

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

GEORGE A. CLOPPER  
Appellant

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Appeal No. AP2009-016

OPINION

This action is a request for a special exception to allow a second dwelling on a parcel improved with a principal dwelling. The subject property is located at 21541 Ringgold Street, Hagerstown, Maryland, is owned by the Appellant, and is zoned Agriculture (Rural). A public hearing was held before the Board on April 15, 2009.

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 construction of a second dwelling at the rear of the subject property to be used as Appellant's residence.
2. The subject property is 23.82 acres in area.
3. The Appellant has significant health difficulties that require certain proposed structural features in the new residence; the existing residence is too small and too inadequate to be retrofitted to suit Appellant's healthcare needs.
4. The existing home is intended to be occupied by someone who can assist with the upkeep of the remainder of the property.
5. The Land Development Engineering department takes no exception to the request.
6. The subject request is consistent with the Comprehensive Plan and is compatible with the surrounding neighborhood.
7. A density variance is not required because the zoning in this district allows for one dwelling unit per five acres.

8. The proposed use conforms to the Comprehensive Plan and is compatible with the existing neighborhood.

9. No one testified in opposition to this request.

#### 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 the special exception. The subject property is of adequate size to support a second dwelling, and Appellant’s health situation requires a residence with certain structural features that the current home is unable to accommodate, especially as renovation of it would be impractical. 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. 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.

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 by a 4–1 vote.

BOARD OF APPEALS

By: Bert Iseminger, Chair

Issued: May 15, 2009