

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
www.montgomerycountymd.gov/content/council/boa/index.asp

(240) 777-6600

Case No. S-2141

PETITION OF BANNOCKBURN SWIMMING CLUB, INC.

RESOLUTION TO MODIFY SPECIAL EXCEPTION

(Resolution Adopted July 21, 2010)

(Effective Date of Resolution: July 29, 2010)

Case No. S-2141 is a special exception which the Board of Appeals granted to Bannockburn Swimming Club, Inc., on March 27, 1995, under Section 59-G-2.56 of the Zoning Ordinance, to permit the renovation of an existing community swimming pool.

The subject property consists of 3.108 acres, Bannockburn Co-op Inc. Subdivision, located at 6513 Laverock Lane, Bethesda, Maryland 20817-5449 in the R-60 Zone.

The Board of Appeals has received letters dated June 26, 2007, March 12, 2008 and June 29, 2010 from Bannockburn Swimming Club, Inc. The letters request administrative modification of the special exception to allow the addition of more pool and deck space, enlargement of the existing pavilion, installation of handicap access and modernization of the pool plumbing and backwash drainage system. The request states that the improvements are undertaken for the benefit of the existing pool membership, and that the club does "not anticipate that membership will increase meaningfully as a result of these modifications." The letter of June 29, 2010 encloses a final, approved forest conservation plan for the subject property. A Site Plan depicting the requested changes was submitted with the March 12, 2008 letter and entered into the record as Exhibit No. 15(c).

The Board of Appeals considered the letters at its Worksessions on July 18, 2007, April 2, 2008 and July 21, 2010. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance provides, pertaining to modification of special exceptions:

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing

the effect on traffic or on the immediate neighborhood, the Board, without convening a public hearing to consider the proposed change, may modify the term or condition.

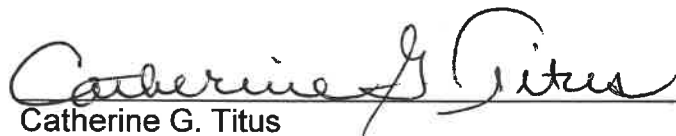
The Board finds that the proposed improvements to the pool, pool deck, pavilion and plumbing systems will not substantially change the nature, character or intensity of the use or its effect on traffic or on the immediate neighborhood. Therefore, on a motion by David K. Perdue, Vice-Chair, seconded by Carolyn J. Shawaker, with Walter S. Booth, Stanley B. Boyd and Catherine G. Titus, Chair, in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. S-2141 is re-opened to receive the correspondence from Bannockburn Swimming Club, Inc., with attachments; and


BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that Exhibit No. 15(c) is adopted as the special exception Site Plan; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that Exhibit 21 is adopted as the special exception Final Forest Conservation Plan; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.


Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
This 29th day of July, 2010.


Katherine Freeman
Executive Director

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision and conduct a public hearing to consider the action taken.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

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Case No. S-2141

PETITION OF BANNOCKBURN SWIMMING CLUB, INC.

RESOLUTION TO RE-OPEN THE RECORD

(Resolution Adopted May 21, 2008)

(Effective Date of Resolution: July 29, 2008)

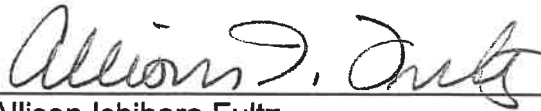
The Board of Appeals has received a letter, dated June 26, 2007, from James Dodwell, Co-Chairman of Bannockburn Pool, a letter, dated March 12, 2008 from John Chadwick, Pool Board Representative, and copies of email correspondence between Mr. Chadwick and representatives of the Maryland National Capital Park and Planning Commission (MNCPPC) staff, and Montgomery County Department of Environmental Protection (MCDEP) staff. Bannockburn Swimming Club wishes to modify its special exception to upgrade its existing pool facilities. Mr. Dodwell and Mr. Chadwick have also submitted drawings and plans to illustrate the proposed changes. The pool's correspondence with MNCPPC and MCDEP indicates that the provisions of the Montgomery County Forest Conservation Act will apply to the proposed modification, necessitating either an exemption from those provisions or a Forest Conservation Plan, pursuant to them.

The Board of Appeals granted Case No. S-2141 to Bannockburn Swimming Club, Inc., on March 27, 1995 to permit the continued operation of an existing swim club, and renovation of its facilities.

The subject property consists of 3.108 acres, Bannockburn Co-op, Inc., Subdivision, located at 6513 Laverock Lane, Bethesda, Maryland in the R-60 Zone.

The Board of Appeals considered the submitted documents at Worksessions on July 18, 2007, March 12, 2008 and May 21, 2008. The Board finds that it can take no action until it receives further submission from the pool in compliance with the Forest Conservation Act provisions, and will therefore move this matter to the pending section of its Worksession agenda. On a motion by Catherine G. Titus, Vice-Chair, seconded by Wendell M. Holloway, with David K. Perdue and Allison Ishihara Fultz, Chair, in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. S-2141, Petition of Bannockburn Swimming Club, Inc., is re-opened to receive the submissions from Bannockburn Swimming Club as Exhibit Nos. 13, 15 and 17.



Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 29th day of July, 2008.



Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

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for
MONTGOMERY COUNTY

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Rockville, Maryland 20850

Telephone
Area Code 301
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Case No. S-2141

PETITION OF BANNOCKBURN SWIMMING CLUB, INC.
(by: M. James Blackman, President, Board of Directors)
(Hearing held March 15, 1995)

OPINION OF THE BOARD

Effective date of Opinion: March 27, 1995

Case No. S-2141 is the petition for a special exception pursuant to Section 59-G-2.56 of the Zoning Ordinance to permit the renovation of the existing bathhouse and wading (baby) pool.

The subject property consists of 3.108 acres, Bannockburn Coop Inc. Subdivision, located at 6513 Laverock Lane, Bethesda, Maryland, in the R-60 Zone.

DECISION OF THE BOARD:

Special exception GRANTED, subject to conditions enumerated below.

M. James Blackman and Stanley Sigel appeared on behalf of the petitioner, Bannockburn Swimming Club, Inc. They explained that the swim club has operated for nearly 40 years without a special exception because the law did not require one when the pool was constructed in 1956. Now the facilities have deteriorated to such an extent that repair is no longer feasible. The swim club is required to obtain a special exception before a building permit can be issued for the necessary renovation.

Specifically, the existing bathhouse no longer meets code requirements for shower and toilet facilities, and it is not fully accessible to handicapped persons. The wading pool also needs extensive renovation. After examining its options, the swim club is proposing to build a new bathhouse and a new wading pool, and to relocate the facilities so that the bathhouse will be located where the wading pool was, and the wading pool will be located where the bathhouse was.

Nothing will change in the operation of the swim club. The number of memberships is capped at 300 by the club's by-laws. The season begins Memorial Day weekend and ends two to three weeks after Labor Day, depending on the weather. Hours of operation while schools are open are 3:00 PM to dusk. After schools close, the pool opens for sunrise swimming at 6:30 AM, and closes at dusk. A pool management company provides a pool manager, assistant manager, 3 full time lifeguards and 1-2 part time lifeguards. There are no lights in the pool area, although the parking area and wading pool have minimal security lights. The swim club has no planned after-dark evening activities. The parking has been sufficient; 60% of the members live within one-quarter mile of the pool.

FINDINGS OF THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Technical Staff recommended approval with conditions, noting that a variance would be required from a required setback of 75' (Exhibit No. 9). In a memo dated March 16, 1995, Technical Staff withdrew that statement, explaining that the adjacent property is publicly owned right-of-way for the unbuilt Braeburn Parkway. The required setback from publicly owned land is 25', and the proposed facilities do not violate that setback requirement. Therefore, no variance is required (Exhibit No. 12).

FINDINGS OF THE BOARD

Based on the testimony and exhibits, the Board finds that the requested special exception, to permit the continued operation of the swim club and the renovation of its facilities, meets the general requirements for special exceptions found in Section 59-G-1.21 as well as the specific requirements for community swimming pools in Section 59-G-2.56. The swim club has operated for 39 years in harmony with its neighborhood. Necessary renovations have created the requirement for a special exception. The Board notes that the club is not proposing to change any of its operations. Therefore, the Board expects that the use will continue to be compatible with the surrounding area.

Accordingly, the Board voted to grant the requested special exception for the renovation of the existing swim club facilities, subject to the following conditions:

1. Petitioner is bound by the submitted statement of operations and plans. Construction must conform to plans entered into the record as Exhibit Nos. 5 and 6.
2. Petitioner must submit a landscape, lighting and parking plan to Technical Staff at Maryland-National Capital Park and Planning Commission (M-NCPPC) for review and approval. One copy of the approved plan must be submitted to the Board of Appeals for its records. One copy must be submitted to the Zoning Supervisor, Department of Environmental Protection.
3. Petitioner must comply with the requirements of the Forest Conservation Ordinance prior to obtaining a building permit.
4. Petitioner must have no more than 300 memberships. Hours of operation are limited to 6:30 AM to dusk, Memorial Day weekend to the end of September.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the opinion stated above be adopted as the Resolution required by law as its decision on the above entitled petition.

The Board adopted the foregoing Resolution on a motion by Mr. Green, seconded by Mr. Bryant, with Mrs. Strang, Mrs. Heimann, Chairman, and Mrs. Raufaste in agreement.

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 27th day of March, 1995.



Tedi S. Osias
Executive Secretary to the Board

NOTE: See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four-months' period within which the special exception granted by the Board must be exercised.

See Section 59-A-3.2 of the Zoning Ordinance regarding Use and Occupancy Permit.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedures.