

**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, June 11, 2008, 9:30 a.m.

ACTION ITEMS:

1. **Minutes**, May 21 and June 4, 2008 Worksessions.

Action: Approved, (DKP/CGT, 3-0).

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

(a) A-6226, Appeal of Michael Carey (Department of Permitting Services – Issuance of Building Permit No. 446728). Hearings held 10/31/07 and 2/27/08.

(b) A-6231, Appeal of Margaret McCann and Stephen Poor (Department of Permitting Services – Issuance of Building Permit No. 460843). Hearing held 3/26/08.

Action: Granted Orders Extending Time, (DKP/CGT, 3-0).

3. **CBA-2443, Petition of Elizabeth A. Caldwell** (private riding stable). Memorandum from Barbara Piczak, Inspector, Department of Permitting Services (DPS), notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Schedule Show Cause Hearing, (CGT/DKP, 3-0).

4. **CBA-2691, Petition of A. S. Callaway** (boarding house). Memorandum from Barbara Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Schedule Show Cause Hearing, (DKP/CGT, 3-0).

5. **CBA-2725, Petition of Jacqueline Ann Roy t/a Springbrook Academy** (private educational institution). Memorandum from Barbara Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Schedule Show Cause Hearing, (CGT/DKP, 3-0).

6. **S-706, Petition of Ron Peterson** (home occupation). Memorandum from Barbara Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Schedule Show Cause Hearing, (DKP/CGT, 3-0).

7. **S-922, Petition of Hwa Ji Golden** (accessory apartment). Letter to the Board from Octavia Bongam requesting that the Board Resolution dated 4/17/08 be dismissed.

Action: (1) Denied request to dismiss the Board's Resolution dated 4/17/08; (2) no final appealable action, special exception revoked on 12/21/07; (3) BOA simply referred complaint to DPS, (DKP/CGT, 3-0).

8. **S-2684, Petition of Zelkova, LLC** (landscape contractor). Memorandum from Françoise Carrier, Director, Office of Zoning and Administrative Hearing (OZAH), notifying the Board that the special exception has been withdrawn. Also included is a letter from William Chen, Esquire.

Action: Dismissed the special exception as withdrawn with prejudice, (CGT/DKP, 3-0).

9. **S-2688, Petition of Taiwan Culture Center, Inc. by Tai L. Huang** (service organization). Letter from Tai Huang in response to Condition No. 15 of the Board Opinion dated 1/9/07.

Action: Re-opened the record to include Mr. Huang's letter; (CGT/DKP, 3-0).

PENDING ITEMS:

10. **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):

11. **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].
12. **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].
13. **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].
14. **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].
15. **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].
16. **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].
17. **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):

18. **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]. Item deferred for a confirmation from the applicant that the parking spaces conform to the required setbacks [W/S 5/7/08].
19. **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].
20. **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].
21. **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].
22. **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].
23. **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 at its Worksession on 12/12/07 [Large exhibits: site plan and landscape and lighting plan]. Item deferred for additional information: applicant to submit additional information of either a revised site plan or written findings from DPS regarding whether the property line between the subject property and Mr. Townsend's property is a side or a rear yard. [W/S 5/21/08].
24. **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. (1) Re-opened the record to include Mr. Hutt's letter with attachment; (2) granted 180-day extension for receipt of M-NCPPC approval [W/S 5/7/08].

Board Members

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

Staff

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