

**FINDINGS AND RECOMMENDATION
OFFICE OF PLANNING AND ZONING
ANNE ARUNDEL COUNTY, MARYLAND**

APPLICANT: Tiffany and Brian Biven

ASSESSMENT DISTRICT: 3rd

CASE NUMBER: 2023-0120-V

COUNCILMANIC DISTRICT: 5th

HEARING DATE: September 12, 2023

PREPARED BY: Jennifer Lechner
Planner



REQUEST

The applicant is requesting a variance to allow a pet care business as a home occupation on a lot less than 20,000 square feet in an R5 - Residential District, on property located at 806 Chestnut Tree Drive in Annapolis.

LOCATION AND DESCRIPTION OF SITE

The subject site consists of 17,700 square feet of land and is located with approximately 120 feet of road frontage on the north side of Chestnut Tree Drive, approximately 140 feet east of Ramblewood Drive. It is identified as Lots 1 and 2 of Parcel 23 in Block 10 on Tax Map 40 in the Cape St Claire subdivision.

The property is zoned R5 – Residential District. The current zoning was adopted by the comprehensive zoning for Council District 5, effective January 29, 2012. The site is currently improved with a one-story single-family detached dwelling and other associated facilities.

PROPOSAL

The applicant proposes to operate a pet care business as a home occupation.

REQUESTED VARIANCES

§ 18-10-136(3)(xvi) requires that a pet care business as a home occupation is limited to a lot of 20,000 square feet or greater. The applicant's property consists of 17,700 square feet, which is less than the minimum 20,000 square feet required, thereby necessitating a variance of 2,300 square feet.

FINDINGS

The subject lot is rectangular in shape and exceeds the minimum 7,000 square foot lot area and 60-foot lot width for the R5 District. A review of the County 2023 aerial photography shows that the subject property is a double lot compared to the majority of the other home sites which are single lots.

The applicant's letter indicates that they intend to care for one or two dogs at one time, and are limited to a maximum of four dogs (including personal pets) for their property pursuant to §18-4-104. The applicant further states that they intend to provide pet care in accordance with the requirements of Article 12, Section 4-807, regarding Pet Care Businesses. The applicants assert that the 2,300 square foot deficiency should not pose a negative impact on the community at large as they will comply with all other requirements for the home occupation. The applicants anticipate that the use will occupy no more than 500 square feet (approximately 22.5%) of the principal residence, which is 2,218 square feet.

The **Health Department** has determined that the proposed request does not adversely affect the well water supply system, and has no objection to the above referenced request.

For the granting of a variance, a determination must be made as to whether, because of certain unique physical conditions peculiar to or inherent in the property, or because of exceptional circumstances other than financial considerations, strict implementation of the Code would result in practical difficulties or unnecessary hardship. Variances should only be granted if in strict harmony with the spirit and intent of the zoning regulations, and the need sufficient to justify a variance must be substantial and urgent, and not merely for the convenience of the applicant.

There is nothing unique about the subject property as it relates to other nearby residential lots with similar zoning; and, there are no unique circumstances preventing the applicant from complying with the Code. The desire to operate a business out of one's home is not an exceptional circumstance. Allowing a pet care business on a lot that does not meet the minimum requirement would undermine the planning objective of the home occupation provisions which were designed to exclude uses that may be a nuisance to nearby properties.

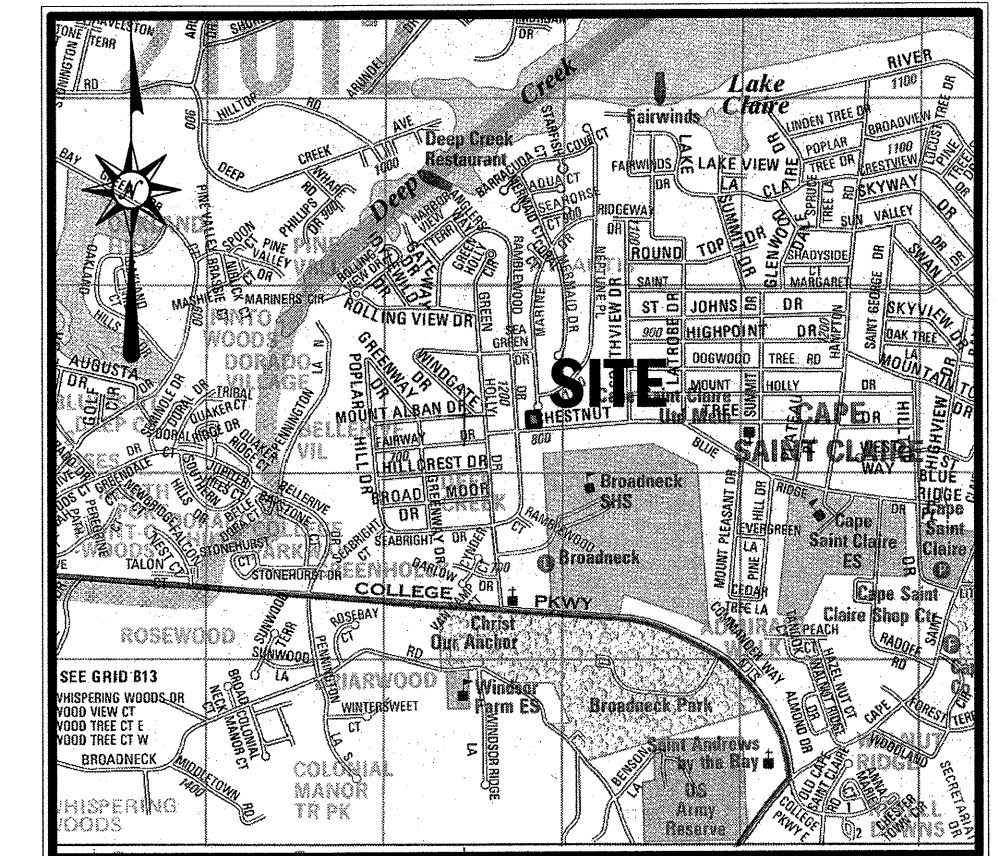
The noise, odors, and traffic associated with the activities of a pet care business may alter the essential character of the neighborhood, may impair the appropriate use of adjacent properties, and may be detrimental to the public welfare.

Without a variance, the applicants would not be denied reasonable use of the residential property, as the property is already developed with an existing single family dwelling and other associated facilities. The restrictions of the Code do not have a disproportionate impact on the subject lot as compared to any other residentially zoned property, as most of the other nearby lots are well below the 20,000 square foot requirement for this use. As such, this Office cannot support the variance request.

RECOMMENDATION

Based upon the standards set forth in § 18-16-305 of the Code under which a variance may be granted, this Office recommends ***denial*** of a zoning variance to § 18-10-136(3)(xvi) to allow a pet care business as a home occupation on a lot less than 20,000 square feet, specifically on a lot of 17,700 square feet.

Disclaimer: This recommendation does not constitute a building permit. In order for the applicant(s) to proceed with the use(s) as proposed, the applicant(s) shall apply for and obtain the necessary building permits and obtain any other approvals required to perform the work described herein. This includes, but is not limited to, verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.



VICINITY MAP
SCALE: 1"=2000'
COPYRIGHT ADC THE MAP PEOPLE
PERMITTED USE NO. 08301200

GENERAL NOTES

1. THE PROPERTY IS KNOWN AS TAX MAP 40, GRID 10, PARCEL 23 LOTS # 1 AND 2 IN BLOCK U SECTION 2 CAPE ST. CLAIRE DEED L.28608, F. 169.
2. THE EXISTING ZONING OF THE SITE IS R5 (RESIDENTIAL).
3. THE SITE ADDRESS IS 806 CHESTNUT TREE DRIVE, ANNAPOLIS, MD 21409.
4. TAX ACCOUNT NO. 00-165-01964910.
5. THE EXISTING FEATURES AND TOPOGRAPHY SHOWN HEREON WERE TAKEN FROM ANNE ARUNDEL COUNTY DIGITAL FILES
6. THE SITE IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA OR BOG PROTECTION AREAS.
7. THERE ARE NO STEEP SLOPES ON THE SUBJECT PROPERTY.

