

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

RONALD L. CEKOVICH
13255 Herman Myers Road
Hagerstown, MD 21742
Appellant

*
*
*
*

Appeal No. AP2008-010

OPINION

This action is a request for a special exception to establish a resident business engaged as a retail gun shop. The subject property is located at 13255 Herman Myers Road, Hagerstown, Maryland, is owned by the Appellant, and is zoned Agricultural (Rural). A public hearing was held before the Board on March 5, 2008.

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 seeks to establish a resident business on the subject 7-acre property engaged in the sale and transfer of firearms.
2. Appellant will be the only employee of the business.
3. Hours of operation will be Wednesdays, 6–8 p.m. and Saturdays, 10 a.m.–2 p.m.
4. Appellant has all required State and Federal licenses.
5. Approximately 20–30 firearms will be kept inside the burglar alarm–monitored home in an industry-standard safe.
6. There will be no onsite firing or test range.
7. Most customer contact will be by appointment. Last year, Appellant transferred approximately 100 firearms.

8. The business will be identified by a small, unlighted sign.

9. Appellant's most-affected neighbor has no objections to this appeal.

10. Opponents to the appeal cited concerns about traffic and crime and argued that the allowance of any business use in the area would set a precedent to allow non-agricultural and non-residential uses. (We note that our decisions are not precedential in nature, and that a resident business is a permitted special exception use in this zoning district.)

11. In rebuttal, the Appellant noted that his firearm activities were a limited side business, conducted without advertising by word of mouth. He again remarked on the aforementioned security measures that will be established.

12. The 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.

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 compatible with the Comprehensive Plan, and we have found that the proposed use would not be incompatible with the surrounding neighborhood. The 7-acre property is of adequate size to support the resident business, an allowed special exception use in this district. Adequate security measures are in place to prevent criminal mischief, and traffic impact will be slight. In fact, the Engineering Department took no exception to this appeal. 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. Placement of a resident gun shop business, in conjunction with Appellant's residence, in the district will have no greater "adverse effects above and beyond those inherently associated with such a special exception use

irrespective of its location within the zone.” *Schultz v. Pritts*, 291 Md. 1, 15 (1981).

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 4th day of April, 2008.

Conditions

1. No reference to firearms or ammunition shall appear on the sign identifying the business.
2. The sign shall be unilluminated.

BOARD OF APPEALS

By: Bert Iseminger, Chair