

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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www.montgomerycountymd.gov/content/council/boa/index.asp

WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, March 11, 2009, 9:30 a.m.

ACTION ITEMS:

1. **Minutes**, February 25, 2009 Worksession.

Action: Approved as amended, (SBB/WSB, 5-0).

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

(a) **A-6276, Petition of Mino Economides** (one-story addition). Hearing held 1/21/09.

Action: Granted the order extending time, (CJS/DKP, 5-0).

A-6280, Petition of Linda D. Miller and Yaguang Xu (one-story addition).
Hearing held 2/11/09.

Action: Granted the order extending time, (WSB/CJS, 5-0).

3. **A-5714, Petition of Robin Carruthers** (existing deck). Email to the Board from Susan Roth. Also included is a response to the email from Susan Scala-Demby, Manager, Department of Permitting Services (DPS).

Action: (1) Re-opened the record to include emails from Ms. Roth and Ms. Scala-Demby; (2) BOA to request an opinion from the County Attorney regarding enforcement of the variance conditions not related to construction, (DKP/CJS, 5-0).

4. **A-6263, Appeal of Steven Wichtendahl and Angela Dickson** (Department of Permitting Services – Building Permit No. 450831). Letter to the Board requesting the issuance of a subpoena.

Action: Granted the request for the issuance of a subpoena, (DKP/SBB, 5-0).

5. **CBA-722 [CBA-722-A, CBA-722-B, CBA-554, CBA-554-A, CBA-652, CBA-1113, S-245, S-245-A, S-245-B], Petition of Chevy Chase Club, Inc.** (private country club). Update from Timothy Dugan, Esquire on the administrative modification granted in the Board's Resolution dated 1/9/09.

Action: Re-opened the record to include Mr. Dugan's letter, (SBB/DKP, 5-0).

6. **CBA-969-A [CBA-969], Petition of Millennium Health Services** (nursing home). Letter from David Freishtat, Esquire, and Anne Marie Vassallo, Esquire, notifying the Board of a change in ownership and submitting a site plan and an approved stormwater management concept plan. [Large exhibits: site plan and colored site plan].

Action: (1) Re-opened the record to include Ms. Vassallo and Mr. Freishtat's letter, (DKP/SBB, 5-0); (2) granted the transfer of the special exception, (DKP/WSB, 5-0).

7. **S-686 [S-686-A, S-686-B, S-686-C], Petition of The Landon School** (private educational institution). Letter to the Board from Stuart Barr, Esquire, requesting an administrative modification. [Large exhibits: overall site plan, notes and elevations, plan and details].

Action: Granted the administrative modification, (WSB/CJS, 5-0).

8. **S-829, Petition of Potomac Polo Club, Inc.** (private club for polo). Letter to the Board from James Clifford, Esquire, requesting a transfer of the special exception.

Action: Granted the transfer of the special exception, (DKP/CJS, 5-0).

9. **S-894, Petition of Joan C. Wright** (major home occupation). Letter to the Board from the petitioner requesting an administrative modification.

Action: Item deferred for additional information regarding the number of employees, size of the workspace, and the special exception's renewal period, consensus.

10. **S-1182, Petition of Children's World, Inc.** (child day care center). Letter to the Board from Jon Heintz, Vice President, requesting a transfer of the special exception.

Action: Granted the transfer of the special exception, (DKP/SBB, 5-0).

11. Pending Item. **S-1187 [CBA-717, CBA-717-A, CBA-2048, S-1187], Petition of Our House, Inc.** (nursing home/domiciliary care home). Memorandum from Heather Gottke, Inspector, DPS, notifying the Board that the special exception has never implemented and requesting that it be revoked. Also included are letters and an email regarding the special exceptions from Stuart Barr, Esquire.

Action: (1) Revoked S-1187; (2) no prior Opinion of the Board is affected by the revocation of S-1187, (DKP/SBB).

12. **S-1405, Petition of Democracy Associates Limited Partnership** (restaurant). Letters to the Board from Kent Rosenberger, Senior Property Manager, requesting an administrative modification.

Action: Granted the administrative modification, (CJS/WSB, 5-0).

13. **S-1904-A [S-1904], Petition of Norman Roskin, D.V.M.** (veterinary hospital). Letter from the petitioner notifying the Board of compliance with the conditions in its Resolution dated 8/15/08. [Large exhibit: site plan].

Action: Re-opened the record to include the petitioner's letter with attachment, (DKP/WSB, 5-0).

14. **S-2423-A [S-2423], Petition of Meadow Ridge Seniors' Villas, LLC** (housing for the elderly and handicapped). Letter to the Board from William Oshinsky requesting an administrative modification.

Action: (1) Granted the administrative modification; (2) granted the transfer of the special exception; (3) rescinded the Show Cause Hearing, (DKP/WSB, 5-0).

DECISION ITEMS:

15. **S-2735, Petition of Tanie and Pierre Guirand** (group home). Hearing Examiner's Report and Recommendation.

Action: (1) Adopted the Hearing Examiner's Report and Recommendation as amended; (2) granted the special exception with conditions, (CJS/WSB, 5-0).

16. **S-2740, Petition of Children's Inn at NIH, Inc.** (charitable and philanthropic institution). Hearing Examiner's Report and Recommendation. Also is included a letter Robert Brewer, Esquire, and April Birnbaum, Esquire, requesting a modification to the Hearings Examiner's Report.

Action: (1) Adopted the Hearing Examiner's Report and Recommendation; (2) granted the special exception with conditions and with the changes requested by Mr. Brewer and Ms. Birnbaum, (CJS/WSB, 5-0).

PENDING ITEMS:

17. **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].
18. **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].
19. **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].
20. **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].
21. **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].
22. **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].
23. **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].
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].

PENDING ITEMS (continued):

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-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].

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