

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600
(www.mo.co.md.us/council/board.html)**

WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, November 20, 2002, 9:00 A.M.

ACTION CALENDAR:

1. **Minutes**, November 13, 2002 Worksession.

Action: Approved, (AIF/AMC, 5-0).

2. **A-5790, Appeal of Edna Larson** (Department of Permitting Services (DPS) – Letter of Violation dated June 11, 2002). Letter from the appellant requesting a refund of the filing fee.

Action: Granted 100% (\$158.00) refund of the filing, (LLM/DLB, 5-0).

3. **CBA-68, Petition of Vivian S. Davies and The Good Music Station, Inc.** (transmitter building and four transmitters) and **S-429, Petition of Bells Mill Road Corporation** (new building). Memorandum from Stanley N. Garber, Investigator, DPS, notifying the Board that the special exceptions have been abandoned and requesting that they be revoked.

Action: Revoked special exception as abandoned, (DLM / LLM, 5-0).

4. **CBA-1193, Petition of West Hillandale Swim Club, Inc.** (community swimming pool). Letter to the Board from John Linnehan requesting an administrative modification.

Action: (1) Denied administrative modification; (2) public hearing required for the review of the existing conditions of the special exception; (3) case referred to the Office of the Hearing Examiner, (LLM/AMC, 5-0).

5. **CBA-1577 [S-233], Petition of Stanley J. Nadonley, Trustee** (golf course and country club). Letter to the Board from Dino C. LaFiandra, Esquire, requesting an administrative modification.

Action: Item deferred for review by the M-NCPPC Technical Staff, consensus.

6. **CBA-1710, Petition of Dr. Edward J. Bukowsky** (non-resident medical practitioner). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter from Srilita Rajagukguk, current property owner, confirming the abandonment.

Action: Revoked special exception as abandoned, (DLB/LLM, 5-0).

7. **CBA-2094, Petition of Abdollah Malekzadeh** (trailer park). Letter to the Board from Jody S. Kline, Esquire, requesting oral argument.

Action: Granted request for oral argument, (DLB/AMC, 5-0).

8. **CBA-2402-A [CBA-2402], Petition of Exxon Corporation** (automobile filling station). Letters to the Board from C. Robert Dalrymple, Esquire, and Erin E. Girard, Esquire, requesting an administrative modification. (Large exhibit: site plan).

Action: Granted administrative modification, (AIF/AMC, 5-0).

9. **CBA-2841 [S-130], Petition of Rodolfo P. Ramirez D.V.M.** (animal hospital). Letter to the Board from Jody S. Kline, Esquire, requesting an administrative modification.

Action: (1) Waived payment of additional filing fee; (2) granted administrative modification; (3) revised site plan to be included in file within 60 days, (DLB/LLM, 5-0).

10. **CBA-2851, Petition of Manor Healthcare Corporation** (nursing home). Reconsideration or rehearing request from neighboring homeowners.

Action: (1) Board to request DPS inspection of the special exception; (2) referred case to Hearing Examiner to hold hearing, (AIF/AMC, 5-0).

11. **S-354, Petition of McDonald's Corporation** (drive-in restaurant). Letter to the Board from Patricia A. Harris, Esquire, withdrawing the administrative modification.

Action: (1) Dismissed administrative modification as withdrawn; (2) request for review of use by M-NCPPC Technical Staff still required by the Board, (LLM/AMC, 5-0).

12. **S-687-E, Petition of The Bullis School, Inc.** (private educational institution). Letter to the Board from Jody S. Kline, Esquire, requesting an extension of time to implement.

Action: Granted 12-month extension of time, (AIF/DLB, 5-0).

13. **S-739-A, Petition of Shemin Nurseries, Inc.** (wholesale horticultural nursery). Memorandum to the Board from Sandra L. Youla, Zoning Analyst, MNCPPC, request for staff comment on the administrative modification and to request that staff comment on administrative modifications that involve land extensions.

Action: Public hearing on administrative modification scheduled for 12/11/02 @1:30 p.m., consensus.

14. **S-802, Petition of Wallace P. and Dallas M. Berch** (antique shop). Letter to the Board from the petitioner requesting that the special exception be reinstated.

Action: Denied request to reinstate special exception for lack of jurisdiction, (AIF/LLM, 5-0).

