

**MINUTES  
BOARD OF ZONING APPEALS  
CASE A-219**

The Hampstead Board of Zoning Appeals heard Case A-219 on Wednesday, June 7, 2017.

Mr. Don Stolkovich, Chair of the Board, called the hearing to order at 7:00 p.m. The following Board Members heard this case: Mr. Stolkovich, Ms. Carol Irvin and Mrs. Vickie Watts. Present from the staff was Tammi Ledley, Zoning Administrator. Town Attorney Michelle Ostrander was also present.

Guests present: Chris Richards of GMS Holdings, LLC [Greenmount Station] (Appellant), David Richardson of the Maryland Thoroughbred Horsemen's Association (affiliated with Appellant), Mary Hood and Beth Hood [Almost Family Child Care Center] (adjacent property owners), McKenzie McCormick, Morgan Barton, Jamie Huntington, Jennifer Gall, Jesse Trawinski [all parents affiliated with Almost Family Child Care Center], Council Member Marlene Duff and Mayor Chris Nevin.

**CASE A-219**

On June 7, 2017, the Board of Zoning Appeals heard testimony and received evidence concerning the appeal Case A-219. The appellant requested a Conditional Use to operate an Off Track Betting [OTB] venue at his property at 1631 N. Main Street in the General Business zoning district.

The Board heard a statement by the Zoning Administrator regarding the allowable Conditional Use per Town Code, fulfillment of required parking spaces, and conveyed feedback from other towns with OTB venues.

The Appellant Chris Richards and affiliate David Richardson were duly sworn in for testimony. The Board then heard a presentation by Mr. Richards, as well as supporting information from the Appellant's affiliate, Mr. Richardson.

Board Member Mrs. Watts inquired about access between Greenmount Station restaurant and the proposed suite (Suite 4) for the proposed OTB venue. Mr. Richards replied that there will be a door between the restaurant and the OTB suite in order to convey food to the OTB patrons, as well as an outside entrance/exit door.

Mrs. Watts inquired about parking availability to accommodate the proposed OTB venue. Mr. Richards replied that he is working with the owner of Greenmount Bowl (adjacent property) to secure additional parking. Mr. Richardson added that the number one priority in opening the OTB is to solve the parking issues with a preference towards a community parking lot.

Mrs. Watts inquired about the hours of operation of the OTB; Mr. Richardson replied that the hours have not yet been set but that the normal hours of operation (e.g., such as the OTB hours in Boonsboro and Timonium) from 12 p.m. to 11 p.m. seven days a week, with the peak hours being 12 p.m. to 5 p.m. An OTB location in Perryville closes at 6 p.m. on Monday and Tuesday.

Mrs. Watts inquired about the sale of alcohol. Mr. Richards replied that he currently holds a liquor license for Greenmount Station and would check with the Carroll County Liquor License Board regarding whether that license will cover alcohol sales in the OTB.

Mrs. Watts inquired about security; Mr. Richardson replied that security would be provided on an as-needed basis by the Maryland Jockey Club and might include security cameras, but that there are generally no issues. Mr. Richards referred to Mrs. Ledley's Zoning Administrator's Statement regarding no issues reported from other towns with OTB venues which Mrs. Ledley reiterated.

Mrs. Watts inquired about how many people the facility will hold; Mr. Richardson replied that there will be possibly 30 stations with possibly some additional tables as space allows. Mr. Richards stated that they have not determined exact specifications in design in order to answer the question, and that they are still in the process of obtaining approval from the Town and the community before any additional steps are taken. They would comply with maximum occupancy as set by law.

Ms. Irvin asked when they want to be operational; Mr. Richards and Mr. Richardson replied that they do not have a set timeline at this point.

Ms. Irvin inquired about signage; Mr. Richards replied that current existing signage space will be reutilized. Mrs. Ledley affirmed that any proposed signage would have to conform to Town Code specifications.

Mr. Richards and Mr. Richardson provided additional information regarding the nature of an OTB, that they would be conservative in their administration of the business, and reiterated the demographic of typical patrons.

