

ALLEGANY COUNTY BOARD OF ZONING APPEALS

**IN RE: APPLICATION OF
STATIK SALON
FOR A SPECIAL EXCEPTION**

* **Case No.: 955**

* **Hearing Date: 05/02/18**

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FINDINGS

This case came before the Allegany County Board of Zoning Appeals (the “Board”) upon the Statik Salon’s request for a special exception for a neighborhood commercial use in the “R-2” Residential 2 Zoning District.

A field inspection of the subject property was conducted by the members of the Board on April 26th, 2018. The purpose of the field inspection was to familiarize the Board members with the site layout in order for them to develop an understanding as to where the proposed use would be located and as to whether the proposed use would be constructed in compliance with the terms of the Zoning Ordinance.

At the hearing on May 2, 2018, the Board considered the attached list of exhibits which consisted of information gathered by the Division Chief and information provided by other agencies and individuals.

The proposed use will be located on the south east side of Clubhouse Road; 600' north east of Vocke Road, LaVale, Allegany County, Maryland.

The proposed use is a hair salon. It is a small, two person operation which will occupy 1248 square feet of space in an existing building on the property. The remaining building space shall be used as storage and personal use.

The Board considered testimony presented at the hearing in order to ascertain whether the proposed use would meet the standards and criteria of the Zoning Ordinance. The Board’s findings are as follows:

1. A neighborhood commercial use shall be permitted in the “R-2” Zoning District in accordance with Section 360-90 of the Ordinance provided the total building area is less than 2000 square feet.

2. The total building area for commercial use is approximately 1248 square feet.
3. The proposed use meets all the requirements of the existing zoning code in regard to lot size, setback and height requirements as found in Code Section 360-126.
4. There will be one sign mounted to the front of the building.
5. The lighting to be used will be standard lighting.
6. The commercial use shall be in operation from 10:00 a.m. until 6:00 p.m., Tuesday thru Saturday.
7. The buildable site has a slope of less than 25 percent.
8. There are no streams within 50 feet of the site upon which the proposed use will be placed.
9. There are no designated wetlands or habitats for threatened or endangered species within 50 feet of the site where the proposed use will be located.

10. The Board found that a minor site plan is required for this use due to the fact that the use would not involve the construction of a building larger than 600 square feet, the movement of 50 or more cubic yards of earth, and/or the disturbance of 5000 square feet of surface area. Having made that determination, the Board applied the criteria of Section 360-176 of the Ordinance to the site plan which was submitted by the Applicant. The Board found that the site plan met those criteria.

Based upon the foregoing findings, the Board found that the Applicant will comply with the criteria of the Zoning Ordinance. Having made that determination, the Board next considered whether “the facts and circumstances indicate that the particular special exception use and location proposed would cause an adverse effect upon adjoining and surrounding properties unique and different, in kind or degree, than that inherently associated with such a use, regardless of its location within the zone ...”. Brandywine Enterprises v. County Council for Prince Georges County, 117 Md. App. 525 (1997).

During the hearing, two witnesses were present and testified. The first, Ms. Bridget Skidmore, testified on behalf of Statik Salon. As the owner and applicant, she presented the case as to why this commercial use should be allowed in this R-2 Zoning district. No objections to her testimony were noted.

The second witness, Mr. Shakil Rahman, a representative of the Islamic Society of Cumberland, appeared initially in opposition to the project as he had privacy concern issues. More

specifically, Mr. Rahman represents a local mosque and was requesting the Board to require a privacy fence between the properties as a condition to granting the special exception. After some discussion between Mr. Rahman and members of the Board, the applicant agreed to erect, at her cost, a privacy fence to alleviate any concerns the neighboring property owners had and to generally “be a good neighbor”. As a result, Mr. Rahman withdrew his objection to the special exception requested. No other witnesses appeared in opposition.

Based upon the evidence presented by the applicant, the site visit and the arrangement worked out between the applicant and the only opposition to its request, the Board found no evidence of a site specific adverse impact.

