

Tax Map/Block/Parcel
No. 41-10-546

Building Permit/Zoning
Certificate No. 94-3929

Case 3989

**OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND**

APPLICANT: Hampstead American Legion Building Corporation
4600 Legion Lane
Hampstead, Maryland 21074

ATTORNEYS: Charles D. Hollman, Esquire, and
Richard R. Titus, Esquire
189 East Main Street
Westminster, Maryland 21157

REQUEST: A conditional use for expansion of existing Hampstead American Legion Post 200 facilities authorized in Case 2162. A request for a variance to the height regulations was withdrawn.

LOCATION: 4600 Legion Lane in Election District 8

BASES: Article 7, Sections 7.2(n), and 7.5; Article 4, Section 4.26; Ordinance 1E (The Carroll County Zoning Ordinance)

HEARING HELD: May 23, 1995

On May 23, 1995, the Board of Zoning Appeals heard testimony and received evidence concerning a conditional use for expansion of existing Hampstead American Legion Post 200 facilities authorized in Case 2162 at 4600 Legion Lane. The bases of the request were amended, citing Article 7, Sections 7.2(n) and 7.5, and the request for a variance to the height regulations was withdrawn.

The conditions imposed in Case 2162 remain effective and are restated in the conclusion of this decision.

Articles and Sections cited herein are of Ordinance 1E.

In accordance with the provisions of Article 17, Sections 17.6.6 and 17.7 and the Board's longstanding policy of visiting sites prior to public hearing, the Board visited the site May 22, 1995. The purpose of the visit was for the Board to view the site and adjacent properties so that the Board would be reasonably familiar with the properties to assist in the Board's appraisal of testimony and evidence, either pro or con, presented during the public hearing.

The application, testimony and evidence comprising the record of this case are hereby included by reference within this decision. Based on the record and in accordance with the state Open Meetings Act, the Board approved the conditional use, subject to the conditions of authorization imposed below.

The pertinent findings determining the Board's decision include the following:

FINDINGS OF FACT

Hampstead American Legion Post 200 (Post) is located at 4600 Legion Lane in Hampstead. As described in a deed, Applicant's Exhibit 3, the area of the parcel is ten acres. The Post was authorized by the Board of Zoning Appeals as a conditional use in Case 2162 September 25, 1984. A variance was also approved reducing the minimum distance requirements pertaining to the building. The zoning ordinance has since been amended and the minimum distance requirements are no longer applicable to the building. The conditions imposed by the Board are in effect.

Since 1984, the Town of Hampstead and its environs have continued their growth. The membership of the Post has also grown. (Applicant's Exhibit 1.) The existing social hall is inadequate because of its size and occupancy rating. The Post now proposes to expand the facilities to meet present needs. The site plan, Applicant's Exhibit 11, for the proposed expansion includes a lobby, offices, a new social hall with a stage, and additional kitchen and storage facilities. The occupancy limit of the new hall is anticipated to be 500 people.

The expanded facilities will serve the Post, community organizations, and private functions such as wedding receptions and birthday parties. As indicated on the preliminary site plan, there are 148± existing parking spaces. Ninety-six new spaces are proposed, for a total of 244 spaces.

Unfortunately, the site plan, Applicant's Exhibit 11, does not provide sufficient information and dimensions to determine compliance with parking space and design standard requirements, including provision of spaces required by the Americans with Disabilities Act. A revised plan should include such information.

The Zoning Administrator is responsible for determining the minimum number of parking spaces required for the complete facility, and that the number be noted on the approved site development plan. If additional parking is required for a particular event, space for temporary parking is available on the site.

The architect, responsible for preparation of the proposed plan, indicated that attention would be directed to the acoustics of the hall and minimizing noise that would adversely affect residents of adjoining properties, including designing and constructing the northerly wall without windows or doors, except emergency exits to comply with regulations; additional evergreens could be added to fill in openings within the existing landscape screening paralleling the northerly property line; security lighting of the building could be provided by low intensity lights; and, that light sources could be shielded to direct light downward. Glare, except from underneath the lights, would be eliminated by such shielded fixtures.

