

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

This action is a request for (1) a special exception to allow receptions, meetings, and other social events in a portion of an existing dwelling; (2) for approval of the Board pursuant to AP91-151 to use the living quarters above an existing garage for occasional overnight stays by guests; and (3) for a variance from the requirement that parking areas in excess of 3,400 sq. ft. be paved. The subject property is located at 6300 Old National Pike, Boonsboro, Maryland, is owned by the Appellant, and is zoned Preservation.

A public hearing was held before the Board on May 7, 2008. The Appellant offered evidence and testimony in support of the appeal. Some 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. The subject property is about 25 acres in area and is improved with a 16,000 sq. ft. single family dwelling.
2. Appellant occupies the dwelling as his personal residence.
3. Appellant proposes to hold between 20–25 commercial social events per year at the residence, such as weddings, business gatherings, and receptions.
4. The events will conclude by 10 P.M.

5. Guest capacity will be a maximum of 150 persons.
6. No food preparation will occur onsite; those renting the facility will provide their own food or caterer.
7. The deck attached to the residence has been inspected and determined to meet expected load requirements.
8. A parking plan will provide for 75–80 vehicles.
9. Outside noise will be minimal.
10. Onsite lighting will be limited to the existing deck and patio areas.
11. Mature trees provide buffering of the site from neighboring properties.
12. The property is served via a shared lane.
13. AP91-151 required that the Board approve use of the living quarters for non-immediate family members if the property was conveyed. As the property was conveyed to Appellant about four years ago, he now seeks approval to rent the living quarters above the garage (bedroom, dining & kitchen area, and a bath) to persons holding events at the site for no more than three consecutive nights. The quarters would accommodate 2–4 people.
14. Appellant further seeks to preserve the rural character of the site by waiving the requirement to pave approximately 30,000 sq. ft. for parking areas. (Handicapped parking spaces would nevertheless be paved.) As the underlying soil is mostly shale, the property is amenable to this proposal.
15. Opponents testified in opposition to the appeal, citing concerns about increased traffic, decreased privacy, inadequate access to Alt. 40, security risks, noise, lighting, and decreased property values as a consequence of the foregoing.
16. In rebuttal, Appellant assured the Board and his neighbors that he or his family would always be present when events were occurring and would oversee guest behavior to minimize negative impacts upon his neighbors.

17. Considering all of the foregoing, the Board finds that this proposal is compatible with the existing neighborhood and conforms to the Comprehensive Plan.

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. A variance may be granted upon a showing by the Appellant of a practical difficulty or undue hardship. Sections 25.2(c) and 25.56, Zoning Ordinance for Washington County, Maryland. “Practical Difficulty” may be found by the Board when: (1) strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome; and (2) denying the variances would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief; and (3) granting the variance would observe the spirit of the Ordinance and secure public safety and welfare. Section 25.56(a).

The subject property is sizable, around 25 acres in area, and the residence thereon is equally expansive, nearly 16,000 sq. ft. The size of the residence and its amenities, including the additional living quarters, a large room, and an ample deck, make it uniquely suited for the use proposed herein. It is used primarily for the Appellant’s residence, and he or a family member will be present at all times during events. This unique situation provides us with some assurance that he will closely monitor the behavior of his guests so that do not become a nuisance to himself or his neighbors. Furthermore, we fail to see how the use of the living quarters on a limited basis for those holding events at the site will create any detriment to the neighborhood. No increased traffic or noise will result therefrom, and the use seems to be a reasonable accessory use of the already-existing quarters.

The soil characteristics of the property make it suitable for the parking of vehicles without the requirement of pavement. Shale will support the vehicles while allowing for stormwater drainage. Requiring strict compliance with the paving requirements would increase the impervious surface of the property, increase stormwater runoff, disrupt the rural, residential character of the site, and fail to advance the intent and purpose of the Ordinance.

Considering the totality of the evidence presented, we find that the proposed use will not be 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.

Therefore, based upon all of the testimony and evidence presented--including the size and scope of the anticipated activities as testified to by the Appellant--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 **CONDITIONALLY GRANTED** this 5th day of June, 2008.

Condition

Appellant shall satisfy, during the site plan approval process, all requirements imposed by the State Highway Administration, the Division for Fire and Emergency Services, the State Fire Marshall, the Planning Commission, and any other state or county agency.

BOARD OF APPEALS

By: Bert Iseminger, Chair