

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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

SECOND WORKSESSION ADDENDUM MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, January 9, 2002, 1:30 P.M.

ACTION CALENDAR:

1. **S-661, Petition of Countryside Gardens** (horticultural nursery and commercial greenhouse). Letter to the Board from Morteza Gholami, contract purchaser, requesting a transfer of the special exception.

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

Board Members

Donald H. Spence, Jr., Chairman
Donna L. Barron, Vice Chairman
Louise L. Mayer
Angelo M. Caputo
Allison Ishihara Fultz - ABSENT

Staff

Sherry Glazer, Assistant County Attorney
Katherine Freeman, Executive Secretary to the Board
Hermene Jones, Administrative Specialist

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WORKSESSION ADDENDUM MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, January 9, 2002, 9:00 A.M.

ACTION CALENDAR:

1. **A-5678, Appeal of Luxmanor Citizen's Association, Inc. and Jerry Black, Mark M. Spradly and Tim D. Andreadis and, A-5679, Appeal of Luxmanor Citizen's Association, Inc. and Jerry Black, Mark M. Spradley and Tim D. Andreadis** (Department of Permitting Services – Issuance of Bulding Permit No. 257394 and Ruling Letter dated 8/31/01). Letter to the Board from Cathy G. Borten, Esquire, requesting the issuance of a subpoena.

Action: (1) Granted the request for the issuance of the subpoena; (2) request limited to the first and last items requested in Ms. Borten's letter, (AMC/DLB, 5-0).

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

(a) **A-5572, Petition of Scott R. Stiger and Anita M. Stiger** (an existing shed).
Hearing on Reconsideration held 12/5/01.

Action: Granted Order Extending the Time, (LLM/AIF, 5-0).

Board Members

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WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, January 9, 2002, 9:00 A.M.

ACTION CALENDAR:

1. **Minutes**, December 19, 2001 Worksession.

Action: Approved, (AIF/LLM, 5-0).

2. **A-5606, Appeal of Robert Zarnetske** (Department of Permitting Services (DPS) – Letter dated March 2, 2001). Letter to the Board from the appellant requesting rehearing and reconsideration.

Action: (1) Re-opened record to include the appellant's letter; (2) denied reconsideration request, (LLM/DLB, 3-0).

3. **A-5640, Appeal of Chester Stello** (Department of Permitting Services – Notice of Violation). Letter to the Board from the appellant requesting a continuance.

Action: Granted continuance request, (LLM/AMC, 5-0).

4. **A-5676, Charles Sullivan** (first and second floor covered porches). Letter to the Board from Stephen J. Orens, Esquire, requesting a postponement.

Action: Granted continuance request, (LLM/DLB, 5-0).

5. **A-5680, Petition of C. Victor Mbakpuo** (Department of Housing and Community Affairs (DHCA) – Condemnation Notice). Letter to the Board from the appellant withdrawing the appeal and requesting a refund of the filing fee.

Action: (1) Dismissed appeal as withdrawn; (2) granted 50% (79.00) refund of the filing fee, (AMC/AIF, 4-1/DHS/against).

6. **A-5716, Appeal Donald M. McGee** (Department of Permitting Services – Notice of Violation). Letter to the Board from Helen Lynn Primo, Esquire, with a Request to Stay the notice of violation dated November 21, 2001.

Action: Granted Request to Stay, (DLB/LLM, 5-0).

7. **CBA-842-A, Petition of Laszlo N. Tauber, d/b/a. Westwood Joint Venture** (recreational or entertainment establishments, commercial). Letter to the Board from Susan W. Carter, Esquire, withdrawing the special exception modification request and requesting a partial refund of the filing fee.

Action: Dismissed the special exception modification as withdrawn; (2) granted partial refund (50%/\$568.75) of the filing in fee in accordance with the Board's Rules of Procedure, (LLM/AIF, 5-0).

8. **CBA-1027, Petition of R. and Mary Collins** (home occupation). Letter to the Board from Mary Colonello (Mary Ann Collins) notifying the Board that the special exception is no longer in use and requesting that the special exception be revoked.

Action: Revoked special exception as abandoned, (AIF/AMC, 5-0).

9. **CBA-1202-A, Petition of Bar-T Inc./Bar-T-Ranch** (child day care facility). Letter to the Board from Emily J. Vaias, Esquire, requesting an administrative modification.

Action: (1) Item deferred to a later worksession; (2) Board to request DPS inspection of the special exception, consensus.

10. **CBA-2334, Petition Columbia Union College** (private educational institution). Memorandum from the Stanley N. Garber, Investigator, DPS, notifying the Board of an active violation and requesting a show cause hearing.

