

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

JOHN MESSERSMITH  
Appellant

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Appeal No. AP2009-034

OPINION

This action is an appeal for a change in non-conforming use to establish an auto repair and detailing business in an existing commercial structure. The subject property is located at 1136 Kuhn Avenue, Hagerstown, Maryland, is owned by the Arthur Sweeney, Jr., and is zoned Residential Urban. A public hearing was held before the Board on July 22, 2009, and no opposition was presented to this request.

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 to operate an automobile repair and detailing business on the subject property.
2. The property was formerly used as the site of a masonry business.
3. Hours of operation will be from 9 a.m. to 5 p.m. Monday through Friday, and from 9 a.m. to noon on Saturday.
4. Customer visits will be by appointment.
5. Mechanical work will take place inside the one story, open bay structure. No lifts will be used.
6. No opposition was presented to this request.

RATIONALE

Nonconforming uses are governed by Section 4.3 of the Zoning Ordinance for Washington County, Maryland. Section 25.6 of the Ordinance directs the Board to consider the following factors, as applicable, in rendering its decision: (a) the number of people

residing or working in the immediate area concerned; (b) the orderly growth of a community; (c) traffic conditions and facilities; (d) the effect of such use upon the peaceful enjoyment of people in their homes; (e) the conservation of property values; (f) the effect of odors, dust, gas, smoke, fumes, vibrations, glare and noise upon the use of surrounding property values; (g) the most appropriate use of land and structure; (h) the decision of the courts; (I) the purpose of these regulations as set forth herein; (j) the type and kind of structures in the vicinity where public gatherings may be held, such as schools, churches and the like.

This proposal is a reasonable use of the property. The property is of adequate size to support the proposal, and the proposed use will be of less intensity than the property's prior use as the site of a masonry business. In short, this adaptive reuse of the property promotes the orderly growth of the economic base of the community and creates no adverse effects greater at this site than at any other site. No neighbors testified in opposition to the proposal, and 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 with the condition as set forth below.

*Condition*

1. No outside storage of materials or equipment is allowed.

BOARD OF APPEALS  
By: Bert Iseminger, Chair

Date Issued: August 19, 2009