

Viram Patel,
Petitioner

* PLANNING BOARD OF
* HOWARD COUNTY, MARYLAND

ZRA 135

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MOTION: To recommend approval with modifications of the proposal to amend Section 131.N.43 of the Zoning Regulations to amend the required setback provisions for riding academies and horse stables on sites in the RC and RR Districts over 20 acres in size.

ACTION: *Recommended approval with modifications of petition; Vote 4 to 0.*

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RECOMMENDATION

On November 3, 2011, the Planning Board of Howard County, Maryland, considered the petition of Viram Patel to amend Section 131.N.43 of the Zoning Regulations to reduce setbacks to permit riding academies/horse stables to be located within 100 feet of existing dwellings on different lots (for uses involving 20 or fewer horses) and 200 feet of existing dwellings on different lots (for uses involving more than 20 horses) on sites in the RC and RR Districts over 20 acres in size.

The petition and the Department of Planning and Zoning Technical Staff Report and Recommendation were presented to the Board for its consideration. The Department of Planning and Zoning recommended that the Petitioner's request be approved with modifications.

No one testified in opposition to the petition.

Andrew Robinson, Esq. represented the Petitioner. Mr. Robinson stated that he accepts the zoning history in the Technical Staff Report which he said differs from the petition because the copy of the Comprehensive Zoning Plan he reviewed contained different criteria than the historical Zoning Regulations maintained by the Department of Planning and Zoning. He said the petition was intended to provide flexibility for farms in the western part of Howard County and that the proposed amendment is supported by the General Plan which directs that the Zoning Regulations should be adjusted as necessary to support agricultural land uses in the rural west. Given that the conditional use is only permitted in the RC and RR Districts, farm properties should be given the benefit of reduced setbacks because lot sizes are likely to be large. Mr. Robinson said he would adopt the modified recommended language in the Technical Staff Report with a minor adjustment. He submitted a document entitled "Petitioner's Proposed Alternative Text" (the "Alternative Text") to DPZ staff and Planning Board members comprising additional text which would give the Hearing Authority authorization to reduce the recommended setback for stables. This Alternative Text would add a new subsection e. to Section 131.N.43 as follows: "The Hearing Authority may reduce the 200 foot setback

1 from an existing dwelling on a different lot for stables to a distance no less than 100 feet if it finds that
2 the setback reduction will not adversely affect neighboring properties due to visual impact, noise, dust,
3 odors or other causes". He said this is consistent with the option afforded the Hearing Authority in the
4 conditional use criteria for kennels.

5 David Grabowski asked if DPZ had reviewed the Alternative Text. Ms. McLaughlin
6 responded that it was recently submitted to DPZ and DPZ wanted an opportunity to examine this
7 option for conditional uses during Comprehensive Zoning.

8 Viram Patel testified that when he bought his property in 1986 it was an existing horse farm.
9 He said all buildings on the property have been there since 1980 and there have never been any
10 complaints until recently when he was issued a zoning violation notice for having a stable too close to
11 a property line. He said the horse farm is a family business and not an income producing commercial
12 business and that he rents space to people to keep horses but they do not remain for long because there
13 is no money to be made.

14 David Benzy testified in favor of the petition. He said he is Mr. Patel's neighbor and he has
15 lived on his property 10 years longer than Mr. Patel has lived on his. He said there have never been
16 any problems of odors or noise from any buildings or uses on Mr. Patel's property.

17 Paul Yelder made a motion for the Board to discuss the petition in a work session. Bill Santos
18 seconded the motion.

19 **Work Session:**

20 One Board member said he is in favor of the amendment and that the proposal strikes a nerve
21 in the context of the evolution of the County. He said that residents in a rural area should not have to
22 get a permit to operate a stable and that these agricultural businesses predate the large houses in the
23 rural west. He said because there is such variation among individual properties, the Hearing Authority
24 should have the flexibility to further reduce setbacks.

25 A Board member said the amendment is logical considering the County's agricultural
26 background. He said he would like DPZ staff to comment about the proposed Alternative Text. Ms.
27 McLaughlin said DPZ did not have an issue with allowing the Alternative Text at this time provided it
28 is understood that this option for conditional uses in general may be altered or removed upon future
examination.

Board members agreed that basing setbacks on the number of horses is impractical because
horses would actually have to be counted and there is an inadequate amount of staff for such a
practice, and additionally, the Hearing Authority would have to control the number of horses and the
criterion does not allow flexibility for changes in the number of horses. Eliminating the criterion of the
number of horses would simplify the conditional use process and since the process is governed by the

Hearing Authority, the decision on whether to further reduce a setback would more practically be based on actual site conditions.

Motion and Vote:

Josh Tzucker made a motion to recommend approval of the petition in accordance with the Technical Staff Report recommendation of approval with the modifications in Attachment B, DPZ's Proposed Text and with the Alternative Text submitted at the Planning Board meeting. Bill Santos seconded the motion. The motion passed by a vote of 4 to 0.

For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 21st day of December, 2011, recommends that ZRA 135, as described above be APPROVED.

HOWARD COUNTY PLANNING BOARD

David Grabowski YB

David Grabowski, Chairperson

Paul Yelder YB

Paul Yelder

Josh Tzucker YB

Josh Tzucker

Bill Santos YB

Bill Santos

ATTEST:

Marsha S. McLaughlin

Marsha S. McLaughlin
Executive Secretary