An expert in real estate appraisal testified on behalf of the Post, and indicated that he was unaware of any evidence that the values of adjacent properties within Cedarbrook subdivision had been detrimentally affected because of the Post. Furthermore, the expert noted that properties to the south of the Post were more likely to be affected where view of the Post was unobstructed.

Several owners and residents of nearby properties expressed concerns regarding the proposed expansion including: landscape screening of the

facilities from adjacent residential properties; noise originating from the building and parking area disturbing the peace and quiet of the adjoining properties; adverse affects of light and glare from lighting of the parking area and building; and, vehicular traffic to and from the Post.

The Board will address the concerns by imposing conditions of authorization to alleviate or minimize undue effects that would otherwise occur with expansion of the Post facilities.

In considering the factors specified in Section 17.7 relative to this request, the Board is convinced that the proposed expansion can be accomplished, subject to conditions of authorization imposed below, without unduly affecting residents and owners of adjacent properties, the values of those properties, or public interests.

APPLICABLE LAW

The site and adjoining properties are zoned "R-20,000" Residence District as depicted on zoning map 41B. The land use provisions for the district are expressed in Article 7. Section 7.2, Conditional Uses (requiring Board authorization), paragraph (n) reads:

Clubs, fraternal organizations, lodges and similar organizations; provided they are not conducted for profit and obtain and maintain appropriate designation as non-profit entities exempt from federal income tax requirements pursuant to federal tax law regulating the conduct of such businesses; subject to site plan approval under Section 4.26.

For brevity, Section 4.26 will not be quoted. However, the section is applicable and the number of this case (3989) should be noted on the site plan.

Section 7.4, Height regulations, reads in relevant part:

No principal structure shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height,... except as provided in Section 15.4.

Section 15.4, Height, paragraph (a) reads in relevant part:

Building height limitations shall not apply to... cupolas,....

The site, and location of existing and proposed facilities comply with the minimum lot area, lot width and yard requirements specified in Section 7.5.

Article 20 defines conditional uses as:

Uses which are specified for Board approval prior to authorization and which uses, after public hearing, may be approved conditionally or disapproved in accordance with Sections 17.2 and 17.7. The term "conditional use"

shall constitute the same meaning as "special exception" specified as one of the general powers of the Board of Appeals in accordance with Article 66B of the Annotated Code of Maryland.

Article 17, Board of Appeals, including Section 17.7, governs the Board in considering conditional uses.

The Board is also governed by the decisions of the courts. In the decision of *Schultz v. Pritts*, 291 Md. 1, 22 the decision reads:

We now hold that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. (Citations omitted.)

REASONING

In considering the testimony and evidence and various factors of Section 17.7 relative to the conditional use and the standard expressed in *Schultz v. Pritts, supra*, the Board is convinced that expansion of the post can be accomplished, subject to the conditions of authorization imposed below, without unduly affecting the residents of adjacent properties, the values of those properties, or public interests.

CONCLUSION

In accordance with the findings of fact, applicable law, and reasoning expressed herein, the conditional use for the expansion of the existing Hampstead American Legion Post 200 facilities is hereby authorized, subject to the conditions of authorization expressed below. The conditions of authorization imposed in Case 2162 are included here for purposes of continuity. These conditions remain in effect and are enforceable by the Zoning Administrator and the Office of Zoning Enforcement.

1. Due to the proximity of the adjacent residences, and the need to protect the peace and quiet of the residential neighborhood, all activities or functions conducted outside of the existing building or proposed addition, shall cease not later than 10:00 P.M.; and, no radios, loud speakers, similar apparatus, music or noise however produced, shall be permitted in conjunction with activities or functions conducted outside of the building or addition.
2. In order to provide landscape screening of the parking facilities from adjacent residences, one row of evergreen trees, five to six feet in height, of the same or similar species as the existing trees, shall be planted ten feet on centers between the northwesterly property line adjoining lot 12 and the existing parking bay,

extending to the area of the existing trees. Any open spaces in excess of ten feet between existing trees shall also be filled.

