

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
www.montgomerycountymd.gov/boa/

(240) 777-6600

**Case No. CBA-1202-A
PETITION OF BAR-T RANCH, INC.**

RESOLUTION TO RE-OPEN THE RECORD
(Resolution Adopted July 15, 2020)
(Effective Date of Resolution: July 29, 2020)

The Board of Appeals granted Case No. CBA-1202 to Thomas E. Barton on February 12, 1962, to permit the operation of a day camp under Section 107-28i(1)(e) of the Zoning Ordinance. Effective September 25, 1985, the Board transferred the special exception to Joseph E. and Nancy E. Richardson and granted an administrative modification. The Board granted further administrative modifications of Case No. CBA-1202 on November 25, 1986, April 1, 1993, May 20, 1993, March 25, 1994, and August 26, 2002. On January 7, 2002, the Board granted Case No. CBA-1202-A, a major modification of the special exception, and Case No. A-5605, an accompanying variance. The Board granted administrative modifications of Case No. CBA-1202-A on August 26, 2002, March 11, 2003, April 5, 2004, and May 21, 2009. More recently, on June 26, 2020, the Board granted an administrative modification to allow the addition of a ropes course and zip line, and the relocation of an existing playground.

The subject property is comprised of approximately 12.31 acres, Parcel P925, Add to Brooke Grove Subdivision, located at 6530 Olney-Laytonsville Road in the R-200 Zone.

Following the grant of the June 26, 2020, modification, the Board of Appeals received two letters expressing opposition to the modification, one from Anna Mae Pointer, dated June 27, 2020, and the second from Nancy Royer, dated July 3, 2020. Ms. Pointer's letter expressed concern that Bar-T Ranch would permit use of the zip line outside of camp hours. Ms. Royer's letter expressed concern about noise from the zip line and from music played through the speaker system during camp and at "the many extra events for which the property is rented out." The Board notes that neither Ms. Pointer nor Ms. Royer requested a public hearing on the administrative modification.

The Board also received a letter dated July 10, 2020, from Casey L. Cimer, Esquire, on behalf of Bar-T Ranch, Inc., responding to the letters of opposition. Ms. Cimer's letter states that except for staff training, the zip line and ropes course will only

be used during camp hours, would generate minimal noise, and would not substantially change the effect of the camp on the neighborhood. With respect to the use of the camp property outside of camp hours, Ms. Cimer's letter states that:

...Bar-T does not rent the Property out for "end of school year parties" and "weekend events." Bar-T has, at its sole cost and expense, and at the request of local elementary school PTAs, hosted 5th grade end of the year parties. In the future, Bar-T will monitor the volume of any music played at those celebrations. As for weekend events, the house at the Property is occupied and those residents may have a birthday or other private party at the Property during the weekend, but those are not affiliated with Bar-T.

Due to COVID-19, the Board of Appeals considered all three letters at a remote Worksession held on July 15, 2020, using Microsoft Teams. Ms. Pointer participated in the remote Worksession, as did Ms. Cimer and Bar-T Ranch COO Mark Orens. Ms. Pointer raised noise concerns as well as concerns about future compliance; she also stated that the camp needs to maintain existing pine trees. Ms. Cimer addressed potential noise from the newly approved zip line and ropes course, stating that the number of children on that equipment at any one time would be low, that the equipment would be elevated and set back from the property line which would help mitigate noise, and that athletic fields which are currently on that area of the property, which Ms. Cimer asserted would be noisier when in use than the new equipment, would be moved farther towards the center of the property. Ms. Cimer stated that Bar-T Ranch was surprised by Ms. Royer's written comments about noise because the speakers are on the other side of the campus near the parking lot, and are only used for two 45-minute periods, at the beginning and close of the camp day. Ms. Pointer stated that the camp usually has a deejay who plays loud music when the children are leaving, but that recently this has not been an issue because of COVID. Ms. Cimer represented that Bar-T Ranch will be more sensitive to noise at the beginning and end of the camp day, as well as during any 5th grade end of year parties, and that Bar-T will look at the issue surrounding the pine trees.

Following this discussion, the Board determined that the record should be re-opened to receive the above-referenced correspondence from Ms. Pointer, Ms. Royer, and Ms. Cimer. On a motion by John H. Pentecost, Chair, seconded by Katherine Freeman, with Bruce Goldensohn, Vice Chair, Mary Gonzales, and Richard Melnick in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1202-A is re-opened to receive the above-referenced correspondence.


John H. Pentecost
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 29th day of July, 2020.


Barbara Jay
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book. Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

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Case No. CBA-1202-A

PETITION OF BAR-T RANCH, INC.

RESOLUTION TO MODIFY SPECIAL EXCEPTION

(Resolution Adopted June 17, 2020)

(Effective Date of Resolution: June 26, 2020)

The Board of Appeals granted Case No. CBA-1202 to Thomas E. Barton on February 12, 1962, to permit the operation of a day camp under Section 107-28i(1)(e) of the Zoning Ordinance. Effective September 25, 1985, the Board transferred the special exception to Joseph E. and Nancy E. Richardson and granted an administrative modification. The Board granted further administrative modifications of Case No. CBA-1202 on November 25, 1986, April 1, 1993, May 20, 1993, March 25, 1994, and August 26, 2002. On January 7, 2002, the Board granted Case No. CBA-1202-A, a major modification of the special exception, and Case No. A-5605, an accompanying variance. The Board has granted administrative modifications of Case No. CBA-1202-A on August 26, 2002, March 11, 2003, April 5, 2004, and May 21, 2009.

The subject property is comprised of approximately 12.31 acres, Parcel P925, Add to Brooke Grove Subdivision, located at 6530 Olney-Laytonsville Road in the R-200 Zone.

The Board of Appeals has received a letter with attachments, dated June 12, 2020, from Casey L. Cimer, Esquire, on behalf of Bar-T Ranch, Inc. Ms. Cimer requests an administrative modification of the special exception to allow (1) the addition of a ropes course near the southeast corner of the property, (2) the addition of a zip line that will extend approximately 437 feet in a northeast direction from the ropes course, parallel to the property line, and (3) the relocation of the existing playground to a more internal location on the property, and the replacement of playground equipment as necessary. Ms. Cimer notes that in addition to these changes, the installation of the ropes course and zip line may necessitate slight adjustments to the current locations of nearby athletic fields, which are easily moved because they have painted lines and portable goal posts. Ms. Cimer encloses a site plan showing the location of the proposed ropes course and zip line, and the proposed new location for the playground. Her letter indicates that the ropes course "will be set back a minimum of 62 feet from the Property line, with guidewires

to anchor the structure situated closer to the Property line." It states that there is "a mature row of white pine trees along the entirety of that Property line that will screen the zip line and ropes course, the height of which will not exceed the height of the white pine trees."

Describing the impact of the proposed changes on neighboring properties, Ms. Cirner's letter states the following:

The [zip line/ropes course] equipment will be adequately screened from the adjoining residential neighbors by the existing white pine trees. This screening, coupled with the use of the equipment being limited to the daytime hours of operation of the camp, results in no substantial change of the effect of the camp on the neighborhood. It merely gives the children another experience at the Property, which, in turn, will cause the children to be dispersed among more area of the Property and less concentrated in areas. Further, the addition of this equipment will not change the nature or character of the use because it is consistent with equipment found at summer camps. For example, Waredaca, a nearby farm that welcomes summer campers, has a zip line/ropes course. Finally, the addition of this equipment will not increase the intensity of the use or have an effect on traffic because it will be used only by the children that attend the Bar-T Ranch. Accordingly, the zip line/ropes course does not substantially change the nature, character or intensity of the use, will not impact traffic, and will not substantially change the effect of the camp on the immediate neighborhood.

* * * * *

The new playground location will be away from Md. Route 108, directly behind the hockey rink and in an open space with more direct sunlight. This location is more accessible to the majority of the camp and further set back from the road. Bar-T does, however, expect certain playground pieces will need to be replaced when they go to move them and intend to replace those pieces with equal substitutions or comparable equipment.

Since this request involves an existing condition, the playground equipment is consistent with the nature and character of the use and will not increase the intensity of the use or affect traffic or the surrounding neighborhood. In fact, moving this equipment to a more internal location will further mitigate any impact this playground equipment may have on the surrounding neighborhood and increase the safety of the camp.

Due to COVID-19, the Board of Appeals considered Ms. Cirner's letter at a remote Worksession held on June 17, 2020, using Microsoft Teams. Ms. Cirner participated in the remote Worksession in support of the requested modification, along with Bar-T Ranch CFO Tyler Cureton and COO Mark Owens. Ms. Cirner described the proposed ropes course and zip line for the Board. She stated that the nearest property line to the proposed equipment is screened by a mature row of pine trees, which will serve as a buffer. Ms. Cirner stated that the existing playground would be moved to a safer, more central location. Because of the age of the equipment, she stated that some of it may need to be replaced, and that any replacement would be with substantially similar

equipment. Ms. Cimer concluded that the proposed modification meets the standard for the grant of an administrative modification, noting that it would have a limited impact because it would be for daytime use by persons already on site. She stated that the new playground location was central to the property, and that the proposed ropes course and zip line would be buffered by white pines.

In response to Board questions, Mr. Owens stated that the proposed zipline will have two parallel lines and will be built by an organization approved by the Association for Challenge Course Technology. Bar-T employees will be trained in its use, and the equipment will be inspected annually. Mr. Owens stated that there needs to be a clearance and buffer zone around the zip line, which is why there may be a shift in the location of the athletic fields.

