

BOARD OF APPEALS

July 7, 2021

County Administration Building, 100 W. Washington St., Meeting Room 2000, Hagerstown, at 6:00 p.m.

AGENDA

DOCKET NO. AP2021-018: An appeal was made by Kings Farm LLC for a special exception to establish a banquet facility on vacant parcel on property owned by the Appellant and located to the east of 9350 Stottlemeyer Road, Boonsboro, Zoned Agricultural (Rural). **-GRANTED WITH CONDITIONS**

Pursuant to the Maryland Open Meetings Law, notice is hereby given that the deliberations of the Board of Zoning Appeals are open to the public. Furthermore, the Board, at its discretion, may render a decision as to some or all of the cases at the hearing described above or at a subsequent hearing, the date and time of which will be announced prior to the conclusion of the public hearing. Individuals requiring special accommodations are requested to contact Katie Rathvon at 240-313-2464 Voice, 240-313-2130 Voice/TDD no later than June 28, 2021. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

The Board of Appeals reserves the right to vary the order in which the cases are called. Please take note of the Amended Rules of Procedure (Adopted July 5, 2006), Public Hearing, Section 4(d) which states:

Applicants shall have ten (10) minutes in which to present their request and may, upon request to and permission of the Board, receive an additional twenty (20) minutes for their presentation. Following the Applicant's case in chief, other individuals may receive three (3) minutes to testify, except in the circumstance where an individual is representing a group, in which case said individual shall be given eight (8) minutes to testify.

Those Applicants requesting the additional twenty (20) minutes shall have their case automatically moved to the end of the docket.

For extraordinary cause, the Board may extend any time period set forth herein, or otherwise modify or suspend these Rules, to uphold the spirit of the Ordinance and to do substantial justice.

Paul Fulk, Chairman
Board of Zoning Appeals

**BEFORE THE BOARD OF APPEALS
FOR WASHINGTON COUNTY, MARYLAND**

GRETCHEN SIMARD

APPELLANT

APPEAL No. AP2021-018

* * * * *

OPINION

Gretchen Simard (hereinafter, “Appellant”) requests a special exception to allow the establishment of a banquet facility at the subject property. The subject property, owned by King’s Farm, LLC, a Maryland limited liability company, is located on a vacant parcel of land containing approximately 86.83 acres on the East side of Stottlemyer Road, Boonsboro, Maryland (Tax ID 16-022780), and is zoned Agricultural (Rural). The Board held a public hearing on the matter on July 7, 2021.

The appeal was heard pursuant to Article 25 of the Zoning Ordinance for Washington County, Maryland (hereinafter, the “Ordinance”) and upon proper notice to the parties and general public as required.

FINDINGS OF FACT

Based upon the testimony given, all information and evidence presented, and upon a study of the specific property involved and the neighborhood in which it is located, the Board makes the following findings of fact:

1. Appellant and her business partner, Robert Koning, are both members of King’s Farm, LLC, owner of the subject property located on the East side of Stottlemyer Road, Boonsboro, Maryland. The subject property is zoned Agricultural (Rural) (A(R)).
2. Subject property is a vacant parcel containing approximately 86.83 acres.
3. Appellant and Mr. Koning would like for their company, King’s Farm, LLC (hereinafter, the “LLC”), to construct and operate a banquet facility on the subject property.
4. A special exception is required to operate a banquet/reception facility in the A(R) zoning district (Ordinance §3.3(1)(B)), and Appellant is seeking a special

exception to do so.¹

5. The LLC plans to construct several buildings on the subject property to serve collectively as a banquet facility (hereinafter, the “Facility”) for hosting events such as weddings, corporate outings, and the like. These buildings would include a barn-type structure and a pavilion.

6. The Facility would be situate on the subject property among an approximately 4-acre area of deciduous trees in the “center” of the subject property (keeping a natural screen of 4-5 trees deep on all sides of the Facility), no closer than 980 feet East of Stottlemyer Road and over 1000 feet West from US Interstate 70, with parking adjacent to and North of said buildings. Said parking would be accessed by a crushed stone pathway leading North from Stottlemyer road, around a large decorative garden area situate approximately half-way to the Facility, then turning West to the boundary with a neighboring property, then turning North to the parking area. Appellant and Mr. Koning stated they would employ measures to control dust generated on the path by vehicular travel.

