

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

RIDENOUR 1994 FAMILY LLP  
3808 BULLFROG ROAD  
TANEYTOWN, MD 21502  
Appellant

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Appeal No. AP2008-020

OPINION

This action is a request for a special exception to establish an outdoor flea market in an existing parking lot on weekends. The subject property is located at 20135 Leitersburg Pike, Hagerstown, Maryland, is owned by the Appellant, and is zoned Agricultural.

A public hearing was held before the Board on April 23, 2008. The Appellant offered evidence and testimony in support of the appeal. No opposition was presented to the 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 seeks to establish a weekends-only flea market on an existing parking lot on the subject property adjacent to a movie theater.
2. The site has adequate area for vendor displays, parking, and traffic flow.
3. Vendors remove their wares from the site each evening.
4. The flea market is operated on Saturdays and Sundays from 8 a.m. to 3 p.m.
5. No one raised any objections to this appeal.
6. The proposal 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.

In this action, the proposed use is one that is similarly functional to other permitted uses in the district, including produce stands and transient enterprises. The property is of adequate size to support the market, and its operation will not create “odors, dust, gas, smoke, fumes, vibrations, glare[,] and noise” or disrupt the neighborhood or neighboring property owners’ quiet enjoyment of their properties. § 25.6. 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. We are concerned that the traffic flow be orderly, so we will condition this approval on review and assent by the State Highway Administration (SHA).

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 this 22<sup>nd</sup> day of May, 2008.

### *Conditions*

1. Appellant shall submit a site plan for review and approval.
2. Appellant shall secure SHA approval for access to Leitersburg Pike.

BOARD OF APPEALS

By: Bert Iseminger, Chair