Because Case No. CBA-1202-A was approved prior to October 30, 2014, under Section 59-7.7.1.B of the current Zoning Ordinance, this modification request must be reviewed under the standards and procedures in effect on October 29, 2014, unless the applicant elects to be reviewed under the property's current zoning. Section 59-G-1.3(c)(1) of the Zoning Ordinance (2004) provides:

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the board, without convening a public hearing to consider the proposed change, may modify the term or condition.

The Board finds that the request to modify the special exception to add the proposed ropes course and zip line, and to relocate the existing playground (including the replacement as needed of the existing playground equipment with comparable equipment), in the locations shown on the site plan submitted with the modification request, will not change the nature, character or intensity of the use, and will not substantially change its impact on the immediate neighborhood or on traffic. As noted in Ms. Cimer's letter, the proposed ropes course and zip line will be screened by trees and will be lower in height than the existing tree line, and the new playground location is more centrally located on the property than the existing playground. In addition, the Board finds, as noted by Ms. Cimer notes, that these amenities will be only used by persons already on the subject property, and thus will not occasion additional traffic to the property or substantially change the impact of the special exception use on the immediate neighborhood. Therefore, on a motion by John H. Pentecost, Chair, seconded by Richard Melnick, with Bruce Goldensohn, Vice Chair, Katherine Freeman, and Mary Gonzales in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the record in Case No. CBA-1202-A is re-opened to receive Ms. Cimer's letter of June 12, 2020, with attachments; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the request to modify the special exception as indicated above and in Ms. Cimer's letter, and as shown on the attachments to that letter, is granted; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.


John H. Pentecost, Chair
Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 26th day of June, 2020.


Barbara Jay
Executive Director

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision and conduct a public hearing to consider the action taken.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book. Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

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Case No. CBA-1202-A

PETITION OF BAR-T RANCH, INC.

RESOLUTION TO MODIFY SPECIAL EXCEPTION

(Resolution Adopted February 11, 2009)
(Effective Date of Resolution: May 21, 2009)

The Board of Appeals has received letters, dated January 15, 2009 [Exhibit No. 50] and February 2, 2009 [Exhibit No. 51], from Jody S. Kline, Esquire, on behalf of Bar-T Ranch, Inc. Mr. Kline requests administrative modification of the special exception to allow: 1) replacement of the Office building at the west end of the parking area; 2) replacement of the Club House building with a circular, yurt building; and 3) modifications to the in-ground swimming pool. Mr. Kline encloses plans and photographs to illustrate the requested changes.

The subject property is comprised of approximately 12.31 acres, Parcel P925, located at 6530 Olney-Laytonsville Road in the R-200 Zone.

The Board of Appeals granted Case No. CBA-1202 to Thomas E. Barton on February 12, 1962, to permit the operation of a day camp under Section 107-28i(1)(e) of the Zoning Ordinance. Effective September 25, 1985, the Board transferred the special exception to Joseph E. and Nancy E. Richardson and granted an administrative modification. The Board granted further administrative modifications of Case No. CBA-1202 on November 25, 1986, April 1, 1993, May 20, 1993, March 25, 1994, and August 26, 2002. On January 7, 2002, the Board granted Case No. CBA-1202-A, a major modification of the special exception, and Case No. A-5605, an accompanying variance. The Board has granted administrative modifications of Case No. CBA-1202-A on August 26, 2002, March 11, 2003, and April 5, 2004.

The Board considered Mr. Kline's letters at its Worksession on February 11, 2009. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance provides, pertaining to modification of special exceptions:

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the


immediate neighborhood, the Board, without convening a public hearing to consider the proposed change, may modify the term or condition.

The Board finds that the request changes are internal to the site and will have little or no outward impact, and therefore will not substantially change the nature, character or intensity of the use or its effect on traffic or on the immediate neighborhood. On a motion by Carolyn J. Shawaker, seconded by Stanley B. Boyd, with Walter S. Booth, David K. Perdue, Vice-Chair and Catherine G. Titus, Chair, in agreement:


BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1202-A, Petition of Bar-T Ranch, is re-opened to receive Jody Kline's letters dated January 15, 2009 and February 2, 2009, with attachments; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception is **granted**; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.


Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
This 21st day of May, 2009.


Katherine Freeman
Executive Director

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision and conduct a public hearing to consider the action taken.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

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CASE NO. CBA-1202-A

PETITION OF BAR T RANCH, INC.

RESOLUTION TO RE-OPEN THE RECORD

(Resolution Adopted May 4, 2005)

(Effective Date of Resolution: June 17, 2005)

The Board of Appeals has received a memorandum, dated April 11, 2005, from Nancy Richardson of the Bar-T Ranch. Ms. Richardson submits the Annual Report for the special exception, in accordance with Condition No. 15 of the Board's January 7, 2002 approval of Case No. CBA-1202-A.

The subject property is comprised of approximately 12.31 acres, Parcel P925, located at 6530 Olney-Laytonsville Road in the R-200 Zone.

The Board of Appeals considered Ms. Richardson's correspondence at its Worksession on May 4, 2005. On a motion by Louise L. Mayer, seconded by Wendell M. Holloway, with Angelo M. Caputo and Allison Ishihara Fultz, Chair in agreement and Donna L. Barron necessarily absent:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1202-A is re-opened to receive Nancy Richardson's memorandum dated April 11, 2005; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.



Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 17th day of June, 2005.

A handwritten signature in cursive script, appearing to read "Katherine Freeman", is written over a horizontal line.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.

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CASE NO. CBA-1202-A

PETITION OF BAR T RANCH, INC.

RESOLUTION TO RE-OPEN THE RECORD

(Resolution Adopted May 5, 2004)

(Effective Date of Resolution: June 9, 2004)

The Board of Appeals has received a memorandum, dated April 14, 2004, from Joseph T. Richardson, Vice-President, Bar-T Ranch. Mr. Richardson submits the Annual Report for the special exception, in accordance with the Condition No. 15 of the Board's January 7, 2002 approval of Case No. CBA-1202-A.

The subject property is comprised of approximately 12.31 acres, Parcel P925, located at 6530 Olney-Laytonsville Road in the R-200 Zone.

The Board of Appeals considered Mr. Richardson's correspondence at its Worksession on May 5, 2004. On a motion by Angelo M. Caputo, seconded by Allison Ishihara Fultz, with Donna L. Barron and Donald H. Spence, Jr., Chairman in agreement and Louise L. Mayer necessarily absent:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1202-A is re-opened to receive Joseph T. Richardson's memorandum dated April 14, 2004; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.



Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 9th day of June, 2004.

A handwritten signature in cursive script, reading "Katherine Freeman", written in dark ink. The signature is fluid and extends across the width of the line.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.

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CASE NO. CBA-1202-A

PETITION OF BAR T RANCH, INC.

RESOLUTION TO GRANT ADMINISTRATIVE MODIFICATION
(Resolution Adopted May 14, 2003)
(Effective Date of Resolution: April 5, 2004)

The Board of Appeals has received correspondence, dated May 1, 2003 and May 8, 2003, from Emily J. Viais, Esquire, on behalf of Bar T Ranch, Inc. Ms. Viais's letters enclose the 2003 Annual Report for Bar T Ranch as well as a revised special exception site plan, and request administrative modification of the special exception to reflect the actual locations of the office trailer, gazebo and storage shed on site, consistent with the wall-check conducted by the Department of Permitting Services.

The subject property is comprised of approximately 12.31 acres, Parcel P925, located at 6530 Olney-Laytonsville Road in the R-200 Zone.

The Board of Appeals considered Ms. Viais's letters at its Worksession on May 14, 2003. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance provides:

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the board, without convening a public hearing to consider the proposed change, may modify the term or condition.

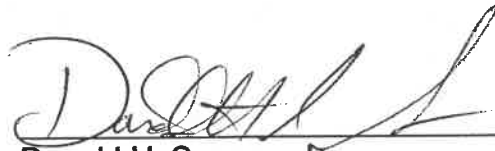
The Board finds that the requested modification will not substantially change the nature, character or intensity of the use or its effect on traffic or on the immediate neighborhood. Therefore,

On a motion by Louise L. Mayer, seconded by Allison Ishihara Fultz, with Donna L. Barron, Angelo M. Caputo and Donald H. Spence, Jr., Chairman in agreement:

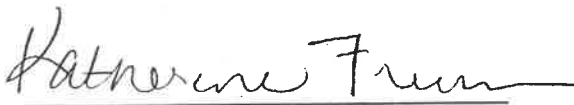
BE IT RESOLVED by the Board of Appeals for Montgomery County Maryland that the record in Case No. CBA-1202-A, Petition of Bar T Ranch, Inc., is re-opened to receive Emily J. Viais's letters of May 1, 2003 and May 8, 2003, with attachments; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County Maryland that the request to modify the special exception to show the actual locations of the office trailer, gazebo and storage shed, as depicted on the revised site plan, is **granted**; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County Maryland that all other terms and conditions of the special exception, together with any modifications granted by the Board of Appeals, remain in effect.


Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 5th day of April, 2004.


Katherine Freeman
Executive Secretary to the Board

Note:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.

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Case Nos. CBA-1202-A & A-5605

**PETITION OF BAR-T INC.
(BAR-T RANCH)**

RESOLUTION TO MODIFY SPECIAL EXCEPTION
(Resolution Adopted December 18, 2002)
(Effective Date of Resolution: March 11, 2003)

The Board of Appeals has received correspondence, dated November 21, 2002, from Stephen J. Orens, Esquire. On behalf of the special exception holder, Bar-T Ranch, Mr. Orens request administrative modification of the above-captioned special exception to permit a one-time only re-scheduling of a two-day football tournament to take place on the subject property on Thursday and Friday, May 15 and 16, 2003.

The subject property comprises approximately 12.31 acres, and is Parcel P925, located at 6530 Olney-Laytonsville Road in the R-200 Zone.

The Board of Appeals considered Mr. Orens's letter at its Worksession on December 18, 2002. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance provides:

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the board, without convening a public hearing to consider the proposed change, may modify the term or condition.

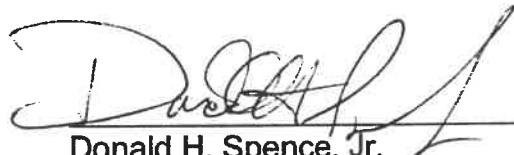
The Board finds that the two-day football tournament will not substantially change the nature, character or intensity of the special exception use, or its effect on traffic or on the immediate neighborhood, and that the request can granted without the need for a public hearing. Therefore,

On a motion by Donna L. Barron, seconded by Louise L. Mayer, with Angelo M. Caputo, Allison Ishihara Fultz and Donald H. Spence, Jr., Chairman, in agreement:

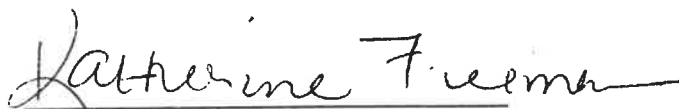
BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1202-A is re-opened to receive Stephen J. Orens's letter dated November 21, 2002 with attachments; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the request for administrative modification of the special exception is granted; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.


Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 11th day of March, 2003.


Katherine Freeman
Executive Secretary to the Board

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

Case Nos. CBA-1202-A & A-5605

**PETITION OF BAR-T INC.
(BAR-T RANCH)**

**RESOLUTION TO RE-OPEN THE RECORD AND
GRANT ADMINISTRATIVE MODIFICATION**

(Resolution Adopted May 15, 2002)

(Effective Date of Resolution: August 26, 2002)

The Board of Appeals has received correspondence from Emily J. Vaias, Esquire, on behalf of Bar-T-Ranch. Ms. Vaias' April 30, 2002 letter encloses an Annual Report regarding the operations of the camp, as required by Condition No. 15 in the Board's January 7, 2002 Opinion granting Case No. CBA-1202-A. In addition the letter encloses a revised Special Exception Plan depicting relocation of the doll house from the northern corner of the site to an area near the playground, and requesting administrative modification of the special exception to include this change.

The subject property comprised of approximately 12.31 acres, is Parcel P925, located at 6530 Olney-Laytonsville Road in the R-200 Zone.

The Board of Appeals considered Ms. Vaias' request at its Worksession on May 15, 2002. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance provides:

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the board, without convening a public hearing to consider the proposed change, may modify the term or condition.


The Board finds that relocation of the dollhouse will neither substantially change the nature, character or intensity of the use nor the effect on traffic or on the immediate neighborhood. Therefore,

On a motion by Allison Ishihara Fultz, seconded by Angelo M. Caputo, with Donna L. Barron, Louise L. Mayer and Donald H. Spence, Jr., Chairman, in agreement:

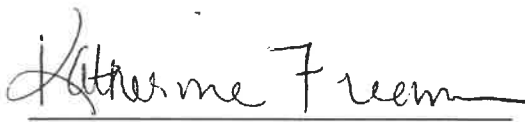
BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1202-A is re-opened to receive Emily J. Vaia's letter of April 30, 2002, with attachments; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County Maryland that the request to modify the special exception is granted; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County Maryland that all terms and conditions of the original special exception, together with any modification granted by the Board of Appeals, remain in effect.


Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 26th day of August, 2002.


Katherine Freeman
Executive Secretary to the Board

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
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Case Nos. **CBA-1202-A & A-5605**

**PETITION OF BAR-T INC.
(BAR-T RANCH)**

OPINION OF THE BOARD

(Hearings held May 2 and 9, 2001)
(Effective Date of Opinion: January 7, 2002)

BACKGROUND

Case No. CBA-1202-A is a petition for a special exception modification pursuant to §59-G-2.13.1 (Child Day Care Facility) of the Zoning Ordinance to permit: (1) a maximum of 450 campers; (2) a total of 110 employees; (3) approval of all existing structures on the property shown on the Landscape and Lighting Site Plan (Exhibit No. 30); (4) operation of three, three-week summer camp sessions from mid-June to late August; (5) operation of four after camp parties on Fridays from 4:00 p.m. to 8:00 p.m.; (6) four staff training sessions for up to 110 people from 6:00 p.m. to 9:00 p.m.; (7) three Parents/Campers' Orientation sessions for approximately 300 people before the start of each summer session on a Saturday between 12:00 p.m. and 4:00 p.m.; (8) three talent shows involving 150 to 200 cars at the end of each summer session on a Friday afternoon between 2:00 p.m. and 4:00 p.m.; (9) operation of before and after camp child care ending at 6:00 p.m. for approximately 60 children and staffed by six to eight employees; and (10) operation of ten events between early April and late November which include Spring Break Carnival Day, Earth Day/Kindergarten Enrichment Program, Family Appreciation Day, Football Tournament, two church activities, and three nonprofit activities.

Case No. A-5605 is a petition for (1) a 44-foot variance from the minimum 65-foot front yard setback for accessory structures for the existing 10-foot chain link fence surrounding the multi-purpose paved court; and (2) a 65-foot variance from the minimum 65-foot front yard setback for accessory structures for the existing 10-foot chain link fence located directly on the Property line at Olney-Laytonsville Road. The granting of these variances will permit the existing fences to continue at their present locations.

Pursuant to §59-A-4.11 of the Zoning Ordinance, the Board of Appeals held public hearings on May 2 and 9, 2001 in these cases.

The Board called one witness from the Maryland-National Capital Park and Planning Commission ("M-NCPPC"), Kathleen Reilly, the Zoning Analyst who prepared the M-NCPPC Staff Report (Exhibit No. 23).

Emily J. Vaias and Yum Yu Cheng of Linowes and Blocher LLP appeared on behalf of Bar-T, Inc. (the "Petitioner"). Six witnesses were called in support of the application: (1) Joseph F. Richardson, Vice-President of Bar-T, Inc.; (2) Mark Orens, Director of Bar-T, Inc.; (3) Alfred S. Blumberg, II, a land planner; (4) C. Craig Hedberg, a transportation planner; (5) Stephen E. Crum, a civil engineer; and (6) Edward Tydings, a confronting neighbor.

Martin Klauber, the People's Counsel of Montgomery County, Maryland, also participated in the proceedings.

Although not in opposition to the special exception modification, Anna Mae Pointer, an adjoining neighbor, testified to have her concerns related to the special exception use addressed by the Board.

Decision of the Board: Special exception modification and variances **GRANTED**, subject to the Conditions enumerated below.

EVIDENCE PRESENTED

1. The subject property (the "Property") is Parcel P925, located at 6530 Olney-Laytonsville Road in the R-200 Zone. The Property, known as "Bar-T Ranch", is comprised of approximately 12.31 acres and has been used for a children's day camp for almost forty years.
2. The current owners of the Property are Joseph F. Richardson and Nancy E. Richardson (the "Owners"), who reside in the single-family home on the Property. The Owners lease the Property to Bar-T, Inc. (the "Petitioner") for the primary purpose of operating a children's summer day camp. Nancy E. Richardson serves as President of Bar-T, Inc. and Joseph F. Richardson is Vice-President. The Petitioner has filed another special exception (S-2463) concurrently with the subject modification to allow it to lease land at Camp Waredaca located approximately 4 miles away, so that the campers can participate in other types of activities not available on the Property.
3. The Property is rectangular in shape and has frontage on both Olney-Laytonsville Road (MD Route 108) and Dorsey Road. The Property has rolling terrain with primary access to the subject use from Dorsey Road and secondary access from Olney-Laytonsville Road.

4. The Property is improved with a single-family detached residence where the Owners reside, an in-ground swimming pool and a wading pool, a large barn, a multi-purpose paved area enclosed by a 10-foot high chain link fence, another 10-foot high chain link fence located directly on the Property line at Olney-Laytonsville Road, an office bathhouse/dressing room, a game room, a clubhouse, several sheds, a stage, a pavilion area, a gazebo, and a large open grassy playing field with outdoor play equipment. The Property is enclosed by a rail fence and landscaping along all the Property lines.
5. The surrounding neighborhood is predominately rural and low density in character. The properties to the south are zoned RE-1 and are developed with single-family uses. The properties to the west are zoned R-200 and also are developed with single-family uses. The property to the north and east of the site across MD Route 108 is zoned RC and is developed with a golf course.
6. The proposed modifications are requested in response to a Notice of Violation (Exhibit No. 14) issued by the Department of Permitting Services recommending modification to the existing special exception to reflect the current physical structures on the Property and the operation of the special exception. No new construction is proposed.
7. The Petitioner proposes approval of all existing structures on the Property as shown on the Landscape and Lighting Site Plan (Exhibit No. 30).
8. The Petitioner proposes a modification to the special exception to accommodate a maximum of 450 campers and a maximum of 110 staff. No more than 350 children and 90 staff are to be on the Property at one time because rotating shifts of up to 125 children are transported by bus to an auxiliary site (Camp Waredaca) for additional recreational opportunities on a daily basis, except when the campers arrive, depart and attend special events on the Property.
9. The child day care center/summer day camp will operate on three, three-week sessions beginning from the first Monday after Montgomery County Schools close for the summer in mid-June and ending after the third week of August. The hours of operation are from 8:30 a.m. to 4:00 p.m., Monday through Friday.
10. Pursuant to Section 50-E-3.7 of the Zoning Ordinance, the Petitioner proposes to provide 50 parking spaces on the Property instead of the required 187 spaces (75 spaces for children, 110 spaces for staff and 2 spaces for the Owners who reside on the Property). The reduction is based on the operational characteristics of the existing use (e.g. use of school buses and car pools) and the desire not to increase impervious area in the rural area. Overflow parking for ancillary events is located in the area shown on Exhibit No. 30.
11. Approximately 50 staff members drive or carpool to the Property between 8:30 a.m. and 8:45 a.m.

