

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600**

WORSESION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, April 7, 2004, 9:00 A.M.

ACTION ITEMS:

1. **Minutes**, March 17, 2004 Worksession.
Action: Approved as amended, (DLB/AMC, 5-0).
2. **A-5681, Petition of Paul and Marilyn Van Wagner** (two-story addition). Letter to the Board from the petitioner requesting an extension of time.
Action: Denied extension of time, (LLM/AIF, 5-0).
3. **A-5860, Appeal of Carol Lynn Green** (Department of Permitting Services (DPS) – Issuance of Building Permit No. 277698). Letter to the Board from the appellant.
Action: (1) Granted discovery request; (2) schedule pre-hearing conference, (DLB/AIF, 5-0).
4. **A-5929, Appeal of Darin R. Bartram and Clifford J. Scharman** (Department of Permitting Services – Issuance of Building Permit No. 311892). Letters to the Board from the appellants requesting dismissal of the appeal.
Action: Board dismissed case on 3/31/04.
5. **CBA-1072 [CBA-943, Petition of Jeffrey R. Kushner t/a Plants Alive** (horticultural nursery and commercial green house). Referral to the Office of the Hearing Examiner for a public hearing.
Action: Referred case to the Office of the Hearing Examiner, (AMC/LLM, 5-0).
6. **CBA-1342 [CBA-1342-A, CBA-2621, CBA-2919], Petition of CPL Fox Chase LLC** (rehabilitation and nursing center). Letter to the Board from Scott C. Wallace, Esquire, requesting an administrative modification. (Large exhibit: demolition plan).
Action: Granted administrative modification, (AIF/AMC, 5-0).
7. **CBA-1736 [CBA-2198] Petition of Dr. Wilhelmina Camina** (non-resident medical practitioner). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (LLM/AIF, 5-0). Mr. Spicer to receive the notice of hearing and attend the Show Cause Hearing.

8. **S-257-A, Petition of Renewable Natural Resources Foundation and RNR Title Holding Corporation** (scientific society headquarters). Letter to the Board from Robert H. Metz, Esquire and Anne C. Martin, Esquire, requesting an administrative modification. (Large exhibit: traffic study).

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

9. **S-285-C, Petition of The Norwood School** (private educational institution). Letter to the Board from Todd D. Brown, Esquire and Mark M. Viani, Esquire, requesting an administrative modification. (Large exhibit: site plan).

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

10. **S-420-G, Petition of Holy Cross Hospital of Silver Spring, Inc.** (hospital). Letter to the Board from Cornelius P. McKelvey, Senior Vice President submitting a progress report. Also included is a memorandum to the Board from Stanley N. Garber, Investigator, DPS.

Action: Re-opened the record to include Mr. McKelvey's letter with attachments and Mr. Garber's memorandum with attachments, (AIF/AMC, 5-0).

11. **S-550 [S-550-A], Petition of Shirley Sardino and China Coast, Inc.** (antique shop). Letter to the Board from the petitioner requesting an administrative modification.

Action: (1) Granted administrative modification; (2) granted outdoor display of merchandise; (3) denied sale of new merchandise, (AIF/LLM, 5-0).

12. **S-654, Petition of Wheaton Moose Lodge No. 1775.** Memorandum to the Board from Stanley N. Garber, Investigator, DPS. (Large exhibits: site plan and plot plan).

Action: Re-opened the record to include Mr. Garber's memorandum with attachments, (LLM/AMC, 5-0). Plans are only to demonstrate the site's parking.

13. **S-731, Petition of McDonald's Corporation** (drive-in restaurant). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

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

14. **S-862-A, Petition of The Federation of American Societies for Experimental Biology** (private educational institution). Letter to the Board from Jeff Yocum, FASEB Facilities Manager, submitting the society's annual report.

Action: Re-opened the record to include Mr. Yocum's letter with attachments, (LLM/AIF, 5-0).

15. **S-1196-A [S-1196], Petition of Exxon Corporation** (automobile filling station). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

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

16. **S-1343 [S-1343-A], Petition of Crown Central Petroleum Corporation** (automobile filling station). Letter to the Board from Jody S. Kline, Esquire, requesting an administrative modification. (Large exhibit: lighting plan).

Action: (1) Granted administrative modification; (2) re-opened the record to include the lighting plan; (3) dismissed the scheduled Show Cause Hearing, (AMC/AIF, 5-0).

17. **S-1658, Petition of Beatriz R. Ferreira** (home occupation). Memorandum from Barbara J. Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the property owner.

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

18. **S-2267 and S-2269, Petitions of Montgomery County Humane Society** (animal boarding and commercial riding stable). Memorandum to the Board from Barbara J. Piczak, Inspector, DPS, notifying the Board that the special exceptions have been abandoned and requesting that they be revoked. Also included are letters of confirmation from the petitioner and property owners.

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

19. **S-2281, Petition of Ernest A. and Elizabeth W. Lister** (accessory apartment). Memorandum from Daniel McHugh, Housing Code Inspector, Department of Housing and Community Affairs (DHCA) notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the property owner.

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

20. **S-2359, Petition Potomac Foods Company III, Inc.** (drive-in restaurant). Letter to the Board from Jody S. Kline, Esquire, requesting an administrative modification.

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

21. **S-2376 and S-2377, Petitions of Gregory Eisenstadt, Trustee for Edgewood Hill Associates** (child day care facility and housing and related facilities for the elderly and handicapped persons. Letters from Steven A. Robins notifying the Board of the status of implementation, to request an extension of time, and to request an administrative modification. (Large exhibits: building elevations, roof plan and details, attic plans, 6th floor plans, 3rd and 5th floor plans, 2nd floor plans, 1st floor plans, day care center floor plans, day care center roof plans, day care center elevations, playground equipment details, conservation plan, landscape plan, lighting plan and site and grading plans).

Action: (1) Granted extension of time to 10/31/04; (2) granted administrative modification, (AIF/LLM, 5-0).

22. **S-2477, Petition of American Tower Corporation and AT&T Wireless Services** (public utility buildings, public utility structures and telecommunication facilities). Inspection report to the Board from Stanley N. Garber, Investigator, DPS.

Action: Re-opened the record to include Mr. Garber's inspection report, (LLM/AIF, 5-0).

23. **S-2561, Petition of Robert B. Minai** (accessory apartment). Letter to the Board from the petitioner withdrawing the special exception request.

Action: Dismissed the special exception as withdrawn, (AIF/DLB, 5-0).

DECISION ITEM:

24. **S-2582, Petition of Sprint PCS and APC Realty and Equipment Company, LLC and Potomac Conference Corporation of Seventh Day Adventist** (public utility buildings, public utility structures and telecommunication facilities). Hearing Examiner's Report and Recommendation.

Action: Adopted the Hearing Examiner's Report and Recommendation and granted the special exception with conditions, (DLB/AIF, 5-0).

PENDING ITEMS:

25. **A-5967, Appeal of Joseph A. Columbo, et al** (Department of Permitting Services – Notice of Violation). Appellant to enter the name of legal representative into the record by 4/28/04. Name of legal representative to be received by above date or appeal will be dismissed.

26. **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.

27. **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.

28. **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). Item deferred for site and photometric plans. [W/S 11-12-03].

29. **S-390, Petition of Twin Farms Club, Inc.** (community swimming pool). Letter to the Board from Teresa A. McKenna, President, requesting an administrative modification. (Large exhibit: site and grading plan). (1) Item deferred for receipt of a site plan with the existing conditions; (2) item referred to M-NCPPC Technical Staff of review of administrative modification request.

30. **S-569, [CBA-3051, S95], 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.

PENDING ITEMS (continued):

31. **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. Item referred to M-NCPPC Technical Staff for review. [W/S 2-18-04].

32. **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. [Resolution 2-23-04].

33. **S-1573, Petition of Robert H. Edmund** (side lot line setback). Letter to the Board from Judith M. Koenick requesting an explanation of a building permit issued by DPS. Item referred to DPS for inquiry.

34. **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. [Letter to S/E holder 6-18-03].

35. **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. Item deferred for an approved landscape and lighting plan. [W/S 11-12-03].

36. **S-2184, Petition of Charles R. Gilbert** (indoor rifle and pistol range). Letters to the Board from Anthony R. Shore, Esquire, requesting an administrative modification. Item deferred for additional information from the petitioner. [W/S 3-17-04].

37. **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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