7. Approximately 10 acres in front of the Facility will used for cultivation of grapevines used to produce wine. This will provide additional natural screening for the Facility.

8. A significant remainder of the subject property will be kept in agricultural use to generate products grown and raised on the subject property (e.g., meats and wine) for use at Facility events and to generate additional income from sales of such products resulting from said events.

9. The Facility will be available for use year-round, but primarily on weekends and during moderate seasonal times.

10. One witness (the most-affected neighbor) who signed a letter of support for the application testified “not in opposition” but with some questions regarding the Facility, including road width, the direction and road by which Facility attendees would likely access the subject property, and noise levels generated by events at the facility. Appellant and Mr. Koning responded to each of those questions and appeared to satisfy said witness with the responses.

¹A previous appeal (AP2007-082) was brought by a former owner of the subject property seeking a variance from the 16 foot road width requirement as mandated by the Adequate Public Facilities Ordinance. Said appeal was granted to allow two sections of Stottlemyer Road on which the subject property fronts to vary between 4” and 7” less than the said road width requirement.

11. Thirteen letters expressing general support of the application were submitted by nearby residents and property owners on both sides of Stottlemeyer Road.

RATIONALE

The Board has authority to grant a special exception pursuant to Section 25.2(b) of the Ordinance. 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” (Ordinance, Article 28A).

In the instant case, Appellant and Mr. Koning testified that their LLC has owned the subject property since 2012. They testified that they wanted to construct and operate the Facility to generate income in addition to that currently received from purely agricultural activity. Moreover, they testified they understood obtaining the special exception is just the first step in a longer process of planning for and permitting of the Facility and its infrastructure.

They expressed a desire to be “good neighbors” and to operate the Facility in an appropriate manner so as to “maintain serenity of the rural area”. They did not object to suggestions by the Board for limitations on the number of guests and on the volume of amplified music and vocals.

Appellant and Mr. Koning provided testimony and photographic evidence to show the layout of the Facility and supporting infrastructure (parking, pathway, etc.). The Board discussed and considered said testimony and photographic evidence given in support of Appellant's contention that the Facility would not present adverse effects greater than other similar uses in the A(R) zoning district. The Board also read into evidence and considered all of the letters in support of the application. The Board also considered testimony from the most-affected neighbor, and Appellant's and Mr. Koning's responses to said neighbor questions and concerns. The Board noted with approval the candor of Appellant and Mr. Koning regarding their stated desire to operate the Facility in a responsible manner and to be “good neighbors,” particularly with their testimony in response to the concerns raised of the most-affected neighbor. Lastly, the Board discussed with Appellant and Mr. Koning certain noise and occupancy restrictions they believed appropriate for operation of the Facility, especially in such a rural location.

The Board finds that the current use at the subject property currently has 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). For all these reasons, the Board concludes that this appeal meets the criteria for a special exception, secures public safety and welfare, otherwise conforms to and upholds the spirit of the Ordinance, and is compatible with the existing neighborhood.

Therefore, Appellants’ request for a special exception to establish and operate a banquet facility at the subject property is GRANTED, by a vote of 5-0. Said variance is granted upon the condition that: (1) occupancy at the Facility shall be limited to no more than two hundred fifty (250) attendees at any single event; (2) amplified music or vocals generated at the Facility shall not exceed one hundred three (103) decibels at a distance of six (6) feet from the amplified source; (3) there shall be no amplified music or vocals generated at the Facility after 10:30p.m. Eastern Time; and (4) operation of the banquet facility will be operated in a manner consistent with the testimony and evidence presented herein and in compliance with all other applicable governmental requirements.

BOARD OF APPEALS

By: Paul Fulk, Chair

Date Issued: August 6, 2021

Notice of Appeal Rights

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Appeals, or any taxpayer, or any officer, department, board, or bureau of the jurisdiction, may appeal the same to the Circuit Court for Washington County within thirty (30) days, in a manner set forth in Md. Code Ann., Land Use, § 4-401.