

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

November 26, 1990



Dennis F. Rasmussen
County Executive

Mr. Al Henneman
Worthington Valley Swim Club
2515 Baublitz Road
Reisterstown, MD 21136

RE: Verification of Zoning
Kiwanis Special Exception
for Swim Club
Case No. 73-294-X
4th Election District

Dear Mr. Henneman:

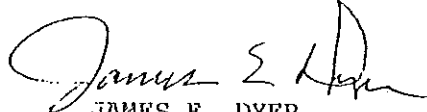
Reference is made to your letters of October 31, 1990 and November 15, 1990 regarding the above referenced matter, as well as my letter dated November 13, 1990. After carefully reviewing the Orders relative to the above referenced case, I am now aware that two Special Exceptions were in fact granted: one for the Kiwanis Club to operate a community building and swimming pool on 24 acres and a second Special Exception to operate an outdoor recreation club on approximately 50 acres separate and apart from the swimming club. The Special Exception for the outdoor recreation club on the 50 acres was limited to operation by the Kiwanis club. Since it is my understanding that the Kiwanis Club no longer operates either the swim club or the outdoor recreation club, the Special Exception for the outdoor recreation club is no longer in existence. Insofar as the swim club is concerned, the Special Exception legalized this use which was previously existing.

Your letter of November 15 and the attached site plan indicates that the proposed improvements provide for: 1) swim team practices and meets to keep the members happy; and 2) to keep the club more in touch with an expanding neighborhood by providing better and more modern facilities to serve your membership. The improvements which consist of an additional pool 100 ft. x 50 ft. and a pavilion 80 ft. x 80 ft. will require that the original swimming pool Special Exception be amended by Special Hearing before any new construction takes place.

Mr. Al Henneman
Re: Kiwanis Special Exception
November 26, 1990
Page 2

If you desire additional information or clarification, please
contact me at your convenience.

Very truly yours,


JAMES E. DYER
Zoning Supervisor

JED:cer

73-294-X #199 PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:
Kiwanis Club of Loch Raven, Inc., legal owner, of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an _____ zone to an _____ zone; for the following reasons:

See attached description

and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for 1000.2 B(6) and (10) community building and swimming pool, day camp, and outdoor recreation club including a quasi-public day camp, for Kiwanis Club.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above re-classification and/or Special Exception advertising, filing, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

KIWANIS CLUB OF LOCH RAVEN, INC. BY

Contract purchaser

Address 174 Linden Terrace

Towson, Maryland 21204

Protestant's Attorney

Address 305 W. Pennsylvania Avenue

Towson, Maryland 21204

ORDERED BY The Zoning Commissioner of Baltimore County this _____ 20th _____ day of _____ 1973, that the subject matter of this petition be advertised as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the _____ 6th _____ day of _____ June _____ 1973, at 11:00 o'clock

John P. Trumble
Zoning Commissioner of Baltimore County

(over)

FRED W. VON BEHREN, INC.

PROFESSIONAL ENGINEERS

Box 114

14 WEST GOLD SPRING LANE

BALTIMORE, MARYLAND 21210

OWNER - KIWANIS CLUB OF LOCH RAVEN

DESCRIPTION OF 75 ACRE TRACT KNOWN AS

KIWANIS VALLEY SWIM CLUB AND KIWANIS VALLEY FARM

BEGINNING for the same at a pipe set at the end of the first line of the parcel of land conveyed by Bannockburne Land Corporation, Incorporated to the Kiwanis Club of Loch Raven Incorporated by deed dated March 24th, 1965 and recorded among the Land Records of Baltimore County, said point of beginning being distant North 07° 15' East 56 feet, more or less, measured along the first line of said deed from the north side of Baublitze Road, their situation; and said point of beginning being also South 85° 30' West 1465.50 feet from the Northwest corner of the intersection of Dover Road and Baublitze Road; and beginning thereof (1.) South 07° 15' East 1617.00 feet; thence binding reversely on the Seventh, Sixth, Fifth, Fourth, and Third lines of said deed, (2.) South 84° 15' East 2541.00 feet, (3.) North 40° 15' East 123.75 feet, (4.) North 68° East 57.75 feet, (5.) North 33° 30' West 1699.50 feet, and (6.) North 12° 15' East 445.50 feet to the aforesaid Northwest corner of the intersection of Dover Road and Baublitze Road, their situation; and thence binding reversely on the second line of said deed to the beginning thereof (7.) South 85° 30' West 1465.50 feet to the place of beginning.

Containing 75 Acres, more or less.

March 30, 1973



RE: PETITION FOR SPECIAL EXCEPTION
S/S of Baublitze Road, 1468.5' W of Dover Road - 4th District
Kiwanis Club of Loch Raven - Petitioner
NO. 73-294-X (Item No. 199):
BALTIMORE COUNTY

The Petitioner requests a Special Exception for a community building and swimming pool, etc., and an outdoor recreation club, including a quasi-public day camp (day care center), herein known as day camp, for the property located south of Baublitze Road, 1468.5' west of Dover Road, in the Fourth Election District of Baltimore County. Said property contains a total of seventy-five (75) acres of land, more or less.

Testimony on behalf of the Petitioner indicated that the Kiwanis Club of Loch Raven, Inc., owns the subject property and operates a swimming club and has done so since 1964 on twenty-four (24) of the seventy-five (75) acres. If the Special Exception requested is granted, there will be no change in the operation of the pool. The additional fifty (50) acres was acquired approximately two (2) years ago and the Kiwanis wish to institute a day camp on the whole tract, ranging from approximately fifty (50) to one hundred and fifty (150) children. There was voluminous testimony with reference to the number of people on the subject property at any one time and the experience of the Kiwanis in the operation of the pool in the past.

Mr. Paul F. Kreamer, the program director for the committee which will operate the day camp, indicated that there will be four (4) separate two (2) week sessions, properly staffed, providing swimming instruction, soft ball, nature study, arts and crafts, etc. The center will be operated by a professional in the field of the operation of day camps, who will be a full-time director and reside on the premises.

Several residents of the area, in protest of the subject Petition, indicated that they felt the road network was not adequate to service the

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FRED W. VON BEHREN, INC.

PROFESSIONAL ENGINEERS

Box 114

14 WEST GOLD SPRING LANE

BALTIMORE, MARYLAND 21210

OWNER - KIWANIS CLUB OF LOCH RAVEN

DESCRIPTION OF 75 ACRE TRACT KNOWN AS

KIWANIS VALLEY SWIM CLUB AND KIWANIS VALLEY FARM

BEGINNING for the same at a pipe set at the end of the first line of the parcel of land conveyed by Bannockburne Land Corporation, Incorporated to the Kiwanis Club of Loch Raven Incorporated by deed dated March 24th, 1965 and recorded among the Land Records of Baltimore County, said point of beginning being distant North 07° 15' East 56 feet, more or less, measured along the first line of said deed from the north side of Baublitze Road, their situation; and said point of beginning being also South 85° 30' West 1465.50 feet from the Northwest corner of the intersection of Dover Road and Baublitze Road; and beginning thereof (1.) South 07° 15' East 1617.00 feet; thence binding reversely on the Sixth, Fifth, Fourth, Third and Second lines of said deed, the five following courses and distances, namely: South 84° 15' East 2541.00 feet to a pipe, North 07° 15' East 1350 feet to a pipe, North 07° 15' East 250 feet to a pipe, North 84° 15' East 850 feet to a pipe, North 07° 15' East 1465.04 feet to a pipe, South 85° 30' West 513.68 feet to the place of beginning

Containing 24 acres, more or less

June 14, 1973



property if, in fact, it should expand to more than one hundred and fifty (150) children. There was further objection in reference to the public address system that is operated at the pool, the noise emanating from the pool in the late hours of the evening, and the general concern of a possible change in the character of the neighborhood.

Without reviewing the evidence further in detail, but based on all the evidence presented at the hearing, in the judgment of the Zoning Commissioner, the prerequisites of Section 502.1 have been met in both instances and requests. The area is basically rural and is ideal for the operation of a day camp. It was further testified that the operation of the day camp would not be of a profit making operation but hopefully would break even financially. The pool is and would be allowed to continue in existence under the granting of this Special Exception.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 20th day of June, 1973, that the Special Exception for the community building, swimming pool, etc., should be and the same is GRANTED, from and after the date of this Order, for the following described property:

"Beginning for the same at a pipe set at the end of the first line of the parcel of land conveyed by Bannockburne Land Corporation, Inc. to the Kiwanis Club of Loch Raven, Inc. by deed dated March 24th, 1965 and recorded among the Land Records of Baltimore County, said point of beginning being distant North 07 degrees 15' East 56 feet, more or less, measured along the first line of said deed from the North side of Baublitze Road, their situation; and said point of beginning being also South 85 degrees 30' West 1468.50 feet from the Northwest corner of the intersection of Dover Road and Baublitze Road; and running thence: South 07 degrees 15' West 1617.00 feet; thence binding reversely on the Sixth, Fifth, Fourth, Third, and Second lines of said deed. The five following courses and distances, namely: South 84 degrees 15' East 2541.00 feet to a pipe, North 07 degrees 15' East 250 feet to a pipe, North 84 degrees 15' East 850 feet to a pipe, North 07 degrees 15' East 1465.04 feet to a pipe, South 85 degrees 30' West 513.68 feet to the place of beginning containing 24 acres, more or less."

Said plat has been filed as Zoning Commissioner's Exhibit No. 1 in this proceeding and is incorporated by reference hereto as part of this Order.

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FRED W. VON BEHREN, INC.

PROFESSIONAL ENGINEERS

Box 114

14 WEST GOLD SPRING LANE

BALTIMORE, MARYLAND 21210

KIWANIS CLUB OF LOCH RAVEN

PARCEL NO. 1

(Known as Kiwanis Valley Swim Club)

BEGINNING for the same at a stone heretofore set at the beginning of the land which by deed dated September 20, 1952 and recorded among the Land Records of Baltimore County in Liber G.L.M. 2176, Folio 70, was conveyed by Wilbur Enzor Baublitze and wife to Daphne A. Duncan, unmarried; said place of beginning being situated in the center line of a 24 foot road heretofore laid out through Edward Worthington's land; thence leaving said place of beginning and binding on the centerline of said 24 foot road and on the first line of the aforesaid deed, referring all courses to said deed, south 07 degrees 15 minutes east 1617 feet to a pipe now set at the end of said first line; thence running and binding on a part of the second line of said deed, north 85 degrees 30 minutes east 513.68 feet to a pipe now set; thence leaving the outline of the whole tract and running for new lines of division through the property of which the lot now being described is a part, the three following courses and distances, viz: south 07 degrees 15 minutes west 1465.04 feet to a pipe; thence south 84 degrees 07 minutes east 850 feet to a pipe; thence south 07 degrees 15 minutes west 250 feet to a pipe now set in the lot or north 84 degrees west, 154 perches line of the aforesaid deed; thence running and binding on a portion of said line, as now surveyed, north 84 degrees 07 minutes west 1350 feet to the place of beginning.

Containing 24 acres, more or less.

It is further ORDERED that the Special Exception for the outdoor recreation club including a quasi-public day camp (day care center) should be and the same is GRANTED, for the entire tract as petitioned, from and after the date of this Order.

The Special Exceptions as Granted, are subject to the following restrictions:

1. That the operation of the day camp is hereby restricted and limited to the term of ownership by the Kiwanis Club of Loch Raven, Inc., and any such time in the future that said Kiwanis Club of Loch Raven, Inc., divest, sell, lease or otherwise transfers said property to another interest, the camp Special Exception would automatically expire.
2. The operation of the swimming pool or any activities thereon shall cease at 1:00 A.M. each day.
3. The public address system shall not operate after 10:00 P.M. on week days, except in case of a clear emergency and the public address system shall not be operated after 12:00 A.M. on weekends or holidays, except in a case of a clear emergency. The public address system must be controlled at all times, under close supervision of the pool manager, so as not to create a nuisance in the community.
4. The number of participants in the day camp will not exceed one hundred fifty (150) campers.
5. The number of people using the facilities of the fifty (50) acres known as the Kiwanis Valley Farm and acquired by the Kiwanis Club of Loch Raven, Inc., will at no time exceed five hundred (500) people, including any day campers.
6. That a site plan be approved by the Department of Public Works and the Office of Planning and Zoning.

John P. Trumble
Zoning Commissioner of Baltimore County

KIWANIS CLUB OF LOCH RAVEN, INC.
P. O. Box 9828 Baltimore, Maryland 21204
Telephone 825-0260

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PROTESTANT'S EXHIBIT A

March 20, 1973

Mr. Morgan Crocker
Dover Road
Reisterstown, Maryland 21136

Dear Mr. Crocker:

The Kiwanis Club of Loch Raven wishes to contact our neighbors in the area of the Kiwanis Valley Farm, formerly the Baublitze Farm. As you are aware, we purchased the Farm from Mr. Wilbur Baublitze, which borders our Swimming Pool. The attached brochure outlines our plans for a children's Day Camp to be operated in the section of property between the Pool and Farm.

In an effort to implement this project, we must file a zoning appeal to Baltimore County to allow a special exception to open the camp. The exception will be for the acreage bordered by the Farm and Pool only. It will not be for the entire Farm.

The remainder of Farm property will be operated as a Model Farm. The entire acreage held by the Kiwanis Club will be threefold program:

1. Pool - Recreation Facility
2. Children's Day Camp
3. Model Farm.

It is our intention through this program to contribute to the community and promote the preservation of the environment.

The purpose of this letter is to keep our neighbors advised of developments initiated by the Kiwanis Club of Loch Raven. If there are questions concerning the zoning appeal, or any of our future plans, we would be pleased to answer them for you. Mr. Henry Krautwurst, our resident Farm Director, can provide you with information. If desired, we would be happy to meet and talk with you, at your convenience.

Sincerely yours,

Paul F. Crocker
Paul F. Crocker, Program Director

PGC/gp

SHARE YOUR LIFE

March 27, 1973

RE: PETITION FOR SPECIAL EXCEPTION :
for Community building, Swimming Pool
and Outdoor Recreation Club, including :
Quasi-Public Day Camp :
S/S of Baublitz Road 1468.5 feet West :
of Dover Road :
4th District :
BALTIMORE COUNTY
Kiwanis Club of Loch Raven, Inc. :
Petitioner : No. 73-294-X

OPINION

This case comes before the Board on an appeal from an Order of the Zoning Commissioner dated June 20, 1973 which granted a special exception for both a community building and swimming pool complex, as well as an outdoor recreation club, to be used as a quasi-public day camp. The subject property is located on the south side of Baublitz Road approximately 1468 feet west of Dover Road, in the 4th Election District of Baltimore County. The subject property is owned by the Kiwanis Club of Loch Raven, Inc.

The subject property now consists of approximately seventy-five (75) acres. The Kiwanis Club, in 1964, purchased twenty-four (24) acres, and more recently added fifty-one (51) acres contiguous with their first holdings, so that the entire property of the Club at this time, at this location, consists of about seventy-five (75) acres. Apparently there is no special exception whatsoever for any operations at the Club at this time. However, the petitions for special exceptions in this case are both for the swimming pool complex and the proposed day camp areas.

