

BOARD OF APPEALS
for
MONTGOMERY COUNTY

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

Case No. S-918

PETITION OF FERESHTEH FARAHMAND

RESOLUTION TO TRANSFER SPECIAL EXCEPTION

(Resolution Adopted, May 1, 2002)
(Effective Date of Resolution, June 26, 2002)

The Board of Appeals received letters from Kesuith Smith dated April 4 and April 22, 2002 and a letter from Fereshted Farahmand dated April 19, 2002.

Mr. Smith's letter dated April 4, 2002, states:

"I am in the process of purchasing the referenced property at 2816 Old Briggs Chaney Road, which includes a Day Care Center, and would like to have the Special Exception transferred in my name."

Mr. Farahmand's letter dated April 19, 2002, states:

"I am the owner of the above-referenced property and the holder of Special Exception S-918, granted to me in June of 1984. I reside in the property and operate a successful day care center there.

I have contracted to sell my property and day care business to Kesuith and Fay E. Smith, who intended to reside in the property and conduct the day care business in the same manner as I have conducted it and consistent with the terms of the Special Exception.

I give my consent to and join in the request to transfer the Special Exception from me to Mr. and Mrs. Smith."

Mr. Smith's letter dated April 22, 2002, states:

"Further to the meeting of the Board of Appeals on April 17, and the subsequent request for additional information to that contained in my initial letter

dated April 4, 2002, I wish to state that I will be residing in the residence located at 2816 Old Briggs Chaney Road, Silver Spring, MD.”

The subject property is Lot 1, Stringer’s Addition to Fairland Acres Subdivision, located at 2816 Briggs Chaney Road, Silver Spring, Maryland, in the R-200 Zone.

The Board considered the transfer request at its worksession on May 1, 2002. The Board reviewed the record and the correspondence in Case No. 918 and finds that the request is in accordance with the provisions of Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance, which states:

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the board, without convening a public hearing to consider the proposed change, may modify the term or condition.

The Board finds that based on the commitment to operate the special exception under the approved terms and conditions, that it can grant the requested transfer. Therefore, in accordance with the provisions of Section 59-G-1.3(c)(1) of the Zoning Ordinance, BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that Case No. S-918, Petition of Fereshteh Farahmand, is reopened to receive Mr. Smith’s and Ms. Farahmand’s letters with attachments, and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the request to transfer the special exception in Case No. S-918 to Kesuith and Fay E. Smith is **granted**; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland, that all terms and conditions of the original special exception, together with any modifications thereto granted by the Board of Appeals, shall remain in full force and effect.

On a motion by Louise L. Mayer, seconded by Donna L. Barron, with Angelo M. Caputo, Allison Ishihara Fultz and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the foregoing Resolution.

Donald H. Spence, Jr.
Chairman, Board of Appeals

I do hereby certify that the foregoing
Opinion was officially entered in the
Opinion Book of the County Board of
Appeals this 26th day of June, 2002.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedures.