

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
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www.montgomerycountymd.gov/content/council/boa/index.asp

WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, April 2, 2008, 9:30 a.m.

ACTION ITEMS:

1. **Minutes**, March 19, 2008 Worksession.

Action: Approved, (DKP/CLH, 5-0).

2. **A-6114, Appeal of Newland Communities LLC and NNP II – Clarksburg LLC** (Department of Fire and Rescue Services – Notice of Violation). Status report from Todd Brown, Esquire.

Action: Re-opened the record to include the status report from Mr. Brown, (CGT/WMH, 5-0).

3. **A-6126 [A-6150, A-6174], Appeals of Eileen Finnegan of Hillandale Citizens Association, et al.** (Department of Permitting Services – Issuance of Building Permit No. 409297). Order from the Circuit Court.

Action: Re-opened the record to include the Order from the Circuit Court, (CLH/DKP, 5-0).

4. **A-6186, Petition of Steven Geyer** (accessory structure/storage building). Letter to the Board from Michele Rosenfeld, Esquire, requesting a continuance.

Action: Granted the request for continuance, consensus.

5. **A-6240, Petition of David Wachtel (screened porch).** Letter from the petitioner submitting the additional information requested by the Board.

Action: Denied the variance request, (CLH/DKP, 5-0).

6. **S-274-C, Petition of Suburban Hospital, Inc** (hospital). Letter to the Board from Barbara Sears, Esquire, and Erin Girard, Esquire, supplementing the record with additional information regarding the hospital's 5-year, 10-year, and 15-year staging.

Action: Re-opened the record to include the letter from Ms. Sears and Ms. Girard, (DKP/CGT, 4-0/WMH/recused).

7. Pending Item. **S-692, Petition of Potomac Conference Corporation of Seventh Day Adventists** (charitable and philanthropic institution). Letter from Anthony Bruce, Assistant to the Director, submitting the additional information requested by the Board regarding the special exception parking [Large exhibits: location plan, site plan, plan details, elevations].

Action: (1) Re-opened the record to include the letters from Mr. Bruce; (2) adopt the submitted site plan as the special exception site plan; (3) granted the administrative modification, (CLH/DKP, 5-0).

8. **S-1239, Petition of Ernestine and Jewel Johnson** (accessory apartment). Order from the Circuit Court.

Action: (1) Re-opened the record to include the Order from the Circuit Court; (2) rescinded the special exception revocation, (CLH/WMH, 5-0).

9. **S-1277, Petition of Davco Food, Inc.** (drive-in restaurant). Letter to the Board from Joseph Lynott, Esquire, requesting a transfer of the special exception and an administrative modification.

Action: (1) Transfer the special exception to Fox Chapel, LLC and Plamondon Enterprises, Inc.; (2) granted the administrative modification, (CGT/DKP, 5-0).

10. **S-1893, Petition of Vinnie M. Rable** (accessory apartment). Letter from Philip Rable notifying the Board that the special exception has been abandoned and requesting that it be revoked.

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

11. **S-2131, Petition of Gabriele O'Brien** (accessory apartment). Memorandum from Robert Goff, 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, (DKP/WMH, 5-0).

12. **S-2141, Petition of Bannockburn Swim Club, Inc.** (community swimming pool). Letter from John Chadwick, Pool Board Representative-Improvements, submitting the additional information requested by the Board for an administrative modification [Large exhibit: site plan].

Action: Item deferred to determine if the administrative modification is subject to a forest conservation requirement, consensus.

DECISION ITEM:

13. **S-2712, Petition of Sunrise Development, Inc. d/b/a Sunrise Senior Living** (nursing home or domiciliary care home). Hearing Examiner's Report and Recommendation.

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

PENDING ITEMS:

