

COMMONWEALTH COURT OF PENNSYLVANIA

Hunterstown Ruritan Club v. Straban Township Zoning Hearing Board

143 A.3d 538 (Pa. Commw. Ct. 2016) · No. No. 1204 C.D. 2015 · Decided July 14, 2016

SUMMARY

The Pennsylvania Commonwealth Court considered whether a go-cart racing operation constituted a lawful pre-existing nonconforming use on Saturdays and Sundays, despite a zoning officer's certificate recognizing racing only on Saturdays. The court held that the certificate documented but did not limit the constitutionally protected nonconforming use, reversed the trial court, and remanded for further proceedings concerning the scope of any natural expansion.

CASE DETAILS

COURT	Commonwealth Court of Pennsylvania
WRITING FOR THE COURT	Michael H. Wojcik; Robert Simpson; Dan Pellegrini
JURISDICTION	Pennsylvania
DECIDED	July 14, 2016
DOCKET	No. 1204 C.D. 2015
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The Club appealed the Court of Common Pleas of Adams County's order affirming a zoning hearing board decision denying its application to expand or continue a prior lawful nonconforming use for go-cart racing on Sundays.
STANDARD OF REVIEW	Where the parties present no additional evidence to the trial court, the Commonwealth Court reviews whether the zoning hearing board committed an error of law or abused its discretion.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Hunterstown Ruritan Club v. Straban Township Zoning Hearing Board

TOPICS

- zoning
- real estate
- municipal law
- administrative law
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Club's lawful pre-existing nonconforming use included Sunday go-cart racing that occurred before the 1992 zoning ordinance.
2. Whether the zoning officer's certificate of nonconformance could limit or extinguish the Club's constitutionally protected right to continue Sunday racing.
3. Whether the Board properly treated the Club's request to conduct the same nonconforming use on Sundays as an expansion subject to the ordinance's special-exception standards.
4. Whether the record supported a determination under the natural-expansion doctrine.

HOLDINGS

1. Because the Board found that Sunday go-cart racing occurred before the zoning ordinance was enacted and the record did not show abandonment, the Club's lawful nonconforming use included Sunday racing.
2. A certificate of nonconformance documents the existence of a nonconforming use but cannot expand, limit, or extinguish a lawful nonconforming use; failure to appeal the certificate caused only a procedural disadvantage and did not waive the Club's property right to conduct Sunday racing.
3. The Board and trial court erred in determining that the Club could not conduct Sunday racing based on the certificate and the proposed-use application. The court did not decide whether the Club's current Sunday racing fell within the natural-expansion doctrine because the Board made no findings on that issue.

KEY QUOTATIONS

“A certificate proves the existence of a nonconforming use. The mere absence of a certificate [of nonconforming use] does not deprive the landowner of his right to continue a lawful nonconforming use.” (at 541)

“In short, a certificate represents a procedural advantage, not an independent property right. Conversely, the lack of a certificate results in a procedural disadvantage and not in the loss of a property right.” (at 542)

“Consequently, the failure to appeal from the terms of a certificate of nonconformance results only in a procedural disadvantage and not in a restriction or limitation of constitutionally protected property right.” (at 543)

FACTUAL BACKGROUND

Hunterstown Ruritan Club owned a 14-acre community-recreation property where go-cart racing began in the early 1960s and was formalized through a lease in 1982. The parties stipulated that go-cart racing was a lawful pre-existing nonconforming use when Straban Township adopted its first zoning ordinance in 1992. The record and the Board's findings showed that Sunday racing occurred before 1992, although the zoning officer's later certificate of nonconformance described the use as Saturday racing only. The Club sought recognition or

continuation of Sunday racing, and the Board denied the request based on ordinance requirements concerning buffering, parking, access, utilities, environmental effects, and impacts on neighboring properties.

PROCEDURAL HISTORY

The Straban Township Zoning Hearing Board denied the Club's application concerning Sunday go-cart racing after treating the request as an expansion of a Saturday-only nonconforming use and finding that the proposed use failed applicable ordinance standards. The Court of Common Pleas of Adams County affirmed. The Commonwealth Court reversed and remanded, concluding that the certificate of nonconformance could not limit the Club's constitutionally protected lawful nonconforming use and that the Board had not made findings necessary to determine whether the use fell within the natural-expansion doctrine.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the Court of Common Pleas of Adams County's order and remand for further proceedings consistent with the opinion, which may include remand to the zoning hearing board. The Board must not treat the certificate of nonconformance as limiting the Club's lawful Sunday racing use and must make appropriate findings concerning any natural expansion and permissible reasonable restrictions.

CASES CITED

- Good v. Zoning Hearing Board of Heidelberg Township, 967 A.2d 421, 423 n.5 (Pa. Commw. Ct. 2009)
- DoMiJo, LLC v. McClain, 41 A.3d 967, 972-73 (Pa. Commw. Ct. 2012)
- Smalley v. Zoning Hearing Board of Middletown Township, 834 A.2d 535, 539, 544 (Pa. Commw. Ct. 2003)
- Pennsylvania Northwest Distributors, Inc. v. Zoning Hearing Board of Moon Township, 584 A.2d 1372, 1375 (Pa. Commw. Ct. 1991)
- Nettleton v. Zoning Hearing Board of Pittsburgh, 828 A.2d 1033, 1037 n.3 (Pa. Commw. Ct. 2003)
- Humphreys v. Stuart Realty, 73 A.2d 407, 409 (Pa. 1950)
- Limley v. Zoning Hearing Board of Port Vue Borough, 625 A.2d 54 (Pa. Commw. Ct. 1993)
- Pappas v. Zoning Board of Adjustment of City of Philadelphia, 589 A.2d 675 (Pa. Commw. Ct. 1991)
- Chartiers Township v. William H. Martin, Inc., 542 A.2d 985 (Pa. Commw. Ct. 1988)
- Silver v. Zoning Board of Adjustment, 255 A.2d 506, 507 (Pa. 1969)
- Itama Development Associates, LP v. Zoning Hearing Board of Rostraver, 132 A.3d 1040 (Pa. Commw. Ct. 2016)
- Foreman v. Union Township Zoning Hearing Board, 787 A.2d 1099 (Pa. Commw. Ct. 2001)
- Clanton v. London Grove Township Zoning Hearing Board, 743 A.2d 995 (Pa. Commw. Ct. 1999)
- Baer v. Zoning Hearing Board of Quincy Township, 782 A.2d 597, 601 (Pa. Commw. Ct. 2001)
- Cornell Uniforms, Inc. v. Abington Township, 301 A.2d 113 (Pa. Commw. Ct. 1973)

- Slusser v. Black Creek Township Zoning Hearing Board, 124 A.3d 771, 774 (Pa. Commw. Ct. 2015)
- TKO Realty, LLC v. Zoning Hearing Board of Scranton, 78 A.3d 732 (Pa. Commw. Ct. 2013)
- Miller & Son Paving, Inc. v. Wrightstown Township, 451 A.2d 1002, 1007 (Pa. Commw. Ct. 1982)
- Fagan v. Philadelphia Zoning Board of Adjustment, 132 A.2d 279, 281 (Pa. 1957)
- Hanna v. Board of Adjustment of Borough of Forest Hills, 183 A.2d 539, 543 (Pa. 1962)

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