

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

FRANK M. MANN  
6300 OLD NATIONAL PIKE  
BOONSBORO, MD 21713  
Appellant

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Appeal No. AP2008-006

OPINION UPON REMAND

This action is before the Board on remand from the Circuit Court for Washington County, Maryland “to determine whether or not receptions, meetings, and other social events are functionally similar to any permitted use or special exception that is listed in the Table of Land Uses.”<sup>1</sup> The Board was also instructed to “determine whether or not the proposed use is consistent with the purpose set forth for the district.”<sup>2</sup>

Appellant seeks a special exception to allow receptions, meetings, and other social events in a portion of an existing 16,000 sq. ft. single family dwelling. The subject 25-acre parcel is zoned Preservation.

The Preservation district allows as special exception uses any delineated special exception use in the Table of Land Uses or “any other use the Board of Appeals finds is functionally similar to any permitted use or special exception use listed in the table for this district.”<sup>3</sup> Country clubs and recreation centers are delineated special exception uses in the Preservation district.<sup>4</sup> The intensity of those uses has been deemed moderate,<sup>5</sup> and both uses support occasional social gatherings and events. The proposed use herein shares those characteristics. Appellant proposes the occasional hosting of social events and gatherings. As those events and gatherings will not differ in kind from the events and gatherings commonly held at country clubs and recreation centers, we find that the proposed use of the property is functionally similar to the delineated special exception uses of country clubs and recreation centers. Accordingly, the proposed use is a permitted special exception use in this district.

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<sup>1</sup>Mem. Op. and Order 7.

<sup>2</sup>*Id.* at 8.

<sup>3</sup>Zoning Ordinance for Washington County, Maryland § 5C.2.

<sup>4</sup>*Id.* at Table 3.3(1)D.

<sup>5</sup>*Id.*

Turning to the other issue requiring our attention, we now consider the purpose of the district. The Preservation district is to “prescribe a zoning category for those areas where, because of natural geographic factors and existing land uses, it is considered feasible and desirable to conserve open spaces, water supply sources, woodland areas, wildlife and other natural resources.”<sup>6</sup> The Preservation district allows for a myriad of uses that are compatible with the conservation of natural resources. These uses do not require, however, that Preservation-zoned land remain in its natural or undeveloped state.

As mentioned above, country clubs and recreation centers are allowed special exceptions, as are produce stands, auction houses, machine shops, and sawmills, among others.<sup>7</sup> Some principally-permitted uses include single family dwellings, schools, nurseries and greenhouses, riding academies, and churches.<sup>8</sup> The commonality amongst the uses is that they are, with few exceptions, of moderate intensity and often found in a rural environment. Some of them engender transient visits or social gatherings, and some are dependent upon open spaces, woodlands, and natural resources for their successful operation. In short, the permitted uses are compatible with the rural nature of Preservation districts.

In this case, an existing, sizable single family dwelling will be used to host occasional commercial social gatherings. There will be no further development of raw land to support the proposed use, and the character of the use itself will not be incompatible with the rural character of the surrounding neighborhood or other uses occurring therein. There was no evidence presented that would lead to a conclusion that the proposed use is inconsistent with the purpose of the Preservation district.

For all of the foregoing reasons, we conclude that the proposed use of the subject property is functionally similar to uses permitted in the Preservation district and not incongruous with the purpose of that district.

BOARD OF APPEALS  
By: Bert Iseminger, Chair

Date Issued: April 3, 2009

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<sup>6</sup>*Id.* at § 5C.0.

<sup>7</sup>*Id.* at Table 3.3(1).

<sup>8</sup>*Id.*