The question before this Board is, can these special exceptions be granted within the provisions of Section 502.1 of the Baltimore County Regulations which governs the granting of same?

Seven witnesses testified on behalf of the Petitioner and described the activities that now take place at the Club and those that are proposed if the special exceptions so petitioned here might be granted. Great detail was provided about the operation of the swim club, both how it had existed before the Kiwanis Club bought this property and how same has been operated since the Club has owned same. One point of interest in this testimony was, for example, a peak day in 1971 brought twelve hundred

Kiwanis Club of Loch Raven, Inc. - No. 73-294-X

ORDER

For the reasons set forth in the foregoing Opinion, it is this 11th day of September, 1974, by the County Board of Appeals ORDERED, that the Special Exception for the Community Building and Swimming Pool should be and the same is hereby GRANTED for the following described property:

"Beginning for the same at a pipe set at the end of the first line of the parcel of land conveyed by Bonackburne Lane Corporation, Inc. to the Kiwanis Club of Loch Raven Inc. by deed dated March 24th, 1965 and recorded among the Land Records of Baltimore County, said point of beginning being distant North 07 degrees 15' East 56 feet, more or less, measured along the first line of said deed from the North side of Baublitz Road, their situate; and said point of beginning being also South 30 degrees 30' West 1468.50 feet from the Northwest corner of the intersection of Dover Road and Baublitz Road; and running thence: South 07 degrees 15' East 1617.00 feet; thence bending westerly on the Sixth, Fifth, Fourth, Third, and Second lines of said deed. The five following curves and distances, namely: South 84 degrees 7' East 350 feet to a pipe, North 07 degrees 15' East 250 feet to a pipe, North 84 degrees 7' West 850 feet to a pipe, North 07 degrees 15' East 1465.04 feet to a pipe, South 85 degrees 30' West 513.68 feet to the place of beginning containing 24 acres, more or less."

Subject to the following restrictions:

1. That all operations and activities of any kind shall cease upon the subject property no later than 11:30 p.m. each day.
2. The public address system shall not operate after 10:00 p.m. except in the case of clear emergency. The public address system must be controlled at all times under the close supervision of the pool manager so as not to create a nuisance in the community.
3. That a site plan as approved by the Department of Public Works and the Office of Planning and Zoning, and any other pertinent County agencies.
4. The Health Department shall closely monitor the water usage and the proper functioning and full operation of the private sewage disposal system. This Special Exception is contingent upon the property owner obtaining all the necessary permits from the regulatory agencies, particularly the County and State Health Departments.

It is FURTHER ORDERED, that the petition for Special Exception for

Kiwanis Club of Loch Raven, Inc. - No. 73-294-X

seventy-eight people to the pool; however, the average daily attendance is about four hundred and three for the eighty-eight days that the pool was open during that year. The pool is not a public admissions arrangement but is available only to members who join for the season. The maximum number of members now has been set by the Club's Board of Governors at six hundred families. The season is roughly from Memorial Day through Labor Day. Lengthy testimony concerning the well water and septic system at the pool, both now and how it had previously existed, were rendered. The day camp proposal at a maximum night entail usage by one hundred fifty daily campers, plus the necessary staff. The Petitioner looks upon the operation of this property as a profit making venture, and, of course, the funds raised from this venture are returned to the community through the services of the Kiwanis Club. Shortly after the purchase of the pool area in 1964 the Club spent some considerable sums in repairing same in order to meet Health Department regulations which apparently were not being complied with at the time of purchase. Since this time, however, the Health Department has sanctioned the operation of the pool at the subject site.

Of the seven witnesses that testified for the Petitioner, five were Club members, each possessing various fields of expertise concerning the operation of the Club and its effect upon the community. A witness from the Baltimore County Department of Health, and a witness who would operate the Camp if this portion of the petition would be granted, also testified on behalf of the Petitioner.

This hearing before the Board took two full days. Eight witnesses for the Protestants aired various points of interest to this Board. At least two of these Protestant witnesses brought particular expertise in engineering and traffic for the benefit of the Board. Generally the witnesses described the existing operation at the subject property, and tantamount in their minds were problems with excessive noise, excessive and abusive use of the loud speaker system, added trash and litter blowing onto their properties and onto the County roads; severe concern about the low water table problems, which seemingly have plagued this particular area for many years, and great concern about sewage overflows from the at times apparently failing system at the subject property; concern for the pollution of the

Kiwanis Club of Loch Raven, Inc. - No. 73-294-X

Outdoor Recreation Club, including Quasi-Public Day Camp, be and the same is hereby DENIED in toto.

Any appeal from this decision must be in accordance with Chapter 1100, subtitle B of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Walter A. Reiter, Jr., Chairman
Walter C. Horn, Jr.

Kiwanis Club of Loch Raven, Inc. - No. 73-294-X

stream at the south side of the subject property was particularly noted. At times the activities at this pool have apparently gone long past midnight and into the early morning hours. This was of great concern to the neighbors. The subject area is rural and one in which such sounds would logically travel very easily.

Lloyd C. Knabe, Jr., a mechanical engineer and a registered professional engineer in the State of Maryland, is a nearby resident, and testified in opposition to the granting of the special exceptions at the subject property. The testimony of Mr. Knabe is particularly interesting to this Board, as same is rather detailed concerning the possible effects of this operation upon the water and the private sewage disposal systems. Mr. Knabe pointed out that due to some failings of either the prior owner or of the Kiwanis Club that Baltimore County seems to have little or no information concerning the exact private sewage disposal system now existent at the subject property. The conclusion of Mr. Knabe is that there is seemingly just as good a chance of serious overflow as there is a chance that the system at the subject property will function well for a long period of time. Mr. Knabe had completed a study concerning the usage of this private sewage disposal system which might be anticipated from the pool alone, as well as the water requirement at this pool, it being another conclusion of Mr. Knabe that it is just not equitable for one property owner to take this much water out of the ground in an area where well water has been a problem through the years. The pollution of nearby streams from the potential sewage overflow was also discussed by Mr. Knabe.

Mr. Knabe and one Colonel Albert E. Holtz testified concerning the traffic generated by the existing operation and the eventual traffic that might be generated if this operation were to be expanded to include a day camp facility. Colonel Holtz has experience in traffic, which is duly noted in this record. Details concerning this traffic and its detrimental effect upon the neighborhood were provided at some length by these witnesses.

This Board has carefully and with great concern weighed the testimony and evidence in this case, and, as will be noted through a dissenting opinion, even at this time cannot unanimously agree upon the disposition. The majority of the Board will affirm in part by granting the special exception for the swimming pool operation, and reverse in part

RE: PETITION FOR SPECIAL EXCEPTION :
for Community Building, Swimming Pool
and Outdoor Recreation Club, including :
Quasi-Public Day Camp :
S/S of Baublitz Road 1468.5 feet West :
of Dover Road :
4th District :
BALTIMORE COUNTY
Kiwanis Club of Loch Raven, Inc. :
Petitioner : No. 73-294-X

PARTIAL DISSENT

This member of the Board is in complete agreement with the granting of the special exception for the community building and swimming pool, with restrictions, but dissents from the majority of the Board with respect to the denial of the special exception for the day camp for children.

Since day camps are greatly needed in Baltimore County, and the Zoning Regulations allow them in an R.D.P. zone by way of special exception, I find as a fact that the Petitioners in this case have met the burden of proving conformance with all of the provisions of Section 502.1 of the Zoning Regulations. Certainly the record of the Kiwanis Club would indicate that there could be no better sponsorship of such an operation, and if special exceptions are to be granted solely on the basis of objections by other land owners in the vicinity, we would never have any day camps in Baltimore County.

I therefore find that the Board should have granted the special exception with respect to the day camp.

W. Giles Parker

Dated: September 11, 1974

Kiwanis Club of Loch Raven, Inc. - No. 73-294-X

the Zoning Commissioner's Order by denying the special exception for the day camp operation. It is the feeling of the majority of this Board that while the Kiwanis Club has improved the conditions at the subject property since they began operation some ten years ago, said Club has not been the best neighbor that one might hope for. The Club, through its own witnesses, seems ready to admit that they have failed in some aspects of the pool's management, and as a result of same have perhaps been somewhat of a detrimental influence upon the rural community life that adjoins this subject property on all sides. On the other hand, this Board can frankly think of fewer locations that would be better suited for the pool operation than that at the subject property. While it is true a potential problem on water usage and waste disposal is present, it would seem that the property, if properly managed, could handle the operation as it now exists at this location.

The majority of the Board is sympathetic with the petition put forth by the Kiwanis Club because the good works and voluntary efforts and services rendered by and through this Kiwanis Club are well known to this Board and, of course, the scope of Kiwanis activity is virtually world wide. This element is no small part of this Board's decision to grant the special exception for the swimming pool operation and thereby legitimize this activity which now takes place at the subject property. The Board will, however, place several restrictions upon this pool operation.

The majority of this Board, after long deliberation has decided not to grant the special exception for the day camp operation. It would seem inequitable to extend the quasi-commercial use of this property further until such time as the Kiwanis Club has proved itself to be good neighbors by the proper operation of the swimming pool and community building. The Petitioner, from the evidence presented, does not seem able to assure the principles set out in Section 502.1. Same are necessary if this special exception is to be granted.

Without further detailing its reasoning, the majority of this Board will pass an Order in accordance with the conclusions set out above.

LAW OFFICES
W. LEE HARRISON
300 WEST JOPPA ROAD
TOWNSHIP, MARYLAND 21204
September 14, 1973

Mr. John A. Slowik, Chairman
County Board of Appeals
County Office Building
111 W. Chesapeake Avenue
Towson, MD 21204

Re: Petition for Special Exception
S/S of Baublitz Road, 1468.5'
W of Dover Road - 4th District
Kiwanis Club of Loch Raven, Inc.
Petitioner - No. 73-294-X

Dear Mr. Slowik,

Please enter my appearance as attorney for the Protestants in the above captioned case.

Yours truly,

W. Lee Harrison

WLH/cs

c/o Ernest C. Trimble, Esquire
305 W. Pennsylvania Avenue
Towson, MD 21204

Rec'd 9-17-73
10 10 AM

For the reasons set forth in the foregoing Opinion, it is this 4th day of March, 1976, by the County Board of Appeals ORDERED, that the Special Exception for the Outdoor Recreation Club, including a Quasi-Public Day Camp, be and the same is hereby GRANTED, subject to the following conditions and restrictions:

1. That the operation of the day camp is hereby restricted and limited to the term of ownership by the Kiwanis Club of Loch Raven, Inc., and any such time in the future that

THIS DECLARATION made this day of February, 1976 by the KIWANIS CLUB OF LOCH RAVEN, INC., a Maryland Corporation, (hereinafter referred to as "Kiwans Club").

WHEREAS, the Kiwanis Club is the owner of fifty (50) acres of land, more or less, situate on Baublitz Road in the Fourth Election District of Baltimore County, acquired from Wilbur Baublitz and wife by deed dated September 1, 1971 and recorded among the Land Records of Baltimore County in Liber O.T.G. No. 5214, folio 821; and

WHEREAS, the Kiwanis Club has been granted a Special Exception on the aforementioned property in accordance with Article 1A00-2B10 of Bill 100 of the County Council of Baltimore County; and

WHEREAS, the Board of Appeals of Baltimore County has placed certain restrictions on the use of the property in connection with the Special Exception hereinbefore mentioned and there exists some concern as to whether or not the Board of Appeals has the authority to pass a restriction limiting the Special Exception to the period of ownership of the Kiwanis Club, and the Kiwanis Club is willing to acknowledge its acceptance of this restriction by recording same among the Land Records of Baltimore County.

NOW THEREFORE THIS AGREEMENT WITNESSETH:

1. That the Kiwanis Club hereby covenants and agrees as follows:

That the operation of the day camp is hereby restricted and limited to the term of ownership by the Kiwanis Club of Loch Raven, Inc., and any such time in the future that said Kiwanis Club of Loch Raven, Inc., divests, sells, leases or otherwise transfers said property to another interest, the camp Special Exception will automatically expire.

Kiwanis Club - #73-294-X (#5389)

2.

- Mar. 3, 1974 Hearing on appeal before County Board of Appeals
- Apr. 11 Continued hearing " " " " " case held sub curia
- Sept/ 11 Order of County Board of Appeals granting special exception in part
- " 11 Partial Dissent to Board's Order by W. Giles Parker, Esq.
- Oct. 14 Order for Appeal filed in Circuit Court for Baltimore County by Ernest C. Trimble, Esq., attorney for Petitioner
- " 17 Certificate of Notice sent to all interested parties
- " 23 Petition to accompany Order for Appeal filed in the Circuit Court for Baltimore County
- Nov. 8 Transcript of testimony filed - 1 volume
- Petitioner's Exhibit No. 1 - Plat of subject property prepared by F. W. V. Borekran - Drawn 2/28/73, Rev. 3/30/73 - Item 199
- " " " 2 - 1" - Official 200' scale sheet, NW 14-F = photogrammetric map (Zoning Dept.)
- " " " 3 - Report signed by Frederick A. Moran, State Dept. of Health (submitted 4/11/74 without objections)
- " " " 4 - Mt. Geological Survey of Wells in subject area
- Protestants' Exhibit A - Circular entitled "Kiwans V. Day Farm - A Day Camp for Boys & Girls"
- " " B - Report of Minimum Water and Sewage Requirements (3 pg. document by Lloyd C. Knabe, Jr.)
- " " C - "Public Swimming Pools and Bathing Beaches", Balto. Co. Dept. of Health, 1970, including pamphlet
- " " D - Three pages extracted from Plumbing Code
- " " E - Photocopy of 2 permits (5/11/59 and 6/14/60)
- " " F - Dodge Report dated 3/10/59 relative to subject property
- " " G - Photograph showing 2 cars on Baublitz Rd.
- " " H - 4 photographs depicting various parking conditions on Labor Day 1973
- " " I - Document - Mt. Geological Survey - Report of Investigations No. 10 - U.S. Dept. of Interior 1969
- " 12 Record of proceedings filed in Circuit Court for Baltimore County

AS WITNES the signature of the President of Declarant the day and year first above written.

ATTEST: KIWANIS CLUB OF LOCH RAVEN, INC.
By: G. PAUL COX, PRESIDENT (SEAL)

STATE OF MARYLAND, COUNTY OF BALTIMORE, ss:

On this day of February, 1976, before me, the subscriber, a Notary Public of the State and County aforesaid, personally appeared G. PAUL COX, President of the Kiwanis Club of Loch Raven, Inc., and he being authorized so to do, on behalf of said Declarant, did acknowledge the aforesaid Declaration to be the act and deed of said Declarant.

My Commission Expires: Notary Public
7-1-78

Rec'd 2/6/76
2 pgs (Hand Delivered)

- 2 -

Kiwanis Club - #73-294-X (#5389)

3.

Record of proceedings pursuant to which said Order was entered and said Board acted are permanent records of the Zoning Department of Baltimore County, as are also the use district maps, and your respondents respectively suggest that it would be inconvenient and inappropriate to file the same in this proceeding, but your respondents will produce any and all such rules and regulations, together with the zoning use district maps at the hearing on this petition, or whenever directed to do so by this Court.