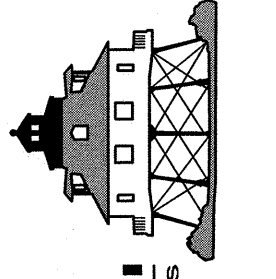
Revisions	Date	By	Rev. #	Description

I hereby certify that these documents were prepared or approved by me, and that I am a duly licensed Professional Engineer in the State of Maryland.

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Date	NOVEMBER, 2022
Job Number	22-8723
Scale	1"=20'
Drawn By	J. L.S.
Approved By	M. MEEKINS
Folder Reference	

PRE-FILE ADMINISTRATIVE SITE PLAN

FOR
BRIAN M. & TIFFANY L. BIVEN

806 CHESTNUT TREE DRIVE, ANNAPOLIS, MD 21409
T.M. 40, GR. 10, P. 23
DEED L. 28608, F. 169
TAX ID #03-165-01964910
THIRD DISTRICT - ANNE ARUNDEL COUNTY



Matthew S. Evans, III Owner
Gary Damico Partner
Jonathon Scruggs Partner
Caterina Sorrento Associate
Jessica Chandler Paralegal
Geniya Seager-Gilliam Paralegal

113 Cathedral Street Annapolis, MD 21401
410.626.6009
msevenslaw.com

June 8, 2022

Via US Mail
Anne Arundel County
Department of Planning and Zoning
2664 Riva Road
Annapolis, MD 21401

Re: Variance Application/Conditional Use
R5/Home Occupation
Letter of Explanation

Sir or Madam,

My office has been retained to assist Ms. Tiffany Biven and her husband Brian Biven with a variance application, attached hereto, to permit a home occupation pet care business on a property located in the R5 zone. The property, 806 Chestnut Tree Drive, lacks the twenty thousand square foot (20,000 sq ft) lot dimensions required to permit said requested conditional use therefor necessitating a variance.

Specifically, the property herein referenced is identified as follows:

806 Chestnut Tree Drive,
Annapolis, MD 21409
Tax Map: 40 Block: U Parcel: 23

A pet care business as a home occupation is specifically authorized pursuant to §18-10-122(xvi), and is classified as a conditional use within the R5 zone. Ms. Biven intends only to care for one or two pets (specifically dogs) at one time. Ms. Biven will provide pet care in accordance with the relevant County code, specifically:

Anne Arundel County Code – Article 12, Section 4-807 Pet Care Businesses (a) Generally. Each pet care business shall provide: (1) an exercise area of sufficient size to allow running, with sufficient fencing and a secure locking gate, kept clean, dry, and in a sanitary condition with adequate protection against weather extremes; (2) for overnight pet care, daily food, free of visible contamination, that is palatable and of sufficient quantity and quality to meet the normal nutrient requirements for the type, condition, and size of the animal; and (3) fresh water that is always available and that is kept in a removable vessel secured to prevent tipping.

Ms. Biven is limited to a maximum of four dogs (to include personal pets) for her property pursuant to County Code §18-4-104.

The current lot size of Ms. Biven's property is seventeen thousand, seven hundred sq ft. (17,700). She is requesting a variance to the twenty thousand square foot (20,000 sq ft) requirement for a pet care home occupation. The variance will total a downward deviation of two thousand, three hundred square feet (2,300 sq ft.) which should pose not negative impact upon the community at large.

Ms. Biven intends to comply with all other requirements for the operation of a home occupation and it is anticipated that the use will occupy no more than five hundred square feet (500 sq ft) of the principal residence which bears an overall square footage of two thousand, two hundred and eighteen square feet (2,218 sq ft)

All relevant documents, to include the application for conditional use, the application for variance, and the attendant site plan have been attached for your review and reference.

Please direct all correspondence regarding this matter directly to my office at my attention.

