

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(301)217-6600

Case No. S-2385

PETITION OF OLNEY BOYS AND GIRLS CLUB

(by: James Kilby, President)

OPINION OF THE BOARD
(Hearing Held June 9, 1999)
(Effective Date of Opinion July 26, 1999)

Case No. S-2385 is an application to permit the establishment and operation of a service Organization pursuant to Section 59-G-2.42 and 2.24 of the Zoning Ordinance. The requested Special Exception will enable the Olney Boys and Girls Club, Inc. (OBGC) to operate a park including indoor and outdoor athletic facilities along with ancillary storage and administrative facilities.

The subject property is Lot 5, Brooke Farm Subdivision. It is located at 4501 Olney-Laytonsville Road, Olney, Maryland, in the RDT Zone.

Decision of the Board: Special Exception APPROVED,
Subject to Conditions Enumerated Below.

Stephen J. Orens, Esquire, represented the petitioners, The Olney Boys and Girls Club, Inc., is the contract purchaser of the subject property. He presented evidence prepared by the following consultants: Philip E. Perrine of Perrine Planning and Zoning; John Brundage of Loiederman Associates, Inc., registered engineers, Donald Campbell of French & Associates, Landscape Architects; and C. Craig Hedberg of Integrated Transportation Solutions, Inc., traffic and transportation consultants. In addition, the applicant presented the testimony of Dan Dionisio, Vice President of OBGC, and Jim Kilby, its President.

The Board heard no testimony in opposition to the application and no evidence of opposition was received into the record.

PETITIONER'S CASE

The petitioners requested this Special Exception to permit the construction and operation of indoor and outdoor athletic facilities in a park setting for the use of the members of OBGC and

others. OBGC is organized as a non-profit corporation for the purpose of providing athletic and other programs for young people in the Greater Olney Community. In the past, it has operated its athletic programs at local public parks and schools. It conducted a ten-year search to find a suitable location for the development of permanent facilities and entered into a contract to purchase the subject property on January 25, 1999. Approval of this special exception will reduce OBGC's use of other facilities that will then be available to other groups.

The subject property is a recorded lot containing over 118 acres of ground. It is located on the north side of Olney - Laytonsville Road, Maryland State Route 108, approximately 1850 feet west of Olney Mill Road. The property is mostly flat with a rolling terrain and large areas of mature trees along the northern, eastern and western property lines. There are no trees along the southern frontage of the property adjacent to Route 108. Access to the property will be via a new driveway approximately 24' in width from Route 108. A portion of the site is located in the Primary Management Area of the Patuxent River. A stream, which is part of the Reddy Branch and a one hundred-year floodplain also traverse the property.

The site is the location of a house that has been designated as a historic resource known as "Falling Green." The house will be preserved. In addition, the site currently includes a barn that is in a state of complete disrepair and a mobile home that will eventually be removed. The entire 118-acre site has been designated as the environmental setting for Falling Green, thereby subjecting the future development of the property to review by the Historic Preservation Commission.

OBGC intends to develop the subject property into 11 playing fields, 2 practice fields, a 31,000 square foot gymnasium not to exceed fifty (50) feet in height, a 1,000 square foot pavilion, and three new structures for the provision of limited types of food and beverages and restroom facilities in accordance with concept plans submitted as Exhibits 18 (c) - (g). The applicant testified that the development of the site would most likely occur in phases. Site grading and seeding will occur first along with the development of the outdoor playing and practice fields. Construction of the gymnasium and the renovation of the historic house are anticipated to occur later.

The renovation of the historic structure will begin at the time of construction of the gymnasium. Due to its advanced state of deterioration the barn probably cannot be preserved. According to Mr. Dionisio, it is the present intent of OBGC to attempt to replicate the barn using some of the existing materials in a smaller building of similar design and appearance and use that building for storage or some other activity consistent with the special exception. Three main signs are proposed for the OBGC park, one on each side of the entry road and one along the road near the first parking area to recognize those who have made significant contributions to the project. The signs will be required to either conform to the standards for the RDT zone or OBGC will be required to obtain a variance for any such sign that exceeds the maximum square footage permitted for that zone.