12. The campers range in age from five to fourteen and are transported to the Property by eight buses with approximately fifty children per bus and one bus doing two runs. Approximately forty staff members ride the buses with the campers, arriving on the Property between 8:45 a.m. and 9:05 a.m. The buses leave the Property no later than 4 p.m., dropping off the campers at area schools where their parents pick them up.
13. A maximum of 35 families use personal vehicles to drop off and pick up their children at the gazebo where they are assisted by staff.
14. Staff are located at critical points on the Property to ensure adequate and safe circulation and to direct parking when needed for special events.
15. Scheduled activities begin at approximately 9:15 a.m. and end at approximately 3:20 p.m. On the Property, the campers engage in a variety of activities, ranging from drama and crafts to archery, indoor and outdoor team sports, indoor rock climbing, miniature golf and swimming in the two pools. A list of the camp activities and events is contained in the Bar-T Summer Program brochure (Exhibit No. 7). On rainy days, the campers use the barn, locker rooms, game room, and pavilion for indoor activities.
16. The Petitioner seeks approval of several ancillary events that occur immediately prior to, after, or during the nine weeks of summer camp. These events include the following:
 - (a) Four after camp parties on Fridays from 4:00 p.m. until 8:00 p.m. Of the 450 campers, approximately 100 stay for a cookout and extra swim time. Of the 100 campers who stay for the cookout, approximately forty are picked up by parents while approximately sixty are transported by van to Waredaca for a sleepover.
 - (b) Two weekends prior to the first day of camp, there is a pre-camp training session for up to 110 people on the Property. During each of the three camp sessions, a staff meeting is held to review camp issues. The training session and three staff meetings usually begin at 6:00 p.m. and end, with an outdoor activity such as a softball game, at 9:00 p.m.
 - (c) The three Parents/Campers' Orientations occur on the Saturday before the first day of each of the three camp sessions. Parents are invited to visit the camp for a 1.5 hour orientation done in two shifts between 12:00 p.m. and 4:00 p.m. Approximately 300 people may attend per shift to allow the parents to meet the counselors and learn about the camp activities.
 - (d) A talent show occurs on a Friday afternoon from 2:00 p.m. to 4:00 p.m. at the end of each of the three camp sessions. Approximately 150 to 200 cars come onto the Property during this event. Parents begin arriving at 1:45 p.m. and usually filter out after their campers perform.

- (e) Before and after camp care for approximately sixty children and staffed by six to eight employees for one week in August when the County public schools do not allow the camp to use school space for the final week of the summer program. Staff and campers will arrive at the Property on a staggered schedule from 7:00 a.m. until the camp day begins at 9:00 a.m. and they will leave between 3:30 p.m. and 6:00 p.m.
17. During the rest of the year, ten events take place on the Property. The events include Spring Break Carnival Day, Earth Day/Kindergarten Enrichment Program, Family Appreciation Day, Football Tournament, and church or other non-profit activities. These events will be considered below.
 18. The Upper Rock Creek Master Plan, as amended, does not make specific recommendations for the Property.
 19. The Property is exempt from the Forest Conservation Law because no clearing of existing forest or trees will occur under this modification.
 20. Exterior lights were installed for security and safety purposes. Some lights are activated by motion and others by photocell. The exterior light located at the residence is switch-controlled. Because the lights are not located along the property lines, they do not cause any spill or glare onto adjoining properties. The location of the lights and the illumination spread are depicted in the Landscape and Lighting Site Plan (Exhibit No. 19(a)).
 21. The play shed and fort along Dorsey Road will be relocated to comply with the setback requirements of the R-200 Zone as shown on Exhibit No. 30. Other than these structures and the two fences for which Petitioner seeks variances, the Special Exception is in compliance with all of the applicable development standards for the R-200 Zone. The required standards and actual dimensions are outlined in the following table:

	R-200 Standards	Actual Dimensions
Minimum Net Lot Area	20,000 square feet	536,224 square feet
Minimum Lot Width at Existing Street Line	25 feet	MD Rt 108 - 506 feet Dorsey Rd - 405 feet
Maximum Building Coverage	25%	2.2%
Maximum Building Height	35 feet	31 feet

Front Yard Setback at Route 108	40 feet	58 feet
Side Yard Setback	one side - 12 feet both sides - 25 feet	east side - 155 feet west side - 322 feet
Setback from Street Line for Accessory Structures	65 feet	Satisfied except as noted above.
Setback from Side Lot Line for Accessory Structures	12 feet	Satisfied

22. The Petitioner seeks the following variances to allow the existing fences to continue to remain at their present locations:
- (a) A 44-foot variance from the minimum 65-foot front yard setback for accessory structures for the existing 10-foot chain link fence located around the perimeters of the multi-purpose paved court (Fence No. 1) such that it is only 21 feet from the front property line.
 - (b) A 65-foot variance from the minimum 65-foot front yard setback for accessory structures for the existing 10-foot chain link fence such that it is directly on the Property line at Olney-Laytonsville Road (Fence No. 2).
23. The multi-purpose paved area provides a surface for outdoor activities such as tennis, basketball, and hockey. Fence No. 1, which encloses the paved court, is located approximately 21 feet away from MD Route 108, and has existed in its current state prior to the acquisition of the Property by the Owners in 1985. The granting of the requested Variance will allow Fence No. 1 to continue to exist in its present location.
24. Joseph Richardson, one of the Owners and Vice President of Bar-T, testified that Fence No. 1 existed in the 1970's when he worked on the Property as a counselor for his predecessor. The purpose of the fence is to keep balls and other objects from going beyond the limits of the courts and into the street.
25. Mark Orens, Director of Bar-T, also testified that Fence No. 1 existed when he was a camper on the Property in the 1970's.
26. The extraordinary conditions peculiar to the Property are the rolling terrain and the location of the existing and proposed septic fields on the Property, as shown on the Site Plan (Exhibit No. 30). An additional extraordinary condition relating to Fence No. 1 is its existence since the 1970's. Based on tests performed on the Property, the existing and proposed septic fields cannot be located anywhere else on the Property. The existing topography and septic fields necessitate the location of

athletic facilities in the area adjacent to MD Route 108. The traveling public on MD Route 108 needs to be protected from errant balls, pucks, etc.; and, campers must be prevented from darting out onto the road to retrieve errant pieces of athletic equipment.

27. Strict application of the minimum 65-foot front yard setback for accessory structures to both fences would result in unusual practical difficulties to the Owners of the Property. The fences can not be located elsewhere on the lot because of the rolling terrain of the lot, the location of the existing and proposed septic fields, the location of the existing multi-purpose paved court, and the need to provide a safety barrier for the campers between the paved court and road.
28. The variances are the minimum reasonably necessary to overcome the exceptional conditions and to contain tennis balls, basketballs, pucks, and athletic play on the Property.
29. The fences blend with the surrounding landscape and are consistent in appearance with the surrounding neighborhood and can be approved without substantial impairment to the intent, purpose, or integrity of the Upper Rock Creek Master Plan.
30. Because the fences will contain balls, other objects, and athletic play on the Property, the variances will not be detrimental to the use and enjoyment of adjoining or neighboring properties.
31. Bar-T has received accreditation from the American Camping Association (ACA), and high marks in many areas for its day camp operations since 1997 when it became an ACA member (Exhibit No. 11).
32. The Landscape Plan (Exhibit No. 19(b)) shows additional buffering being proposed at the following locations:
 - (a) 62 bayberries at 15-18 inches high are proposed to supplement the existing 64 white pines along the west property line;
 - (b) 25 white pines at 4-5 feet high are proposed along the southwest property line;
 - (c) 2 white pines at 4-5 feet high are proposed along Dorsey Road; and
 - (d) 3 Leland Cypress at 4-5 feet high are proposed along Olney-Laytonsville Road.
33. The future changes on the Property include (a) replacing the wooden fence around swimming pool with a chain link fence; (b) resurfacing the multi-purpose paved court at its existing location; and (c) constructing the proposed septic field (Exhibit 30).

34. M-NCPPC staff analyzed the proposed modifications and recommended approval with conditions (Exhibit No. 23).
35. The Planning Board also recommended approval with conditions (Exhibit No. 21).
36. Edward Tydings, a confronting neighbor at 6525 Olney-Laytonsville Road, testified in support of the Special Exception, stating that it co-exists very well with the Montgomery Country Club, another special exception use in the area.