15. **S-945, Petition of Bruce W. Nash** (accessory apartment). Memorandum to the Board from Kevin M. Martell, Housing Code Field Supervisor, Department of Housing and Community Affairs (DHCA), notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Schedule Show Cause Hearing, (LLM/DLB, 5-0)

16. **S-1224, Petition of Clarkson R. Sherwood** (horticultural nursery and commercial greenhouse). Letter to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule expedited Show Cause Hearing, (LLM/AIF, 4-0/DHS/recused).

17. **S-1245, Petition of Martin J. King** (accessory apartment). Letter to the Board from the petitioner notifying the Board that the special exception was never implemented and requesting that it be revoked.

Action: Revoked special exception as never implemented, (DLB/LLM, 5-0).

18. **S-1355 [S-1355-A], Petition of MRC Limited Partnership** (housing and related facilities for the elderly or handicapped). Letter to the Board from David D. Freishtat, Esquire, requesting a transfer of the special exception.

Action: Granted transfer of special exception, (AMC/AIF, 5-0).

19. **S-1428, Petition of Lavern Ray** (home occupation). Memorandum from Stanley N. Garber, Investigator, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter from the property owner confirming the abandonment.

Action: Revoked special exception as abandoned, (LLM/AMC, 5-0).

20. **S-1467, Petition of Dr. Edwin H. Friedman** (non-resident professional office). Memorandum to the Board from Stanley N. Garber, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Revoked special exception as abandoned, (AMC/AIF, 5-0).

21. **S-1484, Petition of Frank J. Martell and K. Melisa Martell** (private riding stable). Memorandum to the Board from Stanley N. Garber, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Schedule Show Cause Hearing, (LLM/AMC, 5-0).

22. **S-1667, Petition of Thomas A. Gowling** (home occupation). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Revoked special exception as abandoned, (AIF / DLB, 5-0).

23. **S-1834, Petition of Ingrida Meierovics** (accessory apartment). Letter to the Board from Homayoun Tavakoli requesting a transfer of the special exception.

Action: Granted transfer of the special exception, (AIF/LLM, 5-0).

24. **S-1881, Petition of David M. Weitz and Regina V. Dobrov** (accessory apartment). Memorandum to the Board from Therese L. Pelicano, Housing Code Inspector, DHCA, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Schedule Show Cause Hearing, (LLM/DLB, 5-0).

DECISION ITEMS:

25. **S-735-A, Petition of Verizon Maryland, Inc.** (public utility buildings, public utility structures, telecommunications facilities). Hearing Examiner's Report and Recommendation.

Action: Granted and adopted the Hearing Examiner's Report and Recommendation, (AIF/AMC, 5-0).

26. **S-2530, Petition of Dr. Gabriel Kengni** (existing accessory apartment). Hearing Examiner's Report and Recommendation.

Action: (1) Granted and adopted the Hearing Examiner's Report and Recommendation; (2) Board resolution to include the Hearing Examiner's language in paragraph 1; (3) Board resolution to address neighbors' concerns and petitioner's compliance with the special exception conditions; (4) conditions to comply with the language of the Zoning Ordinance, (DLB/LLM, 5-0).

PENDING ITEMS:

27. **CBA-1692 [S-719, S-720, S-721], Petition of Karl W. Corby, Jr., et al** (medical practitioner's office). Letter to the Board from Stanley N. Garber, Zoning Investigator, DPS, notifying the Board of the special exceptions' outstanding Notices of Violation. Item deferred to a future worksession pending clarification from DPS.

28. **CBA-2640, Petition of The National Capital Area Council – Boy Scouts of America** (eleemosynary and philanthropic institution). Letter to the Board from Patricia A. Harris, Esquire, requesting an administrative modification. Board requested a review and recommendation from M-NCPPC.

29. **CBA-2986, Petition of Leafy House, Inc.** (housing for the elderly). Letter to the Board from Chris A. Fremuth, R.L.A., requesting an administrative modification. (Large exhibit: site, landscape and lighting plan). Item deferred for review of the landscape/lighting plan and the parking plan by M-NCPPC.

30. **S-325 [S-438], Petition of Ben A. Williamowsky, D.D.S. and Dr. Mark L. Taff, D.D.D.** (non-resident medical practitioner). Letter to the Board from Drs. Brad Levine, D.D.S. and Mark L. Taff, D.D.S., requesting a transfer and an administrative modification of the special exception. Item deferred for DPS recommendation on effectiveness of the terms and conditions of the original special exception approval.

31. **S-333, Petition of Dr. Edward H. Weiss and Dr. Richard L. Gross** (non-resident medical practitioner). Letter to the Board from Douglas A. Tebor, M.D. and Linda Blackman, LCSW-C, requesting a transfer and an administrative modification of the special exception. Item deferred for recommendation from DPS on original special exception site conditions and impact on parking approved special exception site.

PENDING ITEMS (continued):

32. **S-384, Petition of Dr. Bernard H. Ostrow, Dr. Morton W. Shapiro and Dr. John A. Galotta** (non-resident medical practitioner). Letter to the Board from John A. Galotto, M.D. and Irene Feldman, M.D., requesting a transfer and an administrative modification of the special exception. Item deferred for DPS recommendation on: (1) marked special exception parking spaces; (2) review of special exception holders' sublease; and (3) special exception impact.
33. **S-507, Petition of Carolina Hopkins** (travel agency). Letter to the Board from Susan Novinsky, of Novins Travel Service, requesting a transfer of the special exception. Item deferred for corrected lease from petitioner.
34. **S-569, [CBA-3051, S-95], Petition of C. O. and M. E. Bland** (horticultural nursery). Letter of complaint to the Board from David C. Gardner, Esquire, regarding the special exception use. Board requests DPS inspection of the special exception property.
35. **S-1057, Petition of Andrew Weiss** (framing and variety store). Letter to the Board from Mary Jean and Joe Campanellie, of Campanellie's Signature Portraits, requesting a transfer of the special exception. Item deferred for copy of petitioner's lease.
36. **S-1578, [S-1578-A], Petition of Paul Meyers and Judy L. Feinberg** (non-resident professional office). Letter to the Board from Stephen J. Orens, Esquire, requesting a transfer and an administrative modification. Item deferred for review by MNCPPC Technical Staff.
37. **S-1590, Petition of Marriott Corporation** (hotel). Letter to the Board from Stanley N. Garber, Investigator, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Item deferred to permit DPS to re-send the abandonment notice.
38. **S-1716, Petition of Sports Fun, Inc.** (commercial recreational or entertainment establishment). Letter to the Board from David and Nancy Ris, current property owners, notifying the Board that the special exception has been abandoned and requesting that the special exception be revoked. Item deferred. Board to request DPS correction of special exception address.
39. **S-1751, Petition of Hanna D. Saah** (boardinghouse). Memorandum to the Board from Stanley N. Garber, Zoning Investigator, DPS, regarding the inspection of the special exception. Letter will be sent to the petitioner to determine what future action he proposes for the special exception property.
40. **S-1887, Petition of Old Georgetown Medical Building, LLC** (medical and dental clinic). Letter to the Board from Thomas D. Flanagan, architect for the project, requesting that the record be re-opened to include the approved revised landscape plans. Action: Item deferred to November Worksession for confirmation of notice to parties of record.
41. **S-1944-B [S-1944], Petition of Four Streams Limited Partnership** (golf course in the RDT zone). Letter to the Board dated 5/15/02, from C. Robert Dalrymple, Esquire, with an update of the timetable for the proposed text amendment.
42. **S-2093, Petition of Bell Atlantic Mobile Systems, Inc.** (public utility structure). Letter to the Board from Sue Swett, Real Estate Department, Pinnacle Towers Inc., requesting a transfer of the special exception. Board requests additional information.

PENDING ITEMS (continued):

43. **S-2179, Petition of Lynn Walter Shaulis** (golf driving range). Letter to the Board from Mike Davis, President, MDGolf Pro, LLC, notify the Board that the special exception has been abandoned and requesting that it be revoked. Board to contact Mr. Davis regarding ownership.

44. **S-2435, Petition of Saiful and Jannatul B. Islam** (accessory apartment). Order from the Circuit Court reversing the Board's Opinion. Board requested DHCA inspection of the special exception and the item will return to a future Worksession to determine if a public hearing is required.

45. **S-2515, Petition of SPRINT PCS/APC Realty and Equipment Company, LLC and Terry H. Nerissa B., Frank H. and Eric Z. Lloyd** (public utility buildings, public utility structures and telecommunications facilities). Letter to the Board from Peter T. Menke/Mayor, Town of Barnesville Commissioners, requesting reconsideration. Item deferred until issuance of the Board's Opinion.

Board Members

Donald H. Spence, Jr., Chairman
Donna L. Barron, Vice Chairman
Louise L. Mayer
Angelo M. Caputo
Allison Ishihara Fultz

Staff

Sherry Glazer, Assistant County Attorney
Katherine Freeman, Executive Secretary to the Board
Hermene Jones, Administrative Specialist