

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

GERALD MINNICH FUNERAL HOME
BPOE LODGE #378
11063 Robinwood Drive
Hagerstown, MD 21742
Appellant

Appeal No. AP2007-108

OPINION

This action is a request for a special exception to allow a funeral home in an Agricultural district. The subject property is located at 11063 Robinwood, Drive, Hagerstown, MD 21742, is owned by the BPOE Lodge #278, and is zoned Agricultural.

A public hearing was held before the Board on January 16, 2008. The Appellants offered evidence and testimony in support of the appeal. No opposition was presented to this appeal.

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 proposed construction of a funeral home on the subject 3.89-acre parcel.
2. The funeral home will share an existing entrance with the Elks Lodge.
3. Trees on the site will provide buffering between the proposed use and neighboring properties.
4. Many other commercial uses are located in the neighborhood, which was described as stretching along Robinwood Drive from U.S. 40 to Md. Rte. 64.
5. The property is within the Urban Growth Area, and the Comprehensive Plan designates the site for commercial uses.

6. The proposed building will be approximately 10,000 ft.² in area.
7. Other funeral homes in the County are located in Agricultural or Residential Suburban zones.
8. Hours of operation will be generally from 9 a.m.—4:30 p.m., with viewings from 6—8 p.m.
9. The hours of operation will offset the operations of the Elks Lodge, thus allowing reciprocal overflow parking.
10. The Elks Lodge is in full support of this proposal.
11. No opposition was presented from any neighboring property owners or residents.
12. The proposed use conforms to the Comprehensive Plan and 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. Section 25.6 of the Ordinance directs the Board to consider the following factors, as applicable, in rendering its decision: (a) The number of people residing or working in the immediate area concerned; (b) the orderly growth of a community; (c) traffic conditions and facilities; (d) the effect of such use upon the peaceful enjoyment of people in their homes; (e) the conservation of property values; (f) the effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the use of surrounding property values; (g) the most appropriate use of land and structure; (h) the decision of the courts; (I) the purpose of these regulations as set forth herein; (j) the type and kind of structures in the vicinity where public gatherings may be held, such as schools, churches and the like.

In the instant appeal, the Appellant has met its burden for the grant of a special exception. The proposed use is compatible with the existing neighborhood and in conformance with the Comprehensive Plan. Its location within the Urban Growth Area

makes it suitable for this proposed commercial use. Furthermore, the property is of sufficient size to support the use, with adequate parking available. Existing vegetation will provide some natural screening. No evidence was presented that would suggest 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 requested relief will not have an adverse effect upon the public health, safety, security, morals or general welfare, nor would it result in dangerous traffic conditions or jeopardize the lives or property of people living in the neighborhood. Accordingly, for the reasons set forth herein, this appeal is hereby GRANTED this 15th day of January, 2008.

BOARD OF APPEALS

By: Bert Iseminger, Chair