Anna Mae Pointer, an adjoining neighbor at 6512 Olney-Laytonsville Road, testified that she was not in opposition to the Special Exception. Her children went to the camp and had worked there when they were older. However, she wanted the Petitioner to direct the music played at the pool away from the Pleasant Acres neighborhood where she resides and to lower the volume of the music. She was also concerned about the noise from the generators used for the Spring Break Carnival and the overflow parking near her property line.

FINDINGS OF THE BOARD

Variance Standards

Based upon the testimony and evidence of record, the Board finds that the variances requested in Case No. A-5605 can be granted. The requested variances comply with the applicable standards and requirements set forth in §59-G-3.1 as follows:

1. *By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

The Board finds that the rolling terrain of the Property and the location of the existing and proposed septic fields on the Property are extraordinary conditions peculiar to this property. Another extraordinary condition relating to the property is the existence of Fence No. 1 since the 1970's. The Board finds that these factors create difficulties in the siting of the paved court and the fence which is needed to provide a safety barrier between the court and the road. The Board finds that strict application of the regulations in §59-G-3.1 would create unusual practical difficulties in the siting of the fences which would create an unsafe condition for campers and drivers.

2. *Such a variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions.*

The Board finds that given the need for the fences to be on the perimeters of the multi-purpose paved court and along Olney-Laytonsville Road, the

variances are the minimum reasonably necessary to overcome the exceptional conditions and to contain tennis balls, basketballs, pucks, and athletic play on the Property.

3. *Such a variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any duly adopted and approved area master plan affecting the subject property.*

The Board finds that the fences blend with the surrounding landscape and are consistent in appearance with the surrounding neighborhood and that the variances can be granted without substantial impairment to the intent, purpose, or integrity of the Upper Rock Creek Master Plan.

4. *Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.*

The Board finds that because the fences will contain tennis balls, basketballs, pucks, and athletic play on the Property, the variances will not be detrimental to the use and enjoyment of adjoining or neighboring properties and will benefit the traveling public along MD Route 108.

Special Exception General Standards

The Board finds that the proposed modification meets the general standards for granting special exceptions found in §59-G-1.2 as follows:

§59-G-1.2.1 Standard for Evaluation

A special exception must not be granted absent the findings required by this Article. In making these findings, the Board of Appeals, Hearing Examiner, or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with inherent adverse effects, are a sufficient basis to deny a special exception.

The inherent aspects are the physical and operational characteristics associated with a child day care/summer day camp, which include outdoor/indoor activities, parking and traffic. The scale and scope of the Special Exception are in harmony with the surrounding neighborhood and will be further mitigated by additional landscaping shown on the Landscape Plan (Exhibit No. 30). Exterior lighting will not have an adverse effect given that the lights are activated by motion for a short period of time and are not

located along the property lines. Parking, on-site circulation, access and traffic impact are adequate and safe. Accordingly, the Special Exception will cause no inherent adverse effects on nearby properties.

The non-inherent aspects of the day camp are the special events which include Spring Break Carnival Day, Earth Day/Kindergarten Enrichment Program, Family Appreciation Day, Football Tournament, and church or other non-profit activities. Although these special events will bring a large number of people and vehicles onto the Property, the layout of the land and conditions set forth herein related to landscaping, parking location, and hours of events, will ensure that these aspects do not cause non-inherent adverse effects.

§ 59-G-1.21 General Conditions

A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:

- (1) *Is a permissible special exception in the zone.*

The Property is zone R-200 and child day care centers are permitted by special exception in the R-200 Zone under § 59-C-1.31.

- (2) *Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.*

The proposed modification complies with the standards and requirements for a child day care center under §59-G-2.13.1.

- (3) *Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the Commission. Any decision to grant or deny a special exception must be consistent with any recommendation in an approved and adopted master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.*

The Special Exception is consistent with the Upper Rock Creek Master Plan in that the outdoor activities and practices of the camp program will help meet the Master Plan's goals of protecting the environment and maintaining the wedge character of the area.

- (4) *Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses.*

All the structures on the Property are one to two stories high, which is within the general rural and residential character of the neighborhood, and are structures common in the rural residential area such as single-family houses, sheds, barns, etc. The Property has 12.31 acres (582,720 square feet), which is more than sufficient space for 450 campers.

Traffic to the Property is controlled because almost all of the children are dropped off by school buses with approximately 35 families dropping off their children. There are 50 parking spaces on the Property which are sufficient for buses and parents to drop off the children and enough parking area for staff to park their cars. During special events, overflow parking is provided in the area shown on Exhibit No. 30. The activities occurring on the Property are in harmony with the neighborhood and there are no similar uses within the area.

- (5) *Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The Board is concerned with the issues raised by Ms. Pointer, an adjoining neighbor, about music played at the pool, the noise from the generators from the Spring Break Carnival, and the overflow parking near her property line. These issues are specifically addressed in the conditions set forth below. Otherwise, the camp activities are not detrimental to the neighborhood. Evergreen trees line both sides of the Property, buffering the neighboring properties from noise that may come from the Property. Landscaping as shown on Exhibit No. 30, will provide additional buffering between the Property and adjacent residences.

- (6) *Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

With conditions as set forth below, the subject modification will not cause any objectionable noise, odors, dust, illumination, or physical activity on or around the Property.

- (7) *Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses*

that are consistent with recommendations of a master or sector plan do not alter the nature of an area

The only existing special exception neighboring the Property is the Montgomery Country Club on the other side of Olney-Laytonsville Road. When evaluated in conjunction with existing and approved special exceptions in the neighboring one-family residential area, the modification of the existing Special Exception to allow more children to be served by the camp will not increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area.

- (8) *Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

Because the Special Exception satisfies the state and county standards, it will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area of the Property, irrespective of any adverse effects the use might have if established elsewhere in the R-200 Zone. The use has operated on the Property for almost forty years and there have been no adverse affects to the health, safety, morals or welfare of residents or visitors.

- (9) *Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.*
- (i) *If the special exception use requires approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception.*

Conformance to Chapter 50 (Subdivision Regulations) is included as a condition of approval.

- (ii) *With regard to findings relating to public roads, the Board, the Hearing Examiner or the District Council, as the case may be, must further determine that the proposal will have no detrimental effect on the safety of vehicular or pedestrian traffic.*

Based upon the traffic report (Exhibit No. 10), the Special Exception will not have any adverse effect on the safety of vehicular and pedestrian traffic. The majority of the campers arrive by bus and many staff carpool to the Property.

Special Exception - Specific Standards

The Board finds that the proposed modification meets the applicable specific standards and requirements of §59-G-2.13.1 as follows:

§59-G-2.13.1: Child Day Care Facility

A child day care facility for 31 or more children may be approved by the Board of Appeals subject to the following regulations:

- (1) *A plan is submitted showing the location of all buildings and structures, parking spaces, driveways, loading and unloading areas, play areas and other uses on the site.*

Based upon the Site Plan (Exhibit No. 30), which shows the existing buildings and structures, parking spaces, driveways, loading and unloading areas, play areas and other uses on the Property, and the evidence presented, the Special Exception conforms with this requirement.

- (2) *Parking is provided in accordance with the Parking Regulations of Article 59-E. The number of parking spaces may be reduced if the applicant demonstrates that the full number of spaces required in Section 59-E-3.7 is not necessary because: (A) existing parking spaces are available on adjacent property or on the street abutting the site that will satisfy the number of spaces required; or (B) a reduced number of spaces would be sufficient to accommodate the proposed use without adversely affecting the surrounding area or creating safety problems.*

The Board will reduce the number of required parking spaces from 110 to 50 because it finds that the bus and carpool system requires fewer parking spaces and the reduced number of spaces will not adversely affect the surrounding area or create safety problems.

- (3) *An adequate area for the discharge and pick up of children is provided.*

An adequate area is provided on the circular driveway near the gazebo and the parking lot off of Dorsey Road for the discharge and pick up of children.

- (4) *The petitioner submits an affidavit that the petitioner will:*

- (A) *comply with all applicable State and County requirements;*
- (B) *correct any deficiencies found in any government inspection; and*
- (C) *be bound by the affidavit as a condition of approval for this special exception*

The Petitioner has submitted an affidavit (Exhibit No. 5) complying with this requirement.

- (5) *The use is compatible with surrounding uses and will not result in a nuisance because of traffic, parking, noise or type of physical activity.*

The Special Exception will be compatible with the surrounding uses and will not result in a nuisance.

- (6) *A landscaping plan must be submitted showing the location, height or caliper and species of all plant materials.*

The Petitioner has submitted a Landscape Plan (Exhibit No. 30) that complies with this requirement.

- (7) *In the one-family residential zones, facilities providing care for more than 30 children must be located on a lot at least 500 square feet per child.*

The Property has 12.31 acres, which is approximately 536,224 square feet. This exceeds the required 225,000 square feet for the 450 children who are enrolled in the camp.

