

IN RE: PETITIONS FOR SPECIAL HEARING *		BEFORE THE
AND SPECIAL EXCEPTION		
(6433 Mt. Vista Road)	*	OFFICE OF
11 th Election District		
3 rd Council District	*	ADMINISTRATIVE HEARINGS
Beachmont, Inc.		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2019-0494-SPHX
	*	

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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 Beachmont, Inc. legal owner (“Petitioner”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) to approve all existing and proposed improvements. A Petition for Special Exception was filed pursuant to BCZR Section 1A04.2.B.4 to expand the previously approved special exception that permitted “community building, swimming pools, structural or land uses devoted to civic, social, recreational or education activities” that was granted in Case No. 1975-083-X and later modified in Case Numbers 89-489-SPH and 94-50-SPH.

Glenn Neumann, David Moyer, and Stewart Walker attended the public hearing in support of the requests on behalf of Beachmont, Inc. Lawrence E. Schmidt, Esq. represented the Petitioner. William Bafitis, the engineer that prepared and sealed the Plan, was also in attendance. Several residents from the surrounding communities appeared in opposition, including DeWitt Clark, the President of the Gunpowder Falls Watershed Preservation Association. The Petition was advertised as required by the BCZR. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (“DOP”) and the Department of Environmental Protection and

Sustainability (“DEPS”). Neither agency opposed the requested relief.

SPECIAL HEARING

Petitioner has requested the following Special Hearing relief: “1. To approve all existing and proposed improvements, and, 2. For such other and further relief as may be deemed necessary by the Administrative Law Judge (“ALJ”) of Baltimore County.” The subject property is 46.16 acres in size and zoned RC-5. It is located on Mt. Vista Road near its intersection with Harford Road. As the DOP notes, “Mt. Vista is a County Scenic Byway; however, this property is not directly adjacent to the road and given the topography, for the most part, is not visible from the road.” The Petitioner, Beachmont, has operated a non-denominational Christian Camp there since the 1980s with various activities year round, with its major focus being a 10 week summer day camp. The only other intensive use is a “corn maze” that they have held every fall since 2011 from mid-September thru the first week of November. The summer camp and corn maze are the principal revenue streams for Beachmont and fund its other Christian activities and programs.

At the hearing, Mr. Schmidt explained that there are several prior zoning Orders and a court of special appeals decision applicable to this property. He submitted the full text of these Orders and court opinion and they were admitted as Petitioner’s Exhibit 3. Mr. Schmidt further explained, by way of background, that in or around 1999 Beachmont acquired an additional 15 acres of land on the western edge of the property which brought the parcel up to its current size. He further explained the various proposed improvements depicted on the Plan, including: an open air pavilion and teaching pool adjacent to the existing pool; an open air pavilion adjacent to an existing natural pond; and a one-story multi-purpose addition to the existing gymnasium. The multi-purpose room would be used primarily on rainy days during summer camp. These improvements will enhance the expanding camp activities. The community witnesses did not oppose these proposed

improvements.

I find that the proposed improvement projects are a normal and appropriate expansion of Beachmont's existing facilities and programs and will not adversely impact the neighboring properties or the general health, safety and welfare. I further find that the requested Special Hearing relief can be granted within the spirit and intent of the BCZR.

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.

In previous cases the Beachmont Camp has been determined to be a permitted special exception use under BCZR Sec. 1A04.2.B.4, which allows "community buildings, swimming pools, structural or land uses devoted to civic, social, recreational or education activities." In Case No. 94-50-SPH the Deputy Zoning Commissioner expanded various uses that had been approved in previous cases and approved a modified site plan. In granting this relief the DZC placed eleven (11) enumerated conditions on the special exception uses. They are set forth in the full text of the Order, which, as noted, is included in Petitioner's Exhibit 3. Petitioners now seek to expand and modify condition Nos. 2 and 3, which currently read as follows:

2. The number of people permitted to occupy the new activity center shall be limited to 350 persons per day. In fact, throughout the entire year the total number of persons permitted to use the Camp facilities shall be limited to 350 persons daily, except during special events as provided for in Restriction 3.
3. The Petitioner shall be permitted to conduct special services four (4) times per year and a maximum of 700 persons shall be permitted to attend any one of the four special services.