Respectfully submitted,

Muriel E. Buddemeier
County Board of Appeals of Baltimore County

RE: PETITION FOR SPECIAL EXCEPTION IN THE
for Community Building, Swimming Pool and Outdoor Recreation Club, including : CIRCUIT COURT
Quasi-Public Day Camp
5/5 of Baublitz Rd. 1468.5 feet West : FOR
of Dover Road : BALTIMORE COUNTY
4th District :
Kiwans Club of Loch Raven, Inc. : AT LAW
Petitioner - Appellant : Misc. Docket No. 9
Zoning File No. 73-294-X : Folio No. 472
: File No. 5389

ANSWER TO ORDER OF APPEAL TO CIRCUIT COURT FOR BALTIMORE COUNTY AND CERTIFIED COPIES OF PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND BOARD OF APPEALS OF BALTIMORE COUNTY

Mr. Clerks

Please file, &c.

Muriel E. Buddemeier
County Board of Appeals of Baltimore County

cc: Ernest C. Trimble, Esq.
W. Lee Harrison, Esq.
Zoning - B. Anderson

RE: PETITION FOR SPECIAL EXCEPTION IN THE
for Community Building, Swimming Pool and Outdoor Recreation Club, including : CIRCUIT COURT
Quasi-Public Day Camp
5/5 of Baublitz Road 1468.5 feet West : FOR
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4th District :
Kiwans Club of Loch Raven, Inc. : AT LAW
Petitioner - Appellant : Misc. Docket No. 9
Zoning File No. 73-294-X : Folio No. 472
: File No. 5389

CERTIFICATE OF NOTICE

Mr. Clerks

Pursuant to the provisions of Rule 1101-8(4) of the Maryland Rules of Procedure, Walter A. Reiter, Jr., Chairman, W. Giles Parker and Walter C. Horn, Jr., constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, Ernest C. Trimble, Esq., 305 W. Pennsylvania Avenue, Towson, Maryland, 21204, attorney for the Petitioner, and W. Lee Harrison, Esq., 401 Washington Avenue, Towson, Maryland, 21204, attorney for the Protestants, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

Muriel E. Buddemeier
County Board of Appeals of Baltimore County
County Office Building, Towson, Md. 21204
Tel. - 494-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Ernest C. Trimble, Esq., 305 W. Pennsylvania Avenue, Towson, Maryland, 21204, attorney for the Petitioner, and W. Lee Harrison, Esq., 401 Washington Avenue, Towson, Maryland, 21204, attorney for the Protestants, on this 17th day of October, 1974.

cc: Trimble, Esq.
Harrison, Esq.
Ms. Anderson, Zoning
Werneth, Plg.

Muriel E. Buddemeier
County Board of Appeals of Baltimore County

RE: PETITION FOR SPECIAL EXCEPTION IN THE
for Community Building, Swimming Pool and Outdoor Recreation Club, including : CIRCUIT COURT
Quasi-Public Day Camp
5/5 of Baublitz Rd. 1468.5 feet West : FOR
of Dover Road : BALTIMORE COUNTY
4th District :
Kiwans Club of Loch Raven, Inc. : AT LAW
Petitioner - Appellant : Misc. Docket No. 9
Zoning File No. 73-294-X : Folio No. 472
: File No. 5389

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Walter A. Reiter, Jr., W. Giles Parker and Walter C. Horn, Jr., constituting the County Board of Appeals of Baltimore County, and in answer to the Order of Appeal directed against them in this case, herewith return the record of proceedings had in the above entitled matter, consisting of the following certified copies or original papers on file in the office of the Zoning Department of Baltimore County:

ZONING ENTRIES FROM DOCKET OF ZONING COMMISSIONER OF BALTIMORE COUNTY

No. 73-294-X

- Apr. 20, 1973 Petition of Kiwanis Club of Loch Raven, Inc. for special exception for community building, swimming pool and outdoor recreation club, including a quasi-public day camp, on property located on the south side of Baublitz Road 1468.5 feet west of Dover Road, 4th District - filed
- " " Order of Zoning Commissioner directing advertisement and posting of property - date of hearing set for June 6, 1973 at 11:00 a.m.
- May 17 Certificate of Publication in newspaper - filed
- " 19 Certificate of Posting of property - filed
- " 22 Comments of Baltimore County Zoning Advisory Committee - filed
- " 25 " " " Planning Office - filed
- June 6 At 11:00 a.m. hearing held on petition by Zoning Commissioner - case held sub curia
- " 20 Order of Zoning Commissioner granting petition, with restrictions
- July 20 Order of Appeal to County Board of Appeals from Order of Zoning Commissioner

ORDER OF APPEAL

MR. CLERK:

Please enter an Appeal to the Circuit Court for Baltimore County on behalf of the Kiwanis Club of Loch Raven, Inc. from that portion of the Order of the County Board of Appeals dated September 11, 1974 which denied the Petitioner's request for a Special Exception for an outdoor recreation club, including quasi-public day camp.

Ernest C. Trimble
305 W. Pennsylvania Avenue
Towson, Maryland 21204
825-5512
Attorney for Petitioner

I HEREBY CERTIFY that on this 14th day of October, 1974 a copy of the foregoing Order of Appeal was delivered to the Baltimore County Board of Appeals, County Office Building, Towson, Maryland 21204 and to W. Lee Harrison, Esquire, 306 W. Joyce Road, Towson, Maryland 21204, Attorney for Protestants.

Ernest C. Trimble

Rec'd 10-14-74
2:55 PM

PETITION FOR SPECIAL EXCEPTION
FOR COMMUNITY BUILDING
SWIMMING POOL AND OUTDOOR
RECREATION CLUB INCLUDING
QUASI-PUBLIC DAY CAMP
S/S OF BAUBLITZ ROAD 1468.5 FEET
WEST OF DOVER ROAD
4th DISTRICT
KIWANIS CLUB OF LOCH RAVEN, INC.
PETITION
NO. 73-294-X

ORDER FOR APPEAL

Mr. Clerk:

Please note an appeal to the Court of Special Appeals for Maryland from the Opinion of the Honorable Frank E. Cicoue, on March 14, 1975, on behalf of Marion X. Miller, Cleo Heffner, Alene W. Kornmann, Lloyd C. Kanabe, Jr., June Wilhelm, Betty Beck and Albert E. Holtz, Protestants in the above matter.

W. Lee Harrison
W. Lee Harrison
401 Washington Avenue
Suite 601
Towson, MD 21204
823-1200
Attorney for Appellants

I HEREBY CERTIFY, that on this 14th day of April, 1975 a copy of the foregoing Order for Appeal was mailed to Ernest C. Trimble, Esquire, 305 West Pennsylvania Avenue, Towson, Maryland 21204.

W. Lee Harrison
W. Lee Harrison

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
Misc. 9/472/5389

PETITION OF APPEAL
The Petition of the Kiwanis Club of Loch Raven, Inc., by Ernest C. Trimble and Whiteford, Taylor, Preston, Trimble & Johnston, its attorneys, filed pursuant to the Maryland Rules of Procedure, respectfully represents:

1. That this Petition of Appeal is in support of the Order for Appeal filed on October 14, 1974 in the above entitled case and from that part of the Order of the Board of Appeals denying a requested Special Exception for an outdoor recreation club, including a quasi-public day camp.

2. That that part of the Order of the County Board of Appeals of Baltimore County denying the requested Special Exception for an outdoor recreation club, etc., was arbitrary, capricious and illegal for the following reasons:

- The Order of the Board is contrary to the evidence.
- That the Order of the Board was against the weight of the evidence.
- The Order of the Board is contrary to the law.
- ... Board having granted the Special Exception for a community building and swimming pool based upon all of the

Rec'd 10-22-74
11:55 am

evidence, was required to find favorably on the request for the outdoor recreation activities, etc.

e. That the decision of the majority of the Board was arbitrary is disclosed by the opinion of the dissenting member of the Board and the facts presented by the Appellant which required the conclusion that no better location and no better sponsor could be found for a day camp as contemplated by the zoning regulations.

f. That the decision of the majority of the Board was arbitrary, because as recognized by the dissenting member, day camps are greatly needed in Baltimore County, affirmative evidence was produced by the Appellant to show that they had the personnel, the program and the facilities to easily accommodate one hundred and fifty (150) day campers.

g. AND FOR OTHER good and sufficient reasons to be assigned at a hearing hereof.

WHEREFORE, the Appellant prays that this Honorable Court reverse the Order of the Board of Appeals and grant the requested Special Exception for an outdoor recreation club, including quasi-public day camp, requested by the Appellant.

WHITEFORD, TAYLOR, PRESTON,
TRIMBLE & JOHNSTON

By: *Ernest C. Trimble*
Ernest C. Trimble

I HEREBY CERTIFY that on this 22nd day of October, 1974 a copy of the foregoing Petition of Appeal was mailed to the Baltimore County Board of Appeals, County Office Building, Towson, Maryland 21204 and to W. Lee Harrison, Esquire, 306 W. Joppa Road, Towson, Maryland 21204, Attorney for Protestants.

Ernest C. Trimble
Ernest C. Trimble

- 2 -

June 20, 1973

Ernest C. Trimble, Esquire
305 West Pennsylvania Avenue
Towson, Maryland 21204

Re: Petition for Special Exception
S/S of Baublitz Road, 1468.5'
W of Dover Road - 4th District
Kiwanis Club of Loch Raven, Inc.
Petitioner
NO. 73-294-X (Item No. 199)

Dear Mr. Trimble:

I have this date passed my Order in the above captioned matter in accordance with the attached.

Very truly yours,

S. ERIC DI NENNA
Zoning Commissioner

SED:bab

Attachment

cc: Colonel Albert E. Holtz
Route 1, Box 114
Ridgely, Maryland 21136

PROTESTANT'S
EXHIBIT C



Kiwanis Valley Farm
1468.5 Feet West of Dover Road, Ridgely, Maryland 21136, (301) 252-3555
(in beautiful Worthington Valley)

May 10, 1973

Mrs. Fred Wright
Dover Road - Rt. 1, Box 69
Ridgely, Maryland 21136

Dear Mrs. Wright:

President Bill Gray of the Loch Raven Kiwanis has advised me of your interest and concern about the rezoning of land owned by the Club. I would like to take this opportunity to describe the purposes and programs envisioned by the Club.

As you know, Kiwanis Clubs are interested in the communities in which they live. We have operated the pool in your area and have tried to be good neighbors. If this is not true we would certainly like to know about it so we can correct any problems. Part of our zoning will simply zone this property for its current use as a pool and as it has been a non-conflicting use. That is, a legal use based upon the fact that it was used for a pool prior to the new zoning ordinance. The other part of the zoning related to the farm purchased from Mr. Baublitz. When Mr. Baublitz indicated that he was going to sell his farm, the Kiwanis Club became concerned, as I am sure you are, as to what might happen. After much study and I might add searching, the Club decided to make this very large investment as a project to preserve it as a rural property and to use it for appropriate community service. It would also only be honest to say that we also believed that this would serve as a protection to our pool property as we obviously now have a very large interest in maintaining property values in the area.

The misunderstanding which may exist with you and other of our neighbors seems to be about the proposed program for the property. Many have been given the wrong information, or not the whole story. This is probably my fault for not communicating with you sooner. Many ideas were of course discussed and each discussion I suppose could be a source of a rumor. However, the club now has developed careful plans when I am happy to outline below in the order in which we plan to accomplish these goals.

Day Camp: Studies show that for children from ages 7-11 there are only limited summer activities or camping facilities. For example, Cub Scouts have no summer camping program, and Little League is relatively inactive in the summer. We therefore, wish to start a day camp for children living in our area of Baltimore County.

Mrs. Fred Wright
May 10, 1973
Page - 2

A brochure is enclosed describing this camp for which we will charge fees. There is a well supervised program as you can see. Some consideration will be given to those children who cannot pay the fee, and a small number of underprivileged children will be sponsored by various Kiwanis Clubs. However, since the camp must be self-supporting the majority of children will be paying fees. As a matter of fact, fees are being charged for Kiwanis's children, who will be attending. In short we do not wish to run a camp primarily for underprivileged children rather one for all children in our county area. Our focus will be on groups such as Cub Scouts, 4-H, Brownies, Little League, Churches and the like.

Farm: We also wish to preserve the appearance as a farm and to this end, plan to plant 15 acres of corn this summer and to start with a few animals to provide the experience for youngsters offered by the farm environment.

Environmental Projects - Camping - Senior Citizens: After this year we hope to provide a setting for senior citizens to get out on the farm for a day, and perhaps participate in activities. We also hope legitimate supervised groups such as Boy and Girl Scouts and 4-H would use the property for camping and projects to improve the environment. As time passes other community oriented projects will probably develop as needs change. In any case, all of these activities would be controlled both in size and activity by our full time manager.

You must agree this is a worthwhile project that will offer services to your community. I can only say Kiwanis is a concerned, community oriented organization of business and professional people. Our interest has been and will continue to be directed toward being good neighbors. I would be happy to talk to you further, come to a meeting, or do anything, to assure you of this, but I believe our recognition and our integrity in representing the adjoining pool speaks for itself. Our concerns are the same as yours, our purpose is to preserve the rural setting and provide a service to our communities.

You will probably see notices that a zoning hearing will take place in June. We are requesting rezoning of our entire property for the above purposes as this was suggested by the zoning people. I certainly hope you would favor us with your support as we believe this use will be the optimal practical way to preserve the open space we now have and therefore the maximum value for our neighborhood.

If you have any questions, please call me - home phone 825-0005.

Sincerely,

William D. Fromm
W. D. Fromm
Farm Director

WDF/cp

cc: William Gray
Burt Oatman
Paul Crooner
Ernest Trimble
Henry Krumholz

P.S. Legally speaking, when I refer to rezoning above the accurate legal terminology is that we are seeking a special exception not rezoning.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: S. Eric DiNenna, Zoning Commissioner Date: May 25, 1973
FROM: William D. Fromm, Director
Office of Planning and Zoning
SUBJECT: Petition 73-294-X - South side of Baublitz Road, West of Dover Road. Petition for Special Exception for Community Building, Swimming pool and outdoor recreation club including a quasi-public Day Camp.
Petitioner - Kiwanis Club of Loch Raven, Inc.

4th District

HEARING: Wednesday, June 6, 1973 (11:00 A.M.)

The staff of the Office of Planning and Zoning has reviewed the above petition and has the following comment to make.

The requested use is compatible with the surrounding land use character. If the proofs of Section 502.1 are met, the granting of this request should be conditioned to the approval of a site plan which provides screening for the north and western edge of the parking area.

William D. Fromm
William D. Fromm, Director
Office of Planning and Zoning

WDF:NEG:rw

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 4th Date of Posting: August 20, 1973
Posted for: APPEAL
Petitioner: KIWANIS CLUB OF LOCH RAVEN, INC.
Location of property: S/S OF BAUBLITZ RD. 1468.5 W. OF DOVER RD.
Location of Signs: 100' E. OF EAST OF MAIN ENTRANCE, 300' E. OF EAST OF MAIN ENTRANCE.
Remarks: *William D. Fromm*
Posted by: *William D. Fromm* Date of return: Aug 30, 1973

MAY 10 1976

REPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 200

September Term, 1975

MARION X. MILLER, ET AL

v.

