

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
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Rockville, Maryland 20850
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www.montgomerycountymd.gov/mc/council/board.html

WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, November 12, 2003, 9:00 A.M.

ACTION CALENDAR:

1. **Minutes**, October 15, 22 and 29, 2003 Worksessions.

Action: Approved as amended, (AMC/DLB, 5-0).

2. **A-5933, Appeal of Michelle and Gary Belski** (Department of Permitting Services (DPS) – Issuance of Building Permit No. 310890). Letter to the Board from Robert Windsor, Esquire, entering his appearance.

Action: Letter will be included in the record as an information item, consensus.

3. **CBA-1521, Petition of Dr. and Mrs. Gordon V. Holahan** (riding stable). Memorandum to the Board from Barbara J. Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

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

4. **CBA-2253, Petition of Kettler Brothers, Inc.** (private athletic club). Letter to the Board from Jonathan A. Shanfield, President, requesting a transfer and an administrative modification.

Action: Granted the transfer and administrative modification of the special exception, (LLM/AMC, 5-0).

5. **CBA-2372 [CBA-2372-A], Petition of Mobil Oil Corporation** (automobile filling station). Letter to the Board from Jody S. Kline, Esquire, requesting an administrative modification. (Large exhibits: site development and landscape plans).

Action: Item deferred for site and photometric plans, consensus.

6. **CBA-2948 [CBA-2948-A], Petition of Mobil Corporation** (automobile filling station). Letter to the Board from Jody S. Kline, Esquire, requesting an administrative modification. (Large exhibits: landscape and lighting plan, site plan, and approved landscape and lighting plan dated 5/90).

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

7. **S-420-G, Petition of Holy Cross Hospital of Silver Spring, Inc.** (hospital). Letter to the Board from Cornelius P. McKelvey, Senior Vice President.

- Action: Re-opened the record to include Mr. McKelvey's letter, (AMC/LLM, 5-0).
8. **S-622, Petition of East-West Limited Partnership** (newsstand in a commercial office complex). Memorandum to the Board from Barbara J. Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

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

9. **S-688, Petition of The Barnesville School, Inc.** (private educational institution). Letter to the Board from Jaralyn L. Hough, Head of School, requesting an administrative modification.

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

10. **S-701 [S-701-A], Petition of Peter Harvey t/a Fitness World, Inc.** (recreational establishment). Letter to the Board from Stephen Z. Kaufman, Esquire, and Yum Yu Cheng, Esquire, requesting that the special exception be revoked.

Action: Revoked special exception as use is now permitted in the zone, (AIF/AMC, 5-0).

11. **S-1273, Petition of Davco Food, Inc.** (drive-in restaurant). Letter to the Board from Todd D. Brown, Esquire, requesting an administrative modification. (Large exhibits: photographs, lighting and signage plan, and elevations).

Action: Granted administrative modification, (LLM/DLB, 5-0).

12. **S-1308, Petition of Kinder-Care Learning Centers, Inc.** (child day care center). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, notifying the Board that the special exception was never implemented and requesting that it be revoked.

Action: Revoked special exception for failure to implement, (DLB/LLM, 5-0).

13. **S-1317, Petition of Joseph F. Chambers** (medical practitioner's office). Memorandum from Barbara J. Piczak, Inspector, DPS, 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).

14. **S-1474, Petition of Richard Tull** (commercial riding stable). Memorandum from Barbara J. Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

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

15. **S-1903, Petition of Exxon Company, U.S.A.** (automobile filling station). Letter to the Board from Jody S. Kline, Esquire, requesting an administrative modification.

Action: Item deferred for an approved landscape and lighting plan, consensus.

16. **S-2217, Petition of Shell Oil Company** (automobile filling station). Letter to the Board From Edward D. Purich, President, Cloverly Civic Association, requesting a public hearing on the revocation of the special exception.

Action: Schedule Public Hearing for reconsideration of the revocation of the special exception, (LLM/DLB, 5-0).

17. **S-2459, Petition of Hampshire Village Associates, Limited Partnership** (elderly housing and assisted living facility). Letter to the Board from Stephen J. Orens, Esquire, requesting an extension of time for implementation of Condition No. 7 of the Board's Opinion.

Action: Granted extension of time to implement until 5/1/04, (AMC/AIF, 5-0).

18. **S-2533, Petition of Phyllis L. Childers** (art studio). Request for reconsideration from the petitioner.

Action: Denied request for reconsideration, (AMC/LLM, 5-0).

19. **S-2577, Petition of Toler Funeral Home** (funeral home). Request for reconsideration and rehearing from Stanley D. Abrams, Esquire. Also included are letters of opposition to the reconsideration and rehearing request from Ruby A. Rubens, LaVerne Early, Eugene P. Kessler, President, Tamarack Triangle Civic Association, and David Michaels, President, Greater Coleville Citizens Association.

Action: (1) Schedule Public Hearing on the reconsideration request; (2) hearing limited to parties of record (Stanley D. Abrams, Esquire; Tamarack Triangle Citizens Association; and the Greater Colesville Citizens Association), (AMC/DLB, 5-0).

INFORMATION ITEMS:

20. Memorandum to the Board from Stanley N. Garber, Investigator, DPS, regarding modification of special exceptions.

Action: No action required by the Board.

21. **CBA-554, Petition of the Chevy Chase Club, Inc.** (private country club). Letter to the Board from Timothy Dugan, Esquire, regarding a renovation of the main building's kitchen interior only.