Beachmont now asks that these conditions be modified as follows: Regarding No. 2, they ask that the limit on the number of persons permitted to attend the Summer Day Camp be increased from 350 to 500. Further, they request that the number of persons permitted to use the Camp facilities and grounds throughout the remainder of the year (except during the Corn Maze) be increased from 350 to 700. With respect to condition No. 3, they request that they be allowed to hold 10 special events each year with a maximum number of 1800 persons at each event.

Finally, Beachmont asks that the Corn Maze be considered to be a “regular camp program,” *not* a special event, and they request the following limits be placed on that use:

- a. That the Corn Maze can operate a total of 32 days a year during the months of September, October, and November, as follows: Wednesday and Thursday from 8:00 a.m. – 4:00 p.m. with a maximum of 500 persons per day; Friday and Saturday from 8:00 a.m. – 10 p.m., with a maximum of 2500 persons per day on Friday and 3500 on Saturday.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Beachmont’s Director of Operations, Stewart Walker, testified about the need for these modified conditions. First he gave some background about Beachmont’s operations and programs. He explained that the primary activity conducted on the site is the 10 week summer camp which runs from mid-June until the end of August. The camp is state-licensed and fully insured. Children ages 4 to 13 from around the area, especially those from the surrounding communities, attend the camp. The core hours are Monday through Friday 10 a.m. until 4 p.m., with extended care hours of 8 a.m. until 6 p.m. There are no overnight hours or activities. It is a typical summer day camp, offering swimming, sports, archery, etc., as well as arts and crafts. There are no kitchen facilities

and no meals are prepared. This will not change. He explained that with the growth of population in the area and the increasing popularity of the camp that they want to expand capacity. Mr. Walker further explained that they have parking and traffic control systems in place that provide for smooth drop-off and pickup for all the campers in the mornings and afternoons and that there have been no complaints from the surrounding neighbors concerning traffic, parking or noise associated with the camp operations. He further explained that the increase in campers – if approved – would happen gradually over the next few years, and would have to be approved by the State’s licensing agency. Further, the physical improvements discussed above will also be implemented over time as needs and funding dictate.

Mr. Walker then explained the corn maze operations. Other than the summer camp it is Beachmont’s largest source of revenue and the funds it generates are used to fund Beachmont’s other Christian-based programs. As noted above, Beachmont acquired an additional 15 acres of land approximately twenty years ago and they have gradually expanded some camp programs onto this extra land. They started holding the corn maze in 2011 and it has expanded over time and is now the principal use on this 15 acre parcel. The maze is open only eight weeks a year, from mid-September through the first week of November, and has a Halloween theme. In addition to the maze itself there are other related family-friendly activities, including games and hayrides. Mr. Stewart explained that it is only open Wednesday through Saturday. Wednesday and Thursday offer only daytime hours and they largely cater to school groups on these days and these groups generally come by bus. The maximum number of people they expect on these days is 500. On Friday and Saturday they offer daytime and evening hours. However, per the existing 1994 Order, all operations must be shut down and all people must be off the premises by 10 p.m. In order to comply with this restriction Stewart explained that they do not sell any tickets after 9 p.m., and

