

Tax Map/Block/Parcel
No. 40-4-289

Building Permit/Zoning
Certificate No. 90-3724

Case 3479

**OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND**

APPLICANT: K & M Partnership
2710 Hampstead-Mexico Road
Hampstead, Maryland 21074

AGENT: Kevin Bidelspach, President
Four Seasons Sports Complex
2710 Hampstead-Mexico Road
Hampstead, Maryland 21074

REQUEST: A request to reconsider and amend conditions of authorization imposed in Cases 931, 1285, 1331, and 2222 regarding hours of operation and activities for the commercial recreation facility

LOCATION: 2710 Hampstead-Mexico Road (Md. Rt. 482) in Election District 8

BASIS: Article 17, Section 17.2; Ordinance 1E. (The Carroll County Zoning Ordinance)

HEARING HELD: December 27, 1990

On December 27, 1990, the Board of Zoning Appeals heard testimony and received evidence concerning the request to reconsider and amend conditions of authorization imposed in Cases 931, 1285, 1331, and 2222 regarding hours of operation and activities for the commercial recreation facility, now known as the Four Seasons Sports Complex and Fitness Center, at 2710 Hampstead-Mexico Road (Md. Rt. 482).

The Board visited the site December 19, 1990.

The application, testimony and evidence comprising the record of this case are hereby included by reference in the decision. Based on the record, the Board will amend the conditions of authorization as stated below.

The pertinent findings determining the Board's decision include the following facts.

FINDINGS OF FACT

On June 24, 1975, in Case 931, the Board of Zoning Appeals authorized a conditional use for the establishment of a commercial recreation area consisting of an indoor tennis

building to house 3 tennis courts with future expansion to 10 courts, 15 future outdoor courts, and a future swimming pool with 36 parking spaces to be provided for the first 3 indoor courts, and future expansion to 142 parking spaces. The Board imposed a number of conditions in authorizing the request.

Subsequently, and apparently in compliance with the conditions imposed by the Board, the building and exterior tennis courts were constructed, and operation of the facility began. The swimming pool was constructed sometime afterward.

On June 20, 1978, in Case 1285, the Board conditionally authorized the addition of racquetball courts, an indoor golf driving range, and platform tennis courts to the commercial recreation area. The authorization required preparation and submission of a revised site development plan to the Carroll County Planning and Zoning Commission for approval. In addition, conditions 4, 5 and 6 of Case 931 were incorporated within the conditions imposed in Case 1285.

On September 20, 1978, in Case 1331, the Board conditionally authorized modification of Condition 4 of the Board of Zoning Appeals' decision in Case 931 to allow exterior tennis courts to remain open until 12 midnight, and the necessary lighting to remain on until that time, instead of 10:00 p.m.

As the request pertained solely to use of the tennis courts, the Board re-specified that the closing time of the swimming pool and the pool lighting continue to be 10:00 p.m. (condition 6).

On December 3, 1984, in Case 2222, the Board conditionally authorized deletion of condition 1(c), and amended condition 4 in Case 931 to allow the lighting for the tennis courts and swimming pool to remain on to 11:00 p.m. for purposes of maintenance between 10:00 p.m. and 11:00 p.m. Condition 1(c) formally read:

1. The applicant is ordered to have complete scaled site development plans prepared based upon the "sketch plan" consisting of, but not limited to:

- (c) Detailed landscaping plans including species of trees, shrubbery, and planting schedule. The planting scheme shall be designed to lessen the affects of the more intensive use of the site upon the adjoining properties by effectively screening the proposed outdoor tennis courts, the perimeter of the proposed parking areas, with the exception of the line abutting the indoor and clubhouse facilities, and the driveway. In addition to said

screening, landscaping of the remaining area shall be designed to compliment the site, its relationship to the adjacent properties and any eventual development of the area.

All other conditions of authorization in Case 931 remained in effect.

On June 30, 1987, in Case 2746, the Board authorized interior alterations of the previously authorized commercial recreation facility, eliminating 1 tennis court and adding a fitness center, aerobic room and 2 racquetball courts.

On July 15, 1989, fire destroyed the principal building of the commercial recreation facility. Thereafter, a new building was erected. The present management has emphasized fitness and recreational programs from before the fire and with development of the new facilities in the new building.

The request now before the Board is to:

1. Allow the exterior lights of the recreational facilities to remain on until 12:00 midnight. The lights illuminating the parking facilities would remain illuminated after the close of the exterior recreational facilities until the patrons left the premises. Interior and exterior programs would close prior to, or not later than 12:00 p.m., midnight, except as provided below.
2. Approve 15 special events per calendar year, using only the interior facilities, and parking facilities between the hours of 12:00 p.m., midnight, to 6:00 a.m.

The parking facilities would be illuminated throughout the hours of each event.

The special events would include high school after prom parties, and business, church, and social organizations' activities.

3. Accept an annotated copy of the Site Grading Plan as an updated site plan, and Facilities List, submitted to the Board during the public hearing.

The Facilities List is part of Applicant's Exhibit 1. Plans for the site and building are identified as Applicant's Exhibits 2a, b, and c. Applicant's Exhibit 2a is the Site Grading Plan with annotations. Applicant's Exhibits 2b and 2c are floor plans of the building.

