

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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

WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, February 16, 2005, 9:30 a.m.

ACTION ITEMS:

1. **Minutes**, February 9, 2005 Worksession.

Action: Approved, (DLB/LLM, 4-0).

2. **A-6036, Appeal of Churchill East Village Community Association, Inc.** (Department of Permitting Services (DPS) – Notice of Violation dated September 15, 2004). Letter to the Board from Elizabeth L. Hileman, Esquire, withdrawing the appeal.

Action: Dismissed the appeal as withdrawn, (LLM/AMC, 4-0).

3. **A-6047, Appeal of William Poulos** (Department of Permitting Services – Letter dated November 21, 2004). Letter to the Board from Lorrie Hartwell requesting to intervene. Also included is a Motion to Dismiss from Malcolm F. Spicer, Jr., Assistant County Attorney.

Action: (1) Re-opened the record to include Mr. Hartwell's letter; (2) granted the request to intervene; and (3) deferred the Motion to Dismiss until the public hearing, (DLB/LLM, 4-0)

4. **CBA-1332 [CBA-857, S-104], Petition of Huggins and Harrison, Inc.** (automobile filling station). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing. (Large exhibits: 1962 site plan, 1972 site plan, 1972 site and parking plan).

Action: Schedule Show Cause Hearing, (DLB/AMC, 4-0). Show Cause Hearing scheduled for 3/30/05 @ 10:30 a.m.

5. **CBA-1342 [CBA-1342-A, CBA-2621, CBA-2919], Petition of CPL Fox Chase LLC** (nursing home). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (DLB/AMC, 4-0).

6. **CBA-1620, Petition of Jack Coopersmith** (automobile filling station). Letter to the Board from M. Lee Bouchez requesting an administrative modification. (Large exhibits: parking and site plan and construction details plan).

Action: Item deferred until the Board's next Worksession.

7. **CBA-2117-A [CBA-2117], Petition of Francis J. Collins Funeral Home** (funeral home). Annual report to the Board from Frank Colleli, Business Manager.

Action: Re-opened the record to include the annual report, (AMC/LLM, 4-0).

8. **CBA-2158-B [CBA-2158, CBA-2158-A], Petition of Crown Central Petroleum** (automobile filling station). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (LLM/AMC, 3-0/AIF/recused).

9. **CBA-2568, Petition of B. F. Oil, Inc.** (automobile filling station). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (LLM/AMC, 3-0/AIF/recused).

10. **S-610, [S-610-A, S-610-B], 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, (LLM/AMC, 3-0/AIF/recused).

11. **S-693, Petition of DeMar, Inc.** (off-street parking). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing. Also included is a letter from Cara Frye, Esquire, requesting an administrative modification. (Large exhibits: survey, zoning legend, zoning vicinity map, site plan, lighting plan).

Action: (1) Rescinded Show Cause Hearing; (2) granted the administrative modification, (DLB/AMC, 3-1).

12. **S-831-A [S-831], Petition of Exxon Corporation (automobile filling station) and S-1983 [S-1983-A], Petition of Exxon Corporation (automobile filling station).** Letter to the Board from Susan W. Carter, Esquire, requesting continuances of the Show Cause Hearings.

Action: Granted the administrative modification, (DLB/LLM, 4-0).

13. **S-1049, Petition of Pentalpha Masonic Temple and Library Association, Inc.** (service organization). Letter to the Board from Allen J. Katz, Esquire, requesting a continuance of the Show Cause Hearing.

Action: (1) Granted continuance; (2) hearing rescheduled for 4/20/05 @ 10:30 a.m., (AMC/DLB, 4-0).

14. **S-1456, Petition of Concord Hill School** (private educational institution). Letter to the Board from Stephen P. Elmendorf, Esquire, and Mark M. Viani, Esquire, requesting an administrative modification.

Action: Granted the administrative modification, (DLB/LLM, 4-0).

15. **S-1836 [S-1836-A], Petition of Haeng K. Choi** (private educational institution). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (LLM/AMC, 4-0).

16. **S-2159, Petition of J. Montgomery Gimery Aspen Hill Parkway Construction Company, Inc. and Mobil Oil Corporation** (automobile filling station). Letter to the Board from John R. Barr, Esquire, requesting an administrative modification. (Large exhibits: site plan and photometric plan).

Action: Item deferred until the Board's next Worksession.

17. **S-2356, Petition of David J. Biss** (major home occupation). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting that the Board forward the special exception record to the Office of the Hearing Examiner for review.

Action: Record referred to the Office of the Hearing Examiner for review, (LLM/AMC, 4-0).

