

By Erica Gowen, Owner of Serenity Cove Stables in Leonardtown, MD.

As many horse farm owners are painfully aware, the zoning ordinances throughout Maryland are not exactly horse-industry friendly. In St. Mary's county, where I run a modest lesson/training/ boarding facility, the legislation has bordered on the absurd – until now.

In the beginning:

August 29, 2008. I made a decision that would result in stress, heartache, and disappointment for the next two years of my life. I applied for a building permit for a new stable/indoor riding ring. I had just expanded our services to include a Therapeutic Riding Program and wanted to build an indoor riding ring that was 66 ft by 132 ft, and add a 10-stall stable along its length. I had never applied for a building permit before, and the complexities of the permit rules made it confusing as to exactly how I should go about applying, but I went into the local Land Use and Growth Management office in Leonardtown and muddled through the process with them. They determined that this would be a residential accessory structure (at roughly 13,000 Sq Ft. that is a bit of a stretch, but oh well!) and off we went down the permit process. It should be noted that they didn't ask what I intended to do with the structure, they simply accepted that I wanted to build it.

After submitting my building permit application, I continued with day-to-day stable management at the farm and decided that this would also be an opportune time to apply for my commercial permit. I had moved to the property relatively recently, and was trying to get all the business related paperwork done. The St. Mary's Comprehensive Zoning Ordinance was clear – it specifically called out "Animal Boarding, Stable" as a commercial use classification. Article 5. Regulation of Uses, Page 50-10 stated "Facilities for boarding, care, and exercise of horses including related equestrian activities, rings, exercise areas, and instruction facilities [including riding academies] shall not be considered a 'bona fide agricultural' use and shall not qualify for agricultural exemptions...". So, I needed a commercial permit.

My logic was two-fold. Firstly, I wanted to be able to operate my business without worrying about being reported to the county for operating "illegally", but more importantly, if I ever sold my farm in the future, I would want to be able to advertise the place as a fully licensed and authorized equestrian facility, which would increase the flexibility of the future owners and therefore add value to the property. I was already licensed with the Department of Agriculture as a boarding and lesson facility, and I had applied for a commercial license at my previous farm without trouble, so I assumed that this would be no different. I had no idea just how deep this rabbit hole would turn out to be.

The fork in the road:

The commercial permit application process is more complicated than the building permit application process, so it took me a little time to pull together the appropriate documents for the application. I needed to develop a minor site plan, and I decided to apply for the permit in two phases – One for the

current property as it was, and a second phase to account for the new indoor riding ring that I wanted to build. With the holidays and all this paperwork it wasn't until early Spring 2009 that I had everything together to submit my application.

March 6, 2009. This was a truly fateful day. I submitted my commercial permit application to Land Use and Growth Management. My building permit for the new indoor had been slowly progressing, and I had been answering the few questions that were popping up along the way, but nothing insurmountable. Still, I didn't have most of the approvals that I needed – but they seemed imminent. So, I had done all I could do and just had to let the system do its work on both the Building Permit and the Two-Phase Commercial License Permit. Little did I know that these two roads would soon collide in such a catastrophic fashion that it would make perfect material for soap operas, with the sad fact that it would be all too real.

Things didn't really go south right away – a couple more months passed as my building permit went through its processing. The Critical Area Commission approved the plan in late March 2009, followed by the Health Department, Soil Conservation, and Permits & Inspections throughout April. In fact, by the end of April 2009 things had gone so smoothly that Land Use and Growth Management called to tell me I could come pick up my building permit. I was ecstatic, so off I went to LUGM to retrieve it. What I experienced when I got there was totally unexpected. I was greeted with nothing less than contempt, and I was told (in not so many words) that under no circumstances would an underhanded, manipulative, cheater – like me – be granted this building permit after all. I was beside myself. Was I in a parallel universe? Did this office not just call me the day before to tell me I could pick up my permit? And now they are refusing to give it to me?? What happened here???

It was soon all too clear. I had applied for my commercial permit through the same office and over the course of a month or two they expertly deduced that, perhaps, I would use this building permit for... COMMERCIAL PURPOSES. "Oh!" I said naively, "Well, I will use it for residential and agricultural purposes as well. I will be storing my tractor in there, and I will ride my own personal horses in there as well. So, can I have my permit now?" The response was not only no, but hell no. The only way they would be able to give me the permit would be if I shut down ALL commercial business activity at the farm. THEN, I could claim agricultural or residential use. This was the turning point. I was now an enemy of the state. An underhanded capitalist determined to undermine the fundamental philosophy of the zoning ordinance by sneaking a commercial enterprise into an agricultural area of St. Mary's County. I might as well have been building a waste processing plant and dumping refuse into the Chesapeake Bay. It was going to be an uphill battle from here. So my building permit was scrapped then and there, and everything hinged on the commercial permit being processed and approved.