Action: Schedule Show Cause Hearing, (DLB/LLM, 5-0).

11. **CBA-2640, Petition of The National Capital Area Council – Boy Scouts of America** (eleemosynary and philanthropic institution). Letter to the Board from Patricia A. Harris, Esquire, requesting an administrative modification.

Action: (1) Board to request M-NCPPC review and recommendation, (2) item deferred to a later worksession, consensus.

12. **CBA-2818, Petition of Harold E. and Katherine E. Collins** (private riding stable). Letter to the Board from the petitioner notifying the Board that the special exception has been abandoned and requesting that the special exception be revoked.

Action: Revoked special exception as abandoned, (DLB/LLM, 5-0).

13. **S-365, Petition of Michael and Lydia Chiomenti** (private riding stable). Letter to the Board from Francine Pollner, current property owner, notifying the Board that the special exception has been abandoned and requesting that the special exception be revoked.

Action: Revoked special exception as abandoned, (AIF/LLM, 5-0).

14. **S-745, Petition of Texaco, Inc.** (automobile filling station). Letter to the Board from John R. Barr, Esquire, notifying the Board that the special exception modification was never constructed and that the special exception can be revoked.

Action: Revoked special exception as never implemented, (LLM/DLB, 5-0).

15. **S-1242, Petition of Home Café, Inc.** (drive-in restaurant). Letter to the Board from the Stanley N. Garber, Investigator, DPS, notifying the Board of an active violation and requesting a show cause hearing.

Action: Schedule Show Cause Hearing, (AMC/AIF, 5-0).

16. **S-2072, Petition of Davco Restaurants, Inc.** (drive-in restaurant). Letter to the Board from Stanley N. Garber, Investigator, DPS, notifying the Board that the special exception holder is now in compliance and rescinding the request for a show cause hearing.

Action: Granted request rescinding the request for a show cause hearing, (AMC/AIF, 5-0).

17. **S-2184, Petition of Charles R. Gilbert** (indoor rifle and pistol range). Letter to the Board from Stanley N. Garber, Investigator, DPS, notifying the Board of an active violation and requesting a show cause hearing.

Action: Schedule Show Cause Hearing for earliest possible date, (AMC/AIF, 5-0).

18. **S-2410, Petition of Stuart A. and Arlene Farber Sirkin** (accessory apartment). Letter to the Board from Emily J. Vaias, Esquire, requesting the Board waive the 36-month requirement for the filing of a new special exception. Also included is a letter from Roger V. Barth, Esquire, in opposition to the request.

Action: Denied request to waive the 36-month requirement, (AMC/LLM, 5-0).

DECISION:

19. **A-5664, Petition of Adam and Amy Reyer** (existing screened porch). Hearing held 11/28/01.

Action: Denied variance request, (LLM/DLB, 3-2/AIF/DHS).

20. **A-5682, Petition of Charles D. Hanson** (one-story addition and a covered porch). Hearing held 11/28/01.

Action: Denied variance request, (LLM/AIF, 4-1/AMC).

21. **S-1162, Petition of Jacqueline Rogers** (accessory apartment). Letter to the Board from Martin J. Hutt, Esquire, to accept the agreement into the record and approve the draft of the special exception opinion.

Action: Granted approval of special exception opinion as amended, (DLB/LLM, 5-0).

PENDING ITEMS:

22. **CBA-1692 [S-719, S-720, S-721], Petition of Karl W. Corby, Jr. , et al** (medical practitioner's office). Letter to the Board from Stanley N. Garber, Zoning Investigator, notifying the Board of the special exceptions' outstanding Notices of Violation. Item deferred to a future worksession pending clarification from DPS.

PENDING ITEMS (continued):

23. **S-1547, Petition of Precision Tune** (automobile tune-up and service shop). Letter to the Board from Sa Kwon, owner, requesting a transfer of the special exception. Board granted the transfer of the special exception and requested DPS to inspect the special exception for compliance with landscape and lighting plan.
24. **S-2435, Petition of Saiful and Jannatul B. Islam** (accessory apartment). Order from the Circuit Court reversing the Board's Opinion. Board requested DHCA inspection of the special exception and the item will return to a future worksession to determine if a public hearing is required.
25. **S-2473, Petition of Adnan Haider** (accessory apartment). Letters to the Board from L. Morgan Bates (Marguerite) and Suzanne McLaughlin, neighbors, regarding the special exception. Requested Department of Housing and Community Affairs (DHCA) inspection of the special exception.

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