KIWANIS CLUB OF LOCH RAVEN, INC.

Orth,
Gilbert,
Melvin,
JJ.

Opinion by, Melvin, J.

Filed: December 2, 1975

operation, apparently as a non-conforming use (although there is some indication it was not a legal non-conforming use), and the principal reason for requesting the community building and swimming pool exception was to "legitimize" its present operations on the 24 acres.

The County Board of Appeals granted the special exception for the community building and swimming pool, subject to restrictions concerning their operation. No appeal was taken from that decision. As already stated, however, Kiwanis appealed to the Circuit Court for Baltimore County the denial of the special exception for a day camp which it wishes to operate on the remaining 51 acres. It appears, however, that the swimming pool facilities would also be used to some degree by the day campers.

The 51 acre tract is contiguous to the 24 acre tract and was acquired in 1971, at which time it was being operated as a farm by the former owner.

Sections 502.1 and 502.2 of the county zoning regulations set out the applicable provisions dealing with the granting of special exceptions in Baltimore County:

"502.1 - Before any Special Exception shall be granted, it must appear that the use for which the Special Exception is requested will not:

- a. Be detrimental to the health, safety, or general welfare of the locality involved;
- b. Tend to create congestion in roads, streets, alleys therein;
- c. Create a potential hazard from fire, panic, or other dangers;
- d. Tend to overcrowd land and cause undue concentration of population;
- e. Interfere with adequate provisions for schools, parks, water, sewerage, transport-

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Q. (By Mr. Parker) Actually it would be your optimum number at any one time, 50?

A. That is what we are striving for.

Q. On any given day you would want 50?

A. Yes. That is the way I can see it, and that is the direction in which we are going.

"Q. Do you have any plans, incidentally, for the transportation, if we have a day camp?

A. Yes, we had planned on using a school bus.

Q. They, the children, would accumulate at some church, and come out on the bus?

A. Yes. We would prearrange pickup points and pick the children up, and bring them out to the camp in a school bus." (Emphasis supplied.)

In denying the special exception for the day camp, the majority of the Board gave as its only reasons: "It would seem inequitable to extend the quasi-commercial use of this property further until such time as the Kiwanis Club has proved itself to be good neighbors by the proper operation of the swimming pool and community building. The Petitioner, from the evidence presented, does not seem able to assure the principles set out in Section 502.1. Same are necessary if this special exception is to be granted." (Emphasis added.) We are not told by the Board which, if any, of the specific requirements of Section 502.1 the proposed use of the property fails to meet.

2. One member of the three-member Board dissented.

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problem with water supply for its operations on the property. There was no probative evidence that Kiwanis' use of its wells has had any adverse effect on the wells or any adjoining properties, or that the day camp would have any such effect.

With respect to Kiwanis' sewer system, there was evidence that in the summer of 1973 there was "a sewerage overflow at the swimming club". It is uncontradicted, however, that this was accidentally caused by heavy trucks running over and crushing a portion of the underground system. The system has been repaired by installing "a brand-new distribution box" and "all new piping" and "an additional seepage pit", making a total of seven seepage pits. A report from the Department of Mental Health and Hygiene, made before the seventh pit was installed, stated:

"Except for a period when only two of six seepage pits were working following the accident, the six pits have satisfactorily taken the sewage load of existing populations at the pool. A plan is soon to be set in motion to put in an additional seepage pit. A total of seven pits will insure proper sewage disposal at this location. Such plans and installations are subject to approval of the county health authority." (Emphasis supplied.)

One of the protestants testified that his examination of the applicable provisions of the Baltimore County Plumbing Code and information he obtained from "local well drilling companies" led him to the conclusion that granting the special exception (including the swimming pool and community building) would result in the "probability" that the present ground water table will be lowered to a point where many adjacent property

- 4 -

SUPRA. Judge Davidson said, at 617:

"The conditional use or special exception is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The special exception is a valid zoning mechanism that delegates to an administrative board a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or circumstance negating the presumption. The duties given the Board are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan.

Whereas, the applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. Rockville Fuel, supra, at 257 Md. 151, 262 A. 2d 503. If he shows to the satisfaction of the Board that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest, he has met his burden. The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the Board to decide. But if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, the denial of an application for a special exception is arbitrary, capricious and illegal."

Applying these standards to the case before us we find that the Board's action in denying the special exception for a day camp was unsupported by substantial evidence and was not fairly debatable. We shall therefore affirm the judgment of the trial court reversing that action.

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an R.D.P. zone (without the requirement of a special exception therefor) which would undoubtedly create as much or more traffic than a day camp, operating eight weeks of the year with 50 children on 75 acres at any one time. Among these permitted uses are "one-family detached dwellings", "Hospitals" and "Schools". As we said in *Gow v. Atlantic Richfield Co.*, 27 Md. App. 410, 417 (1975):

"We recognize that traffic impact is a sufficient basis to deny a zoning application, including application for a special exception. *Templeton v. County Council*, 21 Md. App. 636, 321 A. 2d 778 (1974); *Kennick v. Board of Zoning Appeals*, 212 Md. 6, 128 A. 2d 256 (1956); *Hardesty v. Zoning Board*, 211 Md. 172, 126 A. 2d 621 (1956). But traffic impact on an application for a special exception ought to be measured against that which could arise under permissible use, and not merely on existing traffic loads around the undeveloped premises. Where, as here, the potential volume of traffic under the requested use would appear to be no greater than that which would arise from permitted uses, we believe it arbitrary, capricious and illegal to deny the application for special exception on vehicular traffic grounds."

With regard to the Board's statement that permission to operate the day camp should await "such time as the Kiwanis Club has proved itself to be good neighbors by the proper operation of the swimming pool and community building", we can only assume the Board has in mind the possibility that Kiwanis will not abide by the restrictions placed upon it by the Board's order granting the special exception for the swimming pool operation

- 6 -

A. It was concurrent. We did not purchase the property until we felt that there would be some useful purpose served for the community.

The final decision regarding using it as a day camp, however, was after we purchased it, but as part of our purchase we felt there would have to be some use of the property to meet some of the expenses of having purchased this open space, - mainly the mortgage."

"... We also considered utilizing the property for senior citizens, for their benefit, which is another one of the aims of Kiwanis at this time. We decided that the most practical thing to do, and also something of value to the community, was to create a day camp for children from 7 to 11, as there do not appear to be these kind of resources, to any large degree, in Baltimore County.

Q. (By Mr. Reiter) Girls and boys?

A. Girls and boys, yes. We also decided that it would be most appropriate to preserve the farm atmosphere that exists already, in terms of preserving the environment as it now exists, and therefore we could continue to have some modest kind of farm operations, like planting corn and perhaps one or two, maybe more, animals, - that would preserve a farm setting for both senior citizens, perhaps to come to, have a regular activity, a day-to-day camp for 8 weeks a year, Monday through Friday, and not on the weekends.

This would be for not more than, and this really begins our imagination, to expect to get 150 campers. We anticipate, in reality, that it would be somewhere between 50 and 100 campers who would utilize the property.

We would have these campers do things, like plant trees and do other things that would improve the environment, and we would supervise groups, we would permit the Boy Scouts to come into the property and perform that activity, insofar as programs.

All of this would be done under the supervision and control of a full-time manager, at the property, whose responsibility would be to see that these

may think that burden has not yet been met is, in a legal sense, arbitrary and capricious.

While we shall affirm the trial court's reversal of the denial of the special exception for a day camp, we think it was inappropriate for the court to have itself imposed "conditions and restrictions" upon the use of the property for that purpose. Md. Rule B12 provides that in hearing appeals, such as this, the trial court "shall affirm, reverse or modify the action appealed from, remand the case to the agency for further proceedings, or dismiss the appeal as now or hereafter provided by law". We do not intimate the conditions and restrictions imposed by the trial court were reasonable or unreasonable. Rather we think the case should be remanded to the Board, pursuant to Section 502.2, "impose such conditions, restrictions or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties". The imposition of such conditions in the first instance is properly the function of the zoning authorities rather than that of the courts.

ORDER REVERSING DENIAL OF SPECIAL EXCEPTION AFFIRMED. CASE REMANDED FOR FURTHER PROCEEDINGS, BUT NOT TO THE VIEW EXPRESSED IN THIS OPINION.
COSTS TO BE PAID BY APPELLANTS.

5.

The same conditions, among others, were imposed by the zoning Commission, who had granted the special exception for the day camp.

This is an appeal from the order of the Circuit Court for Baltimore County reversing the action of the County Board of Appeals of Baltimore County denying the petition of Kiwanis Club of Loch Raven, Inc. (Kiwanis) for a special exception to operate a day camp upon a 75 acre tract of land zoned R.D.P. (Rural: Deferred-Planning) located on the south side of Baublitz Road approximately 1468 west of Dover Road, in the Fourth Election District of Baltimore County.

Section 1A00.2B(10) of Article 1A (Rural and Rural-Suburban Law - Intensity Zones) of the Baltimore County Zoning Regulations provides that in an R.D.P. zone, among other uses permitted as special exceptions, are the following:

- "10. Golf courses, country clubs, or other outdoor recreation clubs; also quasi public camps, including day camps."

The Kiwanis Club's petition for a special exception, in addition to the special exception for a day camp under Section 1A00.2B(10), also requested a special exception for a "community building and swimming pool, etc." on 24 acres comprising part of the 75 acre tract under Section 1A00.2B(b) which permits land in an R.D.P. zone to be used by way of a special exception for:

- "6. Community buildings, swimming pools, or other structural or land uses devoted to civic, social, recreational, or educational activities."

Kiwanis had acquired the 24 acres in 1964 from the Spring Valley Country Club which had operated a pool and country club thereon since about 1959. Kiwanis continued the swimming pool

tation or other public requirements, conveniences, or improvements;

- f. Interfere with adequate light and air.

502.2 - In granting any Special Exception, the Zoning Commissioner or Board of Zoning Appeals, upon appeal, shall impose such conditions, restrictions, or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties. The owner, lessee or tenant of the property for which a Special Exception is granted, if required by the Zoning Commissioner, or Board of Zoning Appeals, upon appeal, shall enter into an agreement in writing with said Zoning Commissioner and/or the County Commissioners of Baltimore County, stipulating the conditions, restrictions, or regulations governing such Special Exception, the same to be recorded among the land records of Baltimore County. The cost of such agreement and the cost of recording thereof shall be borne by the party requesting such Special Exception. When so recorded said agreement shall govern the exercise of the Special Exception as granted, as to such property, by any person, firm or corporation, regardless of subsequent sale, lease, assignment or other transfer."

In Turner v. Hammond, 270 Md. 41, 60 (1973) the Court of Appeals said: "The property owner [applicant for a special exception] has a prima facie right to enjoy the benefits of the special exception if he brings himself within the specific requirements of the ordinance". In Anderson v. Sawyer, 23 Md. App. 612 (1974) this Court, speaking through Judge Davidson, discussed the applicable standards for judicial review of the grant or denial of a special exception, as explicated by numerous decisions of the Court of Appeals, including Turner v. Hammond,

1. Pursuant to other provisions of the regulations the Board of Zoning Appeals is now known as the County Board of Appeals, with all the powers and functions of the Board of Zoning Appeals.

We hold that there was no substantial or probative evidence warranting the Board's conclusion. On the other hand, there was evidence from the Baltimore County Office of Planning and Zoning that the "requested use is compatible with the surrounding land use character"; evidence from an expert real estate appraiser, familiar with the area, "that this land, this total acreage, to be in the hands of the Kiwanis Club, to be developed in the way it is proposed to be developed, will enhance the value of the adjoining properties"; and a report from the Board of Education of Baltimore County that the special exception would result in "no adverse effect on student population." There was also affirmative evidence from the Maryland State Department of Health and Mental Hygiene that the day camp would not be "detrimental to the health, safety, or general welfare of the locality involved" and would not "tend to overcrowd land and cause undue concentration of population".

The chief concerns of the protestants seemed to be a fear that, since the property was not served by public water and sewer facilities, the water taken from the Kiwanis' wells would eventually cause a deficiency in the water supply of neighboring properties, and that the Kiwanis' sewerage facilities are inadequate to prevent overloading the septic system, potentially causing health problems in the form of pollution of neighboring well water and streams.

With respect to the water supply, the evidence in that water is supplied from two drilled wells, one 373 feet deep and the other 382 feet deep, and that Kiwanis has never had any

owners' well will run dry" and "the probable inability of the ground to absorb 36,500 gallons per day of sewage and swimming pool/will result in pollution of the present spring fed stream located at the rear of the property". As we have noted, there is no evidence that those feared conditions presently exist, nor indeed that there is more than a possibility (as opposed to probability) that they will ever exist. Under the circumstances such fears cannot be deemed substantial or probative evidence supporting the Board's denial of the special exception. Montgomery County v. Merlands Club, 202 Md. 279, 291-292 (1953).

Most of the testimony before the Board concerned that portion of the special exception relating to the community building and swimming pool. As we have stated, there was no appeal by any of the protestants from the granting of that special exception. There was much testimony by the protestants concerning the traffic congestion caused by the swimming pool operation and the expressed fear that the day camp would make a bad situation worse. A report in evidence from the Baltimore County Department of Traffic Engineering stated that "No major traffic problems are anticipated by the requested special exception for a community building, swimming pool, and outdoor recreational club [including a quasi-public day camp for Kiwanis Club]". In view of the fact that the day campers are to be transported in buses or car pools it seems patent that granting the special exception could hardly be said to "tend to create congestion in roads, streets, therein". (Section 502.1b). In addition, we note that there are many uses permitted as a matter of right in

Kiwanis' purpose in acquiring the 51 acres was described by Mr. Walter F. Williams, a member of the Kiwanis committee "that worked on the acquisition of the farm property":

"... When the club became aware that Mr. Baublitz, the former owner of the farm, was interested in selling the farm, we as a property owner were concerned about what would happen to this 51 acre, as I am sure everyone else in the neighborhood was concerned. We felt that the area which is now a golf course on one side, and our pool on the other, and generally an open space area, should be preserved."

For this reason we became interested in acquiring the farm, both in terms of our concern, I think for our own property value, but also in concern for the area in which we are situated. We felt that by keeping this space, which now consists not only of our own but also other open areas and open space, would be a real community service."

Therefore we negotiated with Mr. Baublitz, who had indicated that he might sell the property to developers.

He gave us, however, the first option to buy, and we purchased the property for the purpose of preserving open space at that time.

Q. What are the plans that the committee has developed, and what did they do in anticipation of being able to operate a day camp?

A. Well, we felt that as part of this operation that the space should be used in some way that would be useful for the community, and investigated a number of things. We made trips to day camps, we made a trip to a Kiwanis camp that is in Richmond, Virginia.

Since it was a farm, we talked with the County extension agents as to the possibility of potential uses to maintain it as a farm setting.