Action: Re-opened the record to include Mr. Dugan's letter, (AMC/AIF, 5-0).

DECISION ITEMS:

22. **A-5922, Petition of Stanley Smith** (existing covered porch).

Action: Denied the variance request, (DLB/AIF/LLM/opposed, DHS/AMC/for,3-2).

23. **CBA-2255 [S-68], Petition of Scott Shuck d/b/a Grosvenor Market, Inc.** (delicatessen). Show Cause Hearing.

Action: (1) Withdrew Show Cause Hearing; (2) granted administrative modification to resolve the parking issues, (DLB/AMC, 5-0).

24. **S-654 [S-654-A], Petition of Wheaton Moose Lodge No. 1775** (service organization). Show Cause Hearing.

Action: (1) Withdrew Show Cause Hearing; (2) granted administrative modification, (DLB/AIF, 5-0).

DECISION ITEMS (continued):

25. **S-2079, Petition of Alberto F. Reluzco** (landscape contractor). Hearing Examiner's Report and Recommendation. Also included is letter from Cullum Murray AICP, ASLA, M-NCPPC.

Action: (1) Withdrew Show Cause Hearing, (2) granted administrative modification, (LLM/AMC, 5-0).

26. **S-2583, Petition of Jorgji and Franka Tasho** (accessory apartment). Hearing Examiner's Report and Recommendation. Also included is a request for Oral Argument from Dashamir and Brunilda Pulaj.

Action: (1) Denied request for Oral Argument; (2) adopted the Hearing Examiner's Report and Recommendation and granted the special exception, (AIF/DLB, 5-0).

27. **S-2476, Petition of Safeway, Inc.** (automobile filling station). Hearing Examiner's Report and Recommendation.

Action: (1) Denied request for Oral Argument; (2) adopted the Hearing Examiner's Report and Recommendation and denied the special exception, (LLM/DLB, 4-0/DHS/recused).

28. **S-2517, Petition of Damascus Sports Authority, Inc.** (recreational sports facility). Hearing Examiner's Report and Recommendation.

Action: Adopted the Hearing Examiner's Report and Recommendation and denied the special exception, (AMC/DLB, 4-0/DHS/recused).

PENDING ITEMS:

29. **CBA-1332, Petition of Huggins and Harrison, Inc.** (outdoor automobile sales lot). Letter to the Board from the petitioner requesting an administrative modification. Item deferred for additional information. Board requests a site plan with dimensions that shows the location of the trailer in relation to the property's boundary lines.

30. **CBA-1620, Petition of Jack Coopersmith** (automobile filling station). Letter to the Board from John R. Barr, Esquire, requesting a transfer and an administrative modification. Also included is a letter of support from the Darnestown Civic Association. (Large exhibits: site and construction details plans). Referred to the M-NCPPC Technical Staff for review.

31. **CBA-1220 [CBA-2103], Petition of Briggs, Wamsley and Samperton [Governor's House Motel]**. Memorandum from Stanley N. Garber clarifying his memorandum and request dated July 18, 2003 (item returning from October 8, 2003 WS). Item deferred for receipt of a site plan.

32. **CBA-2180 and S-254, Petition of J. H. Burton and Sons, of Hyattsville, Inc.** (horticultural nursery and commercial greenhouse). Letter to the Board from Kevin P. Fay, Esquire, requesting the record to be re-opened to admit a June 11, 1999 site plan. Item deferred to allow Board time to review file.

PENDING ITEMS (continued):

33. **CBA-2196, Petition Chevron U.S.A.** (automobile filling station). Letter to the Board from C. Robert Dalrymple, Esquire, and Yum Yu Cheng, Esquire, requesting a transfer and an administrative modification. (Large exhibits: concept plan, survey and plot plan). Request referred to staff for comment.
34. **CBA-2460, 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. Referred to MNCPPC Technical Staff for review and analysis.
35. **CBA-2428, Petition of Shell Oil Company** (automobile filling station). Letter to the Board from John R. Barr, Esquire requesting an administrative modification. (Large exhibit: site plan). Item deferred for receipt of a photometric plan and analysis.
36. **CBA-2709, Petition of Leonard Tempchin, et al t/a Silver Spring Associates** (off-street parking). Letter to the Board from Avi Halpert, Property Manager, requesting an administrative modification. Also included is a memorandum from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing. Item deferred to next available Worksession.
37. **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.
38. **S-858, Petition of Surjeet K. Singh** (child day care facility). Letter to the Board from the petitioner requesting an administrative modification. Also included is a memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing. Item deferred for review by DPS of trash enclosure, stockade fence, existing and proposed landscaping and use of pool.
39. **S-1064, Petition of Greentech Landscaping, Inc.** (horticultural nursery and greenhouse). Letter to the Board from Leon Trager and Andrew Sebastian, requesting a transfer and an administrative modification. Deferred for review by M-NCPPC Technical Staff.
40. **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.
41. **S-2054, Petition of Miguel Vigil-Hernandez** (accessory apartment). Letter to the Board from Michelle Weaver, requesting reconsideration. Item deferred for issuance of the Board Resolution transferring the special exception.
42. **S-2477, Petition of American Tower Corporation and AT&T Wireless Services** (public utility buildings, public utility structures and telecommunications facilities). Letter to the Board from John R. D. Copley. Referred to DPS for review.

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