

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

JAMES F. YOST
P. O. Box 236
Clear Spring, MD 21722

Appeal No. AP2007-064

Appellant

OPINION

This action is a request for a special exception to place a third dwelling on a parcel already improved with two dwellings. The subject property is located at 11806 Orebank Road, Clear Spring, MD, is owned by the Appellant, and is zoned Environmental Conservation.

A public hearing was held before a full Board on August 8, 2007. The Appellant offered evidence and testimony in support of the appeal. Neither opposing testimony nor evidence was presented to the Board.

FINDINGS OF FACT

The following findings of fact are made by the Board, based upon the testimony given and all data and other evidence presented, and upon a study of the specific property involved, as well as the neighborhood:

1. Appellant proposes placement of a mobile home on the subject property.
2. Appellant has significant medical problems and needs assistance.
3. Appellant's son will live in the proposed trailer to help his parents.
4. The property is wooded, and the trailer will need to be close to the house. Other houses on the property are too far away for Appellant's son to be in sufficient proximity to provide adequate assistance.
5. The son visits Appellant about 2-3 times per day.
6. The property is 60.22 acres in area.
7. The proposed mobile home will be temporary in nature, and it will be removed when its presence is no longer required to accommodate Appellant's son's caretaking responsibilities for James and Margaret Yost.

8. Received and filed with the Board was a memorandum from Kathy A. Kroboth, Washington County Zoning Coordinator, advising that the appeal is consistent with the Comprehensive Plan, and we find that it is compatible with the existing neighborhood.

9. Received and filed with the Board was a memorandum from J. Randy Edwards, Civil Engineer, Washington County Engineering Department, advising that the Department takes no exception to the request.

RATIONALE

The Board has authority to grant a special exception pursuant to Section 25.2(b) of the Zoning Ordinance for Washington County, Maryland. A special exception is defined as “a grant of a specific use that would not be appropriate generally or without restriction; and shall be based upon a finding that the use conforms to the plan and is compatible with the existing neighborhood.” Section 28.62.

In this matter, we find that the Appellant has met his burden for a special exception. The Zoning Coordinator has opined that the proposed exception is consistent with the Comprehensive Plan, and we have found that the proposed second dwelling would not be incompatible with the surrounding neighborhood. The property is of adequate size to support the dwellings and its use will be limited to Appellant’s son for the provision of caregiving assistance for his parents. Traffic generation occasioned by this request will be *de minimis*, if any. No evidence was presented that the proposed use was incompatible with the neighborhood; disruptive of neighbors’ quiet enjoyment of their properties; detrimental to surrounding property values; generative of excessive odors, dust, gas, smoke, fumes, vibrations, or glare; generative of traffic that would exceed the capacity of existing infrastructure; or that the proposal was an inappropriate use of land or structure.

Based upon all of the testimony and evidence presented, this Board finds that the subject request does not adversely affect the public health, safety, security, morals, or general welfare, nor does it result in dangerous traffic conditions, or jeopardize the life and property of neighborhood residents. Accordingly, for the reasons set forth herein, this appeal is hereby GRANTED WITH CONDITIONS AS SET FORTH BELOW this 6th day of September, 2007.

Conditions

1. The mobile home will be removed from the property when its presence is no longer necessary to accommodate Appellant’s son’s caretaking responsibilities for James and Margaret Yost.

2. The mobile home will not be used for rental purposes and will be occupied by the Appellant's son.

BOARD OF APPEALS
By: Bert Iseminger, Chair