

FAYETTE COUNTY ZONING HEARING BOARD

RESOLUTION 22-12

Diamond Properties, LLC

WHEREAS, Diamond Properties, LLC, 333 N. Bedford Road, Mount Kisco, New York, filed a petition before the Fayette County Zoning Hearing Board; and

WHEREAS, said petition requests the Board to grant a Special Exception for a Campground on property zoned "A-1" Agricultural Rural; and,

WHEREAS, property concerned and owned by DP 134, LLC, 333 N. Bedford Road, Mount Kisco, New York, is located in the southern corner of the intersection of Indian Creek Valley Road and Nebo Road, Saltlick Township, Fayette County, Pennsylvania and is shown on Fayette County Zoning Map as District 31, Map 8 and Lot 29; and

WHEREAS, the Fayette County Zoning Hearing Board finds the following facts:

1. Under the Zoning Ordinance of Fayette County, a Special Exception for a Campground on property zoned "A-1" Agricultural Rural, requires specific approval from the Fayette County Zoning Hearing Board.
2. Petitioner, Diamond Properties, LLC, ("Petitioner") is the owner of Mountain Pines Campground, located at 1662 Indian Creek Valley Road Champion, Pennsylvania 15622, which is immediately across Nebo Road, to the property at issue in this Petition.
3. The Property is the site of the former Clifford N. Pritts Elementary School, which closed and has remained unused since 2018. Petitioner intends to demolish the existing elementary school and convert the land into an RV campground which will accompany the adjacent Mountain Pines Campground.
4. On February 11, 2022, Petitioner filed a Petition for Special Exception before the Zoning Hearing Board of Fayette County (the "Board") seeking a special exception to convert the Property into an RV campground with approximately 125 sites and supporting amenities.
5. Fayette County Zoning Ordinance, 1000-819, sets forth conditions and standards for the issuance of a special exception for a public/private campground. Specifically, a special exception for a public or private campground shall be granted subject to the following conditions and/or standards:
 - A. The minimum lot area of a campground, public or private, shall be twenty (20) acres.

B. All activities within the campground shall be located at least one hundred (100) feet from any property line adjoining a residence and at least fifty (50) feet from any other property line or public right of way as defined by this Chapter.

C. Side and rear bufferyards shall be a minimum of twenty-five (25) feet in width and shall be planted with a combination of deciduous and evergreen trees, shrubs, ornamental grasses and groundcovers.

D. Grass, sod, lawn or turf shall not be considered an acceptable plant for use within landscaped bufferyards.

E. The owner(s) and operator(s) of the campground shall incorporate Best Managements Practices as outlined in the Pennsylvania Handbook of Best Management Practices to minimize negative impacts of erosion, siltation and surface water and groundwater contamination.

F. Public visitation hours at campgrounds shall be limited to between 7:00 A.M and 11:00 P.M. No deliveries or operations shall be permitted prior to 7:00 A.M. or after 9:00 P.M. Outdoor entertainment or related activities shall be limited to between 9:00 A.M. and 9:00 P.M.

G. All outdoor storage areas, loading areas and dumpsters or waste collection areas shall be screened. Screens shall be a minimum of eight (8) feet in height and shall be constructed as earth berms, fences or walls with a minimum height of eight (8) feet and a minimum opacity of eighty percent (80%).

H. Visitor parking shall be provided at one (1) space for every three (3) camping sites.

I. Prior to the issuance of a permit, a land development plan must be approved by the Planning Commission and recorded with the County.

J. The Zoning Hearing Board may attach additional conditions pursuant to this section, in order to protect the public's health, safety, and welfare. These conditions may include but are not limited to increased setbacks.

Fayette County Zoning Ordinance 1000-819.

6. On May 11, 2022, the Board held a hearing on the Application. At the hearing, two unincorporated associations ostensibly made up of Saltlick Township residents known as the "Indian Creek Citizens Council" and the "Mountain Watershed Association" (collectively, the "Objectors") objected to the Application. The Objectors sought the denial or dismissal of the Application, claiming that the Application was deficient and/or failed to comply with local zoning ordinances.

