

IN THE MATTER OF
THE APPLICATION OF
DIANNA BROOKS
(Special Exception - NAR)

BEFORE THE CECIL COUNTY
BOARD OF APPEALS
CASE NO.: 3584

OPINION

Application of Dianna Brooks (“Brooks” or the “Applicant”), for a special exception to operate a commercial kennel at 222 Conowingo Road, Conowingo, Maryland 21918, which is designated as Parcel 542 on Tax Map 16, in the Eighth Election District of Cecil County (the “Property”), in an area presently zoned Northern Agricultural Residential (“NAR”). The property is owned by Alisha Brooks.

This application is brought under the provisions of Article V, Part I, Section 66, and Section 54.4 Table of Permissible Uses 1.10.000 of the Ordinance, which permit a commercial kennel as a special exception in the NAR zone provided that:

1. Minimum acreage – five (5) acres if dogs are outside, two (2) acres if dogs are placed in a soundproof building.
2. Kennels are located at least two hundred (200) feet from any residence on an adjoining property.
3. The proposed use conforms to the Animal Regulations of Cecil County in regard to sanitary practices and animal care and treatment.
4. If this use is to be located in the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area the applicant must apply for and receive growth allocation prior to any approvals.
5. A site plan shall be submitted to and approved by the Office of Planning & Zoning prior to the issuance of a kennel license. The Office of Planning & Zoning shall send the site plan to the Animal Care and Control Authority, the Department of

Environmental Health, the Department of Permits & Inspections, and the State Highway Administration if on a State Highway, for their review and approval prior to issuing site plan approval.

6. Every kennel operator shall individually license dogs over four (4) months of age and maintain a valid kennel license.

7. Commercial kennels shall maintain a valid business license.

8. Prior to the renewal of a kennel license, the operator of the kennel shall schedule inspections by each agency named in Section 66.5 to ensure compliance with all applicable regulations. Violations will need to be corrected prior to license renewal.

Article XVII, Part II, Section 311 of the Ordinance specifies that no special exception shall be approved by the Board of Appeals after considering all facts in the case unless the following findings are made:

1. Such use or any operations thereto will not be detrimental to or endanger the public health, safety, or general welfare.

2. The use will not be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, nor substantially diminish or impair property values in the neighborhood.

3. The establishment of the use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zone.

4. The use will not, with respect to existing development in the area and development permitted under existing zoning, overburden existing public facilities,

including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements.

5. The use shall not adversely affect critical natural areas or areas of ecological importance.

6. The use shall, in all other respects, conform to the applicable regulations of the zone in which it is located.

7. That the particular use proposed at the particular location proposed, would not have any adverse effect above and beyond those inherently associated with such special exception use irrespective of its location in the zone. (*Schultz v. Pritts*, 291 MD. 1)

8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

9. That the proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the County.

The Applicant requests a special exception to operate a commercial kennel on the Property. The Applicant appeared before the Board, and testified that she raises golden retrievers. The Applicant currently has six female and two male golden retrievers, and is raising some puppies. The Applicant testified that when the puppies are older, they will be adopted out to new owners. The Applicant testified that individuals who are interested in adoption can view the puppies by appointment. The Applicant does not provide boarding, only breeding, currently has no sign, and has no intention of erecting a sign on the Property. The Applicant stated that each dog has its own kennel, and its own run; the Applicant currently has six kennels and six runs. The Applicant testified that she

has been breeding the golden retrievers for more than two years, and has had no complaints from her neighbors. The Applicant has no plans to expand the business, and requested that the special exception be permanent.

No one spoke for or against the application.

Clifford Houston, Cecil County Department of Planning and Zoning, testified that the Planning Commission recommended approval of the application for two (2) years, with adherence to the items enumerated in Section 66 of the Ordinance.

From the evidence, the Board makes the following findings of facts pursuant to the requirements of Section 311:

1. That renewing the special exception will not be detrimental to or endanger the public health, safety, or general welfare. The applicant has used the property as a commercial kennel for two (2) years without complaint from neighboring property owners. The Applicant does not board dogs, and her breeding business is small, with each dog having its own kennel and run. The Applicant testified that she regularly takes the dogs to a veterinarian, and that she adopts the puppies to interested people, by appointment only. Traffic to and from the business is minimal, and the Property contains eight acres of land, and is located on a public road which provides a sufficient means of access.

2. That there was no evidence indicating that the use will be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, nor was there any evidence to demonstrate that such use will substantially diminish or impair property values in the neighborhood. As stated above, the commercial kennel is small, located on

an eight acre parcel, and the Applicant has operated her breeding business for over two years in the present location without complaint from the neighbors.