Q. (By Mr. Reiter) Out of curiosity, was this investigation made after you purchased and settled for the property?

on the 24 acres. These restrictions effectively blunted what appeared to be the more serious objections to the special exception voiced by the protestants, not only to the swimming pool operation but the day camp as well, those objections being noise from the loud speaker system and the fear of sewerage system deficiencies causing health problems, as well as to some degree the fear of a water deficiency in the area. If an applicant for a special exception meets its burden of satisfying the requirements of Section 502.1, as we think Kiwanis has in the present case, we find nothing in the Baltimore County Zoning Regulations placing upon it the added burden of proving that it will be "a good neighbor". To impose such a burden can only be termed illegal. To deny the special exception because the Board

3. These restrictions were:

"1. That all operations and activities of any kind shall cease upon the subject property no later than 11:30 p. m. each day.

2. The public address system shall not operate after 10:00 p. m. except in the case of clear emergency. The public address system must be controlled at all times under the close supervision of the pool manager so as not to create a nuisance in the community.

3. That a site plan be approved by the Department of Public Works and the Office of Planning and Zoning, and any other pertinent County agencies.

4. The Health Department shall closely monitor the water usage and the proper functioning and full operation of the private sewage disposal system. This Special Exception is contingent upon the property owner obtaining all the necessary permits from the regulatory agencies, particularly the County and State Health Departments."

4. Perhaps accounting for no appeal by the protestants from the Board's Order.

activities were controlled, that the day camp would not create any problems for anyone and would be a benefit to the community and a detriment to the neighborhood." (Emphasis supplied.)

Mr. Henry P. Krautwurst, "hired as a camp director for our hopefully day camp on our Kiwanis Farm" testified further concerning the proposed operation of the day camp:

"Q. Will you give the Board the benefit of what you would hope, what kind of operation you would hope to have and the program for the children, and how it would be conducted, and so forth?

A. Okay. The program is based on a day-camp operation. It is intended that the children will arrive in the morning around 9:00 o'clock, and spend the entire day at the farm, and leave at 4:00 in the afternoon."

When they arrive, we start out, I imagine, with swimming lessons in the morning. Then the day would progress and we would have activities like different types of ball games, softball, volleyball, badminton, archery, nature studies, arts and crafts, and some supervised free activity on the farm."

Q. (By Mr. Reiter) What are your projections for your camp, for its use, the numbers and quantities?

A. If we can get 50 children out there and keep it at 50 children, I think we will be going good for a while, insofar as the day-camp program is concerned.

Q. Do you have any input as far as the economic of it is concerned, is that a feasible number?

A. Let me refer to some information.

Now the camping season is 8 weeks long. As long as we keep our enrollment at 50 campers per 2-weeks session, that will give us an overall total number of 200 campers for the summer.

Q. (By Mr. Trimble) Fifty for 2-week sessions, with 4 sessions, that would be 200 children. So that would be 200 children that would pay for the summer?

KIWANIS VALLEY FARM
PROTESTANTS' EXHIBIT
CAMP FOR BOYS & GIRLS
AGES 7-11



Baltimore County, Maryland
Department of Public Works
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204

Division of Engineering
ELLSWORTH H. DIVER, P.E. CHIEF

May 10, 1973

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #199 (1972 - 1973)
Property Owner: Kiwanis Club of Loch Raven, Inc.
Dover Road and Baublitz Road
Present Zoning: R.D.P.
Proposed Zoning: Special Exception for 1A00.2B (6) and (10) community building and swimming pool, etc. and outdoor recreation club including a quasi-public day camp for Kiwanis Club
District: 4th W. Acres: 75 acres

Dear Mr. DiNenna:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

Highways:

Baoblitz Road, an existing public road, is proposed to be improved in the future as a 40-foot closed-type roadway cross-section on a 50-foot right-of-way. Highway improvements are not required at this time. Highway right-of-way for widening and any necessary reversible easements for slopes will be required in connection with any grading or building permit application. The plan must be revised to indicate the proposed highway right-of-way widening. Further information may be obtained from the Baltimore County Bureau of Engineering.

The entrance locations are subject to approval by the Department of Traffic Engineering and shall be constructed in accordance with Baltimore County Standards.

Sediment Control:

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Storm Drains:

Provisions for accommodating storm water or drainage have not been indicated on the submitted plan.

Storm Drains: (Cont'd)

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface water. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

In accordance with the drainage policy, the Petitioner is responsible for the total actual cost of drainage facilities required to carry the storm water run-off through the property to be developed to a suitable outfall.

Various drainage and utility easements, reservations are required through this property.

Open stream drainage requires a drainage reservation or easement of sufficient width to cover the flood plain of a 100-year design storm. However, a minimum width of 50 feet is required.

Water and Sanitary Sewer:

Public water supply and sanitary sewerage are not available to serve this property which is utilizing private onsite facilities.

This property is beyond the limits of the Baltimore County Metropolitan District and the Baltimore County Comprehensive Water and Sewage Plan for 1970-1980, Amended 1972.

Very truly yours,

Ellsworth H. Diver
ELLSWORTH H. DIVER, P.E.
Chief, Bureau of Engineering

END:SAN:PM:iss

cc: J. J. Treaner
D. E. Grise

W-SE Key Sheet
61, 62 & 63 NW 22, 23 & 1/4 P. 10. Sheets
NW 16 P. 10. 10
50 Tax Map

Baltimore County Fire Department



Towson, Maryland 21204

812-7310

J. Austin Deitz
Chief

Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Mr. Jack Dillon, Chairman
Zoning Advisory Committee

Re: Property Owner: Kiwanis Club of Loch Raven, Inc.

Location: Dover Road and Baublitz Road

Item No. 199

Zoning Agenda Tuesday, April 17, 1973

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "x" are applicable and required to be corrected or incorporated into the final plans for the property.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals of 100 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead-end condition shown at _____ ~~EXCEEDS~~ the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operations.
- (X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "The Life Safety Code", 1970 Edition prior to occupancy.
- () 6. Site plans are approved as drawn.
- () 7. The Fire Prevention Bureau has no comments at this time.

Reviewed: *St. Vincent* Noted and Approved: *Paul H. Reische*
Planning Division Deputy Chief
Special Inspection Division Fire Prevention Bureau

mls
4/16/73

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF HEALTH



JEFFERSON BUILDING
TOWSON, MARYLAND 21204

April 19, 1973

DONALD J. ROOP, M.D., M.P.H.
DEPUTY STATE AND COUNTY HEALTH OFFICER

Mr. S. Eric DiNenna, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland

Dear Mr. DiNenna:

Comments on Item 199, Zoning Advisory Committee Meeting April 17, 1973, are as follows:

Property Owner: Kiwanis Club of Loch Raven, Inc.
Location: Dover and Baublitz Roads
Present Zoning: R.D.P.
Proposed Zoning: Special Exception for 1A00.2B(6) and (10) community building and swimming pool, etc., and outdoor recreation club including a quasi-public day camp for Kiwanis Club
District: 4
No. Acres: 75

Two existing water wells in good physical condition.

Septic system functioning satisfactorily at this time.

Day Camp Comments: State and County regulations must be complied with and an application is required by the County Department of Permits and Licenses for a permit to operate a day camp.

Very truly yours,

Thomas H. Gwinn
THOMAS H. GWINN, Director
BUREAU OF ENVIRONMENTAL SERVICES

HVB:mas

cc: J.A. Messina

WILLIAM D. FROMM
DIRECTOR
S. ERIC DINENNA
ZONING COMMISSIONER



April 24, 1973

Mr. S. Eric DiNenna, Zoning Commissioner
Zoning Advisory Committee
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna:

Comments on Item #199, Zoning Advisory Committee Meeting, April 17, 1973, are as follows:

Property Owner: Kiwanis Club of Loch Raven, Inc.
Location: Dover Road and Baublitz Road
Present Zoning: Special Exception for 1A00.2B(6) and (10) community building and swimming pool, etc. and outdoor recreation club including a quasi-public day camp for Kiwanis Club

District: 4
No. Acres: 75 acres

The parking areas must be paved and screening must be provided as required by the Zoning Regulations.

Very truly yours,

John L. Wimbley
John L. Wimbley
Project Planning Division
Office of Planning and Zoning

BOARD OF EDUCATION
OF BALTIMORE COUNTY

TOWSON, MARYLAND - 21204

Date: April 24, 1973

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Z.A.C. Meeting of: Tuesday April 17, 1973

Re: Item 199
Property Owner: Kiwanis Club of Loch Raven, Inc.
Location: Dover Road and Baublitz Road
Present Zoning: R.D.P.
Proposed Zoning: Special Exception for 1A00.2B (6) and (10) community building and swimming pool, etc. and outdoor recreation club including a quasi-public day camp for Kiwanis Club
District: 4
No. Acres: 75 acres

District: 4
No. Acres: 75 acres

Dear Mr. DiNenna:

No adverse effect on student population.

Very truly yours,

W. Mark Putrovich
W. MARK PUTROVICH
Field Representative

WMP/ml

BALTIMORE COUNTY, MARYLAND
JEFFERSON BUILDING TOWSON, MARYLAND 21204



DEPARTMENT OF TRAFFIC ENGINEERING

EUGENE J. CLIFFORD, P.E.
DIRECTOR

WIL T. MELZ.
DEPUTY TRAFFIC ENGINEER

May 30, 1973

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item 199 - ZAC - April 17, 1973
Property Owner: Loch Raven Kiwanis Club, Inc.
Dover and Baublitz Roads
Special Exception for 1A00.2B(6) and (10) community building and swimming pool, etc. and outdoor recreation club including a quasi-public day camp for Kiwanis Club
District 4

Dear Mr. DiNenna:

No major traffic problems are anticipated by the requested special exception for a community building, swimming pool, and outdoor recreational club.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate

MSF/pk

PETITION MAPPING PROGRESS SHEET

FUNCTION	Web Map		Original		Duplicate		Tracing		200 Sheet	
	date	by	date	by	date	by	date	by	date	by
Descriptions checked and outlined on map										
Petition number added to outline										
Denied										
Granted by ZC, BA, CC, CA										
Reviewed by: _____	Revised Plans: Change in outline or description _____ Yes Previous case: _____ Map # _____ No									

IN THE
Court of Special Appeals of Maryland

SEPTEMBER TERM, 1975

No. 200

MARION X. MILLER, ET AL.,
Appellants,
v.
KIWANIS CLUB OF LOCH RAVEN, INC.,
Appellee.

APPEAL FROM THE CIRCUIT COURT FOR BALTIMORE COUNTY
(FRANK E. CICONE, Judge)

BRIEF OF APPELLANTS

W. LEE HARRISON,
COOPER C. GRAHAM,
Attorneys for Appellants.

The Daily Record Co., Baltimore, Md. 21202

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IN THE
Court of Special Appeals of Maryland

SEPTEMBER TERM, 1975

No. 200

MARION X. MILLER, ET AL.,
Appellants,
v.
KIWANIS CLUB OF LOCH RAVEN, INC.,
Appellee.

APPEAL FROM THE CIRCUIT COURT FOR BALTIMORE COUNTY
(FRANK E. CICONE, Judge)

BRIEF OF APPELLANTS

STATEMENT OF THE CASE

This case involves a petition for two Special Exceptions for a tract of land located on the south side of Baulitz Road in the Fourth Election District of Baltimore County by the Appellee, the Kiwanis Club of Loch Raven (hereinafter called "Kiwanis"). Marion X. Miller and numerous other residents of the area, the Appellants in the case at bar filed protests against the petition for Special Exception.

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The Appellee, Kiwanis, petitioned for a Special Exception for a day camp on the subject property and a Special Exception for a swimming pool and a community building on their property. On June 20, 1973, the zoning commissioner granted the Special Exception for the community building and swimming pool, and further granted the Special Exception for a day camp, subject to certain restrictions.

The Appellants then appealed to the Zoning Board of Appeals. On September 11, 1974, a Special Exception was granted for the swimming pool but the Board denied the Special Exception for a day camp (Rp. 9). Kiwanis then appealed from that part of the order denying the day camp. On March 14, 1975, the lower court reversed the County Board of Appeals and granted the Special Exception for the day camp operation (R. 10-15).

It is from this decision that this appeal is taken.

QUESTION PRESENTED

Did the Court substitute its judgment for the judgment of the zoning authorities in a fairly debatable question?

STATEMENT OF FACTS

This case involves a petition by Kiwanis for two Special Exceptions on a tract of land located in the Fourth Election District of Baltimore County, Maryland at Baulitz and Dover Roads.

The property, comprising some seventy-five acres in total, is divided into two parcels. The first, a parcel of twenty-four acres was bought by Kiwanis in 1967. This parcel is located at Olympic sized swimming pool, 170 feet long and sixteen feet wide (T. 112-113), tennis courts, a volleyball field, a basketball court, offices and bathhouses and a 450 car parking lot, which the Appellee wishes to enlarge (Pet. Ex. 1).

The other parcel is for one acre which was bought in 1971 and is presently used as a farm. Kiwanis wishes to establish a day camp on this parcel. Testimony as to the nature of the property varies, but it appeared that Kiwanis could have as many as five to six camps, under the order of the lower court, and if a number of camps were established, the number could increase to twenty-five hundred persons (T. 189).

The protestors, the Appellants in the above case, presented testimony to show the following facts:

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1. The testimony of the protestors showed, that the Kiwanis septic tank system is not able to take the load from the pool users. Even if the tank system were adequate, the system cannot handle the campers.

2. The area is in a Wissahickon schist area geologically, which means that the ground does not hold water, and the Kiwanis operation could cut septic wells in the whole neighborhood.

3. There had been numerous abuses of the pool operation regarding loud rock music coming over the P.A. system until two A.M. which disturbed the neighborhood.

4. There had been evidence that a previous year's day camp operation (before any application for a special exception was filed) had resulted in trespasses on the property of the protestors by boys from the camp.

5. Traffic problems had been caused by the pool operation. The area is serviced by two winding, single lane unimproved roads. During weekends and holidays, the cars were bumper to bumper which trapped the neighborhood people and caused danger to cyclists and pedestrians. This problem exists even without the additional problem of a day camp.

While the protestors made clear that they realized the benevolent objectives of Kiwanis, their point was that it was unfair that they had to live with an operation that destroyed the atmosphere of the neighborhood, and could cause pollution hazards and would be generally detrimental to the surrounding residential properties.

As to the pool operation, it was uncontradicted that Kiwanis had bought the property from Spring Valley Country Club, and the twenty-four acre lot had been operated as a pool and a country club prior to the taking by the Kiwanis Club. However, evidently no petition was ever filed to the zoning board asking for a special exception for the pool operation either by Kiwanis or the prior owners before this case was filed, although the pool was constructed in 1959 or 1960 (T. 236). One reason Spring Valley Country Club closed down its operation was that it could not afford to correct its septic tank system to stop pollution of Beaver Run, a nearby stream (Protestants Ex. E, T. 241-242), insofar as the record shows, the recommended changes to the septic tank system have still not been made.

There are numerous other interesting facts about the swimming pool operation. Mr. Lloyd C. Knabe, Jr., a mechanical engineer who lives in the

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neighborhood and who is one of the Appellants, pointed out that Mr. Von Behren, Mr. Schmidt, and Mr. Thornton all of who testified for the Appellee, varied from Protestants' Exhibit One in their varied description of the septic tank systems, and that contradicted one another. Mr. Von Behren, in his testimony, didn't know how many septic tanks there were although he prepared the drawing (T. 42). Mr. Schmidt indicated that there was one septic tank and six seepage drains.

