



BOARD OF APPEALS
OF THE CITY OF ANNAPOLIS

145 GORMAN STREET, 3RD FLOOR
ANNAPOLIS, MARYLAND 21401
TELEPHONE (410-263-7961)

OPINION AND ORDER

1410-1420 West Street
(Board of Appeals Case No. SE 2016-007)

The Applicant in this special exception proceeding, filed pursuant to Chapter 21.26 of the City Code, is Anne Arundel County, owner of improved land at 1410-1420 West Street. The property is zoned R2, Single-Family Residence District, and R3-NC, General Residence District Neighborhood Conservation District.

The Applicant has applied for special exception approval to allow for the construction of a new 32,500 square foot public library on the site of the existing Annapolis Regional Library and the adjacent vacant parcel. The existing library on the site would be demolished. The Applicant is seeking relief under City Code 21.26.010, which permits the Board of Appeals to grant special exception status upon finding that an application meets all review criteria for granting a special exception set forth in City Code 21.26.050.

The applicant is required to seek special exception approval pursuant to City Code 21.48.010, Table of Uses-Residential Zoning Districts, which indicates that "Other government and government-related structures, facilities and uses" are allowed by special exception in the applicable zoning districts.

On March 7 2017, the City's Department of Planning and Zoning submitted a report to the Board of Appeals evaluating the special exception application and recommending approval.

The Department enforced the public notice requirements of City Code 21.10.020. The Department received comments from the Germantown-Homewood Community Association which were forwarded to the Board of Appeals. The County met several times with the community association and modifications were made to the project in response to concerns, especially with regard to the impact of the project on adjacent residential properties. Additional written comments were received prior to the hearing and were distributed to the Board at the meeting. There was no specific written opposition regarding the special exception application. The comments focused on design considerations, including the site layout, specifically the plaza area and parking, and landscaping.

The application came before the Board of Appeals for a public hearing on March 15, 2017. All notice requirements of City Code 21.10.020 were met prior to the hearing. The Applicant was represented at the hearing by Jeremy Kline, an architect with the firm of Weller, Goodman Masek Architecture & Interiors, and Terry Shuman, a civil engineer with the firm of Bay Engineering, Inc. Cynthia Gudenius, Land Use & Development Planner, presented for the Department.

The following persons testified at the hearing:

Name	Address	In Favor	In Opposition	Commented On
Cynthia Knight	13 North Cherry Grove			X
Joseph Weaver III	1422 West Street			X
Theresa DeGutis	9 North Cherry Grove			X
Robert Waldman	1001 Popular Avenue	X		
William Dax	4 Southwood	X		
Dirk Geratz	44 Lafayette Avenue			X
Gina Pendry	8 Wainwright Drive	X		

Three members of the public testified in favor of the special exception. Four members of the public testified to express their concerns. The concerns included the presence of BGE power lines, the bus stop location at the site, fencing, drainage from the proposed flat roof, noise levels from HVAC equipment, and the desirability of documenting the existing building for a formal record of the late mid-century design.

In order to qualify for special exception approval, the Applicant must satisfy all review criteria stated in City Code section, 21.26.050. These criteria and findings are as follows:

A. The establishment, maintenance or operation of the special exception will not be detrimental to or endanger the public health, safety, morals, convenience or general welfare.

The new 32,500 square foot public library would serve as a benefit and not a detriment to or endanger the public health, safety, morals. The project would be constructed based on current building code requirements, would include additional amenities, provide enhanced landscaping, and provide storm water management practices. The site currently does not have any storm water management in place.

B. The special exception will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, or substantially diminish and impair property values within the neighborhood.

The proposed library project calls for construction of an architecturally contemporary new library structure that would replace the existing outdated structure. The new building has been sited to provide buffers from the adjacent single-family dwellings. Modern materials and library programs would not be injurious to the use and enjoyment of other property in the immediate vicinity nor diminish or impair property values within the neighborhood. Design of the new facility would provide for tree preservation areas and planted buffers along the boundaries with adjacent neighborhood homes, and would provide screening of loading and trash areas.

C. The establishment of the special exception will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

The redevelopment of the library site would provide updated building materials, stormwater management devices, utilities, and amenities that would contribute to the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

D. Adequate utilities, access roads, drainage and necessary facilities have been or are being provided.

An Adequate Public Facilities Study was submitted with the Special Exception application. The project was reviewed by the appropriate City agencies under Title 22 and a Certificate of Adequate Public Facilities has been issued.

E. Adequate measures have been or will be taken to provide ingress and egress designed to minimize traffic congestion in the public streets.

The project has provided two access points into the site, one from West Street and one from Poplar Avenue. These ingress/egress connections and a drop off area/turn around circle have been designed to minimize traffic congestion. The traffic study reflects that the surrounding road network and intersections would operate at about the same levels of service as the current condition.

F. The special exception shall, in all other respects, conform to the applicable regulations of the district in which it is located, including any use provisions or standards set forth in Chapter 21.64 and be consistent with the Comprehensive Plan.

The library use identifies with "Other Government and government related structures, facilities and uses" which require special exception approval in the R2 and R3-NC zoning districts. The project conforms to all of the requirements of these zoning districts, including setbacks, FAR, parking, buffering and landscaping.

The Board of Appeals has reviewed the findings of the Department of Planning and Zoning set forth in the staff report of March 7, 2017, the special exception review criteria, the site design standards, and the evidence of record, and finds that the totality of this evidence of record, none of which is contested or disputed, satisfies all special exception review criteria, all district and general design standards, and conforms to all of the requirements of the applicable zoning districts. The findings of the Department of Planning and Zoning are incorporated into this Opinion and Order by reference and are adopted. The staff report is attached to this Opinion and Order.

The Board of Appeals deliberated the project and its compliance with all applicable City Code requirements. The Board of Appeals finds that the evidence of record is substantial in quality and quantity and amounts to proof of compliance with special exception review criteria and site design plan district and general design standards by a preponderance of the evidence, thus warranting the approval of the special exception application with site design plan approval,

Based on the evidence of record and deliberations, the Board of Appeals votes 4 to 0 to approve the special exception application with conditions proposed by the Planning and Zoning staff, plus conditions proposed by the Germantown Homewood Community Association, and so orders this 2nd day of June, 2017. GME

Derek S. Meyers/GME
Derek S. Meyers, Chairman

Andrew Burnett/GME
Andrew Burnett, Board Member

Robert P. Gallagher/GME
Robert P. Gallagher, Board Member

Charles F. Martorana/GME
Charles F. Martorana, Board Member

by: GARY M. ELSON, with consent
Assistant City Attorney

Conditions of Approval

Counsel to the
Board of
Appeals

1. Except as hereinafter provided, the project and site shall be developed, constructed and maintained in substantial accordance with the applicant's exhibits including the site design plans prepared by Bay Engineering, Inc. and Wheeler, Goodman Masek, Inc. entitled "Annapolis Public Library" sheets dated January 2017; and, the architectural plans prepared by Wheeler Goodman Masek, entitled "Annapolis Public Library".
2. Prior to the issuance of any permits for the project, a lot consolidation plat, easements, and all agreements required by the City in conjunction with the project shall be fully executed and recorded in the Land Records of Anne Arundel County, Maryland.
3. Final site development plans shall be reviewed and approved by the Departments of Planning and Zoning and Public Works prior to the issuance of demolition, grading or building permits.

