

APPLICANTS:
Dorothy & Rudolph Greeley, Cindy Silhan

REQUEST: Special Exception to permit pet grooming at the existing veterinary clinic in the Agricultural District

HEARING DATE: November 12, 2008

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS

Case No. 5673

ZONING HEARING EXAMINER'S DECISION

APPLICANTS: Dorothy & Rudolph Greeley, Cindy Silhan

LOCATION: 2756 Whiteford Road, Whiteford
Tax Map: 4 / Grid: 4D / Parcel: 11
Fifth (5th) Election District

ZONING: AG / Agricultural District

REQUEST: Special Exception pursuant to Section 267-53H(4) of the Harford County Code, to allow pet grooming in the Agricultural District.

TESTIMONY AND EVIDENCE OF RECORD:

Co-Applicant Rudolph Greeley identified he and his wife, Dorothy, as co-owners of the subject property, being a 64.70 acre, agriculturally zoned parcel in Whiteford. A building located on subject parcel is now used as a veterinary clinic, having been approved by Board of Appeals Case No. 4732, decided June 25, 1998. According to Mr. Greeley, conditions attached to the 1998 approval have been consistently observed by the operator of the veterinary clinic.

Mr. Greeley explained that the location of the proposed pet grooming business will be in the basement level of the building which is used by the veterinary clinic. Co-Applicant Cindy Silhan, who will be the operator of the pet grooming business, will be leasing space from the owner/operator of the veterinary clinic.

Mrs. Greeley then explained that the grooming facility will be for dogs and cats only. No animal will be kept overnight. The proposed hours are 8:00 a.m. to 5:00 p.m., Tuesday through Saturday. Mrs. Greeley expects there to be no more than 7 to 10 animals brought into the grooming facility on a daily basis. Only grooming will be done. Mrs. Greeley understands that the operator may have 2 employees.

Mr. and Mrs. Greeley have heard no objections from any neighbor or interested party concerning the proposed special exception. Mr. Greeley confirmed that animals will be kept in the building while they are being groomed and while they are on the property. While the original application and approval made note of an outside dog run, Mr. Greeley pointed out that the veterinary facility does not have an outside dog run.

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Cindy Silhan, who will be the pet grooming operator, then verified all of the information given by Mr. and Mrs. Greeley. However, Ms. Silhan indicated that she may, in fact, have somewhat more animals than 7 to 10 on a daily basis. She may groom as many as 15 dogs and cats on any given day. Traffic would be staggered, with animals being delivered and picked up throughout the day. She does not envision any adverse impact to any adjoining neighbor or property.

Next for the Department of Planning and Zoning testified Anthony McClune, Deputy Director. Mr. McClune indicated that the Harford County Agricultural Preservation Advisory Board has reviewed the application as the special exception would lie within an Agricultural Preservation District. However, Mr. McClune indicated that the Advisory Board had no objection to the application.

Mr. McClune and the Department of Planning and Zoning recommend approval of the use, and find that it meets all specific special exception requirements and will pose no adverse impact to the adjoining properties or neighbors. Mr. McClune feels that the use is an appropriate one for an agricultural district. He notes, however, the Department's recommendations that the special exception cease at such time that the principal use, that is, the veterinary clinic, ceases operation. The Department is recommending that such a condition be appended to any approval of the Applicants' request.

Mr. McClune also observed that no residential dwelling is close to the proposed use. Furthermore, traffic should not be impacted by the relatively low intensity of the proposed use.

There was no evidence or testimony given in opposition.

APPLICABLE LAW:

Section 267-53H(4) of the Harford County Code permits pet grooming and provides:

- “(4) Pet grooming. This use may be granted in the AG, VB, B1 and B2 Districts, provided that:*
- a. The activity takes place inside a complete enclosed building.*
 - b. No animals may be kept overnight, except those owned by the proprietor.”*

Section 267-9I is also applicable to this request and will be discussed below.