Conditions

Based upon the foregoing, the Board grants the Special Exception Modification and Variances for a Child Day Care Facility, subject to the following conditions:

1. All terms and conditions of the approved Special Exception remain in full force and effect, except as modified herein.
2. The Petitioner is bound by all of its testimony and exhibits of record, the testimony of its witnesses and representations of its attorneys, to the extent that such evidence and representations are identified in this opinion.
3. For the summer of 2001, the use shall be limited to a maximum of 450 children per three-week session and a maximum of 110 employees. A maximum of 350 children and 90 staff are permitted on the site at any one time except for the special events and activities which involve all of the campers. Of the 450 children, approximately 125 children are transported by bus to an auxiliary site, Camp Waredaca, for additional recreational opportunities on a daily basis.
4. Starting in the summer of 2002, the use shall be limited to a maximum of 400 children per three-week session and a maximum of 100 employees. A maximum of 300 children and 85 staff are permitted on the site at any one time. Of the 400 children, approximately 125 children will be transported by bus to Camp Waredaca for additional recreational opportunities on a daily basis.
5. If the Petitioner shows compliance with all of the conditions of this Special Exception approval, including submission of the required reports, the Petitioner may request an administrative modification to increase the number of children to

450 and the number of employees to 110 for the 2002 camp season and summers thereafter.

6. Hours of operation for the child day care facility are from 8:30 a.m. to 4:00 p.m., Monday through Friday, June through August.
7. Compliance with the Landscape and Lighting Plan, weather permitting (Exhibit No. 30).
8. Expansion of the existing shuttle bus program to ensure that at least 90% of the campers and 30% of the staff members are transported to the site by bus each session, as described in the Traffic Report dated March 13, 2001 (Exhibit No. 20(b)), and subsequent amendment dated April 12, 2001 (Exhibit No. 20(c)).
9. Continue the schedule of bus departures no later than 4:00 p.m. to ensure that the buses depart the site prior to the beginning of the evening peak rush hour period between 4:00 p.m. to 6:00 p.m.
10. All transportation of children and staff between the Bar-T Ranch site and the Waredaca site must be by bus.
11. Limit the before-and-after-camp child-care program to no more than 60 children and eight staff during one week in August and for the hours between 7:00 a.m. and 6:00 p.m.
12. All proposed parking must be sited 50 feet from any property line, and the location of overflow parking must be in the area as shown on the Site Plan (Exhibit No. 30).
13. The Applicant may conduct three staff training sessions per year at the site, one on the second Tuesday of each summer session from 6:00 p.m. to 9:00 p.m.
14. The play shed and fort along Dorsey Road must be relocated to comply with the setback requirements of the zone, as shown on Exhibit No. 30.
15. The Applicant must submit an annual report to the Board of Appeals, with copies to the People's Counsel and the adjoining and confronting neighbors, indicating compliance with all conditions of the Special Exception approval. This annual report shall include the dates of the camp operations, the number of campers, the number of staff, the hours of operation, the type and number of non-camp activities and how many people attend such activities occurring on the Property and any other items relevant to showing compliance herewith.
16. The first report will be submitted on September 15, 2001. Thereafter, the report will be submitted by May 1st of each subsequent year indicating the previous year's operations and compliance and any changes for the upcoming year.

17. The Applicant shall erect a six-foot solid fence inside the property line shared by the Pointers (Lot 1 of Pleasant Acres subdivision), and such fence will extend the full length of the Pointer's property. The white pines along the property line will remain and be maintained or replaced as necessary.
18. The Applicant will decrease the volume and redirect the music played at the pool during the normal camp day away from the Pleasant Acres neighborhood. Occasionally, speakers/DJ system may be used for special events.
19. The Applicant may conduct five not-for-profit gatherings per year which are limited to two church-related events, a volunteer firemen's event, a Laytonsville Elementary School event, and the Carol Jean Cancer Foundation event. The Applicant will provide the adjoining and confronting neighbors with thirty days notice of these events.

On a motion by Louise L. Mayer, seconded by Angelo M. Caputo, with Chairman Donald H. Spence, Jr. and Donna L. Barron in agreement, the Board adopted the following Resolution:

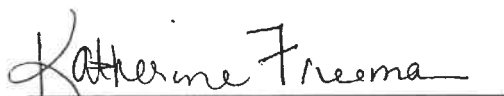
BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the resolution required by law as its decision on the above-entitled cases.

Board member Mindy Pittell Hurwitz was necessarily absent and did not participate in the Resolution.



Donald H. Spence, Jr., Chairman
Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 7th day of January, 2002.



Katherine Freeman
Executive Secretary to the Board

NOTE:

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and any party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedures.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the Zoning Ordinance). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised. See Section 59-A-3.2 of the Zoning Ordinance regarding Use and Occupancy Permit for a Special Exception.

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Telephone
Area Code 301
217-6600

Case No. CBA-1202

PETITION OF JOSEPH F. AND NANCY E. RICHARDSON

BAR-T-RANCH

(Review Hearing held August 11, 1993)

OPINION OF THE BOARD

(Effective date of Opinion, March 25, 1994)

On August 1, 1993, a review hearing was held on Case No. CBA-1202. The original hearing for the granting of this special exception was held February 6, 1962, and the petitioner was Thomas E. Barton. Due to the many modifications to this special exception over the past 32 years, and change in ownership of property, i.e. special exception holders, this Board determined that it was necessary to issue a new Opinion.

Petitioners were represented by Jody S. Kline, Esquire. He called Mr. Richardson as his witness in the case. Through testimony and exhibits in the file the following information was presented.

PETITIONERS' CASE

Mr. Richardson stated that the Bar-T-Ranch received its special exception grant in 1962, and the petitioner was Mr. Thomas E. Barton. In 1985 this Board transferred the special exception to Joseph and Nancy Richardson. The Richardsons continued the programs and added some new ones to the summer camp activities. They also operate a day care program at ten (10) local elementary schools according to Mr. Richardson's testimony.

In 1986 this Board granted a modification to operate a day care center for up to 40 children at the Bar-T-Ranch, however, this modification was never implemented. The program at the ten (10) local schools for day care was working very well and they felt no need to implement this modification.

The Bar-T-Ranch summer camp is in operation from 9:00 a.m. to 3:30 p.m., Monday through Friday, June through August. Many of the summer campers come from the after school program. Due to a larger number of younger campers, the Richardsons requested a modification to add a wading pool on the site. This request was granted by this Board in its Resolution, adopted March 24, 1993. In its Resolution the Board also granted the request for the construction and use of a new bath house/dressing room/office building. They requested permission to continue to use the property for "occasional" weekend functions.

The occasional weekend use of the property is for parties given by private organizations which rent the premises for the party and some charitable organization which are permitted to use the property at no charge.

They are scheduled as daytime activities and last until no later than 6:30 p.m. The activities are regulated by the Richardsons and/or their staff, according to testimony of Mr. Richardson. These functions are on weekends, May to September. Usually 75 to 250 people attend.

Mr. Richardson stated that set-up begins at 8:00 a.m. with one (1) to four (4) trucks delivering food, etc. He stated that they have parking attendants to facilitate the car parking. They have 14 employees who work and oversee the rental groups. Mr. Richardson explained they had live music with amplification for dancing in the past but now only use a radio. This activity takes place in the barn. He also stated that the use of bull horn and generators has been eliminated.

OPPOSITION

The file contains several letters of complaint about the parties which are taking place over the weekend, and the Pointers, as well as Charlotte Rines, were present at the hearing. None of them had any complaints about the operation of the day camp, but they stated that the noise and traffic generated by the weekend parties were very intrusive and that the Richardsons were uncooperative. It was their feeling that at times the Richardsons were not present to supervise the parties and any attempts to reach them by phone was unsuccessful - all they got was an answering machine. The Pointers also complained about alcohol being dispensed at these parties and questioned whether the Richardsons or the caterer had a liquor license. Charlotte Rines, who lives on Olney-Laytonsville road, across from the subject property, related that many of the cars that come to the weekend parties miss Dorsey Road and then make a U-turn on Olney-Laytonsville Road, using her driveway and lawn to accomplish the U-turn. The Pointers reported that a new development is going up adjacent to the Richardson's property and they believe that part of the Richardson's access road from Dorsey Road, as well as part of the parking area, is located on the property which is being developed.

FINDINGS OF THE BOARD

This Board finds after its review hearing that the summer day camp is running according to the original grant and the subsequent modifications and needs no changes to its operation. However, this Board is distressed by the lack of consideration shown by the Richardsons for their neighbors during weekend activities of the recent past.

When this Board received the letter from Jody Kline, Esq., dated March 5, 1993, which stated that the camp is "...sometimes used on weekends by private organizations. The Richardsons make available their grounds - free of charge - for such entities as the Carol Jean Cancer Foundation, groups of their church... In other instances the property is occasionally used by companies who pay..." We did not believe that "occasionally" meant every weekend. We applauded the fact that Mr. Richardson made his camp available - free of charge - to charitable organizations and believed an "occasional"

for-profit use would not be intrusive. However, aside from the testimony by the neighbors, we have in the file a schedule of "Picnic Dates...for Bar-T-Ranch (Exhibit 23)", which only covers the months of August and September and shows nine (9) such dates in seven (7) weeks, all of them for-profit!! We certainly do not consider this an 'occasional' use.

Whether the dispensing of liquor during the weekend picnics/parties is a violation of law is beyond the purview of this Board but we understand that the matter is being looked into by appropriate authorities.

We are concerned about the high volume of traffic on Dorsey Road and the problems Ms. Rines has experienced. We hope that the restriction on the number of parties will alleviate the problem. However, if that is not the case we may at a later date require that persons attending the parties enter the premises from Rt. 108, only.

Because the operation of the day camp is apparently operated without causing any problems in the neighborhood, the special exception remains in effect as granted.

Therefore, this special exception will continue, subject to the following conditions listed below. These conditions all relate to the weekend activities and do not preclude any conditions pertaining to the summer camp.

