

**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, March 9, 2005, 9:30 a.m.

ACTION ITEMS:

1. **Minutes**, February 16 and 23, 2005 Worksession.

Action: Approved as amended, (LLM/WMH, 5-0).

2. **A-6020 and A-6029, Appeal of Judith and Thomas Burruss; Alan Gaunoux** (Department of Permitting Services (DPS) – Issuance of Permit Nos. 330255 and 344132). Letters to the Board from James L. Parsons, Jr. Esquire, requesting issuance of the Board's Opinion and a refund of the second filing fee.

Action: (1) Issue Resolution; (2) granted request for the refund of the second filing fee on 10/20/04, (DLB/LLM, 5-0).

3. **A-6054, Appeal of Timothy D. Searchinger** (Historic Preservation Commission – Historic Area Work Permit). Motion to Dismiss Appeal from Vickie L. Gaul, Associate County Attorney and a Memorandum of Appellant in Opposition to Motion to Dismiss.

Action: Dismissed the appeal as not timely filed, (AMC/WMH, 5-0).

4. **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: Granted administrative modification, (AMC/LLM, 4-0/AIF/recused).

5. **CBA-2212-A [CBA-2212, CBA-2614, S-535], Petition of Flower Valley Bath and Racquet Club, Inc.** (community swimming pool). Annual Report from Cynthia P. Kirchner, President.

Action: Re-opened the record to include the Annual Report, (LLM/WMH, 5-0).

6. **CBA-2814, Petition of Center Group, Inc.** (automobile storage lot). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

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

7. **CBA-2827, Petition of KMD Group, Inc. t/a Kensington Mobil** (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, 5-0).

8. **S-809 [SBA-2100, CBA-2583], 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 (DLB/WMH, 5-0).

9. **S-818, Petition of James Martins** (horticultural nursery). Letter from Norman G. Knopf, Esquire, notifying the Board that the special exception is a lawful non-conforming use and requesting direction.

Action: Revoked special exception at the request of the special exception holder based on DPS determination that the use is a non-conforming use, (AMC/DLB, 5-0).

10. **S-1139, Petition of Dr. Milada L. Koepl** (accessory apartment). Letter to the Board from Jana H. Koepl-Ritter requesting a transfer of the special exception.

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

11. **S-1471, Petition of Ruben Garcia** (automobile filling station). Letter to the Board from Fran Hayward, President, Bentley Road Civic Association requesting to intervene in the Show Cause Hearing.

Action: Granted request to intervene, (DLB/LLM, 5-0).

12. **S-1486, Petition of Nickolas and Eleonora Dorfman.** (accessory apartment). Memorandum from Lynn McCreary, 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 letter of confirmation from the property owners.

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

13. **S-2159, Petition of J. Montgomery Gingery 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 plans).

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

14. **S-2184, Petition of Charles R. Gilbert** (indoor rifle and pistol range). Request for Rehearing/Reconsideration from Anthony M. Shore, Esquire.

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

15. **S-2217, Petition of Shell Oil Company** (automobile filling station). Motion for Reconsideration of Resolution to Deny Request for Reconsideration from David W. Brown, Esquire. Also included is a letter from Steven Robins, Esquire.

Action: Denied request for reconsideration, (LLM/WMH, 4-0/AIF/recused).

16. **S-2592, Petition of Jahar Omidvar** (major home occupation). Memorandum the Office of the Hearing Examiner notifying the Board that the special exception has been withdrawn. Also included is a letter from David C. Gardner, Esquire, to the Office of the Hearing Examiner withdrawing the special exception.

Action: Dismissed the special exception has withdrawn, (LLM/WMH, 5-0).

17. **S-2638, Petition of Bloom Investments LLC** (private educational institution). Letter to the Board from Todd D. Brown, Esquire and Anne C. Martin, Esquire, requesting an expedited hearing.

Action: Item deferred for M-NCPPC Technical Staff comment, consensus.

INFORMATION REQUEST:

18. Letter Board from Pradeep Ghosh, J.D., PhD., MBA, President, Montgomery Golf Estates, Inc. Homeowners' Association, Richard Shaw, H.O.A. Treasurer and Joseph E. Cooley, Jr., H.O.A. Secretary, to the Board requesting information on zoning laws for rural cluster agricultural land.

Action: The Board has no jurisdiction concerning zoning laws, no action taken by the Board.

DECISION ITEMS:

19. **S-862-A, Petition of Federation of American Societies for Experimental Biology (FASEB)** (private educational institution). Hearing Examiner's Report and Recommendation.

Action: Record remanded to the Office of the Hearing Examiner on 2/16/05.

20. **S-1200-A, Petition of Meridian Healthcare** (nursing home). Hearing Examiner's Report and Recommendation.

Action: (1) Adopted the Hearing Examiner's Report and Recommendation; (2) granted the special exception modification with conditions, (LLM/AMC, 5-0).

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; (2) a letter of opposition to the Oral Argument from Erica A. Leatham, Esquire; (3) a letter dated 3/2/05 from Erica A. Leatham, Esquire; and (4) a letter dated 3/4/05 from William Chen, Esquire.

Action: (1) Denied the request for oral argument; (2) Adopted the Hearing Examiner's Reports and Recommendations; (3) granted the special exceptions with amended and additional conditions, (LLM/AMC, 5-0).

DECISION ITEMS (continued):

22. **S-2573, Petition of Edmond B. and Bonnie J. French** (accessory apartment). Hearing Examiner's Report and Recommendation.

Action: (1) Adopted the Hearing Examiner's Report and Recommendation; (2) granted the special exception with conditions, (DLB/WMH, 5-0).

23. **S-2618, Petition of Yong Chen and Wei Ping Peng** (medical practitioner's office). Hearing Examiner's Report and Recommendation.

Action: (1) Adopted the Hearing Examiner's Report and Recommendation; (2) granted the special exception with conditions, (DLB/LLM, 5-0).

24. **S-2623, Petition of Lai Thi Jacobs** (accessory apartment). Hearing Examiner's Report and Recommendation.

25. Action: (1) Adopted the Hearing Examiner's Report and Recommendation; (2) granted the special exception with conditions, (AMC/WMH, 5-0).

PENDING ITEMS:

26. **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].

27. **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].

28. **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].

29. **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].

30. **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].

31. **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].

PENDING ITEMS continued:

32. **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].

33. **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].

34. **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].

35. **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].

36. **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

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