

Office of Zoning & Administrative Hearings

Attn: Hearing Examiner Kathleen Byrne

100 Maryland Avenue, Room 200

Rockville, MD 20850

Re: Case No. S-2385 Olney Boys and Girls Club

OZAH Hearing Examiner Byrne:

**Please accept this letter and admit it into the record for supporting documents of the upcoming case on February 11, 2025.**

My name is T.J. Atkinson. My wife is Wendy, and our family has lived at 4310 Brookveville Road for the past 27 years. Our original property is 28 acres, and we share a common property line with OBGC. In 2014 Wendy and I also jointly purchased the 52-acre property next door at 4112/4412 Brookeville Road, with our daughter and son-in-law, Taylor and Leonard Smith. This property also shares a property line with OBGC. I would say that our family has been among most impacted by the increasing nuisances, activities, and events at OBGC, based on proximity as well as the extended duration of the disruption imposed upon us.

When we came to live here, we specifically chose this location for our home due to its laid-back, bucolic agricultural setting in the Agricultural Reserve zone. I grew up in a small farming community in Illinois and we strongly support farmers, farming, and the Ag Reserve. Over the two-and-one half decades we have lived here, we have witnessed significant change and the increasingly bothersome and disturbing activities at OBGC have made it anything but bucolic! We constantly find ourselves constantly wondering, "What new over-the-top amusement will be introduced next by OBGC?"

At first, when we learned that OBGC bought the property behind us, we were excited to learn that our grandchildren may be able to take advantage of the close proximity and we continue to be supportive of the sporting activities aspect of OBGC. But slowly and gradually, things began to change.

The original Special Exception dated July 26, 1999 was granted only for ATHLETIC activities. Please note that at that time, these activities were deemed to have no adverse impact on the surrounding area, and to not adversely impact traffic in the area. (See page 3 of the document.) On page 5, it states "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 or surrounding properties in the general neighborhood, or cause objectionable noise."

Continuing on page 5, this document also states 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 impact the areas adversely or alter its predominantly residential nature."

Also: "The Board finds that the special exception use of the property will not adversely affect the health, safety, security, morals, or general welfare of the residents, visitors, or workers on the general area."

In short, over the past 26 years, the gradual changes in operations at OBGC have resulted in each of the above-mentioned conditions being violated. From our perspective, OBGC has turned from a benevolent sports non-profit into a money-hungry quasi-commercial enterprise with a hefty list of willful transgressions and has become a noisy, littering nuisance of sight and sound. The metamorphosis was gradual at first so as to almost not be noticed, and the County and varying agencies only noticed pieces, but not the big picture. The picture that ultimately emerged is alarming.

Once OBGC stumbled upon the idea of raising funds by selling tickets to a haunted trail in the woods, the changes started to become significant. Field of Screams "FOS" was born, and little did we know how it was going to change our lives! At first, in the early years, it was a curiosity and fun to see this event grow and become popular. But what was happening was that OBGC ran their trail through the woods which were under a Forest Conservation easement and cut down many mature trees and started building unpermitted structures in the woods to make the event bigger and better. Other activities were added: A Corn Maze, Paintball, Bonfires, Haunted Hayrides, Ax throwing, more concessions. The noise and disruption from all these activities grew and grew as more and more people showed up and the hours and days of operation were extended. Now the bucolic setting in the Ag Reserve vanished as the cash rolled into OBGC. How much cash? We don't know! But apparently it was enough to have the OBGC Executive Director resign and start a company, SHP, LLC (a.k.a. "Steelhead Productions") to operate FOS going forward.

Next came the "Winter Festival of Lights," also operated by SHP, and designed to bring as many people as possible to the site. Once again, my family and neighbors are subjected to lights from this activity 24/7 while in operation, the noise, the traffic on Route 108, and even more bonfires and their accompanying smoke. Their bright blue "light tree" is like a beacon which is clearly visible from Brookeville Road, over a half mile away, and was lit 24/7 during the season.

The result is that OBGC activities were essentially a commercial operation disguised as a non-profit in the Agricultural Reserve Zone 3 months of the year.

Over these past 26 years, the special exception modifications have become so twisted and convoluted that the only reasonable course of action would be to revoke the special exception and its modifications, and for OBGC to start over with all proper licensing and

permitting for all their activities. I will provide examples of the events and activities which have caused this violation of the special exception.