1. Petitioners are bound by all testimony and evidence in the record.
2. No more than one (1) commercial gathering per month (picnic/party, etc.), May through September. No commercial gatherings October through April. Both private organizations paying to use the facility and charitable organizations which are permitted to use the facility at no charge are included in this limitation. The petitioners' private use of their own property is not subject to this limitation.
3. The maximum number of guests must not exceed 250 people for weekend parties.
4. Only equipment related to food preparation and sports activities may be used at weekend events. No amusement equipment, such as moon-bounces, may be brought to the property for these events.
5. Set-up must not begin before 10:00 AM. Clean-up must be completed by 7:00 PM.
6. Use of amplification for announcements must be contained and confined within the barn and may not be audible outside.
7. The sound of music, if any, must be confined to the barn and must not be audible outside.
8. The parking lot must be at least 50' from any and all property lines.

9. Evergreen landscaping must be planted along the eastern property line to help mitigate sight from the Pointer property, perhaps Leyland Cypress every three feet (3') on-center. Once installed, all plant material must be properly maintained and replaced as necessary.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above be adopted as the Resolution required by law as its decision on the above entitled Petition.

The foregoing Resolution was proposed by K. Lindsay Raufaste, and concurred in by Judith B. Heimann, Chairman, Helen Strang, and William Green. Allison Bryant was not a member of the Board at the time of the hearing and did not participate in the foregoing Resolution.

I do hereby certify that the foregoing Opinion was officially entered in the Opinion book of the County Board of Appeals this 25th day of March, 1994.


Irene H. Gurman
Clerk to the Board

NOTE: Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedures.

BOARD OF APPEALS
for
MONTGOMERY COUNTY

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Case No. CBA-1202

PETITION OF JOSEPH F. AND NANCY E. RICHARDSON

RESOLUTION TO REOPEN RECORD TO ACCEPT NEW SITE PLAN
(Resolution adopted May 4, 1993)

The Board is in receipt of correspondence dated April 29, 1993, from Jody S. Kline, petitioners attorney, which states, in part:

"On April 1, 1993, the Board ... issued its Opinion in the above-referenced case. ... the Board approved the construction and use of a new bathhouse/dressing room/office building ...

"Subsequent to the issuance of the Board ... Opinion ..., the Petitioner approached the Department of Environmental Protection and the Wells & Septic Division of the Health Department regarding permit(s) needed to construct the new ... building. Mr. Richardson was advised ... that he will have to have, as a prerequisite to issuance of a building permit and a use and occupancy permit, a septic field that has been tested to meet current standards. Because the time for conducting water table tests has passed, Mr. Richardson cannot obtain septic system approval prior to the initiation of his camp's programs in June, 1993. ... the Wells & Septic Division has indicated that the petitioners can connect the new facility to an already approved septic field, ... This septic field was approved in anticipation of the construction and operation of a child day care center which the Board ... approved in 1986 but was eventually allowed ... to expire ...

"... the Petitioners cannot connect the proposed ... building to the approved septic disposal field, at least from the location for the facility approved by the Board ... on April 1st, due to existing improvements ... which are interposed between the proposed building and the approved septic disposal field. ... the ... building can be linked to the approved septic disposal field if it is, instead, connected to the existing one and one-half story block building ...

"... Not only will this relocation allow the building to be connected to the approved septic disposal field, but it will place this facility closer to the macadam driveway and parking lot which is where the children are dropped off in the morning at the beginning of camp. Thus, the campers will be in close proximity to a locker room where they can store personal items and/or change for camp activities when they first arrive. The building will be constructed of the same materials, and at the same size, ... the building will be exactly the same as approved by the Board, only built approximately 50 feet away from the original location.

"The relocation of the ... building will have no effect on the intensity of use nor the visual appearance of the camp's facilities from the public right-of-way (MD Route 108). ... because it will be located behind the existing 1 1/2 story block building, it will be less visible from the public

Case No. CBA-1202

road. There are no residences located to the northwest of the subject property for at least 1,600 linear feet so the relocation will cause no impact on existing adjacent residences.

"The petitioners ... wanted the Board's file to be complete and to reflect this minor change in conditions due to unforeseen difficulties that were not anticipated. ..."

The Board, after careful consideration of the correspondence and a review of the record and the new site plan in the above-referenced case, finds that the request to relocate the proposed building previously granted by the Board can be granted without the necessity of a public hearing. The Board further finds that the proposed change in building location will have no effect on traffic or on the immediate neighborhood. Therefore, in accordance with the provisions of Section 59-G-3.1(c)(1) of the Zoning Ordinance,

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that Case No. CBA-1202, Petition of Joseph F. and Nancy E. Richardson, shall be and hereby is re-opened to receive Mr. Kline's April 29, 1993, letter, and new site plan; and


BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland, that petitioner may construct the bathhouse/dressing room/office building in the location shown on the revised site plan. Aside from the new location, construction must comply with plans previously entered in the record and approved in the Board's April 1, 1993, Resolution; and

BE IT FURTHER RESOLVED that, except as noted herein, all terms and conditions of the original special exception and any modifications thereto, shall remain in full force and effect.

The subject property contains approximately 12.318 acres, located at 6530 Olney-Latonsville Road, Gaithersburg, Maryland, in the R-200 Zone.

The foregoing Resolution was proposed by Howard Jenkins, Jr., and concurred in by Helen Strang, K. Lindsay Raufaste and Judith Heimann, Chairman, and William Green.

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland,
this 20th day of May, 1993.


Irene H. Gurman
Clerk to the Board

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision.

BOARD OF APPEALS
for
MONTGOMERY COUNTY

1993

Stella B. Werner Council Office Building
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Case No. CBA-1202

PETITION OF JOSEPH F. AND NANCY E. RICHARDSON

RESOLUTION TO MODIFY SPECIAL EXCEPTION
(Resolution adopted March 24, 1993)

The Board is in receipt of correspondence dated March 5, 1993, from Jody Kline, Esquire, on behalf of Joseph F. and Nancy E. Richardson, owners and operators of Bar T Ranch, a summer camp, since 1985. It states in part:

"...The purpose of this letter is to request that the Board of Appeals administratively modify Special Exception No. CBA-1202 to permit the addition of a wading pool and an adjacent bathhouse/dressing room/office building, as well as to allow continued use of the property for associated recreational activities by private organization."

"...the recreational facilities of the Bar T Ranch are sometimes used on the weekends by private organizations. The Richardsons occasionally make available their buildings and grounds, free of charge, for such entities as the Carol Jean Cancer Foundation ... or for the Laytonsville Volunteer Fire Department. In other instances, the property is occasionally used by companies who pay for the privilege of using the pool, tennis courts, ball fields, etc. In every situation these functions are daytime activities and only last until 6:00 PM -- 6:30 PM. Moreover, the activities are regulated by the Richardsons and/or their staff so that they are conducted in a manner that is equivalent to the daily camp operation in terms of noise and intensity of use."

"...the Richardsons have founds that the average age of Bar T campers has become increasingly younger. In 1989, Bar T Ranch had as many 12-year old campers as it had 6 year-old campers. The majority of the campers for 1992 were 8 or younger.

"With such a large number of youngsters which include non-swimmers and novice-swimmers, the Richardsons have concluded that the camp would be well served by the addition of a wading pool (specifications attached)."

"...The new building will locate dressing rooms and bathrooms in close proximity to the pools. In addition, it will allow the Richardsons to relocate the Camp's office from out of their residence."

The Board, after careful consideration of the correspondence and a review of the record in the above-referenced case, finds that the request to modify the special exception to permit construction of a wading pool and an adjacent bathhouse/dressing room/office building as well as to allow the continued use of the property for associated recreational activities by

private organizations can be granted without the necessity of a public hearing. The Board further finds that the proposed modification will have no effect on traffic or on the immediate neighborhood. Therefore, in accordance with the provisions of Section 59-G-3.1(c)(1) of the Zoning Ordinance,

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that Case No. CBA-1202, Petition of Joseph E. and Nancy E. Richardson, shall be and hereby is re-opened to receive the following exhibits: Mr. Kline's March 5, 1993, letter; site plan; construction notes; and list of adjoining/confronting property owners; and


BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the special exception holder may construct a wading pool and bathhouse/dressing room/office and may continue use of the property for associated recreational activities by private organizations, as indicated on the site plan and as described in the above-referenced correspondence; and

BE IT FURTHER RESOLVED that, except as modified herein, all terms and conditions of the original special exception and any modifications thereto, shall remain in full force and effect.

The subject property contains approximately 12.318 acres, located at 6530 Olney-Laytonsville Road, Gaithersburg, Maryland, in the R-200 Zone.

The foregoing Resolution was proposed by Howard Jenkins, Jr., and concurred in by Helen Strang, K. Lindsay Raufaste and Judith Heimann, Chairman, and William Green.

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland,
this 1st day of April, 1993.


Irene H. Gurman
Clerk to the Board

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision.

COUNTY BOARD OF APPEALS
FOR
MONTGOMERY COUNTY

STELLA B. WERNER COUNCIL OFFICE BUILDING
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Case No. CBA-1202

PETITION OF JOSEPH E. AND NANCY E. RICHARDSON

RESOLUTION TO AMEND SPECIAL EXCEPTION
(Resolution adopted November 20, 1986)

The Board had received a letter dated November 2, 1986, from Joseph Richardson, petitioner, which states, in part:

"In October 1985 the Board of Appeals granted a modification to the special exception to permit the Bar-T-Ranch to operate an after school program.