7. At the May 11, 2022, hearing, Petitioner presented testimony that it intended to fully comply with all zoning requirements, including any additional conditions that may be set forth by the Board in the future.
8. The hearing was continued until July 27, 2022, subject to its ruling on the Objectors' motions to dismiss.
9. At the July 27, 2022, hearing, Petitioner submitted a preliminary site plan identifying the general use of the Property and demonstrating compliance with Fayette County Zoning Ordinance §1000-819. Mr. Rober testified as to the contents of the preliminary site plan and its compliance with Fayette County Zoning Ordinance 1000-819. (TR. Jul. 27, 2022, at 21.)
10. According to the testimony presented, the proposed site exceeds 20 acres, as required by 1000-819(a). Additionally, the proposed site contains 25-foot buffer yards consisting of trees, shrubs, and other native vegetation, as required by 1000-819(c). Grass will not be used as the sole or primary vegetation in the buffer yards as required by 1000-819(d). Petitioner will obtain a Department of Environmental Protection ("DEP") storm water management permit before proceeding with construction of the proposed site and will be subject to all DEP requirements and/or regulations, as enforced by the Fayette County Conservation District, in managing storm water and erosion and thereby comply with 1000-819(e). The proposed site contains areas designated for storage, loading areas, and refuse areas, as required by 1000-819(g). The proposed site contains at least one parking spot at each campsite, exceeding the requirement set forth in 1000-819(h). The site plan contains a wastewater treatment facility.
11. The Board adjourned the hearing and continued it for August 31, 2022.
12. At the August 31, 2022, hearing, Christopher Sanner testified on behalf of Petitioner regarding wastewater operations and compliance with related ordinances.
13. The Objectors presented testimony, including expert testimony, that the Petitioner cannot meet the requirements of the ordinance. Objectors also presented testimony that the existing campground, run by Petitioners, is a nuisance in a variety of ways, including but not limited to its noise, smoke, aesthetics, and environmental impacts. This, according to Objectors, would be exasperated if the Petitioners were granted this Special Exception, and permitted to operate a neighboring campground.

6. The Board finds that the Petitioner has met the burden of proof for the proposed Special Exception for a Campground, and the request will not adversely impact the health, safety and welfare of the residents of the adjoining and surrounding area, nor would it change or alter the general use and make-up of the neighborhood, provided conditions are set on the approval. According to §1000-819(j), the Board has the right and authority to impose conditions in order to protect the health, safety, and welfare of the surrounding area.

NOW THEREFORE BE IT HEREBY RESOLVED, by the Fayette County Zoning Hearing Board, the petition of Diamond Properties, LLC, after due consideration, be approved in accordance with the following conditions:

1. The Petitioner shall construct and operate said campground in accordance with the testimony and plan as testified to.
2. The setbacks for entire campground shall be consistent with the Zoning Ordinance requirements for A-1 non-residential zoning requirements, which are shown on Table 3, in Section §1000-207.
3. Bufferyards shall be consistent with §1000-212 of the Zoning Ordinance, as a Bufferyard 1, with a minimum width of 25 feet, and 2 shade trees and 12 shrubs per every 40 feet of property line and/or right away.
4. Each individual campsite shall be no larger than 50 feet by 50 feet, and the campground shall have no more than 90 campsites. No campsite shall be permitted to be constructed within the “no activity zone,” as shown on the plan.
5. All campground sponsored activities shall end by 9:00 p.m. No noise producing activities shall be permitted after 9:00 p.m. Campground staff shall make a concerted effort to enforce noise levels at individual campsites to be kept at a minimum after 9:00 p.m.
 - a. The campground will be permitted to have two events per season that extend to 11:00 p.m. The campground must notify the Zoning Office as well as the Township of these two events. This will include fireworks.
6. Petitioner shall construct a sewage treatment plant in accordance with the regulations of the Department of Environmental Protection.
7. All roadways and walking paths within the campground shall be lit.

8. The Petitioner shall bear all cost and responsibility for construction of a “safe crossing site” across Nebo Road, which shall be equipped with proper signage & lighting, and subject to municipal approval. This crossing is for pedestrian and golf cart traffic only.
9. Ingress/egress for the campground shall only be permitted off of Indian Creek Valley Road, subject to a Highway Occupancy Permit through PennDOT.
10. No access shall be permitted via Bella Lane. Petitioner shall provide proper signage allowing patrons to be aware.
11. Petitioner shall submit a land development plan for review & approval by the Fayette County Planning Commission prior to permit approval.
12. Privacy fencing shall be provided along the southern property line along Bella Lane and shall be located 5 feet from the property line, and a minimum of 12 feet high, allowing Petitioner appropriate access for maintenance. This privacy fence shall be in lieu of the Bufferyard required in Condition 2 above, and §1000-819(C).
13. No full-time patrons/occupants (also referred to as “campers”) shall be permitted to reside at the campground. Patrons/occupants shall not stay at their campsites from November 1st until April 1st. Occasional visits to their campsites during this time shall be permitted for the purpose of safety and security of their campsite, but all overnight stays shall be excluded.
14. Campfires shall be no larger than 32 inches in diameter and there shall be no more than one campfire site per 10 campsites. There shall be no outside firepits permitted to be brought into the campground via patrons.
15. There shall be no permanent structures, including but not limited to, sheds, porches, carports, awnings, or added roofs.
16. The Petitioner shall otherwise operate the Campground in accordance with the testimony and plan presented during the Zoning Hearing. The Petitioner shall comply with all Sections of the Fayette County Zoning Ordinance, as well as all other local, state and federal regulations, and as testified to. Failure to do so shall result in the withdrawal of the approval. No variances from the Fayette County Zoning Ordinance, except as may be identified in these conditions, are granted by this approval.

Robert Lesnick
Chairman

January 12, 2023

Date:

13 (8H)

Charlie Matthews / (8H)

Secretary

1-13-23

Date: