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| <b>IN RE: PETITIONS FOR SPECIAL HEARING *</b> |   | BEFORE THE                     |
| <b>AND SPECIAL EXCEPTION</b>                  |   |                                |
| (3400 Northwind Road)                         | * | OFFICE OF                      |
| 11 <sup>th</sup> Election District            |   |                                |
| 5 <sup>th</sup> Council District              | * | ADMINISTRATIVE HEARINGS        |
| Baltimore County Game & Fish                  |   |                                |
| Protective Assoc. of Glen Arm                 | * | FOR BALTIMORE COUNTY           |
| <i>Legal Owner</i>                            |   |                                |
| Petitioner                                    | * | <b>Case No. 2018-0007-SPHX</b> |

\* \* \* \* \*

**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 Baltimore County Game & Fish Protective Assoc. of Glen Arm, legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to approve the non-conforming use of the subject property as a community building or other civic, social, recreational or educational use in a DR 2 & DR 1 NC zone. A Petition for Special Exception was filed to allow a community building or other civic, social, recreational or educational use in a DR 2 & DR 1 NC zone.

Numerous club members attended the public hearing in support of the requests. Timothy M. Kotroco, Esq. represented the Petitioner. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. No substantive Zoning Advisory Committee (ZAC) comments were received from any of the reviewing county agencies.

The subject property is approximately 44.8 acres in size and is split-zoned DR 2 & DR 1 NC. Petitioner acquired this property in 1941, and since that time it has engaged in hunting, fishing and similar activities on this parcel. Petitioner operates in conjunction with the Maryland Department of Natural Resources and offers hunter safety, firearms safety and similar training

opportunities at this facility.

### 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 *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), where the court of appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized 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.

John Motsco, a professional engineer accepted as an expert, testified via proffer he prepared the site plan and visited the property. He described the various buildings on the site which include a single family dwelling used by a property caretaker and a large meeting or assembly building used for club functions. He also identified the areas shown on the plan where firearm and archery activities take place, and he emphasized that these areas are surrounded by mature trees and forest which provides a buffer for the residential communities in the general area. He opined Petitioner satisfied the requirements set forth at B.C.Z.R. §502.1.

Rob Burkindine also testified via proffer on behalf of the Club. He explained the club has approximately 625 members at the present time, and he also described the history of this organization, which began in 1936. He also described the many activities which take place at the site, and noted the club is recognized by the IRS as a non-profit entity.

Based on this testimony, and considering these activities have been conducted at the site for over 75 years without complaint, I believe Petitioner easily satisfies the requirements for special exception relief and the petition will therefore be granted.

THEREFORE, IT IS ORDERED this 12<sup>th</sup> day of **September 2017**, by this Administrative Law Judge, that the Petition for Special Hearing to approve the non-conforming use of the subject property as a community building or other civic, social, recreational or educational use in a DR 2 & DR 1 NC zone, be and is hereby DISMISSED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that the Petition for Special Exception to allow a community building or other civic, social, recreational or educational use in a DR 2 & DR 1 NC zone, as more particularly described hereinabove, be and is hereby GRANTED.

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

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB/sln