

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

FREDERICK W. STRUMPF  
20519 Beaver Creek Road  
Hagerstown, MD 21742  
Appellant

\*  
\*  
\*  
\*

Appeal No. AP2008-012

OPINION

This action is a request for a special exception to construct and establish a contractor's storage yard and office. The subject property is located at 20519 Beaver Creek Road, Hagerstown, Maryland, is owned by the Appellant, and is zoned Rural Village.

A public hearing was held before the Board on June 18, 2008. The contract purchaser offered evidence and testimony in support of the appeal. 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 proposes establishment of a contractor's storage yard and office on the subject property.
2. The contract purchaser/contractor, Dixie Electric, has been in business since 1979 and has 17 employees.
3. The proposed hours of operation would be from 6 a.m. to 4 p.m., with 24/7 emergency service.
4. There would be four to six office employees.
5. Storage of materials will occur inside the proposed building to protect the materials from the weather.
6. Three trailers, a backhoe, trencher, bucket truck, and dump truck will be kept on the

site.

7. The contract purchaser testified that the proposed 6,000 sq. ft. building was designed to blend in with the existing neighborhood.

8. The contract purchaser has plans to restore the barn that is on the property, but it won't be used as part of the electrical business.

9. Operation of the business would result in the generation of 10–12 peak hour trips.

10. The business is not proposed to be accessible from Rt. 40.

11. Both parcels (one is across the road) total 3 ½ acres in area.

12. The property will be well-screened with new and existing trees.

13. The proposal will not create any greater stormwater runoff than now exists, and the runoff will be cleaner due to compliance with stormwater management regulations.

14. Several citizens objected to this proposal. Some cited concerns about a decrease in property values as a result of commercialization of the neighborhood, while others noted that the property is in a priority preservation area. They cited concerns about traffic generation and motorists' safety given the conditions of Beaver Creek Church Road.

15. Other residents noted concerns about light pollution and the contrast between a proposed contractor's storage yard and the relatively low intensity uses now populating the area.

16. The area is pastoral and historic and the proposed use of the property would *not* be 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.

The Rural Village zoning classification was adopted as part of the comprehensive rezoning of the rural areas of Washington County. Its purpose is as follows: The Rural Village designation is provided to preserve the unique historic or rural character of existing villages by encouraging compatible development within a defined village boundary....The zone intends for permitted development to be generally of a similar density, scale and use type and mixture as that which exists in the village. The zone is also designed to prevent large amounts or inappropriately scaled development or uses that would detract from the existing rural or historic character of the village. It is expected that development will be residential and a limited amount of mixed rural services." § 5D.0.

In this action, Appellant seeks to establish a contractor's storage yard and office for operation of a commercial, residential, and industrial electrical business. The contract purchaser's proposal is attractive; the proposed building is tastefully designed and there is no outside storage of materials planned. The testimony clearly showed that Dixie Electric is a well-respected business whose relocation to Washington County would be welcomed.

We are concerned, however, that the proposed location will cause "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). The business will generate 10–12 peak hour trips and will be a more intense use than is now found in the neighborhood. The existing neighborhood is characterized by its residential uses and limited retail offerings, mostly antique stores, which enhance the historic charm that infuses the pastoral area. We cannot conclude that the proposed electrical business is compatible with the existing neighborhood; the intensity of the use contrasts with the low impact uses now found there, and the traffic generated will burden already heavily used roads.

Weighing the totality of the facts, testimony, and evidence before us, we cannot find that the subject request does not adversely affect the public health, safety, security, morals, or general welfare; 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 DENIED this 17<sup>th</sup> day of July, 2008.

BOARD OF APPEALS

By: Bert Iseminger, Chair