3. That there was no evidence indicating that normal and orderly development and improvement of the surrounding properties will be impeded by the proposed use.

4. That there was no evidence indicating that the use will, with respect to existing development in the area and development permitted under existing zoning, overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements. As set forth above, the Applicant has used the Property as a commercial kennel for several years without complaint from neighbors, and there is no evidence that the Applicant's business has resulted in an increased need for or use of police or fire protection, water, sewer or septic, or other public improvements.

5. The continued use will not adversely affect critical natural areas or areas of ecological importance. The Property is not in the critical area or the critical area buffer.

6. The continued use will, in all other respects, conform to the applicable regulations of the zone in which it is located. The Board finds that the Applicant meets all applicable supplemental conditions under Section 66, specifically:

This application is brought under the provisions of Article V, Part I, Section 66, and Section 54.4 Table of Permissible Uses 1.10.000 of the Ordinance, which permit a commercial kennel as a special exception in the NAR zone provided that:

1. The Applicant keeps the dogs outside, and the Property contains eight acres of land, which is more than the five acre minimum required under Section 66.

2. The Applicant's kennels are located at least two hundred (200) feet from any residence on an adjoining property.

3. There is no evidence that the proposed use fails to conform with the Animal Regulations of Cecil County in regard to sanitary practices and animal care and treatment.

4. The proposed use is not located in the Resource Conservation Area (RCA) of the Chesapeake Bay Critical Area and, as such, the Applicant is not required to apply for and receive growth allocation prior to any approvals.

7. That the particular use proposed at the particular location proposed, will not have any adverse effect above and beyond those inherently associated with such special exception use irrespective of its location in the zone. (*Schultz v. Pritts*, 291 MD. 1).

8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets. The proposed commercial kennel serves a low volume of customers, and customers are by appointment only. The Property is located on a public roadway, and there is no evidence that existing operations have resulted in congestion on the public roads.

9. That the proposed special exception is consistent with the objectives of the current Comprehensive Plan for the County. The purpose of the NAR is to maintain the existing rural character of the County by encouraging the continuation of agricultural and

forestry uses. The NAR is intended to prevent premature urbanization in areas where planned public facilities will only meet rural needs. The Applicant has operated her dog breeding business for several years, and the proposed commercial kennel is consistent with the purpose of the NAR. The Applicant's proposed use is uniquely well suited for a rural atmosphere, and is consistent with the existing rural character of the this part of the County.

For the reasons stated, by unanimous vote, the Board is satisfied that the requirements of Sections 66, 54.4 sub-part 1.10.000, and 311, along with *Schultz v. Pritts*, 291 Md. 1 (1981) have been met, and the application is **APPROVED FOR A PERIOD OF TWO (2) YEARS, WITH ADHERENCE TO SECTION 66 OF THE CECIL COUNTY ZONING ORDINANCE.**

Date

3/27/12

William W. Jeans, Jr., Acting Chairperson

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: Feb. 2012
FILE NO. 3584

THIS REQUEST IS FOR:

- SPECIAL EXCEPTION RENEWAL ()
- SPECIAL EXCEPTION (X)
- VARIANCE ()
- APPEAL ()

DATE FILED: 1/18/12
AMOUNT PD: \$260.00 pd cash
ACCEPTED BY: AB

A. APPLICANT INFORMATION

Dianna Brooks
APPLICANT NAME - PLEASE PRINT CLEARLY

222 Conowingo Rd. Conowingo MD 21918
ADDRESS CITY STATE ZIP CODE

Dianna Brooks 443-250-7871
APPLICANT SIGNATURE PHONE NUMBER

B. PROPERTY OWNER INFORMATION

Mail to P.O. Box

Alisha Brooks
PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

222 Conowingo Rd. (P.O. Box 427) Conowingo MD 21918
ADDRESS CITY STATE ZIP CODE

Alisha Brooks 910-476-4323
PROPERTY OWNER SIGNATURE PHONE NUMBER

2. PROPERTY INFORMATION

222 Conowingo Rd. 8 08-019282
PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER

#16 01 542 1A 8.088 Act NAR
TAX MAP # BLOCK PARCEL LOT # #ACRES ZONE

1. PURPOSE OF APPLICATION - Indicate reasons why this application should be granted. (attach separate sheet if necessary)

This application meets the requirements out lined in Section 66 and the criteria set forth in Section 311

2. On an attached sheet, PLEASE submit a sketch of the property indicating the proposed project. Show distances from the front, side and rear property lines and the dimensions of the project.