Mr. Stolkovich inquired about traffic, a possible impact on such, and inquired whether a traffic study will be conducted. Discussion ensued on current traffic conditions resulting from operation of the restaurant, bowling alley and child care center. Mr. Stolkovich stated he would prefer a traffic study be conducted and perhaps even be listed as a condition for a possible conditional use approval. Mrs. Ledley stated that there was most likely a traffic study provided when the shopping center was originally approved. Mrs. Watts stated that was many years ago and Mr. Stolkovich concurred that the data would not be applicable now. Mr. Richards stated that due to the presence and utilization of the bypass traffic will not be an issue.

Mrs. Ostrander inquired about agreements: the agreement [in principle] with the bowling alley [for parking], the agreement with the Maryland Jockey Club for the OTB operation. Mr. Richards confirmed that there is nothing in writing with the bowling alley. Mr. Richards and Mr. Richardson confirmed that there will be a written contractual agreement with the Maryland Jockey Club. Mr. Richardson elaborated on the steps in the State licensing process which must occur prior to the contractual agreement being executed.

Mrs. Beth Hood of Almost Family Child Care Center presented as a protestant, was duly sworn in for testimony, and stated she had an issue with the parking and traffic as well as the proximity to the children in the child care. She stated she adhered to all of the Town and County regulations in order to open her business and conducted a traffic study and that she has issues with parking for her facility and traffic even at this time. Her concerns are for the safety of her clients and the community. Mrs. Hood further stated that while she does not object to an OTB business as a whole, she recommends it be located elsewhere in a more industrial zone. Mrs. Watts inquired whether Mrs. Hood has designated exclusive parking; Mrs. Hood confirmed that she does but that the need for parking is still an issue especially during her prime pickup times. Ms. Irvin stated that Mrs. Hood was aware of the presence of the shopping center when she chose the location for her business. Mrs. Hood replied that the nature of business in the shopping center (the restaurant, a bank and a doctor's office) did not create enough traffic to warrant her concern at that time.

Public comments were received as follows [it shall be noted that all speakers were duly sworn in for testimony]:

Ms. Jennifer Gall presented as a protestant affiliated with Almost Family Child Care Center [a parent with three children in the center] and stated she was concerned about the presence of patrons gambling and drinking alcohol during the hours when her children will be in the center.

Ms. Morgan Barton presented as a protestant affiliated with Almost Family Child Care Center [an employee of the center and a parent with a child in the center] and stated that she has seen dangerous levels of traffic at this location as well as overcrowded parking and is concerned with additional traffic

being generated from an OTB. She further stated she is in charge of ensuring children at the child care center get on and off the school buses safely and is concerned with the children's safety should additional traffic be generated from an OTB.

Ms. Jamie Huntington presented as a protestant affiliated with Almost Family Child Care Center [a parent with two children in the center] and stated her experience with dangerous traffic and parking issues at the location. She is also concerned about children's safety should additional traffic be generated from an OTB.

Mr. Jesse Trawinski presented as a protestant affiliated with Almost Family Child Care Center [a parent with a child in the center] and stated his experience with the overcrowded parking and the dangerous level of traffic at this location. He also stated his concern with an OTB venue contributing to gambling and affecting young people, citing a 1996 study regarding impacts of gambling on small communities. He recommended another venue such as a game room for a dart league or a rec room. He stated he does not want to see anyone adversely affected by gambling which he feels could happen with the presence of and access to an OTB.

Mrs. Ostrander stated for the record that the Board had received a written statement from Ms. Lori Lee who submitted her comment as a protestant.

Mr. Stolkovich requested clarification on serving alcohol and security provided, given that Maryland Jockey Club personnel may not be present after 5 p.m. Mr. Richards stated that Greenmount Station will be maintaining food and beverage service to the OTB customers during operational hours so personnel will be present. Mr. Stolkovich clarified his question regarding Maryland Jockey Club supervision to ensure underage patrons do not enter and participate in gambling, to which Mr. Richards replied that they would follow the same rules as the bar in Greenmount Station and the Keno game offered there, and Mr. Richardson replied that security could be present to ensure that only patrons 18 and older entered for the purpose of gambling.

