

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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

[www.montgomerycountymd.gov/content/council/boa/index.asp](http://www.montgomerycountymd.gov/content/council/boa/index.asp)

**WORKSESSION MINUTES**

**Second Floor Davidson Memorial Hearing Room**

**Wednesday, May 7, 2008, 9:30 a.m.**

**ACTION ITEMS:**

1. **Minutes**, April 30, 2008 Worksession.

Action: Approved, (DKP/WMH, 4-0.)

2. **A-5950, Appeal of Renata M. Gould** (Historic Preservation Commission – Denial of Historic Area Work Permit). Letters dated 4/4/08 and 5/7/08 from the appellant requesting reconsideration. Also included is the Historic Preservation Commission’s Response to Appellant’s 4/4/08 Letter in Support of Reconsideration.

Action: Denied the request for reconsideration, (DKP/CGT, 4-0).

3. **A-6235, Appeal of John W. Ridenour, III** (Historic Preservation Commission – Denial of a Historic Area Work Permit No. 463768). Letter from Andrew Strongin, Esquire, requesting a cancellation of the scheduled hearing on May 14, 2008 and a continuation of the hearing to the scheduled June 25, 2008 date.

Action: (1) Granted the cancellation of the hearing scheduled for 5/14/08; (2) granted a continuation to the scheduled hearing on 6/25/08, (CGT/WMH, 4-0).

4. **A-6236, Appeal of Ronald A. Pomykala** (Department of Housing and Community Affairs – Letter dated October 24, 2007). Letter to the Board from the appellant withdrawing the administrative appeal and requesting a refund of the filing fee.

Action: (1) Dismissed the administrative appeal as withdrawn; (2) granted 100% (\$200) refund of the filing fee, (WMH/DKP, 4-0).

5. **A-6257, Petition of Eric Morrison** (accessory structure/swimming pool). Letter to the Board from the petitioner requesting an earlier hearing date.

Action: Granted request for earlier hearing date subject to availability and sufficient notice time, (DKP/WMH, 4-0).

6. **CBA-1174-D [S-2467, S-2503-A], Petition of Holton Arms School** (private educational institution). Letter to the Board from Elsie Reid, Esquire, requesting an administrative modification.

Action: Granted the administrative modification, (CGT/WMH, 4-0).

7. **S-289, Petition of Little Falls Swim and Tennis Club** (community swimming pool). Letter from the club notifying the Board that it will permit use of their parking lot to the Westbrook Elementary School PTA during a school event on 5/2/08.

Action: (1) Re-opened the record to include the Club's letter; (2) similar requests in the future will require an administrative modification by the special exception holder, (DKP/WMH, 3-0/AIF/recused).

8. **S-1289 [S-1289-A-1289-B], Petition of HCR Manor Care** (assisted living facility and a nursing and care home). Letter to the Board from Mark Viani, Esquire, requesting an administrative modification [Large exhibits: skilled nursing facility alternations and additions (2 sheets), site development plan (2 sheets), landscape plan (4 sheets), elevations, existing and proposed zoning, zoning vicinity map].

Action: Item deferred for a confirmation by the special exception holder that the parking spaces conform to the required setbacks, consensus.

9. **S-1630-A, Petition of Freestate Petroleum Corporation** (automobile filling station). Letter to the Board from Jody Kline, Esquire, withdrawing the special exception modification request.

Action: Dismissed the special exception as withdrawn, (WMH/DKP, 4-0).

10. **S-2132, Petition of Edwin J. Hungerford** (manufacture of mulch). Request for reconsideration from Brian Riedmuller, the property owner and Mervyn Schwedt, Esquire.

Action: Denied the request for reconsideration, (DKP/CGT, 4-0).

11. **S-2367, Petition of Robert D. Egan** (outdoor catering facility). Memorandum to the Board from Heather Gottke, Inspector, Department of Permitting Services (DPS), requesting an expedited Show Cause Hearing.

Action: Expedited Show Cause Hearing is scheduled for 6/25/08 @ 10:30 a.m., (CGT/DKP, 4-0).

12. **S-2506-A [S-2506], Petition of East Coast Landscape, Inc.** (landscape contractor). Letter from Martin Hutt, Esquire, notifying the Board that the special exception holder has received conditional Recommendation for Approval from M-NCPPC.

Action: (1) Re-opened the record to include Mr. Hutt's letter with attachment; (2) granted 180-day extension for receipt of M-NCPPC approval, (DKP/WMH, 4-0).

13. **S-2668, Petition of Taiwan Culture Center, Inc. by Tai L. Huang** (service organization). Letter from Tai Huang in response to the Board's Resolution dated 4/10/08.

Action: Re-opened the record to include Mr. Huang's letter, (WMH/CGT, 4-0).

#### **DECISION ITEM:**

14. **A-6244, Petition of Cyril J. Jardine** (existing accessory structure/carport). Letter to the Board from Stephen G. Reich, M.D., Mrs. Jardine's physician.

Action: (1) Re-opened the record to include Dr. Reich's letter; (2) granted variance under the ADA and FHAA standards; (3) variance is granted to the petitioner only and the accessory structure/carport shall be removed at such time as it is no longer required to address the petitioner's wife's medical condition or the petitioner's wife no longer resides in the property, (DKP/WMH, 4-0).

#### **PENDING ITEMS:**

15. **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]. Re-opened the record to include the status report from Mr. Brown [W/S 4/2/08].

**PENDING ITEMS (continued):**

16. **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].
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].
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-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].
20. **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].
21. **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].
22. **S-1073, Petition of Phyllis Smith-Larkins** (accessory apartment). Check received from Rita Larkins requesting the transfer of the special exception. Letter sent to Ms. Larkins notifying her of the required posting for the transfer of a special exception. Letter dated 3/31/08.

**PENDING ITEMS (continued):**

23. **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].
24. **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]. Item deferred to determine if administrative modification is subject to a forest conservation requirement [W/S 4/2/08].
25. **S-2145, Petition of Southwestern Bell Mobile Systems, Inc.** (telecommunications facility). Letter to the Board from Karmen Rajamani, Zoning Manager, requesting a transfer of the special exception. Item deferred for confirmation of the transfer from Southwestern Bell Mobil Systems, Inc [W/S 4/30/08].
26. **S-2423 [S-2423-A], Petition of Meadow Ridge Seniors' Villas** (housing for the elderly and the handicapped). Inspection report to the Board from Barbara Piczak, Inspector, DPS. (1) Re-opened the record to include the inspection report from Ms. Piczak; (2) deferred action on the Show Cause Hearing until after the compliance date of 5/16/08 [W/S 4/30/08].
27. **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].

**Board Members**

Allison Ishihara Fultz, Chair  
Catherine G. Titus, Vice Chair  
Wendell M. Holloway  
David K. Perdue

**Staff**

Barbara Jay, Associate County Attorney  
Katherine Freeman, Executive Director  
Hermene Jones, Administrative Specialist

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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

[www.montgomerycountymd.gov/content/council/boa/index.asp](http://www.montgomerycountymd.gov/content/council/boa/index.asp)

**WORKSESSION ADDENDUM MINUTES**

**Second Floor Davidson Memorial Hearing Room**

**Wednesday, May 7, 2008, 9:30 a.m.**

**ACTION ITEM:**

1. **Order Extending Time for the Board's Written Opinion** for 30 days is required in the following case:

**(a) A-6244, Petition of Robert Nichols** (new single-family dwelling). Hearing held March 19, and April 9, 2008.

Action: Granted Order Extending Time, (CGT/DKP, 4-0).

**Board Members**

Allison Ishihara Fultz, Chair  
Catherine G. Titus, Vice Chair  
Wendell M. Holloway  
David K. Perdue

**Staff**

Barbara Jay, Associate County Attorney  
Katherine Freeman, Executive Director  
Hermene Jones, Administrative Specialist