4. The new West Street sidewalk is to increase from 4 feet to 6 feet in width and provide a 10 foot wide planting strip between street curb and sidewalk in lieu of the proposed 4 foot strip, which shall be approved by the Department of Planning and Zoning prior to issuance of the grading permit.
5. Details on the entrance plaza shall be provided and approved by the Department of Planning and Zoning prior to issuance of the grading permit. This includes showing the locations of the entrance Arbor on the site plan, proposed site furniture, and any plant installation locations, species, and counts. Grading and paving shall be designed to accommodate root growth and irrigation. Seating shall be incorporated into the plaza.
6. All landscaping, including a schedule for the installation of plant materials, shall be shown on the final Landscape Plan, which shall be reviewed and approved by the Department of Planning and Zoning prior to the issuance of grading or building permits. Landscaping shall be installed prior to the issuance of any use or occupancy permit, unless the time of year is inappropriate for planting. In that event, the applicant shall provide the City with security in such form as approved by the City Attorney and the Department of Planning and Zoning to secure the installation of all plantings approved on the final planting plan.

The planting plan shall include:

- a. Landscaped buffers designed and planted with large, canopy tree species suitable for dry soils. The applicant shall permit shrubby undergrowth. Only invasive vines shall be removed consistent with the landscape maintenance conditions specified elsewhere.
 - b. Bio retention beds shall be planted with large canopy tree species suitable for ephemeral wet soils. Shrubby undergrowth shall be permitted. Only invasive vines shall be removed consistent with the landscape maintenance conditions specified elsewhere.
 - c. Parking areas close to the building shall be graded to slope into the planting island. Discharge inlets shall be raised to direct the first flushes of rainwater into the swale rather than into the discharge. Large canopy species suitable for these islands shall be planted.
7. The applicant shall provide to the Department of Planning and Zoning for approval, prior to the issuance of grading permits, a Planting Soils Improvement Plan, sufficient to provide for the long term health of all plantings and that meets the principles and recommendations for soils for urban tree plantings outlined in "Architectural Graphic Standards 10th Edition", pages 178 through 182, published by John Wiley & Sons, 1998. (Soils in planted areas shall be decompacted to a depth of 12 inches. Yard waste compost shall be tilled into the top 6 inches. Tree root protection zones shall be identified and proper soil treatments appropriate to each zone shall be required. Lawn areas contiguous to existing or newly-planted shall be tilled to 12 inches to provide for root growth.

8. A Landscape Maintenance Agreement approved by the City Attorney and the Department of Planning and Zoning shall be executed by the applicant prior to the issuance of use or occupancy permits.
9. Site lighting shall be designed at appropriate levels to achieve public safety without creating excessive glare or high intensity. Site lighting shall be designed based upon the approved photometric drawing approved by Planning and Zoning to achieve dark sky requirements.
10. All exterior signage for the establishment shall conform to the sign program approved by the Department of Planning and Zoning. No changes to the approved sign program, or additional signs, will be allowed without written approval from the Department of Planning and Zoning.
11. The Applicant shall explore with the Annapolis Department of Transportation the possibility of relocating the bus stop.”
12. The Applicant shall document the existing library structure according to Maryland Historic Trust practices prior to the issuance of demolition, grading or building permits.
13. The use and operation of the special exception shall be in conformance with all applicable rules, regulations and Codes, including but not limited to building, fire health, State and Federal regulations.
14. If any of these conditions is found to be invalid or modified by any court of law, the special exception approval shall remain in effect subject to further review and the imposition of any other conditions by the Board of Appeals.
15. All references to “applicant” or “developer” shall include the owner, the applicant and any developer and their respective successor and/or assigns.

Notice

City Code 21.26.070 provides that in any case where a special exception has not been established within one year after the date of granting the special exception, the special exception shall expire. However, the Board of Appeals, in its discretion and upon a showing of good cause, may grant up to two successive extensions of the granting of the special exception for periods of not longer than six months each; provided that, a written request for each extension is filed while the prior grant is still valid. A special exception expires if it ceases for more than six months. In the case of a building or structure which is destroyed or damaged by fire or other casualty or act of God, the Planning and Zoning Director may approve the reestablishment of the use provided that restoration is actively and diligently pursued to completion in a timely fashion.

Pursuant to City Code 21.26.090, within 30 days from the date of this decision, any person or persons aggrieved may appeal the decision to the Circuit Court for Anne Arundel County. Such appeal shall be taken in accordance with the Maryland Rules of Procedure.