Mr. Richards presented his rebuttal by stating he is a recovered gambler and that he would not have entertained the idea of opening an OTB if he thought he would endanger his own well being, but that each person has their own responsibility for their well being. His current sales for alcohol are 19% of his business and he does not believe the alcohol factor to be an issue. He has tracked the parking issue, especially at the bowling center, and has found that there are more available parking spaces at the bowling center. He reiterated that he is attempting to work out an arrangement with the bowling center to share the parking. He stated that he and the Maryland Jockey Club are even considering purchasing the property behind the restaurant and has been discussing said purchase with the property owner. Mr. Richardson added that while they are not at liberty to discuss details of the potential agreement with the bowling center, they are confident they will be able to work out the parking issue. Mrs. Ostrander inquired about when the agreement might be ratified and become contractual; Mr. Richardson did not know and asked if the decision could be made now contingent upon the resolution of the parking issue. Mrs. Ostrander raised the question of whether the Board should table the case until the appellants have executed said contracts. Mr. Stolkovich stated he might prefer that and again stated he would like to see a traffic study conducted and produced for their review prior to them making a decision. Mrs. Ostrander stated that a traffic study usually is required at the site plan review stage, however the proposed use of the suite in question does not require a site plan review by the Town's Planning and Zoning Commission but only a zoning certificate for the change of use.

Mrs. Huntington made an additional public comment and asked if the OTB venue were to be approved would it then open the way for other gambling venues in Town. Mrs. Ledley cited Town Code Chapter 135-123.S, that only off track betting venues could be considered for a conditional use [as authorized by the Board and only within the General Business zoning district] with the exception of said zoning district within the Main Street Revitalization area [wherein such a venue is expressly prohibited]. Mr. Richardson commented that to add other forms of gambling to an OTB it would require a change in the State constitution.

The Board deliberated on the case.

Mr. Stolkovich stated his main concern is for the safety of the children attending the child care center. He stated he would prefer to make a decision on the case after the agreements for additional parking are executed, and also stated he would like to see a traffic study due to the changing dynamics of additional traffic generated by an OTB. Mrs. Watts stated she respects the viewpoints of all presenters, that she is not concerned with the nature of the OTB business but that she is concerned about the parking issue. She suggested the child care center perhaps even issue parking tags for their clients' use to deter other non-permitted drivers from attempting to use the child care center's parking spaces during non-permitted hours. Mrs. Watts stated her opinion that drivers may create dangerous conditions no matter the location so she is not as concerned with that factor. She added that she would be willing to table the case and reconvene when the parking issue has been resolved, which she believes will work out. Ms. Irvin stated she does not see a hindrance to the OTB and that if an agreement can be reached with the bowling center for additional parking she will be in favor of allowing the conditional use for the OTB. Mrs. Watts asked Mr. Stolkovich if the additional parking is secured with an agreement would he be in favor of the conditional use, stating that the traffic study most likely would not be required or produced. Mr. Stolkovich replied that he would consider the situation at a later date once parking and safety concerns have been addressed. Ms. Irvin reiterated that there is an entire process with the State which includes public hearings prior to the OTB being licensed and opening. Mrs. Ostrander and Mrs. Ledley offered clarification on the process in relation to the Board's portion. Mrs. Ostrander then clarified the conditions of postponing or tabling the Board's decision versus a continuation of the hearing. She recommended the Board not offer an approval with a contingency of securing additional parking. Mrs. Watts again asked the other Board members to sum up their view of the case, which they did [same views conveyed previously].

Mr. Richards inquired if there were any stipulations on the parking so they can consider how to execute the agreement. The Board stated that an additional 18 parking spaces must be secured.

Mr. Stolkovich made a motion to postpone and reconvene the hearing on July 10, 2017 in order to examine the parking issue. Mrs. Watts seconded the motion. Mr. Stolkovich voted for, Mrs. Watts voted for, Ms. Irvin voted against. The motion passed.

Mrs. Watts then stated the date of July 10 would actually not work for her. The date of Thursday, July 6 was agreed upon.

Mrs. Watts made a motion to rescind the prior vote; Mr. Stolkovich seconded the motion. The motion passed.

Mr. Stolkovich made a motion to postpone and reconvene the hearing on July 6, 2017 in order to determine if there is an acceptable contract with the bowling center for additional parking and to vote on the allowance of the conditional use. Mrs. Watts seconded the motion. Mr. Stolkovich voted for, Mrs. Watts voted for, Ms. Irvin voted against. The motion passed.

Mr. Stolkovich made a motion to adjourn the hearing. Mrs. Watts seconded the motion. All were in favor. The motion passed and the hearing was adjourned.

Submitted by:

Approved by:

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Tammi Ledley, Zoning Administrator

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Don Stolkovich, Chair