Sincerely,



Jonathon C. Scruggs
Attorney at Law

cc: Client



J. Howard Beard Health Services Building
3 Harry S. Truman Parkway
Annapolis, Maryland 21401
Phone: 410-222-7095 Fax: 410-222-7294
Maryland Relay (TTY): 711
www.aahealth.org

Tonii Gedin, RN, DNP
Acting Health Officer

MEMORANDUM

TO: Sadé Medina, Zoning Applications
Planning and Zoning Department, MS-6301

FROM: Brian Chew, Program Manager
Bureau of Environmental Health *BC*
8/1/23

DATE: August 1, 2023

RE: Brian M. Biven
806 Chesnut Tree Drive
Annapolis, MD 21409

NUMBER: 2023-0120-V

SUBJECT: Variance/Special Exception/Rezoning

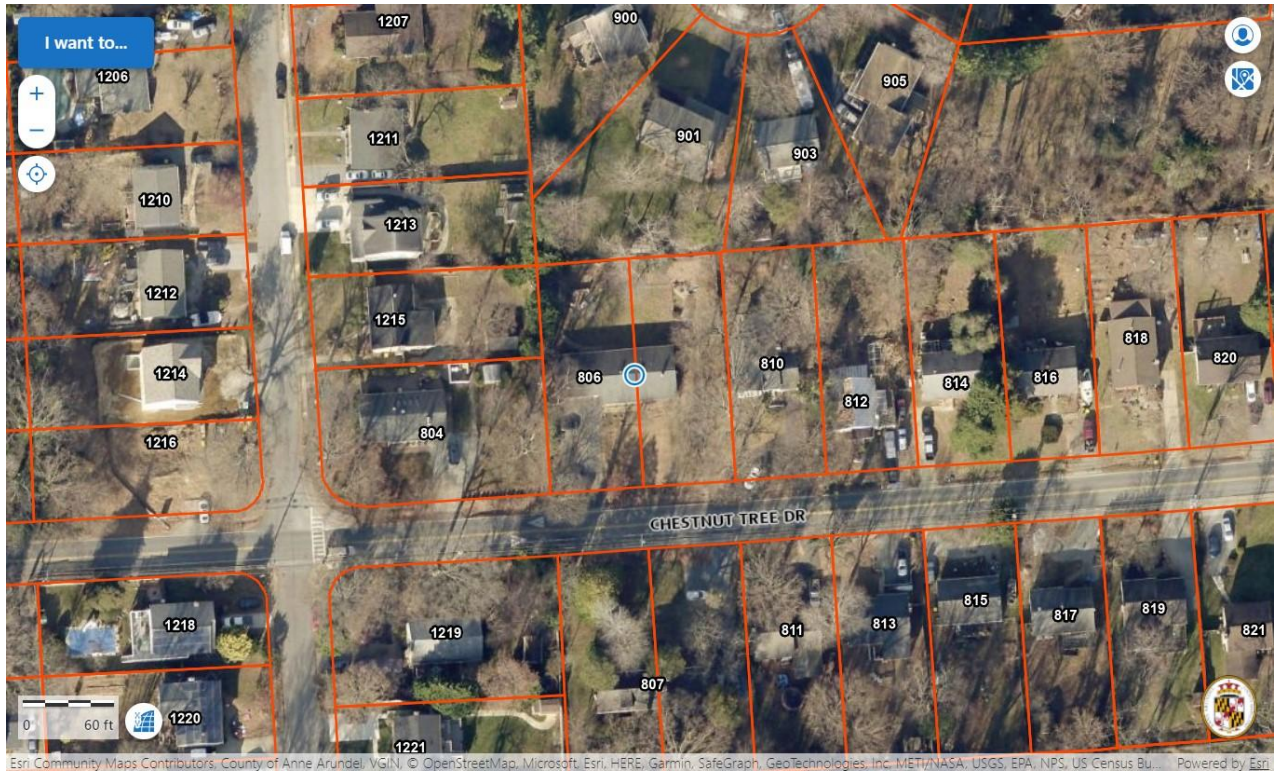
The Health Department has reviewed the above referenced variance to allow a pet care business as a home occupation on a lot less than 20,000 square feet in an R5-Residential District.

The Health Department has reviewed the well water supply system for the referenced property. The Health Department has determined that the proposed request does not adversely affect the well water supply system. The Health Department has no objection to the above referenced request.

If you have further questions or comments, please contact Brian Chew at 410-222-7413.

cc: Sterling Seay

2023 AERIAL



2023 AERIAL (DETAIL)

