

**Board of Appeals Hearing
November 21, 2019
6:00 PM**

In attendance were Chairman, John Gilley, Esq., Ursula Boudart, Richard Mahan, Alternate David Jarinko and attorney, David Beste, Esq. For the Applicant in attendance were Robert Valiant Jones, Esq. and Lawrence Metz, and for the Zoning Administrator, Cameron Brown, Esq. ; Charlestown Staff members, Wilbur Pumpaly, Zoning Administrator, Janine Antoshak, Office Manager, and Debbie Myers, Town Clerk.

Chairman John Gilley called the hearing to order at 6:00 PM and stated that the purpose of the hearing was in regards to the complaint of an impermissible use of 125 Conestoga Street, Charlestown, Maryland 21914 in violation of the zoning ordinance.

Robert Valiant Jones made an opening statement by beginning with the long history of weddings in Charlestown. Weddings have been permitted outside to take advantage of the lovely water views for decades. Mr. Metz only conducts wedding ceremonies at the residence at 125 Conestoga and no alcohol or music is supplied. Receptions are not held on site, there is a 100 square foot room for bride's to get ready for the ceremony inside the residence, otherwise everything is held outside.

Mr. Jones stated that there was not a variance application and that the issue is the Zoning Administrator's letter on September 24, 2019.

Exhibit #1 was admitted into evidence. This was the Zoning Administrator's letter of September 24th.

Exhibit #2 was admitted into evidence as a zoning map of Charlestown. In R3 zone specific activities of permitted use are private clubs. He went on to name many permitted uses that can be held in the R 3 zone and does not limit the number, frequency or length of these activities. While not specifically named weddings and wedding receptions are permitted in the R3 Zone.

Exhibit #3 gives a history of the property located at 125 Conestoga Street. Historically the property was a club and has been so. In the fall of 2018 the property had been on the market for over a year and Mr. Metz decided to purchase the property as a residence and a wedding venue.

Exhibit #4 contains a number of emails back and forth for a period of three months where discussions studied the issue and the conclusions they arrived at. The emails seem to support the use of the property as a wedding venue. Mr. Clower on August 20th stated in an email that the burden should be with the complainant. Mr. Lightner, the Town Code Enforcement officer also stated in an email that there are at least six parcels in town used for wedding venues.

Exhibit #5 a letter from David Ashworth questioned the use of a home occupation. The letter was accusatory of the staff being sympathetic to Mr. Metz and his use of the property. On September 5, 2019 Mr. Metz was sent a letter from the town's attorney Dennis Clower stating that there was no violation. On September 10th, at a regular Town Meeting while the issue was not on the agenda, a number of residents attended to voice opposition to the use as a wedding venue. According to zoning ordinance 175-50 whenever the zoning administrator receives a complaint he is to explore the complaint and return a decision of his findings. On the next day Mr. Pumpaly told Mr. Metz that there would be no further action and that he would receive a letter stating such.

Exhibit #6 A letter to Mr. Clower from Mr. Ashworth where he stated that his concerns were being ignored and that the persons exploring the complaint were biased towards Mr. Metz. On September 16

Mr. Clower sent an email to Mr. Ashworth stating that more evidence was submitted and the town no longer had the same stance and that Mr. Metz would need to appeal.

So, what changed between the 11th of September and the 24th? Was it the Ashworth letter and the accusations?

Exhibit #7 shows the operating agreement of Eagle Point LLC showing that Mr. Metz was the principal Equity/Owner. Mr. Jones then questioned Mr. Lawrence Charles Metz 125 Conestoga Street. The questioning showed that Mr. Metz decided to purchase the property to use as his residence and to allow brides to use the property. He described the use of the property and the procedure for brides. Eagle Point LLC has its own federal ID number, its own membership and a modest membership fee to join the club, the bride is charged additionally for a set up fee for chairs and the arch but not to use the property. The relationship between the Wellwood and the Eagle Point Club LLC is non-existent, they are completely separate entities. Before purchasing the property he held meetings with neighbors to describe the proposed use. He spoke to Pauline Bryant and to Mr. and Mrs. Thomas Kelly, Mr. Albert VanDyke. No one from the town has ever been there to inspect and no one has come to him to complain. Exhibit #9 also shows pictures of non-wedding related vehicles routinely parked along the street and it was noted that there are no "no parking" signs posted on Conestoga Street.

Mr. Gilley asked the question that wouldn't anyone would be able to have guests at their home, but that this seems to be a clear difference in the use? Mr. Metz has no one parked on the streets and shuttles guests back and forth by shuttle bus. Parking for weddings is at the Wellwood with a shuttle between the sites. The residence has four parking places. Inside the residence there is a 100 square foot space that is used for brides.

Mr. Cameron Brown, attorney for the Town asked some questions of Mr. Metz. The answers follow: There is an application process and the applicants as part of the process state their wedding date. Seven weddings with one having their reception at the North East Fire Hall have been held over an eight-month period. The wedding not having their reception at the Wellwood were only required to pay the membership dues and the fees for set up of chairs at the site. Buses are used to move guests from the Wellwood to the Eagle Point. Is the wedding a package or is a separate package. The brides are shown six different locations. 100 Square foot is used by brides and is locked off from the house.

Mr. Michael R. Pugh was introduced as a witness for the Applicant and has a background in Planning and Zoning and his last position was as the Director of Planning and Zoning for Cecil County. He has since become a consultant. He opined that the Eagle Point Club LLC is not in violation of the Town's zoning. The Town's code allows for these types of events and private clubs are allowed and are a permitted use within the R3 Zone of Charlestown. In looking at the letter where the town changed their opinion they indicated that it could be viewed as a home occupation. He finds no compensation, only a private club membership offering services to members. The other contention that it changes the temperament of the neighborhood. If a use is a permitted use, then it cannot be encumbered save and except where it is enunciated in the code. The affect on the neighborhood is irrelevant as long as the use is permitted. In Charlestown's code is there any limitation as to occurrences? Mr. Brown had questions for Mr. Pugh. When talking permitted use, it is that of private club. Weddings held on other properties in Charlestown also indicate that they are also a permitted use. If the Eagle Point Club does not constitute a private club then the weddings would not fall into a permitted use.

Mr. Cameron Brown then took the floor and stated that the applicants had tried to muddy the zoning ordinance. Ultimately the Zoning Ordinance is not being followed as a home occupation as the weddings are not held inside the club. The definition of private club or lodge is any building for a select membership that is not open to the general public. This club exists solely for the use of weddings.

Several federal bodies have determined the definition of private club. It seems that there is no screening process for membership in this particular club save for scheduling a wedding. What degree do social members have a say in what happens at the club? What about a selection process for membership, what about membership fees? Is this a private club, or a business masquerading as a private club? The names do not always indicate that the business is an actual private club. Many businesses have club in their name and are open to the public. Is the nature of the membership only for the ability to host your wedding at the location? Is it a membership fee or a commercial transaction? Code 175-26 off street parking is required one to 100 square feet of the residence. Parking must be between 100 to 200 feet of the property and the available parking for this property is outside this distance.

Mr. David Ashworth was sworn in as witness. He testified that he has owned property at 408 Calvert Street for 27 years directly across the street. Before, during and after the ceremonies the Wellwood jitneys circle the block and park in front of 125 Conestoga. He showed pictures that supported his position. It is a residential property and to state that it is a private club is not what is happening. The pictures he feels support his position. He has observed people walking with solo cups as open containers to and from the venue. Are weddings in the park as big a distraction? Mr. Ashworth is not affected as it is around the corner.

Ms. Boudart asked what constitutes club membership? Can there be fees involved? Terms of membership? If you join a country club there are fees and facilities for the use of the members and can come and go as they please as opposed to a club formed solely for a sole purpose at a defined time. The criteria for this club seems to be what is the date of your wedding?

Mr. Jones closed with the statements that there is no evidence that this is not a private club. There is a nominal fee for the weddings and a membership fee. If there is a permitted use the effect of the neighborhood is not an issue as long as it is a permitted use in the R3 Zone. It has its own phone number, its own website and its' own federal ID #. The Town's attorney was in accordance with the use until something happened between September 10th and September 24th.

Mr. Brown closed with the appreciation of clever lawyering and the assumption that permissible use is a private club, and so we form a private club. It does not change the fact that the private club cannot be open to the general public but must have more membership rules than a wedding date.

Mr. Gilley moved to go to closed session to deliberate a decision, seconded by Ms. Boudart. Approved 3-0 at 7:30PM.

The board reconvened in open session at 8:14PM.

The finding of the Board of Appeals of Charlestown Maryland was that the board affirmed the decision of the Zoning Administrator. The vote of the board was unanimous. The meeting was then closed. At 8:16 PM.

Respectfully submitted,

Debbie Myers, Town Clerk