CONCLUSIONS

Based upon the findings set forth above, the Board voted at the conclusion of the hearing of May 2, 2018, 2-1 in favor of granting the Applicant’s request for a special exception for a neighborhood commercial use in the “R-2” Residential 2 Zoning District. As a condition to the granting of the Board’s approval, the Applicant will be required to comply with the terms and criteria of the Zoning Ordinance at all times. The Applicant shall erect, at her cost, a six (6) foot high, thirty (30) foot long, privacy fence at the location as set forth on the attached Exhibit “B” (Amended). The Applicant must also obtain the approval of all State, County, and municipal agencies whose approvals are required for the conduct of the proposed use, including, but not limited to, Soil Conservation District, Allegany County Health Department, ACDPW Roads Division, Zoning Certification, Building Codes Compliance, House Numbering, Floodplain Management, Subdivision Review and Structural/Electrical Inspection Agency.

ATTEST

BOARD OF ZONING APPEALS



By: Julia Williams
Julia Williams, Chairperson

Copies to: See Attached List
Attachment: Exhibit B Amended
Exhibits List

BOARD OF ZONING APPEALS
FOR ALLEGANY COUNTY, MARYLAND

CASE# 955
STATIK SALON

MAY 2, 2018

EXHIBITS LIST
FINAL

- A. An Allegany County *Land Use Permit Summary* covering a *Land Use Permit Application* and sundry administrative documents (i.e. invoice(s), receipts, etc.)
- B. *Site Plan* dated April 10th, 2018.
- C. Completed *Petition for a Special Exception*.
- D. Photocopy of an Allegany County Tax Map for property identification.
- E. An *Adjoining Property Owners List* completed and signed by the Applicant.
- F. A *Notification of the Hearing*, with attached distribution list, dispatched to adjoining and adjacent property owners by the Secretary of the Board.
- G. *Notification of Hearing* dispatched to the Applicant by Secretary of the Board
- H. *Inter Office Memo*, prepared by the LDS office, that was distributed to the necessary review agents notifying them of this Case, date, time and requesting comment.
- I. *Public Notification*, dispatched to the Cumberland Times/News, for the purposes of notifying the general public of the hearing date, time and location.
- J. Portion of *Page 7B* of the Saturday, April 14th, 2018, edition of the Cumberland Times/News, verifying that the *Public Notification* for Case 955 was published. This Notice contained an error regarding Hearing Date.
- K. Portion of *Page 6B* of the Wednesday, April 18, 2018, edition of the Cumberland Times/News, verifying that the AMENDED *Public Notification* for Case 955 was published. (reference Exhibit J).
- L. Email dated Wednesday, April 11th, 2018, from Mark McKenzie - SHA, noting maintenance status of Clubhouse [sic] Road.
- M. Correspondence dated 5/2/2018, from Mrs. Amy McKenzie, LDS Planner, to BOZA, conveying comments relative to the project and associated site plan.
- N. Memorandum dated 5/1/2018, from James A. Squires Jr., Division Chief, to the Allegany County Board of Zoning Appeals, regarding site development plan requirements.
- O. Revised *Site Plan* (8x11, B&W) entitled "Statik Salon Proposed Parking Plan", dated 5/2/2018. (Submitted by Ms. Bridget Skidmore, Applicant, during Hearing.)
- P. Entitled "ref. Exhibit D – Comment", submitted by Shakil Rahman, noting "ownership" of property held by Islamic Society of Cumberland; claimed ownership depicted by "hatched" area.

Distribution List: BOZA Case 955 FoF

Mr. Murray Gornall
37 Martz Lane
LaVale, MD 21502

Mr. Allan McGill
11601 Pinesburg Road
Williamsport, MD 21795, MD 21795

Mr. Shakil Rahman
c/o I.S.C.
1202 Vocke Road
LaVale, MD 21502

Mr. Wayne Rugh
11 Martz Lane
LaVale, MD 21502

Ms. Bridget Skidmore
15301 Lower Georges Creek Road,k SW
Frostburg,, MD 21532

Christ Lutheran Church of LaVale
1222 Vocke Road
LaVale, MD 21502

Islamic Society of Cumberland
1202 Vocke Road
LaVale, MD 21502

Potomac Edison Company
800 Cabin Hill Drive
Greensburg,, PA 15601

State Highway Administration
1221 W. Braddock Road
LaVale, MD 21502

Honorable Jacob Schade
Allegany County Commissioners
701 Kelly Road - Suite 408
Cumberland,, MD 21502

Maildata BOZA Case 955-Final 180503
Hearing: May 2nd, 2018