Mr. Knabe also had made up a report of the minimum water and sewage requirement for 2,000 persons which showed that the water required for the facility would be 36,000 gallons per day, and he further testified that the wells existing on the property only produced 11,500 gallons per day, leaving a water deficiency of 25,000 gallons per day (T. 164). Protestants' Exhibit B.

Mr. Knabe also testified that under the existing sanitary system at the pool, the Appellee, was short two showers, four water closets, two urinals, and two lavatories of the number required by the Baltimore County plumbing standards (Protestants' Exhibit C).

As to the day camp operation, no additional fixtures for the day camp have been planned, although for five hundred people, nineteen closets, ten urinals and sixteen lavatories are required (T. 176). There is a septic tank deficiency of 7,850 gallons. The pool requires a 4,550 gallon septic tank and the summer day camp requires a 4,300 gallon septic tank (T. 179). Even leaving out the pool operation, Mr. Knabe's report clearly shows:

a. The day camp would require an additional 12,500 gallons of water per day for domestic water requirements;

b. The day camp would require an additional 12,500 gallons of water per day for sewage disposal (Protestants' Exhibit B, p. 1).

It was testified by Mr. Von Behren, for the Appellee, that the traffic analysis for the pool area showed that traffic came to the pool from Baulitz and Dover Roads. Both roads are two lane roads having no curbs, gutters or sidewalks (T. 33). He also said the "daily average" of persons at the pool was 403 persons. However, he also stated that at peak periods they have over fifty hundred people (T. 14). He also stated that 75 hundred families were members (T. 16), which would tend to show that Mr. Knabe's report is substantially correct (Protestants' Exhibit B). As previously stated, Mr. Von

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Behren was in doubt as to specifically what the septic tank situation was on the property. Mr. Kenneth A. Schmidt testified on behalf of the Appellee that the septic tank system was accurate, but he inspected the septic tank system on October 30, 1973, when neither the camp nor the pool was in operation. He did not know the yield of either well on the property.

Mr. Frank R. Thornton came up with somewhat different figures on the wells. He stated that one well pumped fifteen gallons a minute, while the other well pumped seven gallons a minute. Mr. Von Behren had testified to three gallons a minute (T. 113) pumped by the latter well (T. 42). Mr. Thornton also testified that the pool held about 18,500 gallons (T. 112). O. Ellsworth Stevens also testified for the Appellee that real estate value would go up for the adjoining landowners as a result of granting the special exception to the Appellee. However, he also admitted that the property owners' land value would not be enhanced if their wells went dry (T. 147). As opposed to this testimony the Appellants testified their property values would be depreciated.

When the testimony dealt with traffic, it also became clear that there was ample evidence of problems on the subject property. The Kiwanis tried to get around it by using its "average" of 400 cars a day. If the club is open ten hours a day, that would be six automobiles passing in one hour, or one car a minute (T. 22). However, Mr. Von Behren was not able to testify to the traffic on a weekend or a holiday (T. 36). But of course, the "average" used by the Appellee is meaningless. At times there have been five hundred cars on these unimproved roads in a two-hour time frame (T. 224). All the protestors testified that they were affected by the traffic congestion, noise, lights, the fear that their land would be polluted and their wells would run dry, and there was ample evidence before the board that this problem had arisen from the pool operation and the operation of a previous day camp.

Mr. Knabe testified that the only reason more wells had not dried up was because the area has had three to four years of heavy rain (T. 189). Protestants' Exhibit 1, issued by the Maryland Geological Survey, entitled "Ground Water Occurrence in the Maryland Piedmont" shows that the subject area is in the Wissahickon area, which contains schist rock which does not hold water (T. 249). Mr. Knabe also testified that both Dover and Baulitz Roads, which are supposed to be twenty-foot roads, are in fact only sixteen or eighteen feet wide at points, causing further traffic congestion and actual danger at points. Albert E. Holtz, a retired Colonel from the Army and a traffic specialist in the army testified in some detail as to the

crisis in its approach to situations arising from common facts. Hence, the decision of the Board which denied a Special Exception for the day camp is **OVERRULED** and the decision of the Zoning Commissioner, dated June 20, 1973, granting the Special Exception for the outdoor recreation club, including a quasi-public day camp (day care center) is hereby reinstated along with the conditions and restrictions imposed by the Zoning Commissioner which are as follows:

1. That the operation of the day camp is hereby restricted and limited to the term of ownership by the Kiwanis Club of Loch Raven, Inc., and any such time in the future that said Kiwanis Club of Loch Raven, Inc. divest, sell, lease or otherwise transfer said property to another interest, the camp Special Exception would automatically expire.
2. The number of participants in the day camp will not exceed one hundred fifty (150) campers.
3. The number of people using the facilities of the fifty (50) acres known as the Kiwanis Valley Farm and acquired by the Kiwanis Club of Loch Raven, Inc., will at no time exceed five hundred (500) people, including any day campers.

March 14, 1975 FRANK E. CICONE.

ARGUMENT

I.

THE TRIAL COURT SUBSTITUTED ITS JUDGMENT FOR THE JUDGMENT OF THE ZONING AUTHORITIES IN A FAIRLY DEBATABLE QUESTION THAT WAS NEITHER ILLEGAL, ARBITRARY OR CAPRICIOUS.

It is, of course, established law in Maryland that a Court will not substitute its judgment in a zoning case as to the wisdom or soundness of an action taken by the zoning authorities if the question decided by them was fairly debatable and their action is not shown to be arbitrary, capricious, or illegal. *City of Baltimore v. Sapiro*, 230 Md. 291, 186 A. 884 (1962); *Alvey v. Michaels*, 231 Md. 22, 188 A.2d 283 (1963).

It is only where there is no room for reasonable debate or where the record is devoid of any supporting facts that the Court is justified in reversing a decision of a zoning board or declaring its action arbitrary or discriminatory. *Prier v. Cohen*, 213 Md. 457, 132 A.2d 125 (1957). The Court will not set aside a decision of a zoning board if there is substantial evidence to justify its findings and the decision is not arbitrary, capricious, or discriminatory, provided the board is complied with all legal requirements.

ments of notice and hearing. *Jobar Corp. v. Rodgers Forge Community Ass'n*, 236 Md. 106, 202 A.2d 612 (1964).

The question whether the action of the board was arbitrary must be determined from the facts from which the board drew its conclusion and not the conclusion itself. *Bishop v. Board of County Comrs of Prince George's County*, 230 Md. 494, 187 A.2d 851 (1963); *Deen v. Baltimore Gas & Elec. Co.*, 240 Md. 317, 214 A.2d 146 (1965).

The foregoing law is particularly true in the cases involving special exceptions wherein the Board is given great latitude. *Oursler v. Gempy*, 204 Md. 387, 465, *Finney v. Hall*, 241 Md. 224, 241; and *Zengerle v. Bd. of Co. Comrs*, 262 Md. 1, wherein it was stated at page 17 as follows:

"I, considering the special exception, the Board acts as a body of zoning experts and the area of judicial review is quite limited. As Judge Delaplaine, for the Court, aptly stated in *Oursler*, . . .

"The function of a zoning board is to exercise the discretion of experts, and its right on appeal will not disturb the board's finding where it has complied with the legal requirements of notice and hearing, and the record shows substantial evidence to sustain the findings." (Page 403 of 204 Md. page 572 of 104 A.2d)

The applicable regulations dealing with the granting of special exceptions (formerly special permits) are found in sections 502.1 and 502.2 of the Baltimore County Zoning Regulations:

"502.1 — Before any Special Exception shall be granted, it must appear that the use for which the Special Exception is requested will not:

- a. Be detrimental to the health, safety, or general welfare of the locality involved;
- b. Tend to create congestion in roads, streets, alleys therein;
- c. Create a potential hazard from fire, panic or other dangers;
- d. Tend to overcrowd land and cause undue concentration of population;
- e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;
- f. Interfere with adequate light and air.

502.2 — In granting any Special Exception, the Zoning Commissioner or the Board of Zoning Appeals, (now County Board of

Appeals) — upon appeal, shall impose such conditions, restrictions, or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties. The owners, lessees or tenants of the property for which a Special Exception is granted, if required by the Zoning Commissioner, or Board of Zoning Appeals, upon appeal, shall enter into an agreement in writing with said Zoning Commissioner and/or the County Commissioners of Baltimore County, stipulating the conditions, restrictions, or regulations governing such Special Exception. When so recorded said agreement shall govern the exercise of the Special Exception as granted, as to such property, by any person, firm or corporation, regardless of subsequent sale, lease, assignment or other transfer.

Section 501 of the same regulations establishes the County Board of Appeals, and the Board is given all the functions and powers of the Board of Zoning Appeals and of the County Board of Appeals described in Article 25A of the Annotated Code of Maryland.

On the basis of the applicable law, the Appellants submit that the action of the lower court must be reversed. The record is replete with evidence pro and con which clearly renders the Board's decision a fairly debatable one.

First of all, there is an inconsistency in the court's opinion which is impossible to justify. He lists all the problems that the Appellants have had with the swimming pool operation, and then says that since the same problems will result from the summer camp, the Board was arbitrary and capricious in not granting both — despite the fact that the Board, functioning as experts, were of the opinion that Appellee had not met the burden set forth under Section 502.1 (R. 13).

With all due respect for the trial court, this is equivalent to arguing that since there is on a gas station in a neighborhood, the Board would be obliged to grant a special exception for another gas station in the same block, or if the neighborhood can live with a small glue factory, then there is no reason not to make it twice as large. *M. & C. C. of Balto. v. Biermann*, 187 Md. 514, 518; 50 A.2d 804 (1946).

Second, the trial court found that there was evidence of capriciousness on the part of the Board because of the following language in the Board's decision:

- b. tend to create congestion in Baubitz and Dover Roads,
- c. tend to interfere with water, sewerage, transportation or other public requirements, conveniences, or improvements.

Certainly there was sufficient evidence before the Board to render the question a fairly debatable one. This being so, the lower court clearly substituted its judgment i.e., that of the Board.

It is only where the record is devoid of any supporting facts that the Court is justified in reversing the decision of a zoning board or declaring its action illegal, arbitrary, or discriminatory.

CONCLUSION

Wherefore, the Appellants respectfully submit that the order of the Circuit Court for Baltimore County be reversed.

Respectfully submitted,

W. LEH HARRISON,
COOPER C. GRAHAM,

Attorneys for Appellants.

"It would seem inequitable to extend quasi-commercial use of this property further until such time as the Kiwanis Club has proved itself to be good neighbors by the proper use." (sic.)

The same objection can be made to the reasoning of the court. If it has been shown that Kiwanis has not been a good neighbor, and there was ample testimony to that effect, then there was no compelling reason for the Board of Appeals to make the problem worse by granting an exception for a day camp. If the trial judge's opinion is that Kiwanis should not have been granted the special exception for the swimming pool by the Board, it is most because it was not before him because the Appellants did not appeal the Board's decision. The only way that the Board's decision denying the permit for the day camp can be called "illegal, arbitrary and capricious" is if the record is devoid of evidence that the day camp will not add to the Appellants' problems. In fact, the judge clearly substituted his judgment for that of the Board, stating that the summer camp will be a "drop in the bucket." (R. 14).

The testimony clearly shows that the Board's opinion — supported by evidence — was that the day camp would be the straw that breaks the camel's back. The trial court's all-or-nothing approach does not make sense. It might, if it had been shown in the hearing that the day campers would not cause an additional burden to an overcrowded water and septic system, as well as additional litter, additional traffic, additional trespassers and noise, but there was ample evidence of this added burden.

Finally the Court went on to say at R. 14:

"It seems obvious to this Court that the County Board of Appeals was trying to bring about a compromise in this case — i.e., give the Kiwanis Club something they want, while at the same time, give the neighboring property owners something they desire . . ."

It is generally the law in zoning matters that the Court is powerless to inquire into the motives of zoning authorities in the exercise of their powers. *Rathkol*, *The Law of Zoning and Planning*, Chap. 52. While the law deals generally with the enactment of zoning ordinances, there is ample case law dealing with variances and special exceptions. Thus in *Rappa v. Hansen*, (Sup. Ct. Del.), 209 A.2d 163 (1965) which dealt with the petition for rezoning, the Supreme Court stated at 165:

"In *McQuill v. Shell Oil Company*, 40 Del. Ch. 368, 183 A.2d 572, we held that zoning authorities acting within their prescribed

legislative powers have a wide and liberal discretion in the exercise of these powers and that, consequently, a Court is without power to inquire into the motives and purposes of the members of such a body. An attack, therefore, upon an act of zoning by such a body may be made only upon the ground that the action was arbitrary and unreasonable. The person seeking to make such an attack has the burden of showing it to be the fact. We went on to say, "Where it appears that honest judgment has been reasonably and fairly exercised after a full hearing, Courts are cautious about disturbing the decisions of the legislative body."

In *Van Kester v. Morrell*, 9 N.Y.2d 27, 210 N.Y.S.2d 325 (1961), the White Plains Zoning Board granted a request for special exception for a Y.W.C.A. dormitory to be club members only, together with indoor and outdoor recreational facilities. However, the board sharply reduced the number of sleeping rooms in the proposed building, by relocating them and changing the location of the auditorium and parking lot, putting them in the rear away from the residences and adjoining Country Club.

On appeal, the Supreme Court, Appellate Division, reversed. Further appeals were taken to the Court of Appeals, and Chief Judge Desmond reversed in favor of the board, stating at 210 N.Y.S.2d 528:

"Zoning boards of appeals are made up not of theoreticians or doctrinaire specialists but of representative citizens doing their best to make accommodations between conflicting community pressures (*People ex rel. Fairbank Reform Church v. Walsh*, 244 N.Y. 280, 135 N.E. 575, *supra*). They are to mind the wishes of the neighbors as well as the community value of the Y.W.C.A. This record shows the care with which the problem was debated and disposed of by this board. For the Court to overrule the board's judgment was illegal and contrary to the settled and practical necessities of zoning procedure."

The Appellants state that the trial court would have been correct in its decision if there had been no evidence before it that the day camp would cause additional problems in the neighborhood. However, there was ample evidence before the court that the day camp would be detrimental to the general welfare of the neighborhood. Mrs. June Williams testified that she had as many as twenty-five or thirty children trespassing on her property when a day camp had been operated on the subject property previously (1207-208). Mrs. Betty Beck testified to the traffic problems accompanying the previous day camp (T. 214-215).

Mr. Knabe pointed out that the day camp would generate another 500 persons using the facilities at Kiwanis (Protestants Ex. B). The five hundred figure was the figure originally arrived at by the Zoning Commissioner (R. 9) in his order and reiterated in the lower court's decision. Several times the Appellee's officers said they did not expect more than 150 campers. However, at T. 81-82 the following testimony was elicited from Walter E. Williams, a member of Kiwanis:

"Q. Do you have any idea why it may be felt by your club you want a limitation of 400 people?"

(Mr. Trimbler) personally met with representatives. I don't want you to testify at this point. The Board has no idea what Mr. Harrison is talking about at this time.

Q. (Mr. Harrison) Well, is the club satisfied with the limitation that there shall not be more than 150 people on the 61 acres at any one time? A. That is the day camp.

