

Board of Zoning Appeals
Washington Grove, MD 20880

Minutes of a public hearing on an application for Special Exception under article 8.2b, Retail Sales.

Applicant: Azar Haghighi
Use requested: Retail sales of tile and carpet

A public hearing was held on Thursday, February 18, 1993 at McCathran Hall. Attending were all three members of the board: Emmette Keese, Marc Hansen, and Phil Edwards. There were three members of the audience: Charlie Challstrom, Don Gallagher, and John McClelland. The applicant did not attend.

The chairman held the opening of the hearing until 7:50 to give the applicant time for a late arrival.

After opening the hearing the chairman read pertinent sections of the application, and explained the special exception procedure to the audience. The chair noted that a memorandum had been received from the Charlie Challstrom of the town's planning commission regarding the present degree of compliance with the sections of the zoning ordinance respecting signs in the commercial zone.

There was discussion between the board and Mr. Challstrom as to the details in the memo. Mr. Challstrom brought to the attention of the board that the window sign advertising the proposed carpet store has caused the square foot limit to be exceeded. It was also noted that vehicles with advertising messages on them could be associated with the business, and the suggestion was made that the board consider restricting them. The chairman made the memo a part of the hearing record.

John McClelland, a tenant on the second floor, spoke of unresolved noise disturbances caused by another business presently in the center, in which the applicant is a principal. He also mentioned that items, such as racks of clothes, had been at times placed outside the store on the front porch and walkway, a violation of the ordinances. He also expressed concern as to the density of activity in the space below his if a carpet sales store is added to the tailor and cleaners now operating there.

Don Gallagher spoke of the general conditions at the corner, stating that there were several ongoing ordinance violations, and noting that some restrictions previously set by the board were not being kept. He mentioned also that the red truck with Prime Choice advertising on it was an eyesore, and furthermore was not currently registered. Mr. Gallagher suggested that more professional uses would raise the standards at the corner, but

that a carpet store would not. He urged the board to deny the application.

The board then discussed how to proceed with the hearing in the absence of the applicant. It was noted that it is impossible for the applicant to show, by "clear and convincing evidence," that the use will not "burden the town..." if the applicant is not present to give testimony and answer questions. The board then concluded that, at least theoretically, sufficient evidence could be submitted in written form during the time the record was held open. It was decided, therefore, to write to the applicant informing her of the requirements for a special exception, noting that her presence at the hearing had been expected, but informing her that she could still submit written testimony so long as the record remained open.

The board then decided to hold the record open for two weeks to allow additional written testimony, and to meet as soon thereafter as reasonably possible to reach a decision.

The hearing was adjourned at 8:50 p.m.

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Minutes of a public meeting on the application of Azar Haghighi for a Special Exception under article 8.2b, Retail Sales.

The board held a public meeting Thursday, March 18, 1993 at McCathran Hall. Attending were all three members of the board: Emmette Keese, Marc Hansen, and Phil Edwards. The applicant and her husband were present, as were two others: Charlie Challstrom, Don Gallagher, and John McClelland.

The meeting came to order at 7:30 p.m.

The board discussed several technical points before turning to the merits of the application. It was decided that the failure of the applicant to appear at the hearing would not prejudice her case, but that it sharply reduced the available information on which to make a decision.

The members did agree that there was not a compatibility problem with the proposed use, and that it was not necessary for the board to take the historical nature of the town into account in deciding on the exception.

The members discussed the difficulty of enforcing restrictions when granting an exception, but concluded that certain kinds of restrictions could be effective, especially those which required an action of the applicant (or other party) prior to the granting of a occupancy permit.

Turning to the merits of the application, the board discussed the options available to it: to grant the use, to deny the use, or to re-open the hearing to obtain additional information. In discussing whether there was sufficient data to approve or deny, it was pointed out that a sign already placed on the storefront by the applicant had caused the total signage to exceed that allowed by the ordinance. That technical violation, added to the general lack of details on the operation of the proposed store, was sufficient to rule out immediate approval. Motion was made by the chair to re-open the hearing, second by Marc Hansen. The board voted 2 to 1 in favor, Emmette Keese voting no. The hearing was set for April 22, 7:30 p.m. The meeting adjourned.

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The board held a public hearing April 22, 1993 at McCathran Hall. Attending were all three members of the board: Emmette Keese, Marc Hansen, and Phil Edwards. The applicant and her husband were present. The applicant's partner and brother, Daryoush Khashlak, was not present.

The hearing came to order at 7:30 p.m.

The nature of the proposed business was discussed at length with the applicant.

Some facts presented: 700 square feet operation in the Grove; a warehouse is at the airport. No material to be stored or dispensed at the store. Hours: 7 days, 10 am to 7 pm (latest). Orders come from customers, go direct to mills.

Installers are independent contractors, not associated with the business at the corner; it is now to be one company, but could be others in future. Samples are small, a foot square, 2 feet square. Other items for sale could be vinyl, rugs, parquet wood floors.

Business is incorporated. Officers and owners are Haghighi and brother. Customers 2-5 per day. No vehicles except owner and one helper. No commercial vehicles. No use of rear door.

The tailoring business is also leased by Haghighi; operated as a separate business.

There was discussion of expanding the business into adjacent space in the future; the board noted that it considered that this would require a re-hearing.

No further verbal testimony was forthcoming. The record was to be kept open for 7 days.

The meeting was adjourned.

[Subsequently written testimony was received from the applicant in the form of a plat, and Emmette Keese submitted a report on the present conditions at the corner.]

[A meeting for the purpose of a decision was scheduled for May 5, 1993.]

Resolution of the Board of Zoning Appeals
Washington Grove, MD

Applicant: Azar Haghighi and Daryoush Khashlak
t/a Washington Grove Carpet Sales
13 Noblewood Court
Gaithersburg, MD 20878

Appeal: Special Exception under 8.2B(b)
Retail Carpet Sales

Having heard the appeal of the applicants for a special exception to sell retail floorcovering in an approximately 720 square foot area at the south end of the existing building at the commercial corner, and hearing the testimony of the applicant that samples of carpet, tile, and vinyl will be shown, and that no merchandise is actually to change hands at the store, that the traffic count is expected to be low, that no inventory will be kept in the store, and that the installers they will use will not be based at the site, the Board hereby resolves that retail sales of floorcoverings will be allowed as a special exception, subject to these explicit conditions:

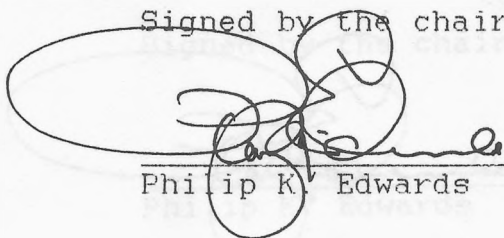
1. The use is allowed only to the applicants, and only in the section of the building described in the application.

2. No inventory shall be kept in the store; however, samples not larger than two feet by two feet may be used to show customers.

3. Should the business be sold or ownership transferred, the use may continue only upon the successful re-application of the new owner.

4. Should the applicants or successors wish to enlarge or relocate the business within the commercial zone they must first obtain the approval of the board.

Signed by the chairman of the board,



Philip K. Edwards

5/10/93
Date