



October 2, 2009

TECHNICAL STAFF REPORT

*Petition Accepted on June 25, 2009
Planning Board Meeting of October 22, 2009
County Council Hearing to be scheduled*

Case No./Petitioner: ZRA - 117 – Greg Fox, Councilperson and Mary Kay Sigaty, Councilperson

Request: Zoning Regulation Amendment to Section 128.A.4 (Supplementary Zoning District Regulations) to allow apiaries to be located within the current 200 foot setback on residential lots under certain conditions; to create a new Section 128.M to permit apiaries as an accessory use and to allow apiaries to be located in the NT and MXD districts.

Department of Planning and Zoning Recommendation: APPROVAL WITH MODIFICATIONS

I. DESCRIPTION OF PROPOSAL

- **The proposal is for two amendments to Section 128 of the Zoning Regulations.**

The proposal would reduce the current 200 foot setback from property lines for apiaries in order to expand opportunities for beekeeping in all residential districts.

The proposal would also add a new section to the Zoning Regulations which would permit apiaries as an accessory use and establish parameters for apiaries on residential lots. The proposal would also remove the current restriction on allowing apiaries in the NT and MDX districts.

- **According to the petition, the reason for the proposed amendment is that honeybees are essential pollinators for agricultural crops and residential gardens throughout the County as they contribute to environmental regeneration and sustainability. As apiaries currently fall under the definition of farming, they are allowed in most residential zoning districts. However, the current setback regulation requires that animal shelters be set back 200 feet from an existing dwelling on another lot when it houses or provides protection for animals. Because apiaries are considered animal shelters, the setback requirement precludes the keeping of honeybees in many residential zoning districts. In addition, the NT (New Town) and MXD (Mixed use Development) districts do not permit farming uses, so apiaries are not permitted in these two districts.**

- **The complete proposed amendment text is attached to this Technical Staff Report as Attachment A (Petitioner’s Proposed Text) and Attachment B (DPZ Proposed Text).**

II. EXISTING AND PROPOSED REGULATIONS

- **Currently, apiaries are included in the definition of farming (Section 103.A. 53 of the Zoning Regulations). In most residential zoning districts, farming is a permitted use on a lot of greater than 40,000 square feet; therefore, apiaries are currently permitted only on lots of greater than 40,000 square feet.**

The existing 40,000 square foot minimum lot size requirement would be removed by the amendment. The proposed accessory use provisions would permit apiaries on all single family residential lots (single-family attached, single-family detached and semi-detached) without a minimum lot size requirement.

- **Section 128.A.4 requires that in all districts where farming is a permitted use, an animal shelter that houses or provides protection for animals other than household pets shall not be allowed within 200 feet of an existing dwelling on a different lot.**

The proposed amendment would remove the requirement that apiaries meet the 200 foot setback. Instead, accessory use apiaries as well as apiaries permitted as a matter of right under the definition of farming would be required to be set back from lot lines a minimum of 25 feet, except that they may be set back 10 feet from lot lines provided that an appropriate bee flight path is established.

- **Because apiaries are currently included in the definition of farming and farming is not generally a use permitted as a matter of right in the NT and MXD Districts, apiaries are not permitted in these districts.**

The NT and MXD Districts generally allow accessory uses which are typically permitted in residential districts. By allowing apiaries as a permitted accessory use, the amendment would remove the restriction on allowing apiaries in the NT and MXD Districts.

III. BACKGROUND INFORMATION

A. Scope of Proposed Amendments

- **The proposed amendment would affect any single family residential lot, lots containing community gardens, or sites where apiaries will form part of an educational program which could meet the proposed rear and side yard setbacks.**
- **The amendment would remove the existing restriction on apiaries in the NT and MXD Districts.**

