

**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, January 11, 2006, 9:30 a.m.**

**ACTION ITEMS:**

1. **Minutes**, December 21, 2005 and January 4, 2006 Worksessions.

Action: Approved, (DLB/CLH, 4-0/AIF/not participating)

2. **A-6098, Petition of Marc R. and Marianne H. Duffy** (new single-family dwelling and a covered porch). Letter from Martin J. Hutt, Esquire, requesting the Board's issuance of a subpoena.

Action: (1) BOA to request that Ms. Scala-Demby attend the public hearing to be held on 1/25/06; (2) BOA will notify Mr. Brown when Ms. Scala-Demby confirms attendance at the public hearing, consensus.

3. **A-6105, Petition Magomed Veliev** (new single-family dwelling). Letter to the Board from the petitioner requesting an earlier hearing date.

Action: (1) Re-opened the record to include letter from the petitioner; (2) denied request for an earlier hearing date, (AMC/WMH, 5-0).

4. **A-6109, Appeal of Susan Land, Marc Goodman, Heidi Pilpel, Michael Bergman, Neil and Ellen Lang, Debbie Brown, David Isaac, Debbie and Scott Gilck** (Department of Permitting Services (DPS) – Issuance of Building Permit No. 394679). Appellants' Motion to Compel Discovery.

Action: (1) Granted continuance of A-6109 pending outcome of Case No. A-6121; (2) pre-hearing for A-6121 scheduled for 2-1-06 @ 9:30 a.m.; (3) public hearing for A-6121 scheduled for 3-15-06 @ 10 a.m., (AMC/WMH, 5-0).

5. **CBA-1174-A [S-2467, S-2503], Petition of Holton-Arms School** (private educational institution). Letter to the Board from Martin Klauber, People's Counsel, regarding Condition No. 5 in the Board's Opinion dated 3/23/04 requiring a traffic study.

Action: (1) Re-opened the record to include Mr. Klauber's letter; (2) referred the record to the Office of the Hearing Examiner for a hearing on the special exception's transportation plan, (AMC/CLH, 5-0).

6. **CBA-2115, Petition of Dr. Elliott Shapiro** (non-resident medical practitioner). Letter to the Board from the petitioner requesting a transfer of the special exception.

Action: (1) Re-opened the record to include the petitioner's letter; (2) granted the transfer of the special exception, (AMC/WMH, 5-0).

7. **S-290, Petition of Robert T. Foley Company** (community swimming pool). Inspection report from Stanley N. Garber, Investigator, DPS. Also included is a letter to the Board from Susan W. Carter, Esquire, requesting a transfer of the special exception and an administrative modification. (Large exhibits: existing conditions and proposed planting plan and photometric plan).

Action: (1) Granted transfer of the special exception; (2) granted administrative modification of the special exception, (WMH/CLH, 5-0).

8. **S-1241, Petition of Barbara A. Marshall** (accessory apartment). Memorandum from Stephen M. Morris, 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 the special exception as abandoned, (DLB/AMC, 5-0).

9 **S-1537, Petition of George E. and Catherine M. Messenger** (accessory apartment). taking establishment). Memorandum from Andrew Jakab, 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 the special exception as abandoned, (CLH/WMH, 5-0).

10. **S-1599, Petition of Leonard M. Karban** (accessory apartment). Memorandum from Stephen M. Morris, Housing Code Inspector, 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 the special exception as abandoned, (DLB/AMC, 5-0).

11. **S-1646, Petition of Satish P. Shah** (accessory apartment). Letter from the petitioner notifying the Board that the special exception has been abandoned and requesting that it be revoked.

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

12. **S-2070-A, Petition of Johnson Family Enterprises, LLC** (retail/wholesale horticultural nursery and garden center). Letter to the Board from Stuart Barr, Esquire, submitting revised site, landscape and signage plan. (Large exhibit: site, landscape, signage plan).

Action: (1) Re-opened the record to include the letter from Mr. Barr's letter with attachments, (CLH/WMH, 4-0/AIF/not participating).

13. **S-2465, Petition of the Newport School** (private educational institution). Memorandum from Françoise Carrier, Director, Office of Zoning and Administrative Hearings (OZAH), recommending dismissal of the special exception.

Action: Revoked the special exception for failure to prosecute, (DLB/CLH, 5-0).

14. **S-2610, S-2611, 2612, Petitions of PetsMart, Inc.** (pet shop, animal boarding place, veterinary hospital). Letter to the Board from Stacy Plotkin Silber, Esquire, submitting the Sign Review Board's Opinion.

Action: Re-opened the record to include Ms. Silber's letter with attachments, (WMH/CLH, 4-0/AIF/recused).

15. **S-2649, Petition Carlos A. Rivera Gomez** (accessory apartment). Memorandum from Françoise Carrier, Director, OZAH, recommending dismissal of the special exception without prejudice and a 50 percent refund of the filing fee. Also included is a letter from the petitioner withdrawing the special exception and requesting a refund of the filing fee.

