

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(13709 A Harcum Road)		
10 th Election District	*	OFFICE OF
3 rd Council District		
Summer Hill Club, Inc.	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
	*	FOR BALTIMORE COUNTY
Petitioner		
	*	Case No. 2019-0431-SPH

* * * * *

OPINION AND ORDER ON MOTION FOR RECONSIDERATION

Now pending is a Motion for Partial Reconsideration filed in the above noted matter by Petitioner’s counsel Richard C. Burch, Esq., seeking a reconsideration of my Order, dated March 12, 2020, granting with conditions Petitioner’s request for a variance.

Counsel asks for reconsideration of the Order as it relates to my determination to increase the permitted membership of the swim club to 275 members, a number in excess of that requested by the Petitioner (who asked for a cap of 250); as well as my order that the fence on the easement originally created be removed.

The Order is clear that I believe that my determination of the membership cap is within the authority granted under § 500.7 of the Baltimore County Zoning Regulations (“BCZR”). That section states, in part, “Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations.”

My Order sets out why I believe that Special Hearing procedures is not only appropriate to address the Petitioner’s requests, but also allows, under § 500.7 to make those adjustments in the 50-year old Special Exception conditions that are appropriate to reflect the evolution of the swim club.

As set out and explained in my Order, “[i]n this case the 1968 RC-6 special exception set conditions, the more recent RC-6 being ‘of-right’, sets no restrictions. Being a more strict approval process of the Petitioner’s use, I believe the special exception is the better of the standards to measure and control the continued use by the Petitioner of the site. The County Board of Appeals in 1968 did not possess a “50 year crystal ball” to know how the Petitioner would evolve while still serving the purposes for which the special exception was granted. The intent of the special hearing procedures is to allow flexibility in uses and clarification of zoning issues in light of individual and sometimes changing circumstances. Accordingly, applied to this case, I believe that the special hearing procedure is appropriate to examine and, if necessary, re-evaluate the special exception conditions set a half-century ago. I believe this is an especially valid position in an effort to maintain the availability of the clearly positive character of the Petitioner’s use in the past, present, and for future generations.”

As regards the easement in the site plan, whose existence is adopted as one of the conditions in the original special exception, and any fence thereupon, its language is clear – that the ingress/egress to the permitted pool by the referred to easement, would continue until “Bardon Road” was “laid out and paved and made accessible as a public thoroughfare. The construction of that road has not taken place; and therefore any limitation or “burden” upon it must be removed.

THEREFORE, IT IS ORDERED, this 1st day of **July, 2020**, by the Administrative Law Judge for Baltimore County, that the Motion for Reconsideration, be and is hereby DENIED.

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

Signed _____
LAWRENCE M. STAHL
Administrative Law Judge for
Baltimore County

LMS:dlw

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Legal Owner
 Petitioner *

* * * * *

CONSENT ORDER

The parties, by and through their undersigned counsel, having reached an agreement in the captioned matter, which are set forth in this Consent Order, it is therefore this 21st day of July, 2020, by the Baltimore County Office of Administrative Hearings, hereby ORDERED, with the consent of the parties:

1. That the Summer Hill Club, along with all facilities therein, be and hereby is permitted pursuant to the Order of the Baltimore County Board of Appeals of February 13, 1968, granting it a special exception, subject to specific conditions.

2. That for the reasons set forth in this Opinion, those restrictions shall be as follows:

a. Lighting must be altered to minimize its glare and effect on neighboring property. The types and arrangements of said lighting must be submitted to and approved by the Baltimore County Landscape Architect.

b. The hours of operation shall be 10:30 a.m. to 8:00 p.m. with the exceptions as to the following:

- i. Swim team practices may begin at 9:00 a.m.
- ii. Preparation for swim meets may begin at 8:30 a.m., and
- iii. Swim meets may begin at 9:00 a.m.

c. No playing of music shall be permitted.

- d. Alcohol beverages on the premises is prohibited.
- e. Loudspeaker use shall be permitted on half hour before, during and one-half hour after swim meets and special events, which shall be defined as Memorial Day, Independence Day, and Labor Day.
- f. The use of water to fill and maintain the pool and all issues relating to sewage shall be determined in concurrence with and with the permission of Baltimore County Department of Environmental Protection and Sustainability, that the comment of DEPS, dated October 18, 2019, be adopted and included in this Order.
- g. That the comments of DOP, dated October 16, 2019, is adopted and included in this Order.
- h. Membership shall be limited to 275 families; and
- i. That a minimum of 51% of the membership of Petitioner shall come from within the Summer Hill community itself.



LAWRENCE M. STAHL
Administrative Law Judge
for Baltimore County

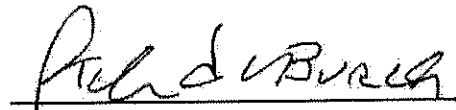
ATTORNEYS' SIGNATURES APPEAR ON NEXT PAGE

APPROVED AS TO FORM AND CONTENT:



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