

|                                     |   |                         |
|-------------------------------------|---|-------------------------|
| IN THE MATTER OF                    | * | BEFORE THE              |
| THE APPLICATION OF                  |   |                         |
| BRANCHWATER FARMS, INC.-PETITIONER* |   | COUNTY BOARD OF APPEALS |
| FOR SPECIAL EXCEPTION AND VARIANCE  |   |                         |
| ON PROPERTY LOCATED ON THE NW/S     | * | OF                      |
| FALLS ROAD AND KNOX AVENUE, S/S     |   |                         |
| TUFTON AVENUE (1800 KNOX AVENUE)    | * | BALTIMORE COUNTY        |
| 8TH ELECTION DISTRICT               | * |                         |
| 3RD COUNCILMANIC DISTRICT           |   | CASE NO. 01-062-XA      |
| * * * * *                           |   |                         |

ORDER OF DISMISSAL

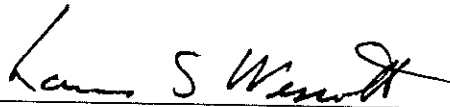
This matter comes to the Board of Appeals by way of an appeal filed by Peter Max Zimmerman, People's Counsel for Baltimore County, and Carole S. Demilio, Deputy People's Counsel, from a decision of the Zoning Commissioner dated October 12, 2000 in which the requested relief was granted with restrictions.

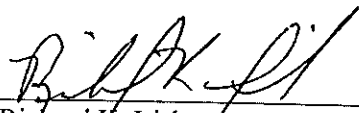
WHEREAS, the Board is in receipt of a letter of withdrawal of appeal filed January 22, 2002 by the Office of People's Counsel for Baltimore County, Appellant (a copy of which is attached hereto and made a part hereof); and

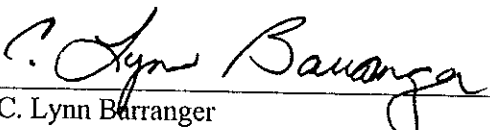
WHEREAS, said Appellant requests that the appeal taken in this matter be withdrawn and dismissed as of January 22, 2002;

IT IS ORDERED this 8th day of February, 2002 by the County Board of Appeals of Baltimore County that the appeal taken in Case No. 01-062-XA be and the same is hereby DISMISSED.

COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY

  
Lawrence S. Wescott

  
Richard K. Irish

  
C. Lynn Barranger



## Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old CourtHouse  
400 Washington Ave.  
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN  
People's Counsel

January 22, 2002

CAROLE S. DEMILIO  
Deputy People's Counsel

Charles L. Marks, Chairman  
County Board of Appeals  
of Baltimore County  
400 Washington Avenue, Room 49  
Towson, MD 21204  
Hand-delivered

Re: Petitions for Special Exception and Variance  
1800 Knox Avenue  
8<sup>th</sup> Election District, 3<sup>rd</sup> Councilmanic  
Branchwater Farms, Inc., Petitioner  
Case No.: 01-62-XA

Dear Mr. Marks:

On or about October 20, 2000, our office filed an appeal in the above-captioned case. Upon further review of the case, we no longer believe an appeal is in the public interest. We therefore withdraw our appeal in this matter.

Very truly yours,

A handwritten signature in cursive script that reads "Peter Max Zimmerman".

Peter Max Zimmerman  
People's Counsel for Baltimore County

A handwritten signature in cursive script that reads "Carole S. Demilio".

Carole S. Demilio  
Deputy People's Counsel

PMZ/CSD/caf

cc: C. William Clark, Esq., Attorney for Petitioner

|                                        |   |                     |
|----------------------------------------|---|---------------------|
| IN RE: PETITIONS FOR SPECIAL EXCEPTION | * | BEFORE THE          |
| AND VARIANCE – W/S Falls Road, 390'    |   |                     |
| S of Tufton Avenue                     | * | ZONING COMMISSIONER |
| (1800 Knox Avenue)                     |   |                     |
| 8 <sup>th</sup> Election District      | * | OF BALTIMORE COUNTY |
| 3 <sup>rd</sup> Council District       |   |                     |
|                                        | * | Case No. 01-062-XA  |
| Branchwater Farms, Inc.                |   |                     |
| Petitioners                            | * |                     |

\* \* \* \* \*

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of Petitions for Special Exception and Variance filed by the owners of the subject property, Branchwater Farms, Inc., by William H. Suchting, President, through C. William Clark, Esquire. The Petitioners request a special exception for a kennel on the subject property, zoned R.C.2, pursuant to Section 1A01.2.C.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), and variance relief from Section 421.1 thereof to permit part of the kennel to be located 110 feet from the property line in lieu of the required 200 feet. In open hearing, the Petitioners amended their Petition for Special Exception to also request approval of an animal boarding place on the subject property. It is to be noted that both an animal boarding place and a kennel are permitted by special exception in the R.C.2 zone. The subject property and relief sought are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were William H. and Doreen B. Suchting, principals of Branchwater Farms, Inc., owners of the subject property, and C. William Clark, Esquire, attorney for the Petitioners. There were no Protestants or other interested persons present.

Testimony and evidence offered revealed that the subject property is a large, irregularly shaped parcel located on the north side of Knox Avenue and the south side of Tufton Avenue, near the intersection of Falls Road and Shawan Road in Reisterstown. The property contains a gross

area of 45.294 acres, more or less, zoned R.C.2, and is presently in active agricultural use. The property is improved with a two-story frame dwelling, known as 1800 Knox Avenue, and also features a one-story frame office building, a livestock corral, with an attached 9' x 36' kennel, and accessory kennel shed. The Petitioners have owned the property since 1979 and have farmed this property as well as others in the area for many years. It was indicated that a portion of the property is in crops (soybean, wheat and corn), and that the property is used for raising livestock (cattle, sheep, etc.). Apparently, a number of years ago, Mrs. Suchting began to raise Border Collies on the property. Originally, the dogs were raised as working animals in connection with the operation of the farm. That is, they were used to help control livestock. However, the raising of Border Collies has grown over the years and the Petitioners now own 30 dogs (5 males and 25 females) which are used for breeding purposes. It was indicated that as a litter of puppies are born, most of the animals are sold, but some are retained as working dogs. The animals are sold both as pets, and as working dogs, i.e., to other farmers, to Police Departments for criminal investigations, etc.

The site plan shows that the property is improved with a single family dwelling, in which the Petitioners reside, and a series of outbuildings as identified above. These outbuildings are used for both the active agricultural operations and the raising of the dogs. There is a 60' x 52' concrete building, a 95' x 50' barn, which will be expanded to accommodate dog runs, and a small 10' x 18' kennel shed, and another small building in which an office and paperwork are maintained for both the agricultural and kennel operations.

The Petitioners seek approval of the use of the site for a kennel. A kennel is defined in Section 101 of the B.C.Z.R. as "Any building, other structure, or land, or any portion thereof which is used, intended to be used, or arranged for the housing of more than three (3) dogs, not counting puppies less than 4 months old, for the purposes of show, breeding, or sale, or as pets, excluding a farm or pet shop." Amended relief is also requested to allow an animal boarding place (Class A) on the property. An animal boarding place is defined in Section 101 as "Any building, other structure, or land, or any portion thereof which is used, intended to be used, or arranged for the boarding, breeding, or other care of animals for profit, but excluding a farm,

kennel, pet shop, veterinarian's office, or veterinarianum." A Class A animal boarding place is an animal boarding place exclusively for dogs, cats, birds, or other household pets. In this regard, it was indicated that Mrs. Suchting will occasionally board dogs which had been sold from the property. That is, purchasers will return the dogs to the site when they go on vacation and need to board their animals. Variance relief is also requested because the small, 18' x 12' kennel shed building is located within 110 feet of the side property line. It is to be noted that this property line abuts Knox Avenue and Falls Road.

Based on the testimony and evidence offered, I am persuaded to grant the special exception and variance relief. There was no indication that the use does not meet the requirements of Section 502.1 of the B.C.Z.R. The property has been used for agricultural purposes for many years and the boarding and raising of Border Collies has been an integral part of this farming operation. There was no indication that the dogs, which have been bred and maintained on the property for many years, have caused any detrimental impact to the health, safety or general welfare of the surrounding locale. Moreover, I find that the property is unique by way of its configuration. The building involved is sufficiently set back from any nearby residence so as to not be detrimental to adjacent properties. There were no Protestants present and there were no adverse comments submitted by any Baltimore County reviewing agency. Thus, I find that the relief requested should be granted.

Pursuant to the advertisement, posting of the property and public hearing on these Petitions held, and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 12<sup>th</sup> day of October, 2000 that the Petition for Special Exception (as amended) to permit a kennel and an animal boarding place on the subject property, zoned R.C.2, pursuant to Section 1A01.2.C.2 of the Baltimore County Zoning Regulations (B.C.Z.R.), in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Variance seeking relief from Section 421.1 thereof to permit part of the kennel to be located 110 feet from the property line in lieu of the

required 200 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restriction:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until the 30-day appeal period from the date of this Order has expired. If an appeal is filed and this Order is reversed, the relief granted herein shall be rescinded.

  
LAWRENCE E. SCHMIDT  
Zoning Commissioner  
for Baltimore County

LES:bjs