

Feb 2008

BEFORE THE BOARD OF ZONING APPEALS
TOWN OF WASHINGTON GROVE

In the Matter of :
:
Elaine and Herman Ramlal : Case No. 08-01
d/b/a Agape Flowers and Gifts :

OPINION AND ORDER

Elaine Ramlal and Herman Ramlal, doing business as Agape Flowers and Gifts, applied for a special exception under Section 8.2B(b) of the Washington Grove Zoning Ordinance¹ to operate a specialty retail store that sells “one class category (sic) of merchandise”—but not “food or drink for human consumption”.

The Board conducted a public hearing on February 16, 2008, at 11:00 a.m. in the Council Chambers of McCathran Hall.

After being sworn, the following individuals gave testimony: Elaine Ramlal, Herman Ramlal, Thomas Appleby, and Charles Challstrom.

Based on the evidence admitted into evidence at the public hearing, the Board makes the following findings of fact:

1. Elaine Ramlal and Herman Ramlal wish to operate a florist shop known as “Agape Flowers and Gifts” in the Commercial Zone.
2. Agape Flowers and Gifts will offer for sale floral/plant arrangements and gift baskets. Many of the gift baskets will contain food and drink items for consumption off premises—*e.g.* chocolate, fruit, pasta, and sparkling water. The ratio of sales of floral arrangements to gift baskets is 3:1, or greater.
3. Agape Flowers and Gifts will occupy about 1400 square feet of space at the commercial corner—*i.e.* the commercial zone in the Town.
4. Agape Flowers and Gifts typically has no more than 3 workers in the store at one time.
5. Agape Flowers and Gifts has two commercial vans for delivery of products to customers. The vans will be parked in the front of the commercial corner and will not be parked in the parking lot overnight.

¹ Section references are to Article VII of the Washington Grove Code of Ordinances.

6. Walk-in retail trade comprises a very small percentage of the business of Agape Flowers and Gifts, but the walk-in trade is greater on holidays such as Valentine's Day.

7. The Ramlals' indicate that trash generated by the business will be disposed of in the dumpsters provided for the use of businesses at the commercial corner.

8. The Ramlals' indicate that all merchandise will be delivered through the front of the store. Thomas Appleby, who owns property that faces the rear of the commercial corner (112 Chestnut Ave.), does not oppose granting a special exception for a florist shop if there will be no parking at the rear of the shop and the rear door will only be used as an emergency exit.

9. Charles Challstom, a member of the Washington Grove Planning Commission, supported granting a special exception for a floral store and indicated that the other members of the Commission likewise supported granting the application for a special exception.

Based on these findings of fact, the Board concludes:

1. Agape Flowers and Gifts is a specialty retail store that sells merchandise of one class—*i.e.* a gift shop specializing in the sale of flowers. The Board was concerned that Agape Flowers and Gifts will sell baskets containing food and drink, because Section 8.2B(b) does not permit a specialty store that sells "food or drink for human consumption". The Board, however, construes that provision in Section 8.2B(b) as prohibiting stores that specialize in the sale of food or drink such as a convenience grocery store, sandwich shop, or coffee shop. Agape Flowers and Gifts primarily sells flowers; the sale of gift baskets forms a subordinate part of the applicants' business. Therefore, the applicant does not intend, in the Board's view, to make Agape Flowers and Gifts a specialty store that sells food and drink within the meaning of the ordinance.

2. The applicant has shown by clear and convincing evidence that Agape Flowers and Gifts will not significantly burden the Town with increased noise, litter, or pedestrian or vehicular traffic.

3. Accordingly, the Board GRANTS the applicants request for a special exception to operate a florist shop subject to the following conditions:

a. The sale of flowers must remain the primary source of sales for the applicants' business. The sale of food or drink must be limited to gift baskets traditionally associated with a florist shop.

b. All merchandise must be delivered to and leave the store through the entrance facing Washington Grove Lane. The rear door and loading dock must not be used for the operation of the store.

c. All commercial vehicles used in the operation of the store must be parked in the lot between Washington Grove Lane and the store. These vehicles must not be parked in either parking lot (front or rear) of the commercial corner overnight.

Marc Hansen
Marc Hansen, Chair
Board of Zoning Appeals

2/23/08
Date