So what I said about the soap opera is really a great analogy. For the next 18 months we literally went in circles, with drama coming in the forms of letters from the various departments, calls from LUGM, and meetings with all of them. And every time it seemed like we made progress, we would end up right back where we started. So just like a soap opera, you could walk away for a couple months, then come back and watch an episode and feel like you never missed a thing.

I was told that the rules for Commercial buildings were much more stringent than residential, and this is where we started to spiral into the realm of the absurd. For instance, commercial buildings must have handicapped accessible restrooms. Now tell me – how many boarding/lesson stables do you know of that even HAVE a restroom, let alone a handicapped accessible one??? I personally have NEVER seen a handicapped accessible restroom in a stable before in my life, and I have ridden at some pretty big barns (100+ horses).

In addition to that, Public Works didn't like the location of my proposed building site due to storm water management concerns. They wanted me to move it closer to the Critical Area buffer along one side of my property (I live near a large creek that flows into the Potomac). I wasn't thrilled about the idea because it wasn't as aesthetically pleasing or accessible as my original plan, but if it was my only option, I was amenable to it. So I had my surveyor adjust the site plan accordingly. Unfortunately, the Critical Area Commission did not like the adjustment, since it more directly affected the Critical Area. Back and forth we went between the two departments, trying to decide on a compromise. I personally called multiple meetings with both groups to try to reach consensus. On all occasions, we did reach agreement. Yet my plan re-submittals were always ultimately denied because a lower level staffer, who didn't participate in the meetings or know the negotiated terms, would receive the updated plan and review it without any context, and would summarily deny the plan accordingly.

To top it all off, the maximum allowable footprint of a commercial structure in a Rural Preservation District (which is how my, and most equestrian properties are zoned) is 5000 square feet. Even if I bought tens of thousands of dollars worth of TDRs (if you don't know what they are, you aren't alone, and don't worry about it), I still wouldn't be able to exceed 6250 square feet. Now think about that for a minute... even the smallest conceivable indoor riding ring – 60 ft by 60 ft, would amount to 3600 square feet. 60 ft by 80 ft would be just under 5000 sq ft. 60 ft by 100 ft would be just under 6250. Although that is more respectable, it still isn't really worth all the hassle in the first place. Plus, I couldn't even dream of attaching a stable to it, which was my true desire. So no matter how well I negotiated the other requirements with Public Works and Critical Areas, I would still be stuck on this major hurdle with the LUGM zoning ordinance.

Nonetheless, I persevered. After spending probably 80+ hours of leave time from my full time job visiting these departments and their directors, I had managed to regain my reputation as a reasonable citizen looking for a reasonable solution to a ridiculous problem. No longer was I seen as a sinister blight infesting the community. I had a legitimate point and it was now being recognized by the government. Still, their rhetoric about how they wanted to help me was no longer convincing. It sounded good, and I wanted to believe, but we still couldn't seem to make headway.

By the Spring of 2010, I had lost virtually all hope of succeeding at this endeavor. Mr. Derick Berlage had been the Director of Land use and Growth Management for about a year at this point, and under his management I seemed to be no further along. He was telling me that his intent was to actually change the ordinance to account for my equestrian business, recognizing that my business model was perfectly aligned to the county's philosophy of maintaining the rural character of Southern Maryland. He wanted to help, and by the Fall of 2010, he succeeded.

Light at the end of the tunnel:

September 14, 2010. Mr. Berlage and his staff at LUGM succeeded in convincing the St. Mary's County Commissioners that a new ordinance was in order. Instead of a commercial activity, an Equestrian Facility is now recognized as an AGRICULTURAL use. As an aside, Agricultural Tourism and Wineries are also now recognized as agricultural activities. Article 5. Page 50-4 of the St. Mary's Comprehensive Zoning Ordinances provides the specifications. You can find it online at <http://www.co.saint-marys.md.us/docs/CurrentZO.pdf> .

So, what did all this mean to me as a horse farm owner, running an equestrian business and trying to get a building permit for an indoor riding ring? Well, amusingly enough it meant that LUGM approved my original plan, submitted in August 2008, without reservations.

Since I was no longer commercial, I no longer was required to build a handicapped restroom (although I still might do that someday to support my TRP). I no longer had an onerous Storm Water Management requirement (which is why I had to relocate the building in my plans, to the dismay of the Critical Areas Commission). And finally, I no longer had a building size restriction.

So in the end it was a very painful journey, but I didn't write this article for the sole purpose of sharing the Soap Opera at Serenity Cove Stables; I wrote this article to let other hard working, upstanding equestrian business owners in St. Mary's county know that they are no longer limited by an unreasonable ordinance. This change is good for all of us. No one is an "illegal" commercial business anymore. We are all agricultural. So if you want to run an equestrian business, all you need is the Department of Agriculture license. No commercial permit required. If you want to add a structure, you can apply for a building permit without fear of being turned away, or suffering what I went through. The county now recognizes that we make St. Mary's a better place, and contribute to the overall vision of what St. Mary's should be – a county that retains its rural character, including our beautiful horses.