At the hearing the OBGC simplified its proposed hours of operation to respond to suggestions made by the technical staff and Planning Board and to establish a consistent operating schedule. The annual operating hours are proposed to be as follow:

Monday through Friday 5:00 p.m. to 10:30 p.m., with all games ending at 10:00 p.m.

Weekends 8:30 a.m. to 10:30 p.m., with all games ending at 10:00 p.m.

In addition, the Summer Camp will operate from 9:00 a.m. to 4:00 p.m. during the summer season.

The applicant submitted the written reports of Perrine Planning and Zoning and Integrated Transportation Solutions, Inc. (ITS). The two reports provided an analysis of the impact of the proposed Special Exception use on the surrounding community, compliance with the Olney Master Plan and the impact of the proposal on surrounding public roads. The traffic impact analysis utilized the criteria for Local Area Review under the Annual Growth policy.

Mr. Perrine, in his written report, concluded on the basis of his analysis of the Zoning Ordinance and Master Plan and his knowledge of the proposed use and the surrounding area, that the proposal would have no adverse impact on the surrounding area. The property is uniquely suited for the proposed use due to the fact that it is surrounded on four sides by public parkland and school facilities. A church is proposed on one of the remaining four residential lots that adjoin the property to the west. The other lots are adequately buffered and separated from the primary activity areas. The proposed field lighting will enable OBGC to have evening athletic activities. That lighting will be limited to those fields in the northwest portion of the property and the lighting will be directed downward to avoid glare on any adjoining residential property. The nearest residential property to the fields that will have lights is significantly distant from the site separated from it by public parkland. The written reports submitted by the applicant and the site development plans depict that 603 parking space will be provided. It was Mr. Perrine's and Mr. Hedberg's conclusion that the proposed parking was more than adequate to meet the needs of the facility and that the number provided was in accordance with the off street parking requirements of the Zoning Ordinance.

Access to the site will be via a relocated driveway that will be approximately 360 feet west of the current entrance. The existing driveway will be abandoned. The new driveway location has been reviewed and approved, in concept, by the Maryland State Highway Administration.

According to the evidence of record, the proposed special exception is consistent with the recommendations contained in the approved and adopted Olney Master Plan. The master plan in recognizing that not all of the agricultural land in the RDT Zone can be preserved also recommends the preservation of open space uses. The proposed special exception use will preserve open space and will result in an overall impervious area below the ten percent (10%) guideline for imperviousness in the Primary Management Area of the Patuxent watershed.

The traffic impact analysis was prepared by ITS. In addition, Mr. Hedberg testified at the public hearing. It was his conclusion that the proposed use, based on the revised hours of operation would not adversely affect traffic condition on the surrounding road network. The traffic analysis studied intersections identified by the M-NCPPC Technical Staff and considered existing and background traffic. Mr. Hedberg testified that the access to the site was safe and that the proposed internal driveways would operate efficiently. He also testified that the proposed parking would be more than adequate to accommodate the anticipated usage following full development of the site as contemplated by the site development concept plans.

The applicant reviewed with the Board the conditions of approval that had been proposed by the Technical Staff as amended by the Planning Board, explaining OBGC's rationale for certain requested revisions to those conditions.

FINDINGS OF THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

The Technical Staff of the M-NCPPC recommended approval, subject to conditions in a supplemental recommendation made on the date the application was considered by the Planning Board. The staff revised its original recommendation following receipt of additional information that it had required the applicant submit [Exhibit No. 22].

The Montgomery County Planning Board also recommended approval of the application subject to conditions. The Planning Board also expressed its desire that access to an adjoining public park area be accommodated as one of the conditions of approval. The evidence of record reflects that the adjacent park area is located to the north east of the subject property and access to that property is apparently not possible because it is "land locked."

