

IN RE: PETITIONS FOR SPECIAL HEARING *	BEFORE THE
AND SPECIAL EXCEPTION	
(1523 Freeland Road) *	OFFICE OF
6 th Election District	
3 rd Council District *	ADMINISTRATIVE HEARINGS
Lois Reithlingshoefer & Clyde A. Morris	
<i>Legal Owner</i> *	FOR BALTIMORE COUNTY
Merry Meadows Recreation Farm, LLC	
<i>Lessee</i> *	Case No. 2016-0108-SPHX
Petitioners	
* * * * *	

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Special Exception filed on behalf of Lois Reithlingshoefer and Clyde A. Morris, legal owners and Merry Meadows Recreation Farm, LLC, lessee (“Petitioners”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows: (1) to approve amendments to the special hearing plan approved in Case No. 1974-0251-SPH and the special exception plan approved in Case No. 1969-205-X to permit 225 campsites (existing), accessory building and uses (existing) ; and (2) a lawful non-conforming use for a campground/camp, including day camps (existing), with accessory buildings and uses (existing). A Petition for Special Exception was filed pursuant to §1A01.2.C.4 to approve a campground/camp, including day camps, with 225 campsites (existing), accessory building and uses (existing).

Appearing at the public hearing in support of the requests was Lois and Leonard Reithlingshoefer and Bruce E. Doak, surveyor, whose firm prepared the site plan. C. William Clark, Esq. represented the Petitioners. Robert Morris, who lives near the property, attended and objected to the requests. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no substantive Zoning Advisory Committee (ZAC)

comments received.

This is an interesting case, involving a large parcel of rural property in northern Baltimore County, on which is operated a campground. The facility was approved by special exception in 1969, at which time the property was zoned R-6. Pet. Ex. 10. While the opinion in Case No. 69-204-X indicates “fifty-four camping sites” were proposed at the time, the order granting the special exception did not contain a numerical restriction on the number of sites, and at present the subject property has 225 campsites. The zoning of the property has changed throughout the years, and at present the site is split-zoned: RC2, RC4 & RC8. Both the RC2 & RC4 zones permit campgrounds by special exception, while the RC8 zone does not. The Petitioner has sought both special hearing and special exception relief to address this anomaly.

SPECIAL EXCEPTION

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. Schultz v. Pritts, 291 Md. 1 (1981). The Schultz standard was revisited in People’s Counsel v. Loyola College, 406 Md. 54 (2008), where the court emphasized that a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

In this case, Mr. Doak testified Petitioners satisfied the requirements set forth at B.C.Z.R. §502.1, and no evidence was presented to show the adverse impacts of the use at this location would be above and beyond those inherently associated with the operation of a campground. Indeed, the campground has been in existence at this location for over 40 years, and by all accounts it is well-run and provides numerous recreational amenities for the community. Robert Morris testified the campground has a deficient septic system that leaks into tributaries along the site, but

no additional evidence was presented to support that claim. In addition, the Department of Environmental Protection and Sustainability reviewed the request and indicated it had “no comment” on this case. As such, the petition for special exception will be granted.

SPECIAL HEARING

Ms. Reithlingshoefer made clear in her testimony that her father Clyde began the campground in 1970, and that it has been operated continuously since that time. Ms. Reithlingshoefer testified at length concerning improvements through the years to the facility, as well as the myriad activities and events hosted at the campground. The witness provided photographs of the property (Pet. Ex. 2), along with a listing of activities (Pet. Ex. 27) held throughout the year, including but not limited to festivals, holiday celebrations, car shows, rafting trips, bike rides, and quilting and scrapbooking events. Petitioners’ counsel contends these events are accessory to the operation of a campground, and I concur, based on witness testimony that such events are customarily offered at camping facilities throughout the country.

With regard to that portion of the property zoned RC8, Ms. Reithlingshoefer noted that campsites, structures and pavilions were constructed in that area in the late 1970s or early 1980s. Mr. Doak testified this portion of the site was previously zoned RC4, and was changed to RC8 in 2004. Mr. Doak indicated that approximately 12 campsites and several structures are located within the RC8 portion of the property. In light of these undisputed facts, the Petitioners have established the existence of a lawful nonconforming use with respect to the RC8 zoned portion of the site. B.C.Z.R. §104.

THEREFORE, IT IS ORDERED this 3rd day of March 2016, by this Administrative Law Judge, that the Petition for Special Hearing as follows: (1) to approve amendments to the special hearing plan approved in Case No. 1974-0251-SPH and the special exception plan approved in

Case No. 1969-205-X to permit 225 campsites (existing), accessory building and uses (existing); and (2) with respect to the RC8 zoned portion of the site as shown on the site plan marked as Petitioners' Exhibit 1, approval of a lawful non-conforming use for a campground/camp, including day camps (existing), with accessory buildings and uses (existing), be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Special Exception pursuant to B.C.Z.R. §1A01.2.C.4 to approve in the RC2 and RC4 zoned portions of the site as shown on the site plan marked as Petitioners' Exhibit 1, a campground/camp, including day camps, with 225 campsites (existing), accessory building and uses (existing), be and is hereby GRANTED.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB/sln