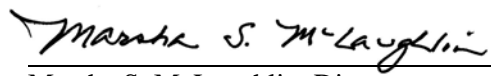
IV. EVALUATIONS AND CONCLUSIONS

- The amendment is generally harmonious with policies of General Plan Chapter 3, Preservation of the Rural West and Chapter 6, Working With Nature. The General Plan promotes preservation of the County’s agricultural productivity as well as the need to work with nature to ensure sustainability. Emerging nontraditional trends such as horticultural production can be supported on relatively little acreage. The amendment will allow residents on smaller lots to provide a valuable service to the farming industry in the County. The General Plan (page 62) states that the County should adopt “appropriate modifications to the Zoning Regulations to support principal and accessory agricultural activities”. Policy 6.1 encourages individual environmental stewardship and encourages individuals to see their role in promoting the sustainability of the natural environment. Beekeeping provides opportunities for restoration of needed bee colonies for garden and farm pollination.
- According to the Maryland Department of Agriculture Apiary Inspection web site, “Maintaining healthy honey bee colonies is very important to Maryland agriculture. Crops valued in excess of \$40 million require or benefit from honey bee pollination in the State. Managed colonies are increasingly important since most wild honey bees have died...” The amendment would expand opportunities for beekeeping by eliminating the minimum lot size requirement and reducing setback restrictions as well as permit the use in the NT and MXD Districts. In view of the documented rise in the number of disappearances of Western honey bee colonies in North America known as colony collapse disorder and the importance of maintaining honey bee colonies, the amendment would be beneficial in expanding opportunities for increasing the number of bee colonies.
- The DPZ recommended text modifications are to require both conditions regarding appropriate bee flight paths be met in order to provide the greatest buffering conditions for neighboring properties, and for consistency in applying the conditions regarding water supply and best management practices to apiaries permitted as a matter of right as well as accessory use apiaries. The portion of the recommended text modification requiring only accessory use apiaries to be restricted to side and rear yards takes into consideration that a principal farming use apiary does not require the presence of a structure on a lot and that there would be no side or rear yard in that instance. The amendment provides adequate safeguards regarding bee flight paths and buffering from neighboring properties.

V. RECOMMENDATION

APPROVAL WITH MODIFICATIONS

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA-117 be **APPROVED WITH MODIFICATIONS**.

 10/08/09
Marsha S. McLaughlin, Director Date

NOTE: The file is available for public review at the Department of Planning and Zoning Public Information Counter.

MM:ZLK/zlk

ATTACHMENT A

Petitioner's Proposed Text

(CAPITALS indicates text to be added; [[brackets indicate text to be deleted]].)

SECTION 128 (Supplemental Zoning District Regulations)

A. Supplementary Bulk Regulations

4. Required Setback for Certain Farm Uses

In all districts where farming is a permitted use, the following shall not be allowed within 200 feet of an existing dwelling on a different lot:

- a. An animal shelter including a building, shed, roofed structure or movable shelter that houses or provides protection for animals other than household pets, EXCEPT FOR APIARIES WHICH MEET THE REQUIREMENTS OF SUBSECTION M; or
- b. The storage of manure.

M. APIARIES

APIARIES ARE PERMITTED AS AN ACCESSORY USE ON ALL SINGLE-FAMILY RESIDENTIAL LOTS, LOTS CONTAINING COMMUNITY GARDENS, OR SITES WHERE APIARIES WILL FORM PART OF AN EDUCATIONAL PROGRAM PROVIDED THAT:

1. THE MINIMUM SETBACK FOR APIARIES SHALL BE 25 FEET FROM THE LOT LINE EXCEPT THAT APIARIES MAY BE LOCATED AT LEAST 10 FEET FROM THE LOT LINE, PROVIDED THAT AN APPROPRIATE BEE FLIGHT PATH IS ESTABLISHED BY:
 - A. SITUATING APIARIES AT LEAST 6 FEET ABOVE THE GROUND; OR
 - B. SITUATING APIARIES BEHIND A SOLID FENCE, HEDGE, OR OTHER BARRIER THAT IS AT LEAST 6 FEET IN HEIGHT AND RUNNING PARALLEL TO THE PROPERTY LINE AND DIRECTING APIARY ENTRANCES AWAY FROM NEIGHBORING PROPERTIES: AND
2. THE FOLLOWING ADDITIONAL REQUIREMENTS FOR ALL ACCESSORY USE APIARIES ARE MET:
 - A. APIARIES SHALL BE BUFFERED FROM ADJACENT PROPERTIES;
 - B. APIARIES SHALL BE RESTRICTED TO SIDE AND REAR YARDS;
 - C. A WATER SUPPLY SHALL BE PROVIDED TO MINIMIZE BEES FROM SEEKING WATER IN NEIGHBORING SWIMMING POOLS, BIRDBATHS, PONDS, OR OTHER COMMUNITY BODIES OF WATER; AND

