

BEFORE THE BOARD OF APPEALS FOR WASHINGTON COUNTY, MARYLAND

KATHY AUSERMAN
Appellant

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Appeal No. AP2009-039

OPINION

This action is a request for a special exception to construct a 40'x80' storage building on property not already improved with a principal dwelling. The subject property is located at 20727 Keadle Road, Boonsboro, Maryland, is owned by the Appellant, and is zoned Rural Village.

A public hearing was held before the Board on August 5, 2009. No 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 to erect a 40'x80' storage building on the subject property.
2. Appellant has recently purchased this vacant lot and plans to build her dwelling on the property within the next year or so.
3. The storage building will be used to store personal property and farm equipment.
4. The storage building will be in the lower front corner of the lot.
5. The requested relief is not incompatible with the existing neighborhood, nor is it in conflict with the Comprehensive Plan.
6. Appellant's neighbors have no objection 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). In the instant appeal, Appellant proposes to erect a storage building on a vacant lot that will be later improved with a dwelling. Residential use, along with its attendant accessory structures, is a principally permitted use in the district. Once the dwelling is constructed, the storage building will be an unexceptional accessory building to the dwelling. Our grant of the requested relief simply allows for the building to be constructed before the principal use of the property—the dwelling—is established. No evidence was presented that the proposed storage 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. Strict compliance would be unduly burdensome, aesthetically objectionable, and would fail to advance the spirit and purpose of the Ordinance. In short, no zoning objective is achieved by preventing the use of the subject property for the erection of a storage building that will, when the proposed principal dwelling is constructed, be considered an unexceptional accessory use of the property.

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: September 4, 2009