

IN RE: PETITIONS FOR SPECIAL EXCEPTION * BEFORE THE ZONING
SPECIAL HEARING & ZONING VARIANCE
Property known as * COMMISSIONER'S OFFICE
"The North Pole", located at *
1225 Christmas Way * OF BALTIMORE COUNTY
Santa Claus, et ux * Case No. 94-1225-SPHXA
Petitioners

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner's office as a Petition for Special Exception, Petition for Special Hearing and Petition for Zoning Variance for that property known as "The North Pole" in the northern (and we mean northern) section of Baltimore County. The Petitions are filed by Santa Claus and Mrs. Claus, property owners/co-Petitioners.

As to the Petition for Special Exception, relief is requested, pursuant to Section X.M.A.S. of the B.C.Z.R. to permit a toy manufacturing facility in an R.C. (Really Cold) zone. The Petition for Special Hearing is filed so as to amend the dispositions of the zoning staff and make them full of good cheer during the Holidays. Variance relief is requested so as to allow 9 reindeer, in lieu of the permitted 5 reindeer to pull a sleigh on the evening of December 24th.

Appearing at the requisite public hearing were the aforementioned Mr. and Mrs. Santa Claus. They were ably represented by Robert A. Hoffman, Paige A. Wingert, Newton Williams, Julius Lichter, Howard Alderman, Kathryn May, Benjamin Bronstein, G. Scott Barhight, Deborah Dopkin, Francis X. Borgerding, John Gontrum, Stuart H. Kaplow, Robert Cannon, Edward Covahey and Jeffrey Scherr, Esquires all. In a rare display of unity, J. Carroll Holzer, Esquire and Michael Tanczyn, Esquire joined the Petitioners' team of lawyers. The number and brilliance of this aggregate of legal scholars exceeds the defense team assembled by O.J. Simpson.

Also appearing in support of the Petitions were several height disadvantaged individuals who identified themselves as Santa's elves. Also present were Dasher, Dancer, Comet, Cupid, Donner, Blitzen, Prancer, Vixen and Rudolph. Bob Cratchit and Tiny Tim also appeared in support of the Petitions.

Appearing in opposition to the Petitions were Mr. Ebenezer Scrooge and Mr. T.H.E. Grinch. These shady individuals were represented by Arnold Jablon, Esquire.

Ed Haile, Jean Tansey, George Gavrelis and Sam Crozier from Daft, McCune and Walker appeared and presented the site plan. That plan shows that Mr. and Mrs. Claus own a really big piece of land due north of the whole world, including Baltimore County. As noted above, the site is zoned R.C. (Really Cold) and is overlaid with the HO-HO-HO district. The exact dimensions of the site are difficult to determine in that it is covered with snow and ice.

Rick Chadsey and Dean Hoover from G.W. Stephens described the improvements on the property. The site contains a large (ice) block structure which has a round igloo style roof and is more particularly known as Santa's Workshop. There are also stables for reindeer and elves's quarters on site. These structures are clearly accessory to the primary use of the property, i.e., the toy shop.

As to the activity on site, David Thaler and Alan Scoll from D.S. Thaler and Associates described the operation as a toy manufacturing facility. Although admitting that labor conditions were not up to code, they opined that the proposed use was not detrimental to the adjoining properties owned by Eskimos, Polar Bears and Penguins. They endorsed approval of the special exception.

Jim McKee and Jim Grammer from McKee and Associates testified that the toy manufacturing facility would not interfere with adequate light and air because, after all, the site is in the land of the Midnight Sun, where it's often sunny all day long.

Land Use Consultants, Bill Bafitis, Jim Patton, Bruce Doak, Joe Larson & Bill Kirwin all collaborated their testimony that the proposed use would not tend to overcrowd the land or cause an undue concentration of population because, other than Santa and his elves, not many people live in this locale.

Wes Guckert and Mickey Cornilius, from The Traffic Group, stated that the proposed facility would not cause traffic congestion because all deliveries from the property would be accomplished by Santa and his reindeer team, which do not use roads, streets or alleys.

Dick Smith, from KCI Technologies, testified to the balance of the requirements in Section 502.1 of the BCZR and opined that the proposed use would not be detrimental to the health, safety or general welfare of the locale; to the contrary, Santa's workshop is beneficial to all.

Ken Colbert, Dick Matz, Robert Rosenfelt, from Colbert, Matz, Rosenfelt and Woolfolk, Inc. appeared as to the variance requested. They opined that it would be "practically impossible" for 5 reindeer to pull Mr. Claus' sleigh, on December 24th, due to the large volume of goodies in Santa's sack. Moreover, they believe that a 9th reindeer, identified as Rudolph, will be necessary in the event of inclement weather.