Action: (1) Re-opened the record to include Ms. Carrier's memorandum and the petitioner's letter; (2) granted 50% (\$125.00) refund of the filling fee; (3) dismissed the petition without prejudice, (CLH/DLB, 5-0).

#### **DECISION ITEMS:**

16. **S-2506-A, Petition of East Coast Landscape, Inc.** (landscape contractor). Hearing Examiner's Report and Recommendation.

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

17. **S-2593, Petition of Danette D. Sloan** (major home occupation). Hearing Examiner's Report and Recommendation. Also included is a request for Oral Argument from Craig Long.

Action: (1) Denied request for Oral Argument, (AMC/CLH, 5-0); (2) adopted the Hearing Examiner's Report and Recommendation (3) granted the special exception as amended with conditions, (CLH/DLB, 5-0).

#### **PENDING ITEMS:**

18. **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].

19. **CBA-1801, Petition of Shell Oil Company** (automobile filling station). Letter to the Board from Ramesh C. Bhalla requesting an administrative modification. Item deferred to a future Worksession. [W/S 6-8-05].

#### **PENDING ITEMS (continued):**

20. **CBA-2114-A [CBA-2114], Petition of International Monetary Fund** (golf course and country club). Letter to the Board from Jacqueline M. Karp, Esquire, requesting an administrative modification. (Large exhibits: location map, golf course site plans, elevations). Item deferred for a future Worksession. [W/S 5-4-05].
21. **CBA-2377, Petition of Concord Joint Venture** (off-street parking in connection with an office building). Letter to the Board from Robert H. Metz, Esquire, requesting a transfer of the special exception. Item deferred for site plan review by M-NCPPC Technical Staff. [W/S 12/7/05].
22. **S-289-B, Petition Little Falls Swim and Tennis Club** (community swimming pool). Supplemental Hearing Examiner's Report and Recommendation. Also included is an Inspection Report from Tom Ogle, Noise Program Manager, Department of Environmental Protection (DEP). (1) Re-opened the record to include the Hearing Examiner's Supplemental Report and Mr. Ogle's Inspection Report; (2) granted extension of time until 10/8/05 for lighting and photometric plans. [W/S 9/14/05].
23. **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 for review of administrative modification request. W/S 2-18-04].
24. **S-684, Petition of Burkland Condominium Association, Inc.** (dental/medical clinic). Memorandum from Stanley N. Garber, Investigator, DPS, regarding the conditions of the Board's Resolution. (1) Re-opened the record to include Mr. Garber's memorandum; (2) Board to issue corrected Resolution; (3) an additional inspection of the special exception will be required. [W/S 7-13-05].
25. **S-1437, Petition of John D. Hyman** (wholesale nursery and landscape contractor). Letter to the Board from Timothy Dugan, Esquire. Show Cause Hearing continued to 3/29/06 @ 10:30 a.m. [Hrg 1/18/06].
26. **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].
27. **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].
28. **S-2423 [S-2423-A], Petition of Meadow Ridge Seniors' Villas, LLC** (elderly or handicapped housing). Letter to the Board from Randy Frey, President, and Robert H. Holman, Managing Member, requesting an administrative modification. [Large exhibits: landscaping and lighting plans]. (1) Deferred administrative modification request for 60 days; (2) administrative modification request reviewed by M-NCPPC Technical Staff. [W/S 12-7/05].

**PENDING ITEMS (continued):**

29. **S-2487, Petition of Orchard Development Corporation** (housing and related facilities for the elderly or handicapped). Letters to the Board from Scott Armiger, Vice President, requesting an administrative modification. (Large exhibits: landscape and lighting plan, as-built site plan and elevations). Item deferred for additional information. [W/S 12/7/05].

30. **S-2629, Petition of Alan and Susan Dechter LLC** (non-resident medical practitioner). Request from the petitioners for remand to the Hearing Examiner. Request to be considered after issuance of the Board's Opinion. [W/S 12/7/05].

**Board Members**

Allison Ishihara Fultz, Chair  
Donna L. Barron, Vice Chair  
Angelo M. Caputo  
Wendell M. Holloway  
Caryn L. Hines

**Staff**

Barbara Jay, Associate County Attorney  
Katherine Freeman, Executive Director  
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**WORKSESSION ADDENDUM MINUTES**

**Second Floor Davidson Memorial Hearing Room**

**Wednesday, January 11, 2006 9:30 a.m.**

**ACTION ITEM:**

**1. A-6109, Appeal of Susan Land, et al (Department of Permitting Services – Issuance of Building Permit No. 394679), and A-6121, Appeal of Frederick J. and Elizabeth P Brody (Department of Permitting Services – Revocation of Building Permit No. 394679). Statement In Support of Appeal Charging Error in Administrative Action and Motion to Expedite and Consolidate Cases from Emily Vaias, Esquire.**

Action: (1) Denied request to consolidate the public hearing of the appeals; (2) granted a continuance in A-6109 pending outcome of Case No. A-6121; (3) pre-hearing for A-6121 scheduled for 2/1/06 @ 9:30 a.m.; (4) public hearing for A-6121 scheduled for 3/15/06 @ 10 a.m., (AMC/WMH, 5-0).

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