FINDINGS OF THE BOARD

Based on the testimony and exhibits of record, the Board finds that the requested Special Exception case number S-2285 satisfies both the general special exception requirements of Section 59-G-1.21 as well as the specific standards for the use in Section 59-G-4.2 and 2.24, as discussed below.

Section 59-G-1.21

1. The special exception is a permissible special exception use in the RDT Zone.
2. The petition complies with standards and requirements of Section 59-G-2.42 and 2.24, as set forth below.
3. The special exception use is consistent with the general plan for the physical development of the district, including the Olney Master Plan.

The proposed community park will provide an open space transition from MD 108 to the farm to the north and will preserve a sense of openness along MD 108, consistent with the basic land plan for Olney as a satellite concept with an urbanized area surrounded by open space [Exhibit No. 9, p. 32].

4. The Board agrees with the Technical staff and finds that the special exception, subject to the conditions imposed by this Board, is in accordance with and will comply with the general and specific requirements of the Zoning Ordinance.

5. The Board finds that the use will not cause any objectionable vibration, fumes, odors, glare, or physical activity. The Board concludes that the use will not be detrimental to the use, peaceful enjoyment, economic value and development of surrounding properties in the general neighborhood, or cause objectionable noise.

The proposed use will not be detrimental to surrounding uses since most of the surrounding area is stream valley park, farmland open space and a proposed church site. The nearest existing residential development is more than five hundred fifty feet to the east.

6. The Board concludes that the use will not, when evaluated in conjunction with existing and approved special exceptions in the neighboring one-family residential area, increase the number, intensity or scope of special exception uses sufficiently to affect the area adversely or alter its predominantly residential nature.

The only approved special exceptions in the area include an accessory apartment (S-2163) located on Luray Court, and a horticultural nursery/greenhouse to the north on Olney-Laytonsville Road. This special exception will not change the character of the surrounding area, but rather will reinforce its open space character.

7. The Boards finds that this special exception use of the property will not adversely affect the health, safety, security, morals or general welfare of the residents, visitors or workers in the general area.

The proposed Community Park will provide a benefit to the community, including both residents and visitors. It preserves open space and provides a generous variety of recreation opportunities to the area.

8. The public services and facilities, including water, waste disposal, public roads and storm drainage, are adequate for the special exception use. The proposed special exception use does not require Planning Board approval of a preliminary plan of subdivision although an amendment to the approved plat may be required to relocate the access drive.

According to the land planning report [Exhibit No. 13, p.6], as facilities such as restroom facilities are provided, septic areas will be resized and approved by the Department of Permitting Services prior to implementation. It is anticipated that public sanitary sewer service will be provided to the property to serve the gymnasium. The Laytonsville fire and rescue station #17 is located approximately 3.5 miles northwest of the subject property.

Section 59-G-2.42 and 2.24

1. The Board finds that the proposed use will not adversely affect surrounding residential and agricultural uses because of noise, number of people or type of physical activity because of the location of the property in relation to adjoining park and school sites and open spaces, existing and proposed forest conservation areas and because of the siting of activity areas away from future residential development.

2. The provision of food and beverages to visitors to the OBGC Park will not reasonably be expected to draw traffic through local streets.
3. The site plans reflect that all buildings conform to the height, coverage, and setback regulations of the RDT Zone. The height of the proposed gymnasium may not exceed 50 feet under the development standards for the RDT Zone and the testimony and evidence of record reflect that the building will comply with all applicable development standards. The location of all structures is also depicted on the applicant's plans to conform to applicable special exception standards.
4. The proposed lighting for the outdoor athletic fields and the parking and driveway areas will be located, shielded, landscaped and otherwise buffered so that no direct light will intrude into any residential area. The existing tree cover and distance protects that area as does the orientation and direction of the lighting downward and away from adjoining properties. The lighting will also be turned off (except for necessary security lighting) at 10:30 p.m. each night.

