

**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, June 18, 2008, 9:30 a.m.**

**ACTION ITEMS:**

1. **CBA-44 [CBA-187, CBA-471, CBA-524, CBA-638, CBA-776, CBA-949, CBA-1136], Petition of Jack P. and Adele J. Barker** (private educational institution). Memorandum to the Board 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, (DKP/CGT, 4-0).

2. **CBA-1196 [CBA-1472, CBA-1473, S-35], Petitions of Joseph F. Fernebok, Farragut St. Venture and Theo. R. Crutchfield, and G. A. Schlesinger** (off-street parking). Letter to the Board from Stanley Abrams, Esquire, requesting an administrative modification. [Large exhibit: modification to special exception conditions].

Action: (1) Granted the administrative modification with no change in the special exception conditions; (2) adopted the revised site plan as the special exception site plan; (3) rescinded the Show Cause Hearing, (DKP/CGT, 4-0). Consolidated special exceptions CBA-1196, CBA-1472, CBA-1473 into a single special exception, S-35, (DKP/CGT, 4-0).

3. **CBA-1459 [CBA-2154, S-133], Petition of Dr. Walter E. Goozh and Dr. Myron Lenkin** (non-resident medical practitioner). Memorandum from Barbara Piczak, Inspector, DPS, notifying the Board that special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the petitioner.

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

4. **CBA-2212 [CBA-2212-A, CBA-2614, S-535], Petition of Flower Valley Bath & Racquet Club, Inc.** (community swimming and tennis club). Letter to the Board from Bruce Haase, President, supplementing to the Club's annual report.

Action: Re-opened the record to include Mr. Haase's letter with attachments, (CGT/DKP, 4-0).

5. **CBA-2816, Petition of Gerald J. and Mary P. Fichtner** (private riding stable). Memorandum from Barbara Piczak, Inspector, DPS, notifying the Board that special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the petitioner.

Action: Revoked the special exception as abandoned, (WMH/CGT, 4-0).

6. **CBA-2924, Petition of RMC Partnership** (medical and dental clinic). Letter to the Board from April Birnbaum, Esquire, requesting a transfer of the special exception.

Action: (1) Granted the transfer of the special exception to HCP MOP Rockville, MD, LLC; (2) dismissed the request for transfer from King's Way Care Pharmacy, (DKP/CGT, 4-0).

7. **CBA-3000, Petition Bernard E. and Beatrice S. Welch** (antique shop). Memorandum from Barbara Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is letter of confirmation from the petitioner.

Action: Revoked the special exception as abandoned, (CGT/DKP, 4-0).

8. **S-1289 [S-1289-A-1289-B], Petition of HCR Manor Care** (assisted living facility and a nursing and care home). Letters to the Board from Mark Viani, Esquire, submitting an amended site plan and landscape plan and requesting an administrative modification. [Large exhibits: site plan and landscape plan (2 sheets)].

Action: (1) Adopted the revised site and landscape plans as the special exception site and landscape plans; (2) granted the administrative modification, CGT/WMH, 4-0).

9. **S-1630-A, Petition of Freestate Petroleum Corporation** (automobile filling station). Letter to the Board from Martin Klauber, Office of the People's Counsel.

Action: Request DPS to investigate if the sale of diesel fuel is within the scope of the special exception use, (DKP/CGT, 4-0).

10. **S-1722, Petition of V. R. Realty, Inc. and Classical Acquisitions Partnership** (radio broadcasting towers). Letters to the Board from Jerita DeBraus Salley, Esquire, requesting a transfer of the special exception.

Action: Granted the transfer of the special exception, (WMH/CGT, 4-0).

11. **S-1904-A, Petition of Norman Roskin, D.V.M.** (veterinary hospital). Order from the Circuit Court of Montgomery County, Maryland.

Action: (1) Re-opened the record to include the Order from the Circuit Court;  
(2) BOA will re-issue a revised resolution, (DKP/WMH, 4-0).

12. **S-2132, Petition of Edwin J. Hungerford** (manufacture of mulch). Memorandum to the Board from Heather Gottke, Inspector, DPS, requesting a public hearing to address the status to the special exception.

Action: Schedule Show Cause Hearing, (CGT/WMH, 4-0).

13. **S-2471, Petition of Kids 'N Care Learning Center** (child day care facility). Letter to the Board from Stephen Orens, Esquire. Also included are letters from Clayton Townsend and a response from Mr. Orens to Mr. Townsend's letter.

Action: (1) Adopt the Office of Zoning and Administrative Hearings' report; (2) granted the special exception as amended with conditions, (CGT/DKP, 4-0).

#### **DECISION ITEMS:**

14. **S-2709, Petition of T-Mobile Northeast, L.L.C. and West Hillandale Swim Club.** Hearing Examiner's Report and Recommendation. Also included are letters from Sean Hughes, Esquire, and Judith Harrison, Ph.D, requesting Oral Argument, and letters from Susan Present, Emma Stelle, Lynn Grodzki, Matthew Gervase and Doris Stelle in support of the Hearing Examiner's Report and Recommendation and requesting to participate if Oral Argument is granted.

Action: Granted the request for Oral Argument; (2) parties in support and in opposition limited to one hour of oral argument; (3) oral argument limited to 'what are the safety standards required with the special exception use?' and 'what is the Board's jurisdiction of the safety use?', (DKP/CGT, 4-0).

15. **S-2720, Petition of Jeanne Szebeni** (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, (CGT/DKP, 4-0).

**PENDING ITEMS:**

16. **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].
17. **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].
18. **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].
19. **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].
20. **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].
21. **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.
22. **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].

**PENDING ITEMS (continued):**

23. **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].
24. **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].
25. **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].
26. **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**

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Catherine G. Titus, Vice Chair  
Wendell M. Holloway  
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**Staff**

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**WORKSESSION ADDENDUM MINUTES**

**Second Floor Davidson Memorial Hearing Room**

**Wednesday, June 18, 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-6252, Petition of Bing Lu and Yingzi Yang** (a second-story addition).  
Hearing held 5/14/08.

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

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