ZRA 117
Greg Fox, Councilperson and
Mary Kay Sigaty, Councilperson, Petitioners

D. APIARIES SHALL COMPLY WITH MARYLAND DEPARTMENT OF AGRICULTURE REGULATIONS AS THEY PERTAIN TO BEEKEEPING, BE OPERATED TO ADHERE TO BEST MANAGEMENT PRACTICES AND MAINTAINED IN A CONDITION THAT WILL REASONABLY PREVENT SWARMING AND DEFENSIVE BEHAVIOR.

ATTACHMENT B

DPZ Proposed Text

(CAPITALS indicates text to be added; [[brackets indicate text to be deleted]]; ~~strikethrough~~ indicates text deleted from original proposal; **BOLD CAPITALS** indicates text proposed in this revision.)

SECTION 128 (Supplemental Zoning District Regulations)

B. Supplementary Bulk Regulations

4. Required Setback for Certain Farm Uses

In all districts where farming is a permitted use, the following shall not be allowed within 200 feet of an existing dwelling on a different lot:

- a. An animal shelter including a building, shed, roofed structure or movable shelter that houses or provides protection for animals other than household pets, EXCEPT FOR APIARIES WHICH MEET THE REQUIREMENTS OF SUBSECTION M; or
- b. The storage of manure.

M. APIARIES

1. APIARIES ARE PERMITTED AS AN ACCESSORY USE ON ALL SINGLE-FAMILY RESIDENTIAL LOTS, LOTS CONTAINING COMMUNITY GARDENS, OR SITES WHERE APIARIES WILL FORM PART OF AN EDUCATIONAL PROGRAM PROVIDED THAT ACCESSORY USE APIARIES SHALL BE RESTRICTED TO SIDE AND REAR YARDS; AND
2. THE FOLLOWING REQUIREMENTS FOR ALL APIARIES MUST BE MET:
 - A. THE MINIMUM SETBACK FOR APIARIES SHALL BE **25 FEET FROM THE LOT LINE EXCEPT THAT APIARIES MAY BE LOCATED AT LEAST 10 FEET FROM THE LOT LINE, PROVIDED THAT AN APPROPRIATE BEE FLIGHT PATH IS ESTABLISHED BY SITUATING APIARIES AT LEAST 6 FEET ABOVE THE GROUND; AND SITUATING APIARIES BEHIND A SOLID FENCE, HEDGE, OR OTHER BARRIER THAT IS AT LEAST 6 FEET IN HEIGHT AND RUNNING PARALLEL TO THE PROPERTY LINE AND DIRECTING APIARY ENTRANCES AWAY FROM NEIGHBORING PROPERTIES; AND**
 - B. A WATER SUPPLY SHALL BE PROVIDED TO MINIMIZE BEES FROM SEEKING WATER IN NEIGHBORING SWIMMING POOLS, BIRDBATHS, PONDS, OR OTHER COMMUNITY BODIES OF WATER; AND
 - C. APIARIES SHALL COMPLY WITH MARYLAND DEPARTMENT OF AGRICULTURE REGULATIONS AS THEY PERTAIN TO BEEKEEPING, BE OPERATED TO ADHERE TO BEST MANAGEMENT PRACTICES AND MAINTAINED IN A CONDITION THAT WILL REASONABLY PREVENT SWARMING AND DEFENSIVE BEHAVIOR.