

Tax Map/Block/Parcel
No. 32-03-198
Case 5819

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPLICANT: Henry E. Ruhlman
2280 Harvey Gummel Road
Hampstead, MD 21074

ATTORNEY: N/A

REQUEST: Request for a conditional use and a variance for a country inn with banquet facilities, a recreational area and a commercial campsite to furnish an existing area and a potential change of location to another site 45 feet by 100 feet area to hold one time catered events. Variance to be reduced from 400 feet to 225 feet from existing recreation area of 24 feet by 70 feet to property line of 2270 Harvey Gummel Road. Variance to reduce distance of 400 feet to 225 feet from proposed 45 feet to 100 feet recreation area to property line at 2352 Harvey Gummel Road.

LOCATION: The site is located at 2300 Harvey Gummel Road, Hampstead, Maryland 21074 on property zoned "A" Agricultural in Election District 6.

BASIS: Code of Public Local Laws and Ordinances, Section 158.070 (t)(k) and Section 158.040.

HEARING HELD: March 24, 2015 and March 25, 2015

FINDINGS AND CONCLUSION

On March 24 and 25, 2015, the Board of Zoning Appeals (the Board) convened to hear the request for a conditional use and a variance for a country inn with banquet facilities, a recreational area and a commercial campsite to furnish an existing area and a potential change of location to another site 45 feet by 100 feet area to hold one time catered events. Variance to be reduced from 400 feet to 225 feet from existing recreation area of 24 feet by 70 feet to property line of 2270 Harvey Gummel Road. Variance to reduce distance of 400 feet to 225 feet from proposed 45 feet to 100 feet recreation area to property line at 2352 Harvey Gummel Road. Based on the testimony and evidence presented, the Board made the following findings and conclusions.

There was a two day hearing in this case. Although the application was completed by Henry Ruhlman, the application was actually for the benefit of Creeping Creek, LLC. The company owns a thirty-six acre farm. Of the total of thirty-six acres, eighteen to twenty acres were tillable as farmland. The company was originally owned by four siblings: Henry Ruhlman, Roger Ruhlman, Janet Leidy, and Edith Ballard. Sometime during the ownership a dispute arose between the siblings. As a result of the dispute, Edith Ballard was voted out of the company. The process of Ms. Ballard's being paid for her interest is in progress.

The main witness on behalf of the project was Henry Ruhlman. He testified on the first day of the hearing. He testified that he already had a conditional use for a cell tower and a brewery on the property. The cell tower was approved by a previous Board in 1989 and the brewery was approved in 2011. There is also a store on the property where beer is sold. As part of his liquor license for the brewery he is entitled to have twelve events per year. There is a disc golf course (golf with a Frisbee) on the property and it is available for use when the store is open. His beer license would allow people to take beer to places on his property. The request for zoning approvals came after he spoke to Robin Zile, from the Zoning Office, in the fall of 2014. His request involved correcting zoning violations and asked for things that he could want on the farm in the future.

Mr. Henry Ruhlman testified that the request for commercial camping would mainly occur over the summer. The campers would be provided with spot-a-pots. The campers would also have access to the spigot at the brewery. He stated that campers would need to carry their tents to the camp site.

He was requesting that he be permitted to hold catered events on the property. Mr. Ruhlman noted the rustic and country atmosphere that was offered on his property. People could take advantage of the atmosphere while camping, playing disc golf, or at a band concert. People would park on the grass, because he did not want to change the atmosphere of his property. He wanted to put up a pavilion that could hold as many as approximately 200 people. (Opposition Exhibit 9.) This pavilion would have a cover. He explained that for the various activities he could have six to eight people serve as volunteers. He stated that his parking lot area could contain about sixty to seventy vehicles. He specifically mentioned having an engagement party that included about seventy to seventy-five people and forty cars. There was an expectation that as many as 140 cars could be parked on the site. (Opposition Exhibit 9.)

Mr. Ruhlman explained that the disc golf was partly in the fields and partly in the woods. The golfers liked a challenging course and wanted to have the various obstacles around the pond and in the woods.

He explained that the band concerts occurred on Saturdays. He had various types of bands play for him. He had to pay a fee to cover the license for the music and the musicians would receive the remainder of the money collected. The bands stopped playing music around 10 p.m.

Gary Pohlner testified in favor of the application. He had been to an Oktoberfest on the property in the past. He lives three to five miles away from the property. He had been to the

property for the band concerts and played disc golf on the property. He considered the property to have a family type atmosphere. He had specifically been to some Saturday night concerts.

Matthew Ruhlman testified in favor of the application. He is Henry Ruhlman's son. He stated that he was influential on getting the disc golf course put on the property. People come to the property from the surrounding areas. He stated that he volunteered for various events held on the property. He helped with the retail store. People do not have to call for a tee time. He has conducted a few golf tournaments on the property. He mentioned that people do not usually play golf at night. However, he mentioned a way that the frisbies and the baskets could be illuminated for night golf.

Roger Ruhlman testified in favor of the project. He wanted to help the company find other ways to have people enjoy the farm atmosphere. He stated that he had obtained a temporary food license for the concerts. He did not see any problems with any events at the property.

Catherine Knitter testified in favor of the project. She had been to four activities at the farm. She had been to concerts and volunteered to help out at activities. She stated that the band concerts were therapeutic for everyone. She did not notice any problems with the events at the farm.

Robert Hauf lives next door to the farm. He has lived at his house since about 2007. He had a concern about people playing golf and were trespassing onto his property. He was concerned about liability issues if someone were to get injured on his property. He stated that he has put up orange barricades and yellow parking tape when some events occurred on the property. He was also concerned about the increased traffic at various events and the potential water issues in the future. Since he uses a well, he was also concerned about sanitation issues. He claimed that some of the patrons at the farm did not use the bathroom facilities and instead utilized the land to relieve themselves. He opposed the variances. He stated that the bands were advertised. He did not want to put up "No Trespassing" signs and did not want to erect a fence on his property. He believed that these things harmed the natural surroundings and the open areas. He noted that the band concerts did end about ten o'clock in the evening. Mr. Hauf completed his testimony on day two of the hearing.

William Deltuva testified in opposition to the project. He brought in an ad that stated that recreational vehicles ("RV") were welcome. He stated that the disc golf was played at night. He complained about large amounts of runoff because there was no paved parking. He was concerned about runoff, erosion, and loud noises from the bands. He also questioned who would have authority to handle intoxicated patrons. He owned sheep and he noted that the sheep did not like dogs or people coming near them. He questioned at what point a farm ceases to be a farm and becomes a commercial endeavor. He stated that horses are also affected by loud noises. However, he kept his horses in an area where the bands would not affect them. He did not mind the brewery or the cell tower but has a problem with the requests in the application. He stated that even when the bands are not playing people's voices can clearly be heard from quite a distance away.

David Fleming stated that he farms on the property. He lives $\frac{3}{4}$ miles away from the farm. He was concerned that the farm was requesting a commercial camp ground. Some of the bands that come are rock bands. He stated that the bands started as early as 3pm for sound checks and practice. At times his windows have vibrated in the afternoons due to the bands. The music from the bands was so loud and clear that his wife could sing along with the music on the porch. He did not believe that the requests in the application were right for the neighborhood.

Edith Ballard was in opposition to the project. She stated that over the last two years her peacefulness has been disturbed. She pointed out the bands as a disturbance. She also stated that strangers would walk through fields with Frisbees. There were no fences or trees to keep trespassers off of her property. She stated that although Henry Ruhlman testified that his liquor license allowed him to have twelve events a year that he actually held more than twelve events. She stated that she saw RVs on three separate occasions and that the atmosphere was no longer Creeping Creek Farm.

John Dudderer, Esq. testified in favor of the project. He is an attorney for the company. He stated that the company owned the farm and was the main asset of the company. He stated that the siblings were included in the deed. He mentioned that the three siblings voted to have Edith Ballard put out of the company.

Henry Ruhlman testified on day two also. He said that a few times when concerts were conducted that people brought RVs to the property. Last year he was approached by Harvest Host about allowing RVs to come to the property. Harvest Host is interested in lining up properties for RVs where no electricity or sewage is needed. The RVs just need a parking space. He stated that he did not affiliate with Harvest Host. He stated that he wanted to keep the characteristics of the farm intact. He was not going to cut down trees or put in roads. He stated that he was informed by Robin Zile that he was not authorized to hold all of the events that he was allowing on his property. After meeting with Ms. Zile in October 2014 and January 2015, he made the instant request to the Board. He stated that he did not know that the various events that he was holding for about two years needed zoning clearance before speaking to Ms. Zile. He stated that on occasions he had all day bands that started at noon and played until 10pm. He mentioned that he had put ads on social media and the internet for the activities on the farm. He stated that last year he had maybe fifteen concerts.

Janet Leidy testified in favor of the project. She is one of the co-owners of the company. She stated that when the family members learned that they were not supposed to do certain things on the property that they stopped doing them. She had not heard any complaints for the new activities at the farm. She stated that the family has always been law abiding and would comply with the Board's decision.

Nokomis Ford, planning technician, wrote a March 13, 2015 memorandum for the Board. The memo stated that the request is compatible with the vision and goals for the area as expressed in the Master Plan. The staff finding was that this appeal was consistent with the Master Plan, but due to the proposed intensity of uses could have a potential adverse effect on the surrounding environs.

There were emails from Stephanie Murdock, and Jeffrey Peters in favor of the applicant's request.

The Board was concerned about a number of factors in this case. Mr. Ruhlman asked for a variance for the pavilion that he admitted at the hearing might be placed elsewhere on the property. He also seemed to admit having more than the twelve events per year provided by his liquor license. There was little if any testimony about how traffic would be controlled at the site. A retired police officer testified that traffic was an issue. It was anticipated that as many as 200 people would gather at the site at one time in the pavilion. The events relied on volunteers and not many employees seemed to be involved. There was a question about how the alcohol, parking, and concerts were controlled by the staff and volunteers. There was a concern that the activities at the farm were open to the public as opposed to being a catered event for one group of similarly situated people coming to a private wedding or an engagement party. The Board was concerned that Mr. Ruhlman testified that the camping would only be for tent campers. However, there may have been information on the web site that would lead people to believe that RVs were permitted for camping. It was well known that due to the topography of the land that sound travels a good distance. In Opposition Exhibit 2, the website stated that "the topography of the property acts like a megaphone" and to "keep the volume down." However, not much seemed to have been done to help neighbors who could hear bands playing all day from noon to 10pm. If the megaphone effect allowed neighbors to hear voices from hundreds of yards away, the impact of band music had to be much greater. Based on all of the evidence the Board agreed with the planning technician that wrote that "the proposed intensity of uses could have a potential adverse effect on the surrounding environs."

The Board was convinced that authorization of the request with regard to a conditional use and variances was not consistent with the purpose of the zoning ordinance, nor appropriate in light of the factors to be considered regarding conditional uses of the zoning ordinance, and would unduly affect the residents of adjacent properties, the values of those properties, or public interests. Based on the findings of fact made by the Board above, the Board found that the proposed project would generate adverse effects (i.e. noise, traffic, dust, water issues, lighting issues, property depreciation, etc.) greater here than elsewhere in the zone. The Board denied approval of the conditional use and variances requested by the applicant.

Date

Gary Dunkleberger, Chairman

Decisions of the Board of Zoning Appeals may be appealed to the Circuit Court for Carroll County within 30 days of the date of the decision pursuant to Article 66B, Section 4.08 of the Annotated Code of Maryland Rules of Procedure.

Pursuant to Section 158.133 (H)(3) of the County Code, this approval will become void unless all applicable requirements of this section are met. Contact the Office of Zoning Administration at 410-386-2980 for specific compliance instructions.

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