"The community response has been extremely positive since the greater Laytonsville area has virtually no professional childcare centers and clearly none with the extensive recreational facilities possessed by the camp. Subsequently, my wife Nancy and I have received countless inquiries regarding the establishment of an all day childcare program.

"We therefore request the Board to grant a modification to the special exception to include an all day child care center to accommodate from 20 to a maximum of 40 children between the ages 2 and 4. The hours of operation would be from 7:00 am to 6 pm.

"We would completely renovate a 1500 foot existing structure in complete compliance with county and state health specifications. The structure is centrally located on our 12½ acre farm and currently is not utilized by the afterschool program and used only minimally by the summer camp. The environmental impact would be negligible because there are no residents within 250 yards of the structure we are proposing to renovate. The entrance and driveway is built to accommodate the arrival of over 100 children at one time during our summer season.

"When Nancy and I purchased the Bar-T-Ranch we felt that the camp was grossly under-utilized. The after school program allowed us to grant children access to our farm all during the school year as well as during the summer months. Being granted a modification to the special exception to include a day care program would culminate our efforts to fully utilize the camps facilities. But most importantly, the modification would allow us to respond to the areas urgent need for competent and professional child care."

Based on the foregoing information, the Board is of the opinion that Joseph Richardson's request represents a minor modification to the special exception and can be granted without substantially changing the nature or character of the use of the property nor changing the effect on the immediate neighborhood. Therefore, in accordance with the provisions of Section 59-G-1.3(c) (1) of the Zoning Ordinance,

Case No. CBA-1202
Petition of Joseph E. and Nancy E. Richardson
Page 2

BE IT RESOLVED by the County Board of Appeals for Montgomery County, Maryland, that Case No. CBA-1202, Petition of Joseph E. and Nancy E. Richardson, shall be and hereby is re-opened to received the November 2, 1986 letter from Joseph Richardson as Exhibit No. 11; area map, Exhibit No. 11(a); and photographs, Exhibit No. 12(a)-(h); and

BE IT FURTHER RESOLVED by the County Board of Appeals for Montgomery County, Maryland, that petitioners may operate an all day child care center to accommodate a maximum of forty (40) children between the ages of 2 and 4. The hours of operation shall be 7:00 a.m. to 6:00 p.m. The operation of the day care center shall be in accordance with Exhibit No. 11.

BE IT FURTHER RESOLVED by the County Board of Appeals for Montgomery County, Maryland, that petitioners shall comply with all State and County licensing requirements and regulations.

All other terms and conditions of the special exception, except as modified, shall remain in full force and effect.

The subject property contains approximately 12.318 acres, located at 6530 Olney-Laytonsville Road, Gaithersburg, Maryland.

The foregoing Resolution was proposed by Doris Lipschitz, Chairman, and concurred in by Joseph E. O'Brien, Jr., Thomas S. Israel, Howard Jenkins, Jr. and Max H. Novinsky.

Entered in the Minute Book of
the County Board of Appeals for
Montgomery County, Maryland
this 25th day of November, 1986.



Irene H. Gurman
Clerk to the Board

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision. ...

COUNTY BOARD OF APPEALS
FOR
MONTGOMERY COUNTY

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Case No. CBA-1202

PETITION OF THOMAS E. BARTON

RESOLUTION TO SUBSTITUTE SPECIAL EXCEPTION HOLDER
and AMEND SPECIAL EXCEPTION
(Resolution adopted September 19, 1985)

The Board has received two letters from Joseph F. Richardson. His September 9, 1985, letter states, in part:

"In response to "Warning Notice of Violation," Permit #1202, and in order to avoid being held in violation of Section 59, Sub-section Gl.3, we are requesting that you transfer Special Exception from Thomas E. Barton's name to Joseph E. Richardson and Nancy E. Richardson.

"Please be assured we shall continue the operation as set forth in 'Opinion of the Board' dated February 9, 1962.

"Enclosed please find:

- "1. Contract of Sale;
- "2. List of adjoining and confronting property owners; ..."

Mr. Richardson's letter dated September 11, 1985, states, in part:

"As owners of the Bar-T-Ranch, my wife, Nancy and I would like to modify the special exception which allows us to operate a summer camp from June through August to include an after-school camp.

"Utilizing the existing camp facilities, we would like to enroll up to 10 children from Laytonsville Elementary School to be dropped off by a county school bus. The children would remain until their parents pick them up after work no later than 6:30.

"The program would consist of a study center, supervised by my wife, Nancy, who is a certified teacher; snack time and recreational time with activities which range from tennis, field games, indoor basketball, volleyball and winter sports.

"The impact on the community would be minimal. Parents would pick their children up between 4:00 and 6:30 PM using our driveway which is centrally located on our large farm. Enrollments would be a fraction of our summer camp attendance thus keeping noise levels to a bare minimum.

"By granting the modification to the special exception, the Board would be allowing the camp (which is licensed to operate year round) to utilize its extensive recreational facilities in this modestly sized program. This program was created in response to a very evident need for competent, qualified after-school care in upper Montgomery County. We feel that Bar-T-Ranch is an excellent resource for filling that need."

Based on the foregoing information, the Board finds that the change of owners of the special exception operation and their request to modify their special exception represents a minor modification and can be granted without substantially changing the nature, character or intensity of the use of the property and will not substantially change the effect on traffic or adversely affect the immediate area. Therefore, pursuant to Section 59-G-1.3(c) (1) of the Zoning Ordinance,

BE IT RESOLVED by the County Board of Appeals for Montgomery County, Maryland, that Case No. CBA-1202, Petition of Thomas E. Barton, shall be and hereby is re-opened to receive the September 9, 1985 letter from Joseph F. Richardson as Exhibit No. 8; Contract of Sale as Exhibit No. 8(a); List of adjoining and confronting property owners as Exhibit No. 8(b) and Mr. Richardson's letter dated September 11, 1985 as Exhibit No. 9; and

BE IT FURTHER RESOLVED by the County Board of Appeals for Montgomery County, Maryland, that the request to substitute Joseph E. Richardson and Nancy E. Richardson as the special exception holders in the above-referenced cases, shall be and hereby is granted; and

BE IT FURTHER RESOLVED by the County Board of Appeals for Montgomery County, Maryland, that petitioners may operate an after-school camp from August through June, with enrollment not to exceed ten (10) participants. Pick-up of children shall be no later than 6:30 p.m. The operation of the camp shall be in accordance with Exhibit No. 9.

All other terms and conditions of the special exception granted February 12, 1962, shall remain in full force and effect.

The subject property contains approximately 12.318 acres, located at 6530 Olney-Laytonsville Road, Gaithersburg, Maryland.

The foregoing Resolution was proposed by Doris Lipschitz, Chairman, and concurred in by Joseph E. O'Brien, Jr., Thomas S. Israel and Howard Jenkins, Jr. Harry M. Leet was necessarily absent and did not participate in the foregoing Resolution.

Entered in the Minute Book of
the County Board of Appeals for
Montgomery County, Maryland,
this 25th day of September, 1985.


Irene H. Gurman
Clerk to the Board

PETITION OF THOMAS E. BARTON
(Hearing held February 6, 1962; case decided February 9, 1962)

OPINION OF THE BOARD

This proceeding is on a petition for a special exception under Section 107-28i(1)(e) of the Zoning Ordinance (Chap. 107, Mont. Co. Code 1955, as amended) to permit the operation of a Day Camp for more than 40 children. The camp will be situated on approximately 12.318 acres, located on the Olney-Laytonsville Road, Laytonsville, Maryland, in an R-R Zone.

The evidence adduced at the hearing showed that the applicant is presently the Athletic Director at Landon School and has had considerable experience in youth education and training. He proposes to operate the camp during June, July and August, Monday through Friday each week, from 9 a.m. to 4 p.m. One Hundred day campers ages six to twelve will be accommodated for such activities as games, team sports, arts and crafts and general recreation. Transportation to and from camp will be supplied by six station wagons and two school buses. No amplifying system is proposed. Adequate sanitary facilities are existing or planned under the supervision of the County Health Department. The applicant will carry liability insurance for the financial protection of the campers. A small sign will be displayed at the entrance to the property and adequate off-street parking will be supplied.

There was no opposition to the application.

The preponderance of the evidence indicated that the proposed use will not constitute a nuisance because of traffic, number of children being cared for, noise or type of physical activity, and that the setback frontage and area requirements have been met.

The requested special exception for the proposed use in the manner set forth in the exhibits and testimony, is granted.


The Board adopted the following Resolution:

"Be it Resolved by the County Board of Appeals for Montgomery County, Maryland, that the opinion stated above be adopted as the Resolution required by law, as its decision on the above-entitled Petition."

The foregoing Resolution was proposed by Mr. J. Hodge Smith, and concurred in by Messrs. Everett R. Jones, Chairman, and Page F. Hopkins. Mrs. Rita C. Davidson and Mr. Philip M. Fairbanks, Vice Chairman were necessarily absent from the hearing and did not participate in this decision.

I do hereby certify that the foregoing Minutes were officially entered upon the Minute Book of the County Board of Appeals this 12th day of February, 1962.

Please see Section 107-23c of the Ordinance regarding the 12-months' period within which the right granted by the Board must be exercised.


Acting Clerk to the Board

This opinion sent to all persons who received notice of hearing.