14. **A-6114, Appeal of Newland Communities LLC and NNP II – Clarksburg LLC** (Department of Fire and Rescue Services – Notice of Violation dated September 20, 2005). Second Status Report from Todd Brown, Esquire. (1) Re-opened the record to include the Second Status Report from Todd Brown; (2) the Board will receive Status Reports on 1/15/07 and 4/1/07 [W/S 10/25/06]. (1) Re-opened the record to include the status report from Mr. Brown; (2) Mr. Brown to provide a status/progress report to BOA at its 5/2/07. Worksession [W/S 2/28/07]. Status Report from Todd Brown, Esquire [W/S 10/17/07].
15. **A-6190, Appeal of Amanda Enterprises, LLC** (Department of Permitting Services – Notice of Violation dated November 13, 2006 and Use and Occupancy Certificate No. 250849). BOA to receive a status report from the appellant by 6/15/07 [Pre-hearing Conference held on 3/14/07].
16. **A-6236, Appeal of Ronald A. Pomykala** (Department of Housing and Community Affairs – Letter dated October 24, 2007). Letter from Nowelle Ghahhari, Assistant County Attorney, notifying the Board that the Notice of Violation has been withdrawn and requesting that the administrative appeal be dismissed without prejudice. (1) Opened the record to include Ms. Ghahhari's letter; (2) staff to contact the appellant regarding withdrawing the administrative appeal [W/S 3/12/08].
17. **CBA-867 [CBA-2048, S-717, S-717-A, S-1187], Petition of Our House, Inc.** (hospital, sanitarium, nursing or care home). Letter to the Board from Stuart Barr, Esquire, and April Birnbaum, Esquire, requesting clarification of the appropriate special exception use category. (1) Re-opened the record to include Mr. Barr's and Ms. Birnbaum's letter; (2) item deferred for additional information regarding how the current use conforms to the current criteria [W/S 2/20/08].

PENDING ITEMS (continued):

18. **CBA-969-A, Petition of Millenium Health Services** (nursing home or domiciliary care home). Status update on the compliance of the special exception. (1) Petitioner has hired engineer to develop a special exception site plan; (2) prior to applying for building permits the petitioner will submit to the Board the proposed site plan [W/S 3/19/08].
19. **CBA-1174-D [S-2467, S-2503-A], Petition of Holton Arms School** (private educational institution, child day care facility, summer camp). Comments and analysis from Martin Klauber, People's Counsel, regarding Condition No. 5 of the Board's Opinion dated 1/5/07. Re-opened the record to include Mr. Klauber's comments and analysis; (2) Board to hold a hearing on a.m. and p.m. queuing and the trip generation rates, May 7, 2008 @ 1:00 p.m. [W/S 1/23/08].
20. **CBA-1196, Petition of Joseph F. Fernebok, CBA-1472, Petition of Farragut St. Venture and Theo R. Crutchfield, S-35, Petition of G. A. Schlesinger** (off-street parking). Letter to the Board from Stanley Abrams, Esquire, requesting an extension of time to permit the submission of a revised site plan and a forthcoming administrative modification request in connection with Case No. S-35. (1) Re-opened the record to include Mr. Abrams' letter; (2) granted a 45-day extension of time [W/S 1/23/08].
21. **CBA-2924, Petition of RMC Partnership** (medical and dental clinic). Letters to the Board from Jane Ho, Esquire, and Benjamin Akintan, Rph, requesting a transfer and an administrative modification (Large exhibits: cover sheet, existing and demolition plan, modification elevations, construction details, survey). Item deferred for additional information [W/S 7/18/07].
22. **S-535 [CBA-2212, CBA-2212-A, CBA-2614], Petition of Flower Valley Bath & Racquet Club, Inc.** (community swimming and tennis club). Letter to the Board from Hope Liverman, Legal Assistant, submitting the Club's annual report. (1) Re-opened the record to include Ms. Liverman's letter; (2) petitioner to submit revised annual report regarding the tennis court operations [W/S 3/19/08].
23. **S-692, Petition of Potomac Conference Corporation of Seventh Day Adventists** (charitable and philanthropic institution). Letter to the Board from Anthony Bruce, Assistant to the Director, requesting an administrative modification [Large exhibits: location plan, site plan, plan details, elevations]. (1) Re-opened the record to include Mr. Bruce's letter with attachments; (2) the Board requested additional information regarding the special exception meeting the parking requirements after the administrative modification [W/S 1/23/08].
24. **S-2132, Petition of Edwin J. Hungerford** (manufacture of mulch). Letter of complaint to the Board from the petitioner. (1) Re-opened the record to include the petitioner's letter; (2) DPS to send abandonment letter to the petitioner and will notify BOA of the response [W/S 3/12/08].

PENDING ITEMS (continued):

25. **S-2359, Petition of Potomac Foods Company III, Inc.** (drive-in restaurant). Letter to the Board from Clara Willis, District Manager, requesting an administrative modification. Item deferred for additional information about the number of trips during the current hours of operation and anticipated trips during the expanded hours [W/S 1/9/08].
26. **S-2471, Petition of Kids 'N Care Learning Center** (child day care facility). Letter from Casey Moore, Esquire, submitting the additional information requested by the Board on the special exception staff parking. Item deferred until 1/9/08 Worksession [W/S 12/12/07].

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