Q. (Mr. Parker) Is the club satisfied with the limitation? A. No, not as he stated it.

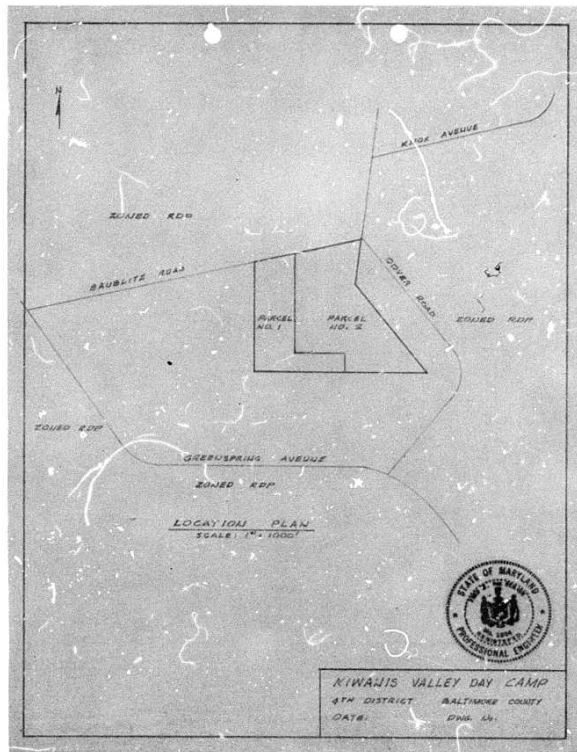
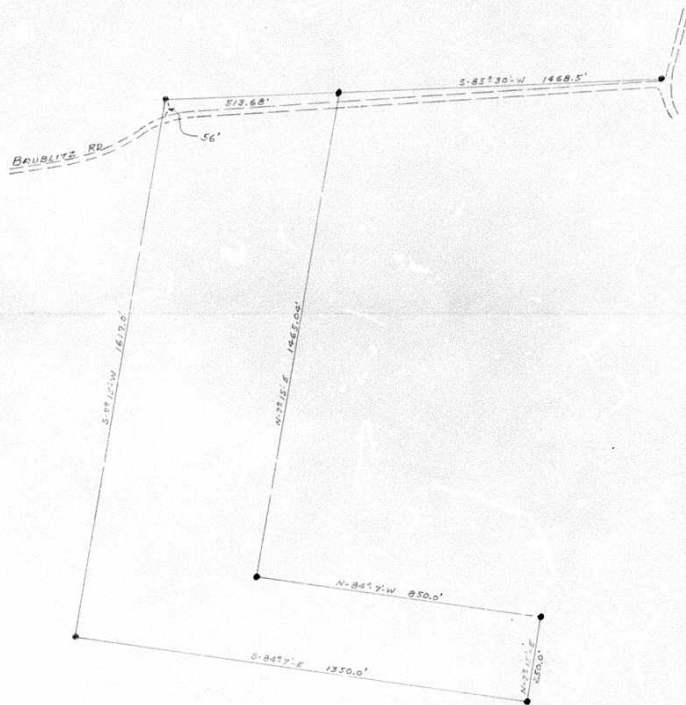
Q. (Mr. Harrison) Well, what other purposes do you intend to use it for, other than day camp, which might require as many as 2,500 people to attend? A. As I suggested, it might be a Boy Scout camp or camporee, or some event, but would not be a regular kind of use of the farm."

As Mr. Knabe had stated, another five hundred persons would generate 12,500 gallons per day in water requirements, as well as another 12,700 gallons per day in sewage disposal requirements, and there was ample testimony that the septic tanks are inadequate, the wells are inadequate, and that the facilities of Loch Raven Kiwanis do not meet the requirements of the County Code even without the addition of the day camp. Even if there are only one hundred and fifty campers (and Mr. Williams said they were going to "sell" the camp to Cub Scout groups, T. 75, and senior citizens, T. 72) this would generate another 3,750 gallons of water requirements and sewage disposal a day.

On the basis of the testimony in the case, the Appellants contend that there was ample evidence to support the Board's decision "that its granting the special exception for a day camp would:

- a. be detrimental to the health, safety and welfare of the locality,

WHITE - CASHIER
Mrs. Audrey B. Wright
73-294-X
S/S of Baulnitz Road, 1468.5' W of Dover Road - 4th
District
Kiwanis Club of Loch Raven, Incorporated - Petitioner



OFFICE & BATH HOUSE				
TOILET FACILITIES AT SWIM CLUB				
	W.C.	L.A.R.	SH.	WATER FOUNTAIN
ADULTS	9	6	9	
CHILDREN	4	6	9	5
WATER SOURCE - TWO WELLS NO. 1 - 4" SPIN AND NO. 2 - 1" SPIN NO. 2 - WELL AUTOMATICALLY SUPPLIES 10,000 GALLON TANK, NO. 1 FEEDS WATER OVERHEAD SYSTEM				
SANITARY SERVICE IS THROUGH SEPTIC TANKS SEPTIC TANK SYSTEMS - DRAINAGE AND W- INSTRAT FOR FAST SEWAGE ON POND.				
THERE ARE NO PUBLIC WATER OR SEWER SYSTEMS IN THIS AREA.				

Kiwanis Club of Loch Raven, Inc. - No. 73-294-X

ORDER

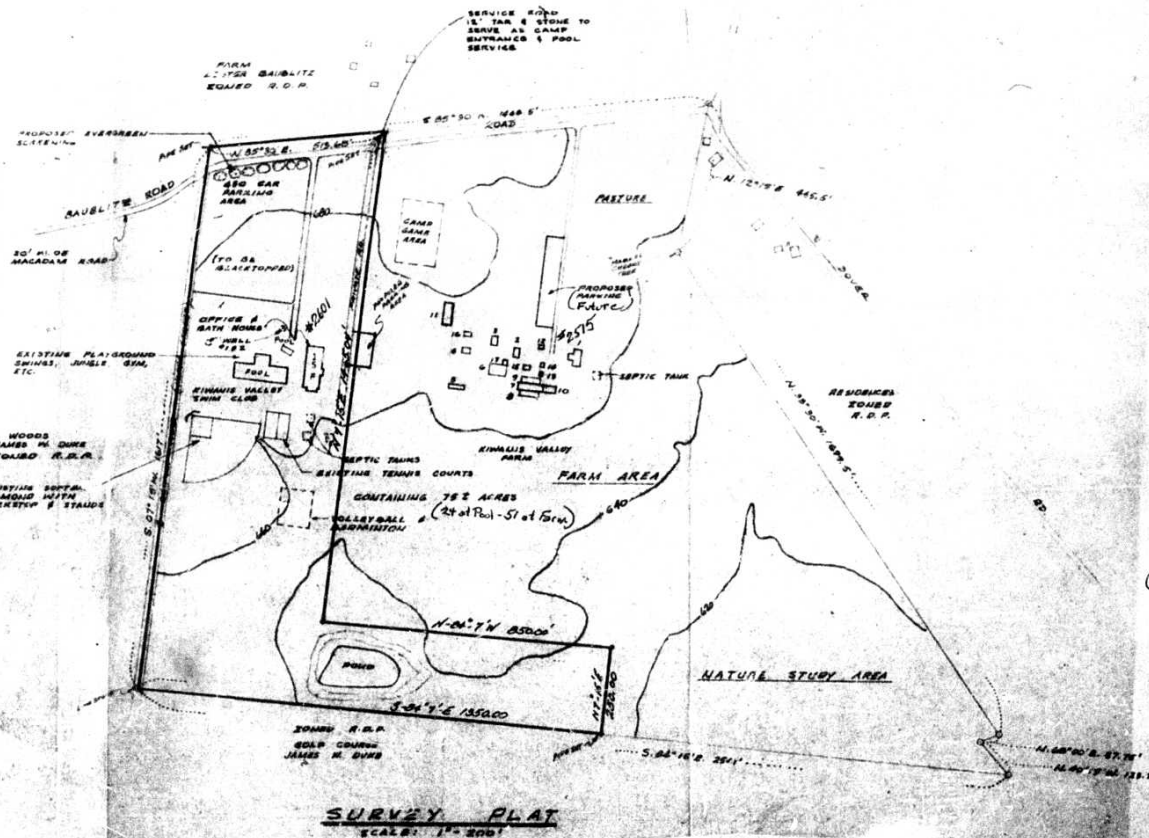
For the reasons set forth in the foregoing Opinion, it is this 11th day of September, 1974, by the County Board of Appeals ORDERED, that the Special Exception for the Community Building and Swimming Pool should be and the same is hereby GRANTED for the following described property:

"Beginning for the same at a pipe set at the end of the first line of the parcel of land conveyed by Bannockburn Lane Corporation, Inc. to the Kiwanis Club of Loch Raven Inc. by deed dated March 24th, 1965 and recorded among the Land Records of Baltimore County, said point of beginning being distant North 07 degrees 15' East 56 feet, more or less, measured along the first line of said deed from the North side of Baulitz Road, their site; and said point of beginning being also South 80 degrees 30' West 1468.50 feet from the Northwest corner of the intersection of Dover Road and Baulitz Road, and running thence: South 07 degrees 15' West 1617.00 feet; thence binding reversely on the Sixth, Fifth, Fourth, Third, and Second lines of said deed. The five following courses and distances, namely: South 34 degrees 7' East 1350 feet to a pipe, North 07 degrees 15' East 250 feet to a pipe, North 84 degrees 7' West 850 feet to a pipe, North 07 degrees 15' East 1465.04 feet to a pipe, South 85 degrees 30' West 513.68 feet to the place of beginning containing 24 acres, more or less."

Subject to the following restrictions: For Pool Area

1. That all operations and activities of any kind shall cease upon the subject property no later than 11:30 p.m. each day.
2. The public address system shall not operate after 10:00 p.m. except in the case of clear emergency. The public address system must be controlled at all times under the close supervision of the pool manager so as not to create a nuisance in the community.
3. That a site plan be approved by the Department of Public Works and the Office of Planning and Zoning, and any other pertinent County agencies.
4. The Health Department shall closely monitor the water usage and the proper functioning and full operation of the private sewage disposal system. This Special Exception is contingent upon the property owner obtaining all the necessary permits from the regulatory agencies, particularly the County and State Health Departments.

It is FURTHER ORDERED, that the petition for Special Exception for



ORDER

For the reasons set forth in the foregoing Opinion, it is this 4th day of March, 1976, by the County Board of Appeals ORDERED, that the Special Exception for the Outdoor Recreation Club, including a Quasi-Public Day Camp, be and the same is hereby GRANTED, subject to the following conditions and restrictions:

1. That the operation of the day camp is hereby restricted and limited to the term of ownership by the Kiwanis Club of Loch Raven, Inc., and any such time in the future that

said Kiwanis Club of Loch Raven, Inc., does, sell, lease or otherwise transfer said property to another interest, the camp Special Exception would automatically expire.

2. The number of participants in the day camp will not exceed one hundred fifty (150) campers.
3. The number of people using the facilities of the fifty (50) acres known as the Kiwanis Valley Farm and acquired by the Kiwanis Club of Loch Raven, Inc., will at no time exceed five hundred (500) people, including any day campers.

Any appeal from this decision must be in accordance with Rules 8-1 to 8-12 of the Maryland Rules of Procedure.



PLANS APPROVED
OFFICE OF PLANNING & ZONING
BY: Johanna Winkler
DATE: 5-5-76
73-294-X

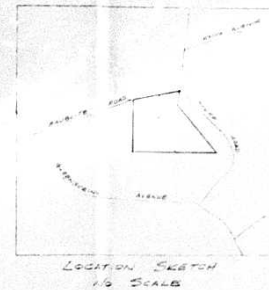
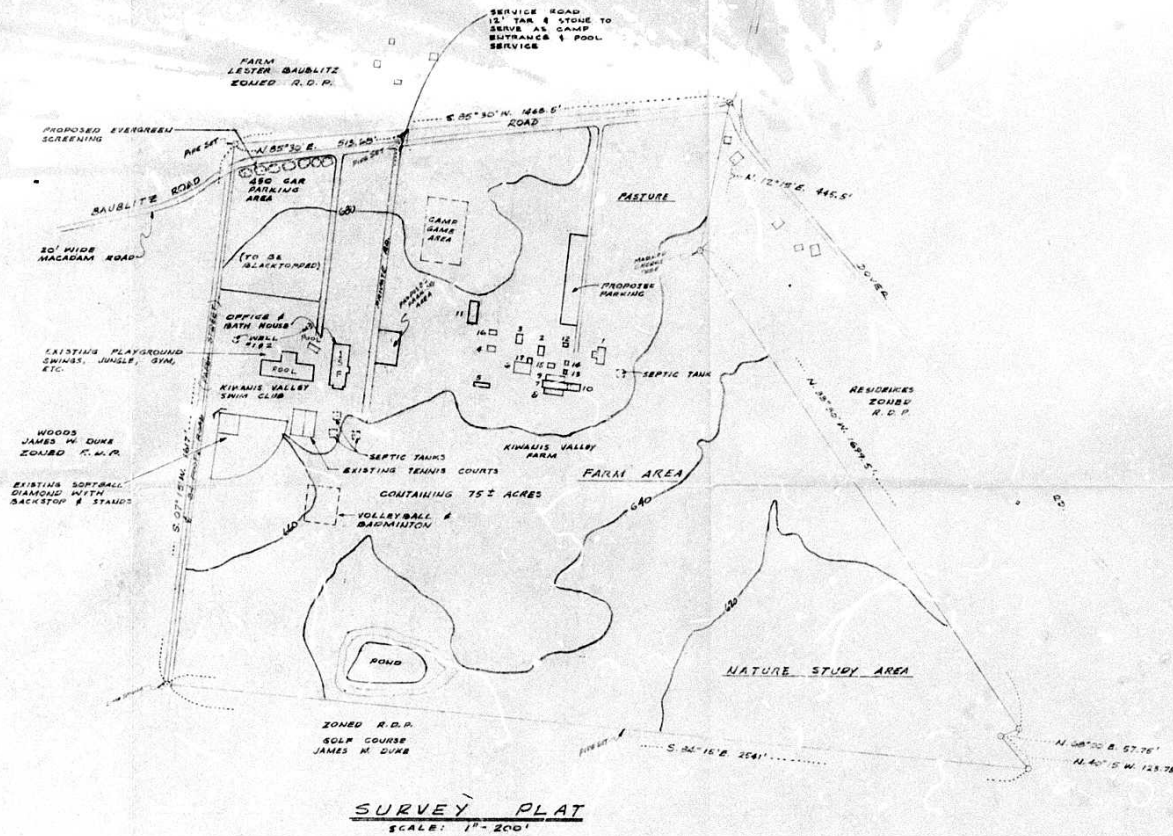
NO.	DESCRIPTION	AREA SQ. FT.
1	HOUSE - 2 STORY	1800
2	MISCELLANEOUS FARM BLDG. - 1 STORY	1200
3	MISCELLANEOUS FARM BLDG. - 1 STORY	600
4	MISCELLANEOUS FARM BLDG. - 1 STORY	760
5	MISCELLANEOUS FARM BLDG. - 1 STORY	610
6	SHED - 1 STORY	231
7	BARN - 1 STORY	1415
8	MISCELLANEOUS FARM BLDG. - 1 STORY	630
9	MISCELLANEOUS FARM BLDG. - 1 STORY	630
10	MISCELLANEOUS FARM BLDG. - 1 STORY	670
11	WAGON WAREHOUSE - 1 STORY	1000
12	MISCELLANEOUS FARM BLDG. - 1 STORY	70
13	MISCELLANEOUS FARM BLDG. - 1 STORY	180
14	POULTRY HOUSE - 1 STORY (WELL PT. 8' SQ.)	70
15	MISCELLANEOUS FARM BLDG. - 1 STORY	160
16	MISCELLANEOUS FARM BLDG. - 1 STORY	95
17	MISCELLANEOUS FARM BLDG. - 1 STORY	280

Change of Occupancy for farm only for quasi-public day camp.