**The nature, character, and intensity has increased substantially over the past 20 years:**

The Board's granting of the original special exception in 1999 was based on expected athletic activities and did not anticipate large-scale fundraising events drawing thousands of people to the site. Due to the new and radically non-athletic, non-agricultural events OBGC is hosting, **there can be absolutely no doubt whatsoever that the activities associated with OBGC have SUBSTANTIALLY changed the nature, character, and intensity of the SE and has substantially changed the effect on neighbors, the neighborhood, and traffic in the immediate neighborhood.**

It should be noted that each modification request includes the assertion by OBGC that the proposed modifications do not change the "nature, character, or intensity of use." Especially with the earlier special exemption modification, there was no one to challenge this statement. We challenge this statement vociferously! We know that this is simply not true, and there has been substantial change over these 26 years!

During the Winter Festival of Lights in 2024, there were several times that the line of cars for people waiting to attend the event spilled out onto Route 108, blocking traffic for almost one-half mile from the entrance to OBGC.

**Continuing willful violations of County & State requirements, permits and permitted activities:**

OBGC continues to thumb its nose at their neighbors and the County, by choosing to operate their events, Field of Screams and Winter City Festival of Lights, in direct violation of the 2021 Abatement order:

"ORDERED that the Defendant shall immediately, except as otherwise provided herein, take the following actions regarding the property located at 4501 Olney-Laytonsville Road, Olney, Maryland, to correct the conditions which constitute a continuing violation of County law:

1. Obtain all required permits and inspections for Special Amusement structures associated with the Field of Screams (7365 & 7366); and
2. Obtain the Final inspection approvals for Building Permits 283771, 283773, 283774, & 436224;(7367);and
3. **Do not operate the Field of Screams event** without permits, inspection approvals, and issued Certificates of Use & Occupancy, immediately after a copy of this Order has been served upon the Defendant; and it is further ORDERED that a representative of Montgomery County shall be permitted to inspect the premises to verify that the terms of this Order have been complied with.

**FAILURE TO COMPLY WITH THIS ORDER IS PUNISHABLE B CONTEMPT."**

[Bold text added.]

To further illustrate the continuing contempt of OBGC, Chris Allen (Acting Supervisor for Commercial Building Inspections, Office of the Director Department of Permitting Services) affirmed the County's stance on non-operation in his communication to OBGC attorney Peter Ciferri:

Peter, After the initial meeting we had to discuss the status of the Field of Screams, the Department of Permitting Services (DPS) has internally reviewed your request to operate the Field of Screams this year. As you are aware, an Abatement Order was issued on 4/20/2021 by the District Court stating that OBGC is **"not to operate the Field of Screams event without permits, inspection approvals, and issued Certificate of Use & Occupancy."** Because the Abatement Order has not been satisfied and the violations of Chapter 8 of the Montgomery County Code remain present on the property, DPS cannot authorize violations of the county law and the issued Abatement Order. **Thus, DPS cannot authorize operation of the event until the Abatement Order has been satisfied and the property is compliant with the county code.**

[Bold text added.]

In that same email chain is further evidence of OBGC Executive Director Brad Scott, making false statements about the status of the unapproved structures in the Conservation Easement:

"In the letter you attached (from Brad Scott of OBGC), it states that the existing 28 structures were approved by MNCPPC, however the approval from MNCPPC does not constitute an approval to construct or use these buildings in connection with their events. **DPS has not issued any permits for the existing structures and their continued use is in violation of Chapter 8 of the Montgomery County Code;** therefore their request to codify these structures needing "no further approval" (on pages 2 and 3) is concerning since this would directly contradict the findings of the District Court. The OBGC has already referenced the July 2024 resolution in District Court, as tacit approval of to continue to have their event and utilize these structures without DPS approval."

In the June 25, 2024 letter requesting modification to the special exception. Brad Scott, Executive Director of OBGC is seeking to confirm the placement of states "structures have been in place for the past 22 years in support of fundraising activities." This is another false statement. Some of the unpermitted structures may have been constructed that long ago, but many have been built or modified during this period.

