

Tax Map/Block/Parcel
No. 39-8-997
Case 5980

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Linda M. Luke
452 Sullivan Road
Westminster, MD 21157

ATTORNEY: N/A

REQUEST: A request for a Conditional Use for a country inn and catering facility.

LOCATION: The site is located at 452 Sullivan Road, Westminster, Maryland on property zoned "R-40,000", in Election District 7.

BASIS: Code of Public Local Laws and Ordinances, Sections 158.071(D)(7)(e) and 158.072(D)(5).

HEARING HELD: October 26, 2016

FINDINGS AND CONCLUSION

On October 26, 2016, the Board of Zoning Appeals (the Board) convened to hear the request for a Conditional Use for a country inn and catering facility. Based on the testimony and evidence presented, the Board made the following findings and conclusions.

Linda Luke testified as the applicant in the case. She is the sole owner of the property with 7.02 acres of land. The property has easements around it. In fact the property has an easement pertaining to water and a forest conservation easement on it. There is a copy of a Non-Forested Buffer Water Resource Deed of Easement in the file. The property has a three story house from the 1830s on it. It also has an old barn. She wanted to offer the property for the benefit of the community to utilize it and enjoy it. She did not envision patrons or guests using the water facilities in the house. Individuals could only change their clothes inside of the 1830s house. Portable potties would be available within the tent for the event guests. The tents would be temporary structures and no permanent structures would be erected for the events. At some point in the future she might use the barn for events. A horse that formerly participated in the Preakness Stakes used the barn. The events would generally occur on the weekends from Friday to Sunday. She states that she would honor any noise ordinances that applied to her use. She would attempt to make her establishment user friendly. She anticipated a cutoff time for events between 10:00 pm and 11:00 pm. To that end, she would use quiet generators. She anticipated that events would be from four to six hours. She would not allow the events to have loud music,

because she would be sensitive to loud music. She was willing to give her neighbors notice of the events. She was willing to have parking areas delineated, and stated that there would be no overflow parking in the neighborhood. On two occasions she stated that guests would not be permitted to stay overnight in the house. At a latter point she stated that she could allow guests to stay overnight in the house.

An October 13, 2016 memorandum by Lynda Eisenberg, Chief, and Clare Williams, Planning Technician, stated that the matter had been reviewed for consistency with the policies and recommendations contained in the *2014 Carroll County Master Plan*, the Carroll County Water & Sewer Master Plan, and other functional plans. The staff finding was that this request is consistent with the *2014 Carroll County Master Plan* and would not have an adverse effect on the current use of the property or its environs.

Gale Engles, Bureau Chief, Resource Management testified in the case. She stated that a large portion of the property had restrictive easements on it. No permanent structures could be put on the easements. Vehicles should not be operated or stored in a portion of the easement. She stated that a violation was issued to the owner because of a violation to the easements. The violation was a September 28, 2016 letter from Tracy Eberhard. The letter pertained to the mowing of the grass and the lack of signs to be maintained every 100 feet with regard to the easement.

Tracy Eberhard, who also works in Resource Management, testified further about the easement issue. She stated that the grass was to be left at six inches high. It could be mowed more than two times a year but it should not be cut lower than six inches.

Kurt Wheeler testified in opposition to the application. He was concerned about the amount of noise from events. He was also concerned about lighting that could have an impact on his property. He also believed that there may be overflow parking that would come into the neighborhood. He also did not want intoxicated guests in the neighborhood.

Katheryn Barron testified in opposition to the application. She had young children. She wanted to see the specifics of the application outlined for the Board.

Amy Jones testified in opposition to the application. She lives two to three hundred feet away from the barn. She moved to her property for reasons dealing with privacy and quiet. She had a concern with safety due to the proposed country inn with catered events. She was concerned about the noise level generated by the events. She was concerned about her property values with the proposed use.

Tom Meachum testified in opposition to the application. His biggest concern was that the applicant had not thought through the application. Issues like the amount of parking needed, how many people would be accommodated, and the hours of operation did not seem to be nailed down. The lack of information was disconcerting to him. He also believed that the applicant could not meet the definition of country inn.

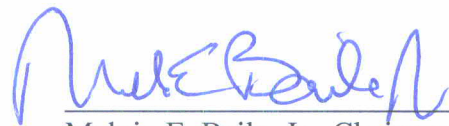
Jay Voight, the Zoning Administrator, testified at the request of the Board. He provided the Board with the definition of a country inn. A country inn is defined in the zoning code as “any dwelling in which rooms are rented to paying guests on an overnight basis with meals served daily.” He also testified about other cases where the Board had approved country inns in the past. He emphasized that the catering operation would not be allowed in this zone without the aspect of a country inn.

Kimberly Logue testified in opposition to the application. She believed that the use would decrease the value of her home. She wanted her house to be in a peaceful and nice neighborhood. She was concerned about all of the unknowns that were a part of the application.

The Board was very concerned that the proposed project was in the R-40,000 residential district. Neighbors would see and hear sounds that came from the site. Some of the other approvals for country inns were in the Agricultural zone or the Conservation zone. In this case, the neighbors, a few of whom testified in the case, were much closer to the events. The events would literally be in the neighbors’ backyards. No amount of buffering or screening would keep away the activities at the site. Due to the easements in evidence, much of the activities would be close to neighbors. The application also included events to be held at the barn in the future, and neighbors also lived close to the barn. The number of events a year, the number of event participants, and the days and times for the events was not adequately addressed at the hearing. At first Ms. Luke said that she would not have overnight guests. When it became clear that overnight guests were a requirement for a country inn she then said she would have overnight guests. She also said that there would be adequate parking. Based on the easements, it was unclear where people would park their cars.

The Board was convinced that authorization of the request with regard to a conditional use was not consistent with the purpose of the zoning ordinance, appropriate in light of the factors to be considered regarding conditional uses of the zoning ordinance, and would unduly affect the residents of adjacent properties, the values of those properties, or public interests. Based on the findings of fact made by the Board above, the Board found that the proposed project would generate adverse effects (i.e. noise, traffic, dust, water issues, lighting issues, property depreciation, etc.) greater here than elsewhere in the zone. The Board disapproved the conditional use requested by the applicant.

10-28-2016
Date


Melvin E. Baile, Jr., Chairman

Decisions of the Board of Zoning Appeals may be appealed to the Circuit Court for Carroll County within 30 days of the date of the decision pursuant to Land Use Article, Section 4-401 of the Annotated Code of Maryland.

Pursuant to Section 158.133 (H)(3) of the County Code, this approval will become void unless all applicable requirements of this section are met. Contact the Office of Zoning Administration at 410-386-2980 for specific compliance instructions.