18. **S-2527, Petition of Twin Ponds, LLC (horticultural nursery); S-2528, Petition of Twin Ponds, LLC (landscape contractor); S-2529, Petition of Twin Ponds, LLC (manufacture of mulch and compost).** Letter of complaint to the Board from Robert A. Thomassen.

Action: (1) Re-opened the record to include Mr. Thomassen's letter; (2) letter referred for DPS, (DLB/LLM, 4-0).

19. **S-2620, Petition of David G. Srour, et al** (medical practitioners' office for use of other than a resident of the building). Letter to the Board from Jody S. Kline, Esquire, withdrawing the petition and requesting a 50% refund of the filing fee.

Action: (1) Dismissed the special exception as withdrawn; (2) denied request for 50% refund of the filing fee, (LLM/AMC, 4-0).

DECISION ITEMS:

20. **S-862-A, Petition of Federation of American Societies for Experimental Biology (FASEB)** (private educational institution). Hearing Examiner's Report and Recommendation. Also included is the petitioner's annual report.

Action: (1) Re-opened the record to include the annual report; (2) deferred decision on the Hearing Examiner's Report and Recommendation, consensus.

21. **S-2527, Petition of Twin Ponds, LLC (horticultural nursery); S-2528, Petition of Twin Ponds, LLC (landscape contractor); S-2529, Petition of Twin Ponds, LLC (manufacture of mulch and compost).** Hearing Examiner's Reports and Recommendations. Also included are: (1) requests for Oral Arguments from William J. Chen, Jr., Esquire, Dolores Milmo, Conservation Advocate Audubon Naturalist Society and Kenneth M. Northup, Bethesda Chevy Chase Izaak Walton League; and (2) a letter of opposition to the Oral Argument from Erica A. Leatham, Esquire.

Action: Items deferred for Board review of the records, consensus.

22. **S-2621, Petition of Chesapeake Psychological Services of MD, LLC and Kathleen Nadeau, PHD** (professional office). Hearing Examiner's Report and Recommendation.

Action: Board granted special exception on 12/15/04.

PENDING ITEMS:

23. **CBA-123 [S-462, S-1353], Petition of Sondra J. Littlejohn** (home occupation). Inspection report to the Board from Stanley N. Garber, Investigator, Department of Permitting Services (DPS). Re-opened the record to include Mr. Garber's memorandum. [W/S 10-20-04].
24. **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. [W/S 9-17-03].
25. **CBA-3057, Petition Chevron USA** (automobile filling station). Letter to the Board from John Hutchinson requesting a transfer of the special exception. Deferred request until the Show Cause Hearing. [W/S 9-29-04].
26. **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. W/S 2-18-04].
27. **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. [W/S 5-22-02].
28. **S-727, Petition of Robert M. Mueller, D.V.M.** (non-resident professional office). Inspection report from Stanley N. Garber, Investigator, DPS. (1) Re-opened the record to include Mr. Garber's inspection report; (2) special exception holder has 40 days to comply with special exception conditions; (3) item will return to the Board's to Worksession agenda after compliance period (1/5/05). [W/S 11-10-04].
29. **S-1437, Petition of John D. Hyman** (wholesale nursery and landscape contractor). Letter to the Board from Timothy Dugan, Esquire. Granted extension to resolve Notice of Violation until 4/1/05. [W/S 1/5/05].
30. **S-1747, Petition of Thompson R. and Nancy S. Buchanan** (accessory apartment). Memorandum to the Board from John Whitt, Housing Code Field Supervisor, 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 petitioner. Item deferred for future Worksession. [W/S 5/5/04].
31. **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].
32. **S-2145, Petition of Southwestern Bell Mobile Systems, Inc.** (public utility buildings, public utility structures and telecommunications facilities). Letter to the Board from Brian Hurley, Regional Real Estate Manager, requesting a transfer of the special exception. Item deferred for future Worksession. [W/S 6/9/04].
33. **S-2524, Petition of Two Goshen Oaks Center, LLC and Seven-Eleven, Inc.** (automobile filling station). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing. Deferred for DPS review of the record. [W/S 9-22-04].

PENDING ITEMS continued:

34. **S-2580, Petition of Margaret Walker-Bruce** (accessory apartment). Letter to the Board from the petitioner modifying the floor plan of the accessory apartment. Referred new plans for DHCA review. [W/S 10-20-04].

Board Members

Allison Ishihara Fultz, Chair
Donna L. Barron, Vice Chairman
Louise L. Mayer
Angelo M. Caputo
Wendell M. Holloway - ABSENT

Staff

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