3. Any exterior lighting fixtures of the building or parking facilities shall be shaded to direct all light and glare downward.
4. No shooting shall be allowed on the subject property.

Before proceeding to the conditions of authorization to be imposed, the Board wishes to suggest that small directional signs be erected, if possible, to assist drivers that are not familiar with the location of the Post or the local roads, as follows:

- at the intersection of Black Rock Road and Cedarbrook Road indicating turns to either east or west bound traffic onto Cedarbrook Road
- at the northeast corner of the intersection of Cedarbrook Drive and Legion Lane, within the respective rights-of-way, indicating a right turn onto Legion Lane
- at the exit of the Post's parking area or at the northeast corner of the intersection of Cedarbrook Road within the right-of-way of Legion Lane indicating a left turn for Black Rock Road for drivers leaving the Post

Care must be taken to ensure that signs do not interfere with the vision of drivers.

From the findings of fact, applicable law and reasoning pertaining to the now proposed expansion, the Board hereby imposes the following conditions of authorization:

- a. In order to contain the sound of music, singing or other activities being conducted within the social hall and prevent such sounds from adversely affecting the residents of adjacent properties, the new social hall wall paralleling the northerly property line shall be designed and constructed without openings, including vents, windows and doors, except for emergency exit doors to comply with regulations. The doors of emergency exits shall be kept closed to contain noise, but shall comply with applicable regulations to insure that in the event of an emergency, the doors will open to permit exit from the building.

Ventilation or air conditioning equipment installed on the roof shall direct noise originating from either inside the social hall or from the equipment towards the easterly property line to minimize adverse effects of noise upon residents of adjacent properties.
- b. Evergreen trees of the same or similar species as the existing trees, at least six feet tall, shall be planted not more than 8 feet on centers to complete the landscape screening paralleling the northerly property line. Trees that die or become diseased shall be replaced within a period of one year.

- c. Low intensity lighting of the parking area shall be established on poles of not more than 20 feet in height, using only square or rectangular box fixtures that are opaquely shielded on the top and sides with the shielded diffuser parallel to the surface of the parking area in order that the light be directed only downward. Fixtures with diffusers not oriented parallel to the surface of the parking area and shielded on the top and sides of the diffusers shall not be acceptable.

If any existing light poles are in excess of 20 feet in height, such poles shall be replaced with poles not more than 20 feet in height, or the height of such poles shall be reduced to not more than 20 feet.

A sketch portraying a typical pole and light fixture shall be included on the site development plan for review and approval consistent with this condition. In addition, the proposed location of the light poles shall be indicated on the site plan.

Condition c establishes more restrictive specifications for light poles and fixtures than those imposed in condition 3 of Case 2162 above.

- d. If security lighting of the building adjacent to the westerly or northerly property lines is considered to be necessary, such lighting shall be controlled by motion detection devices in order to minimize the continuing adverse effects of light and glare upon residents of adjacent properties.
- e. Illumination of the building shall be restricted to appropriate low intensity lighting to minimize the adverse affects of light and glare upon residents and owners of surrounding properties.
- f. Parking facilities are subject to the design standards expressed in Section 14.1(b) of the zoning ordinance. The dimensions of the parking facilities, including typical spaces, shall be noted on the site plan to facilitate verification of the number of existing and proposed parking spaces, and compliance with the requirements of Americans with Disabilities Act.
- g. A copy of the revised and duly approved site plan shall be submitted to the Board of Zoning Appeals to be filed with this case.

6-20-95
Date

Claude R. Rash
Claude R. Rash, Chairman