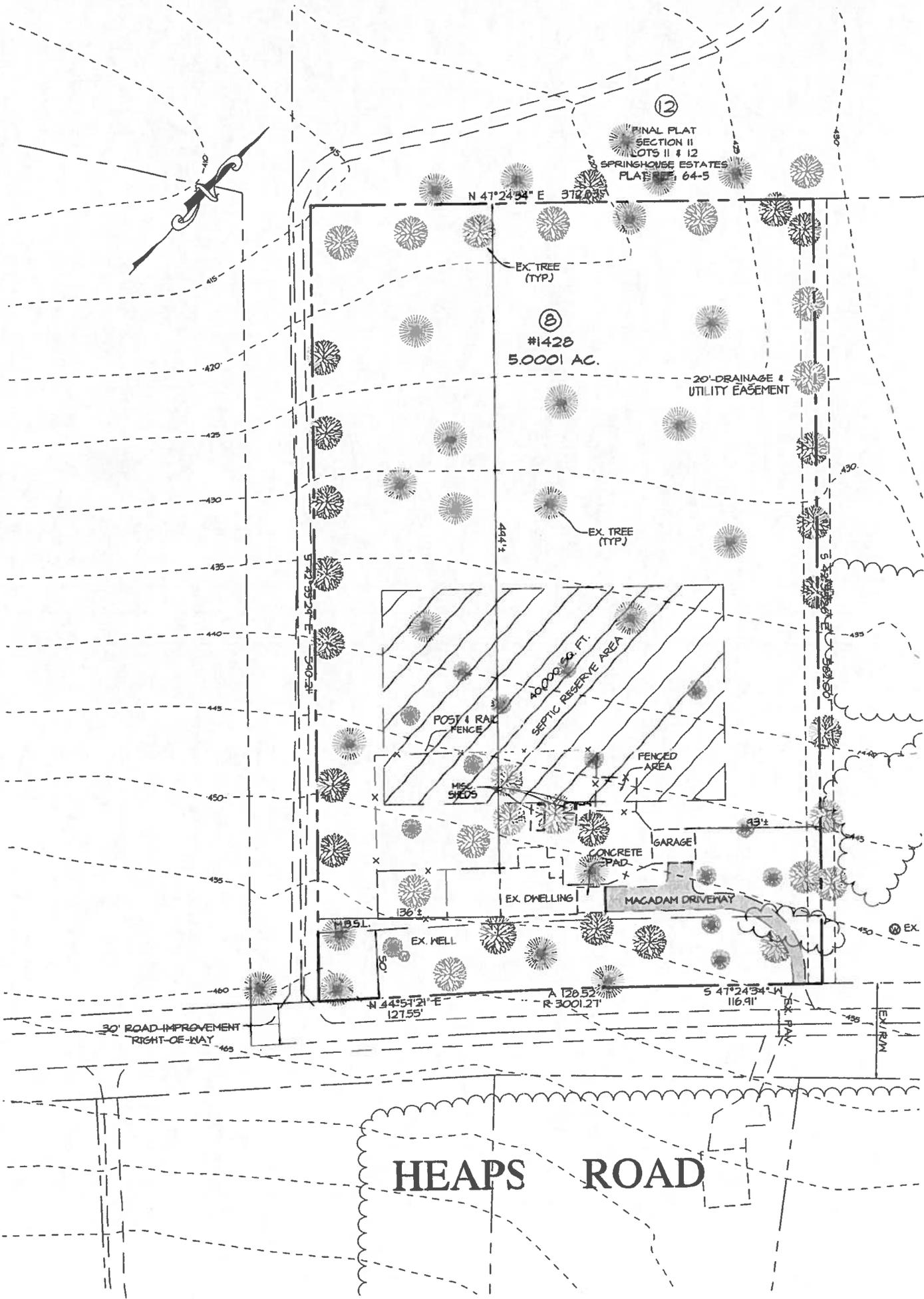
The subject property is a relatively large parcel in a rural area. It is screened from surrounding residential properties by existing mature vegetation. The placement of a kennel on the Applicants' property will preserve harmony with adjacent uses in the Agricultural District. The neighbors of the Applicants have not raised objections to the continued maintenance of the kennel on Applicant's property. Additionally, Applicants have no intentions of establishing a commercial kennel operation. All of the animals are pets of the Applicants.

In conjunction with the Applicants' request for a special exception, the Applicants also request that a variance be granted. Pursuant to § 267-88 (H)(5), the maintenance of a kennel may be used for property located in the Agriculture District if the minimum parcel area is 5 acres and the kennel structure is located at least 200 feet from any lot line. The

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Applicants' property meets the 5 acre minimum requirement; however, the Applicants' request that a variance be issued to permit the maintenance of the kennel within 200 feet of their lot line. The property is only 372 feet wide and cannot accommodate a 200 feet set back on all sides.