announcements are made over the public address system well in advance of 10 p.m. that all patrons must leave the premises. Stewart also explained that they have well organized parking and traffic control procedures in place that are conducted by volunteers under the direction of a former Maryland State Trooper. Stewart also explained that, as with the camp, there are no food services associated with the corn maze other than the sale of pre-packaged foods such as chips, candy and drinks. Further, they have “port-a-pots” set up during the corn maze event to accommodate the crowds. Stewart testified, without contradiction, that there have been no complaints about the corn maze operations from the immediately surrounding property owners. On cross-examination by Mr. Clark, Stewart acknowledged that the Gunpowder Falls Watershed Preservation Association had written a letter to Beachmont on June 19, 2018 concerning the corn maze operations, and that Beachmont’s President, David Moyer, had further discussions with GFWPA during that summer. Mr. Stewart identified a letter from Mr. Moyer to Mr. Clark dated July 31, 2018, which was admitted as Protestants’ Exhibit 1. In that letter Mr. Moyer acknowledges that Beachmont is mindful of the conditions placed on them by the 1994 Order, and he reiterates that Beachmont is “committed to taking the necessary steps to remain in compliance with the details of our zoning order.” Mr. Moyer then goes on to state that:

“At this point, and after 25 years of the same daily usage restrictions, we feel that our best option is to continue formulating a detailed plan to submit to the Zoning Commission of Baltimore County seeking some modifications to the current caps on the number of people permitted to use our facilities on a daily basis. This would include specific proposals to address the number of people attending our annual Corn Maze.” See, Protestant’s Exhibit 1

Mr. Schmidt explained that this special exception Petition is Beachmont’s attempt to follow through on the assurances that Mr. Moyer made in this letter.

Mr. Dewey Clark then testified in opposition to the proposed relief. He stated that in the last several years the increasing development in the area has put “lots of pressure” on the valley and watershed. He acknowledged that he doesn’t live in the immediate vicinity of Beachmont but was generally concerned about the increased traffic and noise associated with the Corn Maze. He stated that the residents of the new “Mount Vista” development across the road from Beachmont had problems with the noise from the Corn Maze. He acknowledged that none of them had appeared in person at the hearing to complain. Mr. Clark noted that when the prior Order was issued in 1994, that Beachmont had not yet acquired the 15 acre parcel upon which the Corn Maze is now operated. He further noted that the topography on the eastern side of the Beachmont property where the Camp facilities are located is a natural bowl which absorbs most of the noise from the Camp. Conversely, the 15 acre parcel on the western end of the property where the Corn Maze is operated sits up on a hill and there are no buffers for the noise. Mr. Dewey was also concerned that Beachmont is not taking any special measures to protect the environment from all the vehicles that are parked on open fields during the Corn Maze. However, he did not suggest just what measures he deemed necessary or appropriate.

Ms. Pat Garner testified next. She is the Treasurer for the Greater Kingsville Civic Association. She stated that the Board of that association had recently communicated via email about Beachmont’s requested relief and that they had taken a “straw poll” by which they voted to oppose the relief. She acknowledged that the Beachmont summer camp had been a great asset to the surrounding community over the years. She stated that the only concern was that the Corn Maze was “getting out of hand” due to the volume of attendees; however, she offered no specific examples of any problems or incidents. As with Mr. Dewey, she acknowledged that she lived about

2.5 miles away and had never been personally impacted by any noise or traffic associated with the camp or the Corn Maze.

In closing argument Mr. Schmidt pointed out that no residents of the immediately surrounding communities had come to voice any opposition to Beachmont's requested relief. He pointed out that Beachmont's activities and programs had already been determined to be a valid special exception use under the BCZR. He urged that the Corn Maze had evolved over time and was a natural extension of Beachmont's programs and was a "civic, social, and recreational" activity within the meaning of BCZR Sec. 1A04.2.B.4. He acknowledged that the Administrative Law Judge has the power to place reasonable limits on Beachmont's uses of their property, but *only if* such limits were based on specific detrimental impacts that had been proven at the hearing – and in this case no such detrimental impacts had been proven by direct testimony or evidence. Finally, he noted that although this site is in a more rural part of the County it is near Harford Road, a major arterial road, and that there was no testimony or evidence concerning any adverse traffic impacts associated with either the summer camp or the Corn Maze.