Mr. Scott states that they were approved by MNCPPC - how is this possible in a Forest Conservation Easement? MNPPC did not have authority to approve such structures - as acknowledged in 7/26/24 Resolution. None of these structures were permitted when built and were not authorized to be built in the Forest Conservation Easement. These structures should be removed.



In the Montgomery County District Court hearing on January 28, 2025, for which OBGC was present, in another case the judge was surprised that an abatement order issued 7 MONTHS AGO hadn't been remediated! OBGC has been operating for 4 YEARS in violation of the 2021 Abatement Order.

Another good example of OBGC disregarding the law by failing to obtain proper permit relates to "The Berm" which OBGC constructed in 2024, again without a permit. SHP owner Kevin McLaren proposed that building a berm would reduce the noise and discussed this with Wendy and I. We told Kevin that we would want to confer with our farm tenant, Randy Stabler about this. Randy expressed concern about the impact the berm would have on drainage from the crop field, and we told Kevin we didn't support the berm. OBGC put the berm in place with no permit or assessment of the impact it would have on neighboring property, dumping dozens of loads of rubble-filled dirt on the property line. (I had to remove numerous stones which rolled off the piles in order to negotiate along my own property line.) When constructing the berm, some of the dirt was spilled onto our property, which we asked to be removed. We were told they would have to wait until the crop was harvested to remove the excess dirt.

### **Fundraising:**

OBGC seeks to clarify the special exception conditions of approval to include reference to "fundraising". I acknowledge that OBGC is a non-profit, but the result of the specific activities chosen for fundraising by OBGC results in prolonged operation of commercial activity in the AR zone multiple times per year, to the detriment of the immediate neighbors and surrounding community. How have the past 22 years of "fundraising" been reported by OBGC? It wasn't apparent from their Form 990. I specifically request that there is no blanket approval of "fundraising" without limitations. I strenuously object to adding fundraising without constraints, as that will open Pandora's Box to unlimited and potentially significantly detrimental activities which have NOTHING to do with the Ag Reserve.

### **Bonfires and burning during state-wide Burn Ban – another example of willful disregard for laws and neighbors:**

Selling tickets to bonfires is one of the newer activities affecting the neighbors. You can imagine the smoke produced when burning so many fires at once in a confined area. When these fires are burning, a pall of smoke is cast across the neighboring properties, even though they are almost a half mile away. This is another example of changing the character of the neighborhood.

Especially troubling is a very recent event. Just a few short months ago, The State issued a burn ban, citing "extremely dry conditions persist across the state and have led to an

above average number of wildfires statewide, and conditions are not expected to change in the near future.”

A part of our property immediately adjacent to OBGC is 20 acres of mature forest, and we also have the 30-acre crop field adjacent, which has the dry cornstalk stubble from last year’s crop. We were very concerned about possible sparks from dozens of fires starting such a wildfire. I am completely baffled as to why FOS chose to burn their fires during a stat-wide ban. The fires were in violation of that order, and I understand that a neighbor communicated with Brad Scott about it early on Friday evening, but the fires continued through the night and then also were lit again Saturday despite the continuing burn ban. We have 20 acres of forest and 30 acres of crop stubble at risk if just one burning ember flies a little too far. Why did you continue burning 20+ fires even after being informed about the ban?

Link to information about the 2025 Maryland State Burn Ban:

[Maryland Department of Natural Resources Enacts Statewide Burn Ban](#)

### **Conclusion:**

In summary, I truly resent the enormous amount of time and energy that my family, my neighbors, and I have had to invest to protect our investment in our properties in the AR zone and how difficult it has been to try to prevent further damage being inflicted by OBGC on our neighborhood. There is a lot of stress on our families and considerable time spent on these matters which is caused by the present operations of OBGC. **This is direct evidence that the special exception use DOES "adversely affect the health, safety, security, morals, or general welfare of the residents, visitors, or workers on the general area."**

The decisions made by OZAH in this case will be precedent setting. There is a long history of illegal and unpermitted activities, as well as unsubstantiated assertions by OGBC. The Agricultural Reserve should be preserved. I respectfully request that you do not reward the actions of OBGC by granting the requested modifications and consider revocation of the special exception in favor of beginning the permitting process anew to properly document permitted activities in accordance with County and State laws.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read 'T.J. Atkinson', is written over a horizontal line.

T.J. Atkinson

Property owner