The Board will accept the updated site plan and Facilities List solely for purposes of the record of this case.

However, the plan omits significant dimensions and information, including the details of the parking lot and number of parking spaces, required for a site development plan. Therefore, a revised site development plan will have to be submitted to the Carroll County Planning and Zoning Commission for review and approval in compliance with previous conditional approvals.

The Board considers the Facilities List to be for informational purposes only. Programs and facilities may be added, discontinued, or changed if in conformity with operation of the sports complex and fitness center as a commercial recreation area.

4. Authorize, as a conditional use, a personal training and sports medicine service as part of the recreational and fitness programs.

The land use provisions of the "A" Agricultural District, as specified in Article 6 of the zoning ordinance do not include personal training and sports medicine services as conditional uses, which would require Board authorization. The service has not been legislatively adopted and designated as a conditional use. Therefore, the Board cannot authorize the request.

However, the use probably qualifies as an accessory use. Article 20, Section 20.01 of the zoning ordinance defines an accessory use as:

A use of a building, lot, or portion thereof, which is incidental and subordinate to the principal use of the main building or lot.

Accessory uses are permitted in the "A" Agricultural District in accordance with Section 6.4 of the zoning ordinance. As the proposed service would be dependent on, and subordinate to, the commercial recreation facility, the Board believes that the service would qualify as an accessory use.

Two residents of adjacent properties testified in opposition to the request, generally describing adverse effects of vehicular traffic, and late night noise and lights to their peaceful enjoyment of their homes.

From the record of this case, the Board is persuaded that operation of the commercial recreation facility has not unduly affected the residents of adjacent properties, the values of their properties, or the public interest.

REASONING

Since authorization of the commercial recreation area in June of 1975, the facility has changed from specializing in

tennis to a comprehensive recreational and fitness center. The revised site development plan required by the Board in condition 1 of Case 1285 has been superseded by the Site Grading Plan prepared for reconstruction of the facility after the fire (Applicant's Exhibit 2a).

The proposed changes in the hours of operation of the exterior tennis courts, basketball court, swimming pool, and volleyball court will facilitate operation of the center without significantly affecting the adjacent residents, or the values of their properties.

The addition of special events will be beneficial to the public. However, the Board is concerned regarding potential adverse affects to adjacent residents due to the hours of operation and possibility of excessive noise. Therefore, the Board will only authorize eight special events a year at this time. If the demand for such events is greater, reapplication to the Board for an increase in the number of special events may be appropriate in the future.

Although the proposed personal training and sports medicine service cannot be authorized by this Board, the service appears to be an accessory use to the commercial recreation and fitness center, subject to approval of the Division of Zoning Enforcement.

CONCLUSION

The Board of Zoning Appeals hereby amends and revises the conditions of authorization imposed in Cases 931, 1285, 1331, and 2222 governing the commercial recreation facility now known as Four Seasons Sports Complex and Fitness Center to be:

1. In accordance with the Carroll County Planning and Zoning Commission's conditional approval of the site development plan, dated August 17, 1976, a revised site development plan shall be prepared and submitted to the Commission for review and approval.
2. No additional principal permitted uses or accessory uses that would require additional parking spaces to be constructed to supplement the existing parking shall be permitted on the premises. This condition shall not preclude enlargement of the existing parking facilities, if such enlargement is necessary to satisfy the minimum requirements of the existing facility.
3. If the property is subdivided to create a lot located between Hampstead-Mexico Road and the parking facilities located in front of the commercial recreation facilities building, not less than 40 feet shall be provided from the southerly edge of the parking lot to the newly created line of division

in order to provide for a front yard for the commercial recreation facility. The parking facilities located in front of the commercial recreation facility building shall not be construed to satisfy the minimum required front yard.

4. The interior facilities and parking facilities may be used from 12:00 p.m., midnight, to 6:00 a.m. for not more than eight special events per calendar year. Particular attention shall be directed to the management of the special events on the premises to minimize noise outside of the building from disturbing the surrounding peace and quiet. Written notice shall be forwarded to the Division of Zoning Enforcement at least 10 days in advance of holding a special event. If a special event is scheduled but cancelled, notice of the cancellation shall also be forwarded to Zoning Enforcement in order to maintain an accurate record of the number of special events held during a calendar year.
5. The exterior basketball, tennis and volleyball courts, and swimming pool facilities shall have a daily closing time of not later than 12:00 p.m., midnight. In addition, the exterior lights providing illumination for these facilities shall be extinguished not later than 12:00 p.m., midnight.
6. All lamps illuminating the exterior basketball, tennis and volleyball courts shall be shielded so as to prevent direct glare from individual lamps from being visible from Hampstead-Mexico Road (Md. Rt. 482) or Cape Horn Road. For purposes of clarification the term, "glare", shall not be construed to include "reflected light."
7. Alignment of all lamps illuminating the exterior basketball, tennis and volleyball courts shall be aimed so that the light rays do not extend unnecessarily beyond the courts intended to be illuminated.

Jan. 24, 1991
Date

JDN/bdc/C3479DEC
January 23, 1991

John Totura
John Totura, Chairman