I find that Beachmont has been a responsible civic/religious organization and that they continue to operate their camp and related programs and activities in a thoughtful, lawful, and appropriate manner. I do believe that the Corn Maze event is in the nature of a regular program, as opposed to a "special event," which in the past have been one day "stand alone" type events, such as the sunrise Easter service.

Further, I believe the acquisition of the additional 15 acre western parcel (which increased the size of the Beachmont tract by approximately 50%) can accommodate the increased frequency and attendance limits that Beachmont is seeking without adversely impacting any of the factors set forth in BCZR Sec. 502.1. And, under *Schultz v. Pritts, supra*, I find that the anticipated impacts

of the special exception uses in this case will not be above and beyond those inherently associated with the special exception use. Finally, I find that the relief requested can be granted within the spirit and intent of the BCZR and without causing harm to the public health, safety and general welfare.

THEREFORE, IT IS ORDERED this **9th** day of **January, 2020**, by this Administrative Law Judge that the Petition for Special Hearing to approve all existing and proposed improvements, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Special Exception to expand the previously approved special exception that permitted “community building, swimming pools, structural or land uses devoted to civic, social, recreational or education activities” that was granted in Case No.: 1975-083-X and later modified in Case Numbers 89-489-SPH and 94-50-SPH, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. The number of people permitted to occupy the Activity Center (Summer Day Camp attendees) shall be limited to 500 persons per day (this number does not restrict the Seasonal Corn Maze Program attendees). The number of people permitted to occupy the Camp Facilities shall be limited to 750 persons per day throughout the entire year, except during special events as provided for in Restriction 3 (this number does not restrict the Seasonal Corn Maze Program attendees).
3. The Petitioner shall be permitted to conduct special services/events ten (1) times per year and a maximum of 1,800 persons shall be permitted to attend any one of the ten special services/events.
4. The Seasonal Corn Maze Program is classified as a regular camp program and not a special service/event. The Seasonal Corn Maze Program is permitted to operate for a total of thirty-two (32) days throughout the entire year. The Seasonal Corn Maze Program is

permitted to operate on Wednesdays & Thursdays between 8:00 AM-4:00 PM and is limited to 500 persons per day. The Seasonal Corn Maze Program is permitted to operate on Fridays between 8:00 AM-10:00 PM and is limited to 2,500 persons per day. The Seasonal Corn Maze Program is permitted to operate on Saturdays between 8:00 AM-10:00 PM and is limited to 3,500 persons per day.

5. Petitioners shall take steps to establish protocol to limit ticket sales so as to be compliant with the daily maximum attendance numbers as provided for in Restrictions 2, 3, and 4. In addition, Petitioner will track and record daily ticket sales and attendance for all days of operation for such uses. These records shall be made available for review by the designated Baltimore County oversight department, as requested.
6. During such times as a special service/event may be taking place at the Property, the Petitioner shall provide private parking attendants to assist with the safe flow of traffic to and from the site.
7. All services and activities that are conducted on site must be concluded by 10:30 PM on any given day.
8. The Petitioner will make every effort to reduce the amount of noise generated by the uses on the property. Furthermore, the Petitioner shall adjust the amplified speaking system to reduce all noise and to deflect same away from any adjacent property owners.
9. All hayrides or wagon rides shall be rerouted to lessen their infringement upon the privacy of adjoining residential property owners.
10. The Petitioner shall eliminate or relocate camp fires and outdoor barbecuing facilities to reduce the effects of smoke and to keep any smoke from drifting onto adjacent residential properties.
11. The Petitioner shall rearrange or relocate the vespers area located on the southern portion of the site in a manner that will direct all singing, chanting, and praying away from adjoining residential properties to lessen the impact that these services have upon the neighbors' quiet enjoyment of their property.
12. The Petitioner is prohibited from providing overnight camping facilities at this time. However, in the event the Petitioner desires to provide overnight camping facilities in the future, it has the right to request a special hearing to amend this restriction.
13. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

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

Signed
PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County