MICROFILMED

KIWANIS VALLEY DAY CAMP			
8TH DISTRICT BALTIMORE COUNTY			
SURVEY PLAT			
DESIGN BY	CHECKED BY	SCALE	DATE
		AS SHOWN	SEP. 28 '75

OFFICE & BATH HOUSE					
TOILET FACILITIES AT SWIM CLUB					
	N.C. LAY.	SH.	U.R.	WATER FOUNTAIN	
WOMEN	9	6	9		
MEN	4	6	9	5	
				2	
WATER SOURCE - TWO WELLS NO. 1 - 4.5 GPM AND NO. 2 - 10 GPM NO. 2 WELL AUTOMATICALLY SUPPLIES 10,000 GALLON TANK, NO. 1 FEEDS INSIDE PRESSURE SYSTEM.					
SANITARY SEWAGE - IS THROUGH EXISTING SEPTIC TANK SYSTEMS LOCATED APPROX- IMATELY 400 FEET SOUTHEAST OF POOL.					
THERE ARE NO PUBLIC WATER OR SEWER SYSTEMS IN THIS AREA.					



EXISTING BUILDINGS DESCRIPTION & AREA		
NO.	DESCRIPTION	AREA SQT. FT.
1	HOUSE - 2 STORY	1800
2	MISCELLANEOUS FARM BLDG. - 1 STORY	1200
3	MISCELLANEOUS FARM BLDG. - 1 STORY	600
4	MISCELLANEOUS FARM BLDG. - 1 STORY	960
5	MISCELLANEOUS FARM BLDG. - 1 STORY	415
6	BARN - 1 STORY	2312
7	BARN - 1 STORY	1475
8	MISCELLANEOUS FARM BLDG. - 1 STORY	450
9	MISCELLANEOUS FARM BLDG. - 1 STORY	450
10	MISCELLANEOUS FARM BLDG. - 1 STORY	630
11	FARMER MANIAH - 1 STORY	1500
12	MISCELLANEOUS FARM BLDG. - 1 STORY	90
13	MISCELLANEOUS FARM BLDG. - 1 STORY	130
14	PUMP HOUSE - 1 STORY (WELL #3 PUMP)	70
15	MISCELLANEOUS FARM BLDG. - 1 STORY	140
16	MISCELLANEOUS FARM BLDG. - 1 STORY	75
17	MISCELLANEOUS FARM BLDG. - 1 STORY	280



OFFICE COPY
REVISED PLANS

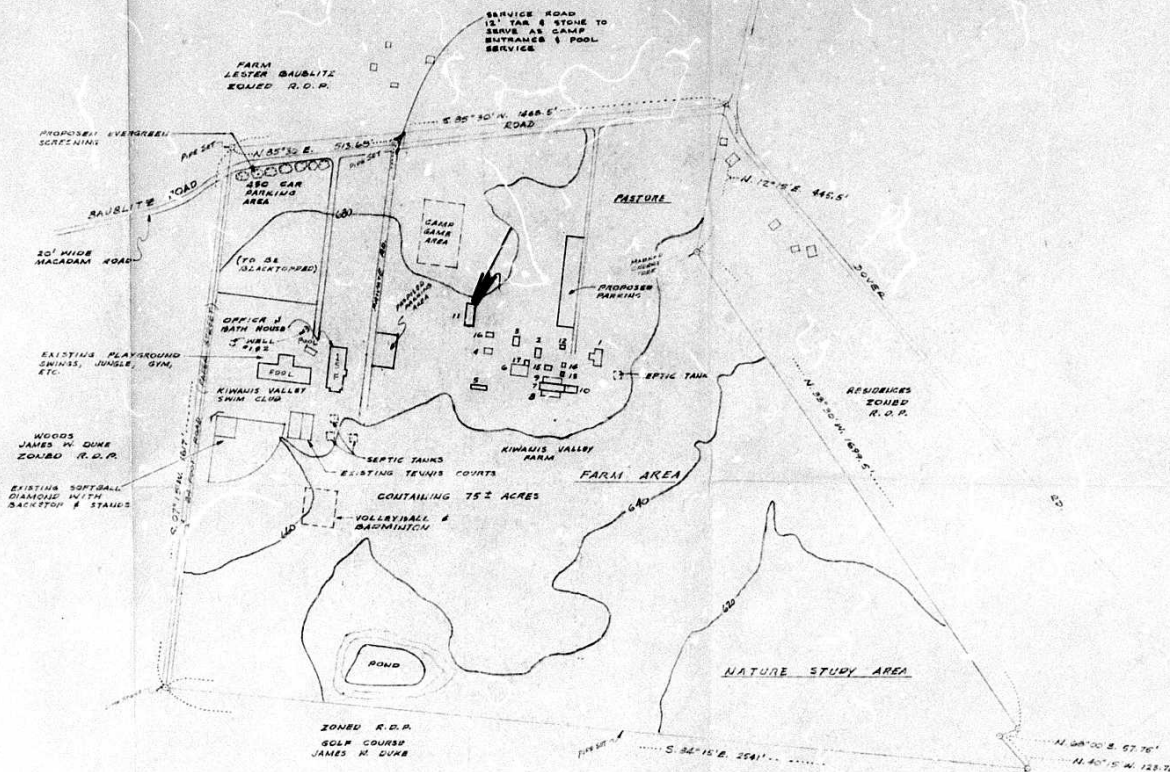
Item 199



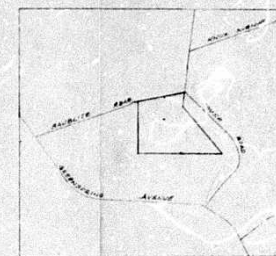
REVISIONS	DATE	KIWANIS VALLEY DAY CAMP 4TH DISTRICT BALTIMORE, COUNTY
CHANGES AS REQUESTED BY: [Signature]	7/30/75	
SURVEY PLAT		
DRAWN BY	CHECKED BY	SCALE
		DATE
		FILE NO.



OFFICE & BATH HOUSE					
TOILET FACILITIES AT SHIM CLUB					
	W.C.	LAV.	SH.	UR.	WATER FOUNTAIN
WOMEN	9	6	9		
MEN	4	6	9	5	
					2
WATER SOURCE TWO WELLS NO. 1 - 4" SPIN AND NO. 2 - 1" SPIN NO. 2 WELL AUTOMATICALLY SUPPLIES 10,000 GALLON TANK, NO. 1 FEEDS INSIDE PRESSURE SYSTEM					
SANITARY SEWAGE - IS THROUGH EXISTING SEPTIC TANK SYSTEM LOCATED APPROX- IMATELY 100 FEET SOUTHEAST OF POOL.					
THERE ARE NO PUBLIC WATER OR SEWER SYSTEMS IN THIS AREA.					



SURVEY PLAT
SCALE: 1" = 200'



LOCATION SKETCH
NO SCALE

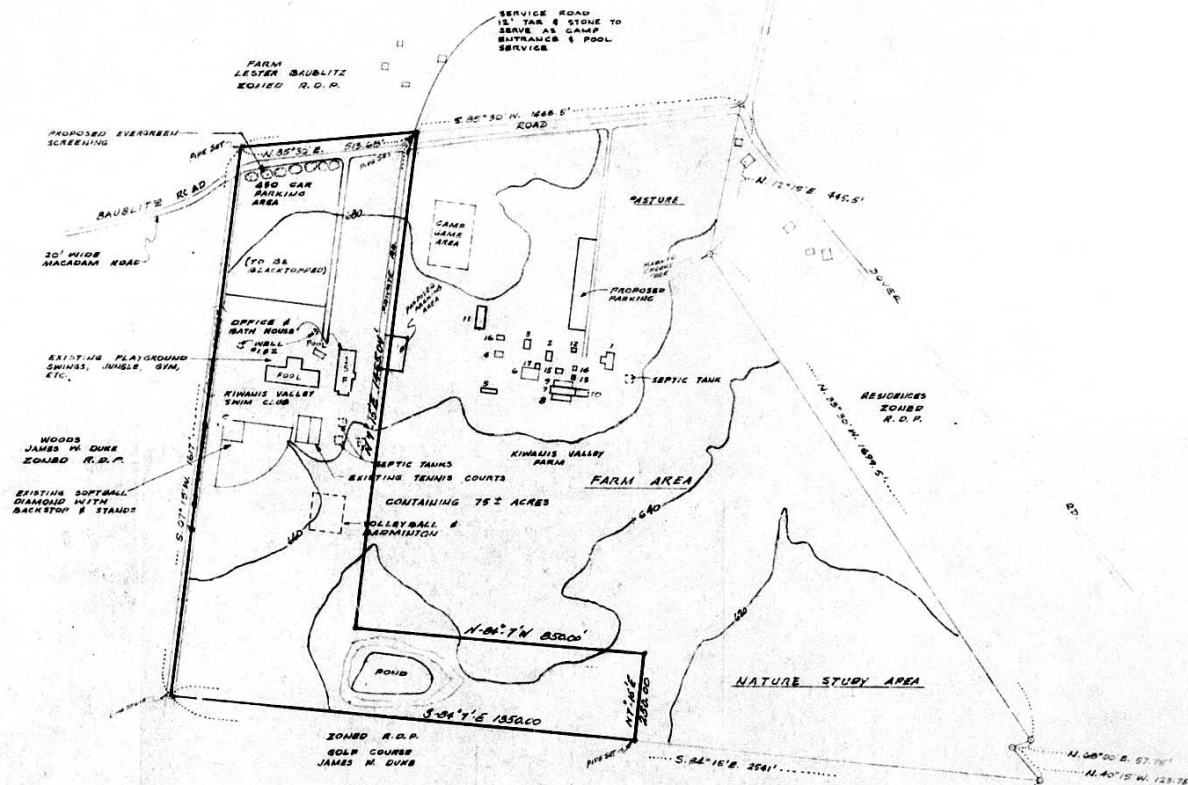
20
Petition
Exhibit #1

NO.	DESCRIPTION	AREA SQ. FT.
1	HOUSE - 2 STORY	1900
2	MISCELLANEOUS FARM BLDG. - 1 STORY	1200
3	MISCELLANEOUS FARM BLDG. - 1 STORY	600
4	MISCELLANEOUS FARM BLDG. - 1 STORY	760
5	MISCELLANEOUS FARM BLDG. - 1 STORY	416
6	BARN - 1 STORY	2312
7	BARN - 1 STORY	1415
8	MISCELLANEOUS FARM BLDG. - 1 STORY	630
9	MISCELLANEOUS FARM BLDG. - 1 STORY	430
10	MISCELLANEOUS FARM BLDG. - 1 STORY	630
11	FORMER HANGAR - 1 STORY	1600
12	MISCELLANEOUS FARM BLDG. - 1 STORY	70
13	MISCELLANEOUS FARM BLDG. - 1 STORY	130
14	PUPP HOUSE - 1 STORY (WELL #3 SPIN)	70
15	MISCELLANEOUS FARM BLDG. - 1 STORY	160
16	MISCELLANEOUS FARM BLDG. - 1 STORY	95
17	MISCELLANEOUS FARM BLDG. - 1 STORY	260

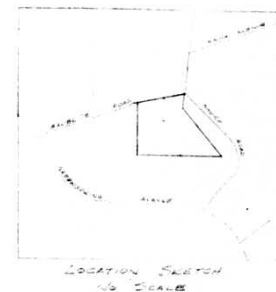


REVISIONS	DATE	KIWANIS VALLEY DAY CAMP 4TH DISTRICT BALTIMORE COUNTY				
CHANGES AS REQUESTED BY BALTIMORE CO. ZONING COM.	5/30/78					
		SURVEY PLAT				
		DRAWN BY	CHECKED BY	SCALE	DATE	DWG. NO.
				AS SHOWN	FEB. 25, '78	1

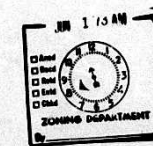
OFFICE & BATH HOUSE					
TOILET FACILITIES AT SWIM CLUB					
	W.C.	LAV.	SH.	U.R.	WATER FOUNTAIN
WOMEN	9	6	9		
MEN	4	6	9	5	
					2
WATER SOURCE - TWO WELLS NO. 1 - 4.5 GPM. AUM. NO. 2 - 10 GPM. NO. 2 WELL AUTOMATICALLY SUPPLIES 10,000 GALLON TANK. NO. 1 FEEDS INSIDE PRESSURE SYSTEM.					
SANITARY SEWAGE - IS THROUGH EXISTING SEPTIC TANK SYSTEM LOCATED APPROX- IMATELY 400 FEET SOUTHEAST OF POOL.					
THERE ARE NO PUBLIC WATER OR SEWER SYSTEMS IN THIS AREA.					



SURVEY PLAT
SCALE: 1" = 200'



NO.	DESCRIPTION	AREA SQA. FT.
1	HOUSE - 2 STORY	1800
2	MISCELLANEOUS FARM BLDG. - 1 STORY	1200
3	MISCELLANEOUS FARM BLDG. - 1 STORY	600
4	MISCELLANEOUS FARM BLDG. - 1 STORY	760
5	MISCELLANEOUS FARM BLDG. - 1 STORY	410
6	BARN - 1 STORY	2312
7	BARN - 1 STORY	1912
8	MISCELLANEOUS FARM BLDG. - 1 STORY	620
9	MISCELLANEOUS FARM BLDG. - 1 STORY	420
10	MISCELLANEOUS FARM BLDG. - 1 STORY	870
11	FORMER HANGAR - 1 STORY	1500
12	MISCELLANEOUS FARM BLDG. - 1 STORY	70
13	MISCELLANEOUS FARM BLDG. - 1 STORY	180
14	PUMP HOUSE - 1 STORY (WELL #2 2 GPM)	70
15	MISCELLANEOUS FARM BLDG. - 1 STORY	160
16	MISCELLANEOUS FARM BLDG. - 1 STORY	95
17	MISCELLANEOUS FARM BLDG. - 1 STORY	280



Item 199



REVISIONS	DATE
CHANGES AS REQUESTED BY BALTIMORE CO. ZONING DEPT.	4/30/78
KIWANIS VALLEY DAY CAMP 4TH DISTRICT BALTIMORE, COUNTY	
SURVEY PLAT	
DRAWN BY	CHECKED BY
SCALE	DATE
AS SHOWN	FEB. 24, '78
DWG. NO.	