For all these reasons, the requested Special Exception case number S-2385 is GRANTED, and the site concept plan is APPROVED subject to the following conditions:

1. The petitioner shall be 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 the board's opinion granting the special exception.
2. This use is limited to the following recreational athletic uses- eleven playing fields, two practice areas, a gymnasium and passive recreation areas. A maximum of ten playing fields and the gymnasium may be in use during the peak traffic hours.
3. The annual Hours of operation are:
 - Monday through Friday 5 00 p.m. to 10:30 p.m. with all games ending at 10:00 p.m.
 - Saturdays and Sundays 8:30a.m.to 10:30 p.m. with all games ending at 10:00 p.m.
 - Summer Camp will operate Monday through Friday 9:00 a.m. to 4:00 p.m. during the summer season.
4. Summer camp for a maximum of 450 children.
5. No use of the recreational facilities during the weekday morning peak period between 7:00 a.m. and 9.00 a.m. including the summer camp.
6. No off-site parking is allowed.
7. Construct a left-turn storage lane, a deceleration lane, and an acceleration lane at the site access with MD Route 108.

8. Coordinate with the Maryland State Highway Administration regarding the following:
 - a. The length of the left-turn storage lane, deceleration lane, and acceleration lane at the site access with MD 108.
 - b. An access easement across county right-of-way for the Master Plan realignment of MD Route 108.
9. Approval of an access permit from the Maryland State Highway Administration.
10. Approval of a revised Final Plat of Subdivision to show the property's relocated access point and conservation easements.
11. Submission of a Final Forest Conservation Plan (FCP) prior to issuance of sediment and erosion control permits. A Certified Arborist shall assist with tree protection measures.
12. Compliance with guidelines for the Patuxent River Primary Management Area (PMA) including maintaining the impervious area level not to exceed 10% within the PMA transition area.
13. Approval of a stormwater management concept plan from the Department of Permitting Services prior to the release of sediment and erosion control permit. The concept plan shall address the unique protection needs of the Patuxent River, including the use of innovative and effective Best Management Practices (BMP's) where possible.
14. After the Board of Appeals review and before technical staff review of any final landscape and lighting plans, the applicant shall submit a fully documented Historic Area Work Permit (HAWP) application for Historic Preservation Commission review. The HAWP application shall also include the following additional information: a) detailed descriptions of any and all changes proposed for the site and/or for the exterior of the historic buildings, and b) a detailed lighting study to include fixture details, information on the intensity of the lighting proposed, and information on the distances illuminated by the proposed lighting.
15. All lights, other than security lights, shall operate from dusk to 10:30 p m.
16. After approval of the Historic Work Area Permit by the Historic Preservation Commission, the applicant shall submit final landscape and lighting plans for technical staff review. The landscape plan shall include appropriate planting, of a mixed deciduous buffer to screen the rear of the historic buildings from parking areas and other club uses.
17. Renovation of the Falling Green historic house must coincide with construction of the proposed gymnasium. Permits for construction of the new gymnasium facility should be issued with permits to renovate the historic house.
18. No permanent structures, including new parking areas, shall be constructed within the designated viewshed along Route 108. Goal posts for the playing or practice fields that are in the viewshed must be removed and stored elsewhere when the fields are not in use.

19. All signage on the site must be modest in scale and character to be compatible with the historic, rural character of the site. Entry signage should not emulate suburban residential monument styles.
20. Use of the gymnasium will be limited to a maximum of 60 individuals consisting of players, coaches, referees and visitors when ten outdoor fields are in use at one time during peak traffic hours.
21. The applicant shall work with M-NCPPC to provide access to the adjoining "landlocked" parkland to the northeast of the site by internal easement or otherwise. The costs, terms and conditions associated with the access to the adjacent parkland boundary will be resolved by the applicant and the Maryland-National Capital Park and Planning Commission. A revised site plan depicting the access must be submitted to the Board of Appeals.

On a Motion by Angelo M. Caputo, seconded by Louise L. Mayer, with Donna L. Barron, Donald H. Spence, Jr. and Susan W. Turnbull, Chair, 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 petition.

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland,
this 26th day of July, 1999.



Katherine Freeman
Acting 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 Board and a party to the

proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.