The Applicants would suffer practical difficulty in caring for their animals and unreasonable hardship if the requested variance is denied; as they would not be able to keep the pets they have which have become treasured members of the family. The requested variance would not have any adverse impact on surrounding properties and would provide a healthy environment for the Applicants' dogs and cats.



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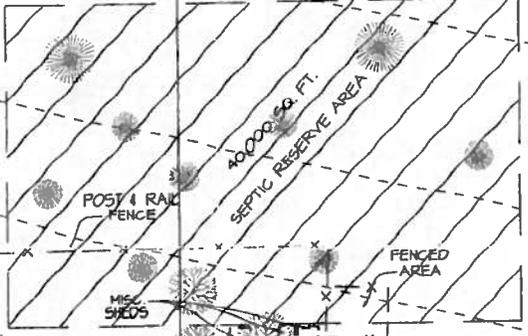
FINAL PLAT
SECTION II
LOTS II & 12
SPRINGHOUSE ESTATES
PLAT REF. 64-5

N 47°24'34" E 372.03'

ⓑ
#1428
5.0001 AC.

20'-DRAINAGE &
UTILITY EASEMENT

EX. TREE
(TYP)



POST & RAIL
FENCE

6000 SQ. FT.
SEPTIC RESERVE AREA

FENCED
AREA

MISC.
STRUCTS

CONCRETE
PAD

GARAGE

MACADAM DRIVEWAY

EX. DWELLING

EX. WELL

N 44°54'21" E
127.55'

A 120.52'
R 3001.21'

S 47°24'34" W
116.91'

30' ROAD IMPROVEMENT
RIGHT-OF-WAY

HEAPS ROAD

DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

MARY F. CHANCE
DIRECTOR OF ADMINISTRATION



C. PETE GUTWALD
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

November 3, 2011

STAFF REPORT

BOARD OF APPEALS CASE NO. 5754

APPLICANT/OWNER: Donald E. & Patricia Webster
1428 Heaps Road, Whiteford, MD 21160

REPRESENTATIVE: Kevin J. Mahoney & Keith O. Hinder, Jr.
11 South Main Street, Bel Air, MD 21014

LOCATION: 1428 Heaps Road, Whiteford, MD 21160
Tax Map: 11 / Grid: 2D / Parcel: 164
Election District: Fifth (5)

ACREAGE: 5.0+/- acres

ZONING: AG/Agricultural District.

DATE FILED: September 1, 2011

HEARING DATE: November 16, 2011

APPLICANT'S REQUEST and JUSTIFICATION:

See Attachment 1.

CODE REQUIREMENTS:

The Applicants are requesting a Special Exception pursuant to Section 267-88H(5) of the Harford County Code to allow a kennel in the AG/Agricultural District and a variance from Section 267-88H(5)(b) to allow a shelter and runway to be located within 200-feet of the lot line.

Section 267-88H (5) of the Harford County Code reads:

(5) *Kennels. These uses may be granted in the AG district, provided that:*

~ Preserving Harford's past; promoting Harford's future ~



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Board of Appeals Case Number 5754

Donald E. & Patricia A. Webster

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- (a) *A minimum parcel area of 5 acres must be provided.*
- (b) *All buildings for the shelter of animals and all runways shall be located at least 200 feet from any lot line.*

Section 267-9I of the Harford County Code will be discussed in detail later in the report.

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicants' property is located on the west side of Heaps Road approximately 1,500 feet south of Whiteford Road (MD Route 136). Enclosed with the report are a location map and a copy of the Applicants' site plan (Attachments 2 and 3).

The subject property is located outside of the Development Envelope. The predominant land use designation in this area of the County is Agricultural. The Natural Features Map reflects Agricultural Preservation District and Easements, Sensitive Species Project Review Areas and Stream Systems. The subject property is designated as Agricultural and defined by the Master Plan as:

Agricultural – Areas where agriculture is the primary land use, but where development rights are available. Residential development is possible at a density of 1.0 dwelling unit for every 10 acres. Commercial uses within this area are intended to serve the agriculture industry or residents of the area while maintaining the character of the surrounding countryside.

Enclosed with the report are copies of a portion of the 2004 Land Use Map and the Natural Features Map (Attachments 4 and 5).

Land Use – Existing:

The existing land uses in the area generally conform to the overall intent of the Master Plan. The predominant land uses in this area of the County are agricultural and residential. There are several large farms that are enrolled in State or County agricultural preservation programs. Residential uses include single-family dwellings on large lots. Commercial uses are generally located in the Rural Village of Whiteford near the intersection of MD Route 136 and MD Route 165.

The Applicants' property is rectangular in shape, 5.0+/- acres in size with frontage on Heaps Road. The subject property is improved with a two-story single-family dwelling with a deck, a detached garage and two sheds. There are three fenced dog pens located on either side of the house and the rear yard. The remainder of the subject property is maintained lawn and

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landscaping with numerous trees. Enclosed with the report are copies of the topography map, aerial photos and site photographs (Attachments 6, 7 and 8).

Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. The predominant zoning classification is AG/Agricultural. Commercial zoning is generally concentrated within the Village of Whiteford and includes VB/Village Business District, B2/Community Business District and B3/General Business District zonings. Industrial zoning includes CI/Commercial Industrial District and GI/General Industrial District. VR/Village Residential District zoning is also found within the rural village. The subject property is zoned AG/Agricultural as shown on the enclosed zoning map (Attachment 9).

Zoning Enforcement:

A complaint was filed with the Department of Planning and Zoning on March 4, 2011 regarding a kennel at the subject property. An inspection of the subject property was performed on March 7, 2011. The inspector noted the presence of three dog pens as well as a fence and a shed without permits. The Applicants were advised of the zoning violations in a letter dated April 1, 2011. Representatives of the Department subsequently met with the property owner to discuss the violations and the Board of Appeals process. At the time of the meeting, the Applicants indicated that 16 dogs resided on the subject property. The application for the Special Exception and variance were submitted to the Department on September 1, 2011. The Applicants have abated the other zoning violations noted by the Department during the initial inspection.

SUMMARY:

The Applicants are requesting a Special Exception pursuant to Section 267-88H(5) of the Harford County Code to allow a kennel in the AG/Agricultural District and a variance from Section 267-88H(5)(b) to allow a shelter and runway to be located within 200-feet of the lot line.

Pursuant to Section 267-88H (5):

(5) *Kennels. These uses may be granted in the AG district, provide that:*

The subject property is zoned AG/Agricultural.

(a) *A minimum parcel area of 5 acres must be provided.*

The subject property is 5.0 acres in size.

(b) *All buildings for the shelter of animals and all runways shall be located at least 200 feet from any lot line.*

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Donald E. & Patricia A. Webster

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The Applicants cannot meet this requirement. The subject property is rectangular in shape and approximately 375-feet wide. Therefore, a shelter or runway could not be located on the subject property and comply with this requirement.

Section 267-91:

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

The Applicants' request may have an adverse impact on adjacent properties. The existing runs are located in close proximity to the side property lines and within 100-feet of Heaps Road. The noise generated by the number of dogs residing on the property may adversely residents on adjacent properties.

(2) *Traffic conditions, including facilities for pedestrians and cyclist, 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.*

Heaps Road is a County owned and maintained road. The Applicants own all of the dogs and cats on the subject property and do not operate a commercial kennel. Therefore, there would be no significant increase of traffic on County or State Roads.

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

There should be minimal fiscal impact to the County.

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

A representative from the Department noted that the Applicants' dogs barked throughout a follow up inspection which could be heard from Heaps Road and adjacent properties. The noise generated by the Applicants' dogs may adversely affect residents on adjacent properties.

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

Police protection would be provided by the County's Sheriff's Office and the Maryland State Police. Fire and ambulance protection would be provided by the local Volunteer Fire Department. Water and sewerage is provided by an onsite private well and septic systems. Trash and garbage would be handled by a company of the Applicants' choice.

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

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Donald E. & Patricia A. Webster

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The proposed use is not consistent with generally accepted planning principles. The proposal does not meet the standards established for this use.

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

The institutional uses located in the area should not be impacted by this request.

(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.*

This property is part of a residential subdivision and the proposed use is not consistent with the surrounding uses based on the size and configuration of the property.

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

There should be no impact to natural features located on the subject property if the Special Exception and variance are granted.

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

There are no historic landmarks in the area that would be impacted by this request.

SUMMARY:

The Applicants are requesting a Special Exception pursuant to Section 267-88H(5) of the Harford County Code to allow a kennel in the AG/Agricultural District and a variance from Section 267-88H(5)(b) to allow a shelter and runway to be located within 200-feet of the lot line.

Variations of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty or unreasonable hardship. Further, the applicant must show that the request will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

The Applicants are requesting a Special Exception to have a kennel on their property to care for 16 dogs and 7 cats. The dogs and cats are owned by the Applicants and they are not proposing a commercial kennel. However, the Applicants cannot meet the required 200-foot setback from any lot line for shelters and runways. One of the existing runways is located within 45-feet of a lot line. The number of dogs and the noise generated may adversely impact neighbors on adjacent properties and properties on the east side of Heaps Road. The Applicant has not

STAFF REPORT

Board of Appeals Case Number 5754

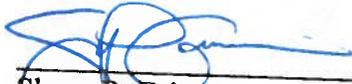
Donald E. & Patricia A. Webster

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provided any justification related to the uniqueness of the property that would warrant the granting of a variance to the 200-foot setback for the runways and shelter. The subject property is rectangular in shape and the topography is gently sloping. Without the variance, the Applicants cannot meet the specific requirements of the Special Exception for kennels. Therefore, the Department of Planning and Zoning recommends that the requested Special Exception and variance be denied.

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the requested Special Exception and variance be denied.



Shane P. Grimm, Chief
Site Plan & Building Permits Review

SG/ASM/jf



Anthony S. McClune, AICP
Deputy Director, Planning and Zoning