

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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

**CORRECTED WORKSESSION MINUTES**

**Second Floor Davidson Memorial Hearing Room**

**Wednesday, April 22, 2009, 9:30 a.m.**

**ACTION ITEMS:**

1. **Minutes**, April 8, 2009 Worksession.

Action: Approved, (SBB/WSB, 4-0/CGT/abstain).

2. **A-6226, Appeal of Michael Carey** (Department of Permitting Services (DPS) – Issuance of Building Permit No. 446728). Order from the Circuit Court.

Action: Re-opened the record to include the Circuit Court Order, (CJS/WSB, 5-0).

3. **A-6278, Appeal of Janice L. Cole and Michael M. Johnsen** (Department of Permitting Services – Issuance of Retaining Wall Permit No. 494504). Letter to the Board from the appellants withdrawing the administrative appeal and requesting a refund of the filing fee.

Action: (1) Dismissed the appeal as withdrawn; (2) granted a 100% (\$200.00) refund of the filing fee, (CJS/SBB, 5-0).

4. **A-6282, Appeal of Goodman-Gable-Gould Co./International and Traville Office Property Venture LLC by Harvey Goodman and Neil Kahn** (Department of Permitting Services – Letter dated November 21, 2008). Letters from Stephen Orens, Esquire, Rebecca Walker, Esquire, and Casey Moore, Esquire, requesting to intervene for the Traville Professional Park II Condominium Association; opposition to the request to stay the proceedings; and a request to vacate the postponement.

Action: (1) Denied the request to vacate the postponement; (2) denied the request for interim relief; (DKP/CJS, 3-2/WSB/SBB).

5. **CBA-2824, Petition of McIntire Hardware, Inc. Profit Sharing Trust** (off-street parking). Letter to the Board requesting an administrative modification. [Large exhibits: building elevation, site plan, zoning vicinity map, dumpster enclosure plan, elevations/2 sheets, foundation plan, footing detail, survey].

Action: Item deferred for additional information regarding the ownership of the property, consensus.

6. **S-569, [CBA-3051, S-95], Petition of PGC, Inc.** (horticultural nursery). Letter to the Board from David Gardner, Esquire, requesting a continuance.

Action: Granted the continuance request, the new hearing date is 6/3/09, consensus.

7. **S-754, Petition of Robert A. and Ruth S. Hornickle** (major home occupation). Memorandum from Barbara Piczak, Inspector, DPS, notifying the Board that the special exception is no longer required and requesting that it be revoked.

Action: Revoked the special exception as the use is now permitted in the zone by right, (CJS/WSB, 5-0).

8. **S-1495, Petition of James Phillips** (accessory apartment). Letter to the Board from Tomas Dominguez requesting a transfer of the special exception.

Action: Item deferred for a signed deed from the property owners, consensus.

9. **S-1526, Robert J. Alvarez and Kathleen M. Tucker** (accessory apartment). Memorandum from CeCe Kinna, 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 petitioner.

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

10. **S-1731, Petition of Make a Wish Foundation** (charitable and philanthropic institution). Memorandum from Barbara Piczak, Inspector, DPS, notifying the Board the 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, (CJS/SBB, 5-0).

11. **S-2748, Petition of Azar Hedayatpour** (accessory apartment). Letter to the Board from Sandy Chang, Esquire, withdrawing the special exception and requesting a refund of the filing fee.

Action: (1) Dismissed the special exception as withdrawn; (2) granted a 50% (\$125.00) refund of the filing fee, (SBB/WSB, 5-0).

**DECISION ITEM:**

12. **S-2706, Petition of Washington, D.S. SMSA Limited Partnership d/b/a Verizon Wireless and Wesley Grove United Methodist Church** (telecommunications facility). Hearing Examiner's Report and Recommendation.

Action: (1) Adopted the Hearing Examiner's Report and Recommendation; (2) granted the special exception with conditions. (SBB/CJS, 4-1/DKP/opposed).

**PENDING ITEMS:**

13. **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].
14. **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].
15. **CBA-2521-I, Petition of Montgomery General Hospital** (hospital). Letter to the Board from Jody Kline, Esquire, requesting an administrative modification [Large exhibits: existing conditions plan and zoning vicinity map]. Item deferred for Mr. Kline to contact homeowner's association regarding its concerns [W/S 10/8/08].
16. **S-179, David H. Shin (coffee shop)**. Letter to the Board from Sook Kim requesting a transfer of the special exception (Item deferred for additional information regarding ownership of special exception property, consensus [W/S 6/25/08].
17. **S-894, Petition of Joan C. Wright** (major home occupation). Letter to the Board from the petitioner requesting an administrative modification. Item deferred for additional information regarding the number of employees, size of the workspace, renewal period. [W/S 3/11/09].
18. **S-1791, Petition of Melissa Martell Taylor** (private educational institution). Letter to the Board from Terry Lewis requesting a transfer of the special exception. Item deferred for (1) statement of operations; (2) confirmation the special exception will be operated in conformance with the Board's Opinion; (3) confirmation of the special exception holder [W/S 9/10/08].

**PENDING ITEMS (continued):**

19. **S-2041, Petition of Victory Housing, Inc.** (nursing and care home). Letter to the Board from Jody Kline, Esquire, requesting an administrative modification. [Large exhibits: exterior elevations, second floor demolition plan, second floor plan and details]. Item deferred for additional information. [W/S 2/25/09].
20. **S-2125, Petition of Victory Housing, Inc.** (care home). Letter to the Board from Jody Kline, Esquire, requesting an administrative modification. [Large exhibits: exterior elevations, first floor plan, first floor demolition plan]. Item deferred for review that special exception meeting the parking requirements. [W/S 2/25/09].
21. **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].
22. **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].
23. **S-2699 and CBA-1660 [CBA-1660], Petitions of ExxonMobil Corporation** (automobile filling station). Hearing Examiner's Report and Recommendation. Also included is a letter to the Board from Jody Kline, Esquire, requesting oral argument or a rewording of Condition No. 16 in the Hearing Examiner's Report and Recommendation for Case No. S-2699 and requesting that special exception CBA-1660 be revoked as never implemented. (1) Granted request for oral argument; (2) deferred the Hearing Examiner's Report and Recommendation [W/S 9/24/08].

**Board Members**

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