

IN THE MATTER OF
THE APPLICATION OF
STEPHEN FREDERICK SIMMONS, II
(Special Exception - NAR)

BEFORE THE CECIL COUNTY
BOARD OF APPEALS
CASE NO.: 3563

OPINION

Application of Stephen Frederick Simmons, II (the “Applicant”), for a special exception for a class “C” office building at property located at 12 Lewisville Road, Elkton, Maryland 21921, designated as Parcel 125 on Tax Map 13, in the Fourth Election District of Cecil County (the “Property”), in an area presently zoned Northern Agricultural Residential (“NAR”). The property is owned by the Applicant.

Section 119, and Section 54.4 Table of Permissible Uses 9.03.300 of the Ordinance, permit a Class C office building as a Special Exception in the RR zone, provided that: (1) The maximum floor area for office use is less than 3,000 square feet; and, (2) The maximum sign area shall be three (3) square feet.

Article XVII, Part II, Section 311 of the Ordinance specifies that no special exception shall be approved by the Board of Appeals after considering all facts in the case unless the following findings are made:

1. Such use or any operations thereto will not be detrimental to or endanger the public health, safety, or general welfare.
2. The use will not be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, nor substantially diminish or impair property values in the neighborhood.
3. The establishment of the use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the zone.

4. The use will not, with respect to existing development in the area and development permitted under existing zoning, overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements.

5. The use shall not adversely affect critical natural areas or areas of ecological importance.

6. The use shall, in all other respects, conform to the applicable regulations of the zone in which it is located.

7. The particular use proposed at the particular location proposed, would not have any adverse effect above and beyond those inherently associated with such special exception use irrespective of its location in the zone. (*Schultz v. Pritts*, 291 MD. 1)

8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

9. That the proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the County.

Applicant requests special exception for a Class C office building on the Property. The Applicant opened his insurance business in December 2004, and has been renting in Fair Hill, Cecil County, Maryland since that time. The Applicant's business employs three Cecil County residents, and is looking to expand. The Applicant has had his eye on the Property for several years, during which time the quality of the Property has declined. The location of the Property makes it ideal for the Applicant's business, and the Applicant's business, which consists of a sizeable amount of internet based commerce, would like to expand by utilizing the second floor of the Property for such use. The

Applicant would like to beautify the Property, while leaving its current residential character intact, consistent with other uses in the immediate area. The Applicant may have a small sign in conformance with the Ordinance, and the Property has driveways available to both Rt. 273 and Rt. 213, which is ideal for an entrance from Rt. 213 and an exit to Rt. 273.

No one spoke in favor of the application, and Jerilyn Ayers spoke in opposition. More specifically, Ms. Ayers testified that she is not in “opposition” to the application, but wanted to express her concern regarding the location of a driveway near a busy intersection, and that she did not want to see the Property permanently re-zoned.

Clifford Houston, Cecil County Department of Planning and Zoning, testified that the Planning Commission recommended approval of the application for a period of two (2) years.

From the evidence, the Board makes the following findings of facts pursuant to the requirements of Section 311:

1. That granting the special exception will not be detrimental to or endanger the public health, safety, or general welfare. The Applicant will operate an insurance business from a location with adequate ingress and egress and parking. There is no evidence that the proposed use will materially increase traffic in the area, or materially increase the burden to law enforcement or emergency services.

2. The use will not be unduly injurious to the peaceful use and enjoyment of other property in the neighborhood, nor will the use substantially diminish or impair property values in the neighborhood. The application for the special exception was supported by competent testimony which demonstrates that the use will be in harmony

with the requirements of Section 119 of the Ordinance; in particular, the use is professional in nature (e.g., insurance), and the Applicant will maintain the existing residential character of the Property. As stated above, the Property provides adequate means of ingress and egress, as well as parking, and there is no evidence that the proposed use will materially increase traffic in the area, or materially increase the burden to law enforcement or emergency services.

3. There was no evidence indicating that normal and orderly development and improvement of the surrounding properties will be impeded by the proposed use.

4. There was no evidence indicating that the proposed use will, with respect to existing development in the area and development permitted under existing zoning, overburden existing public facilities, including schools, police and fire protection, water and sewer, public road, storm drainage, and other public improvements.

5. There was no evidence indicating that the proposed use will adversely affect critical natural areas or areas of ecological importance.

6. The proposed use will, in all other respects, conform to the applicable regulations of the zone in which it is located.

7. There was no evidence that the particular use proposed at the particular location proposed, will have any adverse effect above and beyond those inherently associated with such special exception use irrespective of its location in the zone. (*Schultz v. Pritts*, 291 MD. 1)

8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

9. That the proposed special exception is not contrary to the objectives of the current Comprehensive Plan for the County.

For the reasons stated, by unanimous vote, the Board is satisfied that the requirements of Sections 119, 9.03.300, and 311 of the Ordinance, along with *Schultz v. Pritts*, 291 Md. 1 (1981) have been met, and the application is **APPROVED FOR A PERIOD OF TWO (2) YEARS.**

8/23/2011
Date

David Willis, Jr.
David Willis, Chairperson