

Tax Map/Block/Parcel
No. 15-15-38
Case 6036

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Robin D. and Robin L. Shellman
4348 Schalk Road, No. 1
Manchester, MD 21102

ATTORNEY: Kelly J. Shaffer, Esq.
Shaffer and Shaffer, LLP
73 East Main Street
Westminster, MD 21157

REQUEST: A request for a conditional use for a Country Inn and wedding facility.

LOCATION: The site is located at 4348 Schalk Road, No. 1, Manchester, Maryland, on property zoned "A" Agricultural District in Election District 6.

BASIS: Code of Public Local Laws and Ordinances, Sections 158.070, 158.070(E)(1)(t), and 158.071(D)(7).

HEARING HELD: August 29, 2017

FINDINGS AND CONCLUSION

On August 29, 2017, the Board of Zoning Appeals (the Board) convened to hear the request for a conditional use for a Country Inn and wedding facility. Based on the testimony and evidence presented, the Board made the following findings and conclusions.

Robin Shellman testified as the applicant. He is the owner of a farm of approximately twenty-five acres. He and his wife have full time jobs and work on the farm. The farm includes an orchard, a hayfield and a Christmas tree farm. They also have goats, ducks and peacocks on the farm. His wife currently operates a daycare on the property as she has for approximately twelve years. The Shellmans live on the property where the country inn would be located. If the application is approved the applicants would cease operating the daycare and would use the daycare space for the country inn. It is anticipated that no other major improvements would need to be made to the property. Prior to the Board hearing, the applicants had some preliminary meetings with development review officials. During those meetings they were told by Jason Green, the Code Official, that they could use portable potties to address the bathroom needs of patrons.

Mr. Shellman stated that he wanted his country inn to have no more than twelve weddings per year. On any given day there would only be one wedding in a twenty-four hour period. The latest time a wedding event would last would be 11:00 pm. It was anticipated that the wedding events would occur on the weekend. The weddings would take place in the pavilion as shown on Exhibit 3. The pavilion has an area of 30' by 50'. Caterers would be used for the wedding events. Since the pavilion is open, it is anticipated that weddings could only be conducted from May to September. No weddings would occur during the winter.

Mr. Shellman testified that he would comply with the County's noise ordinance. To this end, he took decibel readings of sound in the direction of his nearest neighbor. His decibel readings were well below the maximum readings allowed by the noise ordinance. He believed that the trees absorbed much of the sound.

A variance is being requested for the driveway. The Code requires the driveway to be 18' wide. The applicants' driveway is 18' wide in some places. However, the driveway is 12' to 16' wide in other places. The variance is for the portions of the driveway that are less than 18'. Mr. Shellman noted that his property was unique. Features of the uniqueness include the fact that the parking area was about 1000' from the main road known as Schalk Road. The topography of the property is shaped like a bowl. At one point he said that the property was located down in a valley. There is a 600 foot drop in elevation on the property. It is in a secluded area. There is a stream that runs through the property. There are also five nearby properties listed with no principal residences by SDAT as reflected in Exhibit 9. Mr. Shellman testified that it would cost approximately \$30,000 to have the entire driveway widened to 18'. He noted that that amount of money would be cost prohibitive for the small country inn and wedding business.

Three neighbors were in support of the Shellmans application. Those three people included: Marlin Kaltrider, David Germroth, and Kenneth and Ethel Spence. The letters in support of the application for a Country Inn and wedding facility were set forth in Exhibits 6, 7, and 8.

Jay Voight, Zoning Administrator, testified that the weddings would be appropriate as a part of a country inn if the requirements in section 158.071(D)(7) of the County Code were met. If a country inn was not on the property, then the property would need a church or another type of commercial facility to legally hold weddings. Of course property owners could hold a wedding for family members or friends on their property. The commercial business of allowing weddings on the property for a fee required a country inn though.

In an August 4, 2017 memorandum Clare Stewart, Planning Technician, wrote that "the staff finding is that this request is not inconsistent with the 2014 Carroll County Master Plan, and would not have an adverse effect on the current use of the property or its environs."

Kenny Kiler testified in opposition to the application. His main concern was with the driveway. He thought there was a problem with having a residential driveway for a commercial business. He was further concerned about the acceleration area and deceleration area around the driveway. He noted that people do not drive the speed limit on Schalk Road.


Carmen Cockey testified in opposition to the application. She believed that the renting out of wedding facilities was a commercial business. She thought there was a problem with having a residential driveway for a commercial business. She was concerned about alcohol consumption during the weddings. She did not want Schalk Road to become a drunken speedway during the events. She wanted to keep the peace and quiet of the neighborhood on the weekends. She noted that the traffic impact could not be understated.

By way of an August 28, 2017 letter William R. Levasseur, Jr. opposed the application. He wrote that he owned a nearby tract of land to the north of the proposed country inn. He regarded the application as a commercial facility and not an agricultural use. He was at a "complete loss to understand how a wedding facility is the same use of land as crops or livestock or open space."

The Board approved the request for the conditional use for a Country Inn and wedding facility. The Board set forth two conditions to the approval: one, that there be no more than twelve weddings conducted in one year; and two, that the latest time that an event could be held would be 11:00 pm. The Board considered the numerous principal permitted uses on the property. It found that twelve weddings a year was much less intensive than some of the principal permitted uses on the property. The Board found that many more business types of uses were appropriate for land in the agricultural district other than farming and livestock. The Board granted the variance based on the uniqueness of the property. The Board also found that the cost of making the whole driveway 18' wide was a practical difficulty and an undue burden for the applicants.

The Board was convinced that authorization of the request with regard to a conditional use was consistent with the purpose of the zoning ordinance, appropriate in light of the factors to be considered regarding conditional uses of the zoning ordinance, and would not unduly affect the residents of adjacent properties, the values of those properties, or public interests. Based on the findings of fact made by the Board above, the Board found that the proposed project would not generate adverse effects (i.e. noise, traffic, dust, water issues, lighting issues, property depreciation, etc.) greater here than elsewhere in the zone. The Board approved the conditional use requested by the applicant. The Board also approved the requested variance to the driveway.

8-30-2017
Date


Melvin E. Baile, Jr., Chairman

Decisions of the Board of Zoning Appeals may be appealed to the Circuit Court for Carroll County within 30 days of the date of the decision pursuant to Land Use Article, Section 4-401 of the Annotated Code of Maryland.

Pursuant to Section 158.133 (H)(3) of the County Code, this approval will become void unless all applicable requirements of this section are met. Contact the Office of Zoning Administration at 410-386-2980 for specific compliance instructions.