3. LAND USE DESIGNATION

Is property in the Critical Area? _____ YES _____ X NO

If yes, Pertinent provision of the Chesapeake Bay Critical Area Program: _____

Is property in the 100 year Floodplain? _____ YES _____ X NO

Is property an Agricultural Preservation District? _____ YES _____ X NO

If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

4. PROVISION OF ZONING ORDINANCE: Section 66

5. SPECIAL EXCEPTION RENEWAL - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL: N/A

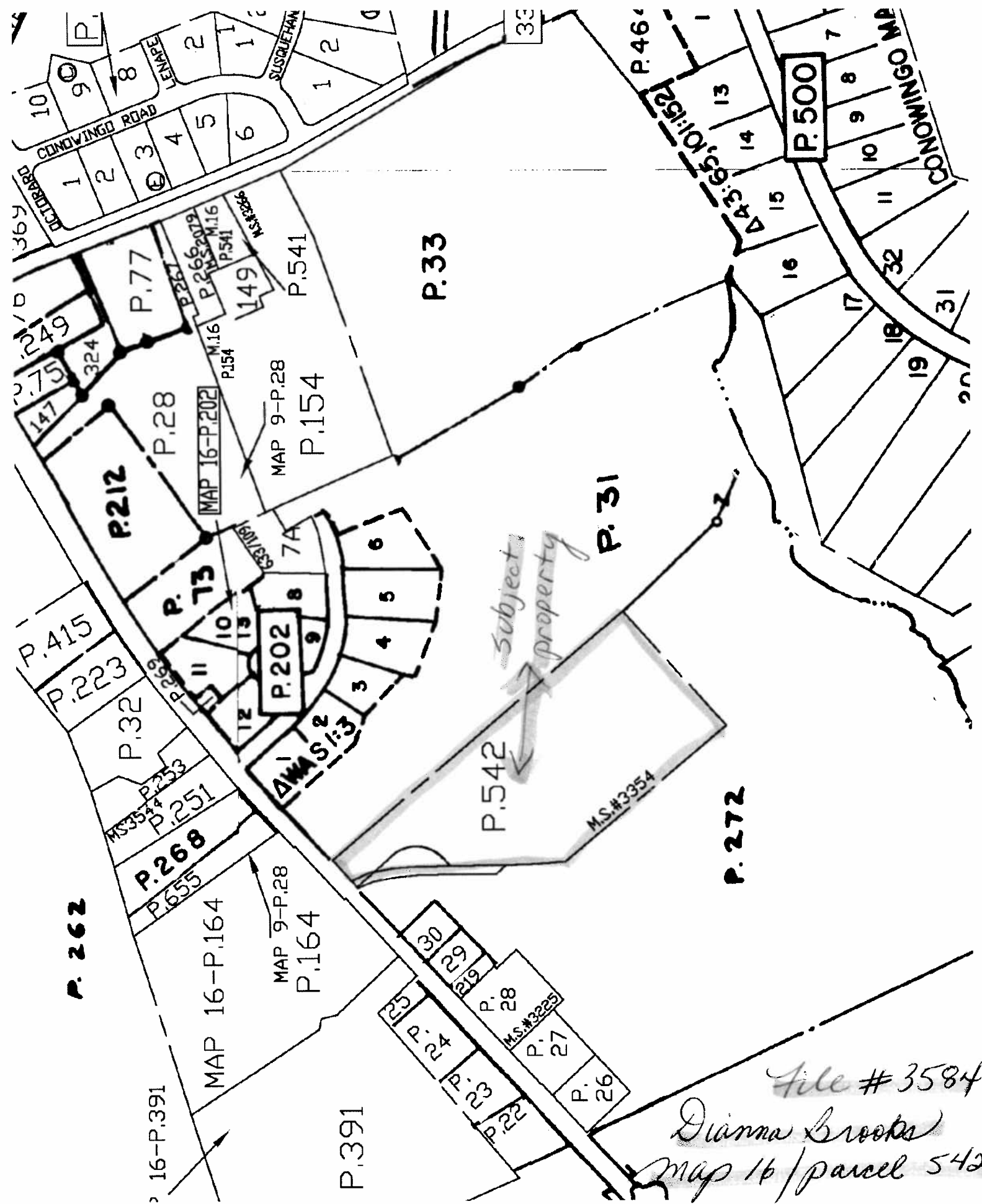
6. SPECIAL EXCEPTION FOR A MANUFACTURED HOME - Please fill out the following information:

Will unit be visible from the road? N/A If yes, distance: _____

Will unit be visible from adjoining properties? _____ If yes, distance: _____

Distance to nearest manufactured home: _____ Size/Model/Year of Unit: _____

Number of units on property at present time: _____



File # 3584
Dianna Brooks
map 16 / parcel 542

Google maps

To see all the details that are visible on the screen, use the "Print" link next to the map.



Google maps

To see all the details that are visible on the screen, use the "Print" link next to the map.