Tim Madden and Bob Bradley, from Morris Ritchie and Associates, also testified in support of the variance relief. They stated that the proposed team of reindeer, unlike Baltimore motorists, are well equipped for winter travel and their use by Santa is consistent with the intent of the RC (Really Cold) zoning classification.

Lastly, William Duvall and Dwight Little testified that a grant of the variance would be entirely consistent with not only the spirit of the B.C.Z.R., but also the spirit of the holiday season.

Paul Lee and William Monk also appeared and testified concerning their favorite topic; landscaping. It seems that the County's staff will approve the landscape plan offered only if coconut palm trees buffer the igloo structure. Messrs. Lee and Monk contend that christmas trees, holly and snowballs should line the perimeter of the site and are much more consistent with existing site conditions.

Comments were also received relative to the Petition for Special Hearing from the OPZ staff, the ZADM staff, the Project Managers, and other County agencies. Although reluctantly endorsing the toy shop special exception and reindeer variance, these County humbugs vehemently oppose any relief which would require them to be full of good cheer. Specifically, Pat Keller, Andrea VanArsdale and Ervin McDaniel opined that Santa's toys should be built only if compatible with traditional styles and architecture. Jeff Long and Jake Morsey contend that any signs advertising Santa's workshop will litter the landscape and impair the visual serenity of the area. The Project Managers, Don Rascoe, Joe Maranto, Kurt Kugelberg, Dave Flowers and Chris Rorke insisted that no future C.I.M.'s be held on cold nights, and that elves and other undesirables be excluded from the meetings. The ZADM staff observed that they would be happy only if a continuous supply of cakes, pies and sweets were provided.

Les Schreiber of Public Works supports the requested relief as long as the sleigh is equipped with blinking red and green lights, in lieu of street lights, to ward off other flying objects. This condition seems appropriate.

The DEPRM staff wants the project to be subject to the Chesapeake Bay Critical Area regulations because Santa flies over the Bay while making his appointed rounds. We do not believe that the legislature intended on applying the Act to that circumstance. However, we agree with DEPRM that trimming the trees with lights and garland constitutes permitted forestation under the Forest Conservation Act.

Mr. Jablon, speaking on behalf of Mr. Grinch and Mr. Scrooge, opposes the special exception workshop. He contended that the use is not a toy/manufacturing facility but rather a warehouse/Class "A" sleighing facility which is not permitted under the regulations in either Loveton or the North Pole. Moreover, observing that Christmas is a "Humbug", Mr. Scrooge asserted that the County staff has enough holidays and should work on December 25. Mr. Grinch, who came disguised as People's Counsel, opposes the relief requested because it allegedly sets a bad precedent for the north County.

In evaluating the Petition for Special Exception, we are persuaded that same should be granted. We are convinced that the proposed use is a toy manufacturing facility and will be beneficial to all of the children in the World. We will require, however, for the benefit of parents, that none of the toys manufactured arrive in containers labeled "Batteries not included", or "Some assembly required".

We will also approve the Petition for Special Hearing. Although it is hard to imagine the County staff in good cheer, it shall be so ordered.

Lastly, the Petition for Variance shall be granted so as to allow 8 reindeer, and 9 during inclement weather, to pull Santa's sleigh. We believe it practically impossible for only 5 reindeer to pull the sleigh,

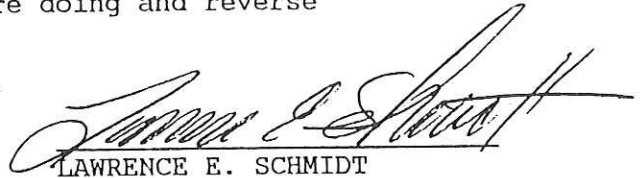
and that the children of the world will suffer unreasonable hardship if they don't find presents under their tree on Christmas morning.

Pursuant to the advertisement, posting of the property and public hearing on these Petitions held and for the reasons given above, the Petitions for Special Exception, Special Hearing and Variance should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner's Office of Baltimore County, this 25th day of December, 1994, that YOU AND YOURS HAVE A JOYOUS AND PEACEFUL HOLIDAY SEASON; and,

IT IS FURTHER ORDERED that YOU AND YOURS HAVE A HAPPY, HEALTHY AND PROSPEROUS NEW YEAR, subject to the following restriction:

1. There shall be no appeal of this Order to the County Board of Appeals because, sometimes, they don't know what they're doing and reverse our decisions.


LAWRENCE E. SCHMIDT
Zoning Commissioner


TIMOTHY M. KOTROCO
Deputy Zoning Commissioner

Approved as to content and
form:


MARLENE C. NOVAK


BETTE J. SCHUHMAN