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FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicants propose a relatively minor, low intensity pet grooming operation within a building now lawfully used by a veterinary clinic within the middle of the Applicants' approximately 64 acre agriculturally zoned and used farm. The operator of the pet grooming facility proposes to groom approximately 15 dogs and cats per day, and perhaps fewer. The business will be open 9 hours per day, 5 days a week, and with as many as 3 employees in total. No animal will be allowed outside except during the time they are delivered to the facility and picked up. In truth, such an activity should have no impact of any nature on the surrounding neighbors of this rural, mixed residential and agricultural neighborhood.

The Applicants clearly meet the specific requirements of Section 267-53H(4) which allows pet groom in the Agricultural District, provided:

- a. *The activity takes place inside a complete enclosed building.*

The activity will take place within the basement area of the building now used by the veterinary clinic. No outside activities will take place.

- b. *No animals may be kept overnight, except those owned by the proprietor."*

The Applicants will keep no animals overnight. A condition mandating this obligation will be appended to this recommended approval.

Accordingly, it can be seen that the Applicants clearly meet the relatively relaxed special exception standards for a pet grooming facility.

The Applicants must, furthermore, meet the more generalized requirements of Section 267-9I, Limitations, Guides and Standards, discussed as follows:

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

As noted above, this area is generally a mixed rural residential/agricultural neighborhood. The subject property is now subject to Board of Appeals approval of a veterinary clinic. No doubt, the veterinary clinic will have a greater impact on the area than the low intensity pet grooming operation proposed. The veterinary clinic was approved with no evidence of impact on the surrounding community, and there is no evidence that the veterinary clinic has violated any condition of its approval, or has constituted a nuisance to the neighborhood. Pet grooming, being of a lesser intensity, should have even less impact.

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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.*

The property fronts on Maryland Route 136, a major collector road. Sight distances are good in both directions. Accordingly, it is found that there will be no adverse impact on traffic conditions if the proposed request is approved.

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

The proposed use will not be a detriment to the growth of the community or neighborhood and its fiscal impact should, at worse, be neutral.

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

The building where the business will be located is approximately one-quarter mile from any surrounding residence. There should be no impact from any of the characteristics noted.

- (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.*

The Maryland State Police and the Harford County Sheriff's Office will provide police protection. Water and sewer is provided by private well and septic. The use should have no significant impact on these resources.

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

The proposed use is permitted in the Agricultural District as a special exception. This special exception, under the Harford County Development Regulations, have been determined to be compatible with the districts in which they are conditionally allowed, provided they comply with all specific and general conditions.

- (7) *The structures in the vicinity, such as schools, houses of 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.*

The proposal is in compliance with the Harford County Master Plan.

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

No sensitive natural features or recreation and open space areas have been identified.

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

No such landmarks have been identified.

Accordingly, it is seen that the proposed special exception clearly meets all specific and general considerations.

Lastly, the Applicants' use must also be reviewed in light of the guidance given by Schultz v. Pritts, 291 Md. 1 (1981), which determined that special exceptions are generally allowable, provided they have no greater impact at the location proposed than at other locations in the neighborhood.

It is, accordingly, found that there is nothing about the pet grooming operation, as proposed and as will be conditioned, nor anything unusual about the surrounding neighborhood, which would tend to cause a greater impact at the subject property than at somewhere else within the zone. Indeed, it is difficult to see any potential adverse impact from the pet grooming operation, if conducted as described by the Applicant and as conditioned herein.

CONCLUSION:

It is therefore recommended that the proposed special exception be approved, subject to the following conditions:

1. The Applicants shall obtain all necessary permits and inspections for the pet grooming business.
2. There shall be no animals boarded overnight.
3. The hours of operation shall be limited to 8:00 a.m. to 5:00 p.m., Monday through Saturday, with no Sunday operation.

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4. The number of employees shall be limited to three (3), including the owner.
5. The approval shall become void when the veterinary clinic ceases to operate on the property.

Date: December 2, 2008

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner

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