

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

JEFFREY CRAMPTON
Appellant

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Appeal No. AP2009-035

OPINION

This action is a request for a special exception to establish a church in a portion of an existing commercial structure. The subject property is located at 11000 Bower Avenue, Hagerstown, Maryland, is owned by the Appellant, and is zoned Business Local. 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 seeks permission to establish a church in a portion of the subject commercial structure.
2. The church will accommodate 60 to 80 adults plus children.
3. Classrooms will be used for religious instruction.
4. Services will be held on Sunday mornings at 10 a.m.
5. The use of the facility in the manner proposed is functionally similar to schools, fraternal clubs, community meeting halls, and gathering places.
6. The proposed use is compatible with the existing neighborhood and conforms to the Plan.
7. No opposition was presented 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.

Grant of a special exception is appropriate where the proposed use 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). Here, the subject property is in a mixed-use area. A church, with its office, classroom, and worship activities, will not be incongruous with other uses in the neighborhood. Moreover, the size of the congregation is relatively modest, and the traffic volume attendant to the church use will not materially affect traffic flow in the neighborhood. No one 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.

BOARD OF APPEALS

By: Bert Iseminger, Chair

Date Issued: August 19, 2009