

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

TOWN OF KEEDYSVILLE
P.O. BOX 359
KEEDYSVILLE, MD 21756

Appeal No. AP2007-086

Appellant

OPINION

This action is a request for a special exception to construct a water pumping station on an abandoned roadbed owned by the Town of Keedysville. The subject property is described in a road conveyance deed recorded at Liber 2104 folio 0651 among the Land Records for Washington County, Maryland, and is titled to the Town. The former road was known as Route 34A/North Main Street. The subject property is zoned Preservation.

A public hearing was held before a full Board on October 17, 2007. The Appellant offered evidence and testimony in support of the appeal. Evidence and argument in opposition to the appeal were also offered.

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. The Appellant has been required by the State to upgrade the existing public water system that serves Keedysville and Boonsboro. The project is expected to cost \$2 million.
2. The upgrade requires construction of a pumping station.
3. The subject property is an abandoned roadbed that was conveyed to the Town by the State Highway Administration.
4. The pumping implements will be enclosed in a 12'x18' building.
5. The pumping station will not generate excessive noise, odors, dust, gas, smoke, fumes, vibrations, glare, or traffic.
6. The location of the pump station at the subject property will produce no greater

adverse effects upon the neighborhood than would placement of the pump station at any other location in the Preservation district.

7. The most-affected property owner with improved property has no objection to this request.

8. Martin V.B. Bostetter, Jr. owns nearly 18 acres of land around the abandoned roadbed and had been previously involved in negotiations with the Town regarding the offering of land for the pump station. He produced evidence and argument through Counsel regarding the state of the title to the property, raising questions as to whether the Appellant even owns the land. Furthermore, he argued that construction of the pump station may impede access to a portion of their property. We find the latter argument unpersuasive, as other means of ingress and egress exist to the Bostetter property.

9. 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.

10. The proposed use is compatible with the existing neighborhood.

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 action for a special exception to place a pump station on the subject property, we find that the Appellant has amply met its burden. The proposed use is a permitted use of the property, and the proposed location for the pump station presents no more adverse effects, above those inherent with the operation of a pump station generally, than would any other site in the zoning district. The pumping mechanisms will be enclosed in a building which will further dampen impact of their operation. We note that the opposition raised arguments concerning the validity of title to the subject property. That issue is not before the Board, as it is beyond the jurisdiction delegated to us pursuant under Article 66B. In this action, we are concerned strictly with the propriety of allowing a legislatively-predetermined permitted use on this particular parcel. From a zoning perspective, there was ample evidence presented that the proposed use of the subject property was a compatible, appropriate use. We note that even the most-affected person owning improved property failed to object to this request.

In conclusion, 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 this 16th day of November, 2007.

BOARD OF APPEALS

BY: Bert Iseminger, Chair