

**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

WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, May 20, 2009, 9:30 a.m.

ACTION ITEMS:

1. **Minutes**, April 22, 2009 Worksession.

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

2. **CBA-2521, Petition of Montgomery General Hospital, Inc.** (hospital). Email from Somer Cross submitting the hospital's sign variance approvals.

Action: Re-opened the record to include Ms. Cross' email, (DKP/SBB, 5-0).

3. **S-366, Petition of Earl Taisey** (animal boarding place for up to 50 animals). Receipt of additional information needed from case file for the transfer of the special exception.

Action: (1) Re-opened the record to include the additional information; (2) granted the transfer of the special exception, (CJS/DKP, 5-0).

4. **S-1022, Petition of Andrew S. Penn and Cathy S. Surace** (accessory apartment). Memorandum from Daniel McHugh, 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 petitioners.

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

5. **S-1104, Petition of Kevin O'Connor and Clara Else** (accessory apartment). Memorandum from Bill Calloway, 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 property owner.

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

6. **S-1151, Petition of William W. and Julia F. Welsh and William H. T. Smith** (accessory apartment). Memorandum from Bill Calloway, Inspector, 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 property owner.

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

7. **S-1554, Petition of Ayub K. Ommaya, M.D.** (non-resident medical practitioner). Letter from Barry Lemley, owner's representative, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: (1) Re-open the record to include Mr. Lemley's letter; (2) revoked the special exception as abandoned, (??????, 5-0).

8. **S-1977, Petition of Joelle Hoffman** (accessory apartment). Memorandum from Unray Peters, Inspector, 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 property owner.

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

9. Pending Item. **S-2041, Petition of Victory Housing, Inc.** (nursing and care home). Letters from Jody Kline, Esquire, submitting the additional information requested by the Board and requesting an administrative modification. [Large exhibits: exterior elevations, second floor demolition plan, second floor plan and details].

Action: Granted the administrative modification, (DKP/SBB, 5-0).

10. Pending Item. **S-2125, Petition of Victory Housing, Inc.** (care home). Letters from Jody Kline submitting the additional information requested by the Board and requesting an administrative modification. [Large exhibits: exterior elevations, first floor plan, first floor demolition plan].

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

11. **S-2367, Petition of Robert D. Egan** (outdoor catering facility). Letter to the Board from Jody Kline requesting an extension of time to implement.

Action: (1) Included in the record the email from Heather Gottke, DPS; (2) dismissed the extension of time request; (3) rescinded the Show Cause Hearing, (CJS/SBB, 5-0).

12. **S-2416, Petition of BPAmoco Corporation** (automobile filling station). Memorandum from Barbara Piczak, Inspector, Department of Permitting Services (DPS), notifying the Board that the special exception was never implemented and requesting that it be revoked.

Action: Revoked the special exception as never implemented, (SBB/DKP, 5-0).

DECISION ITEMS:

13. **S-2732, Petition of M. Wajeed Khan, M.D.** (non-resident professional office). 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, (DKP/SBB, 4-1/CGT).

14. **S-2736, Petition of DavCo Restaurants, Inc.** (drive-in restaurant). 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, 5-0).

15. **S-2743, Petition of Henderson Corner and 355, LLC** (automobile filling station). Hearing Examiner's Report and Recommendation.

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

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].

PENDING ITEMS (continued):

18. **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].
19. **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]. Item deferred for additional information regarding the ownership of the property. [W/S 4/22/09].
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. [W/S 6/25/08].
21. **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].
22. **S-1495, Petition of James Phillips** (accessory apartment). Letter to the Board from Tomas Dominguez requesting a transfer of the special exception. Item deferred for signed deed from the property owners. [W/S 4/22/09].
23. **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].
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].
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].

PENDING ITEMS (continued):

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].

Board Members

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David K. Perdue, Vice Chair
Walter S. Booth
Carolyn J. Shawaker
Stanley B. Boyd

Staff

Barbara Jay, Associate County Attorney
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WORKSESSION ADDENDUM MINUTES

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Wednesday, May 20, 2009, 9:30 a.m.

ACTION ITEM:

1. **A-6288, Appeal of Fairmont Avenue Associates, LLC** (Department of Permitting Services – Letters dated 1/28/09, 2/20/09 and 3/2/09). Letter to the Board from Joseph Lynott, Esquire, withdrawing the administrative appeal.

Action: Dismissed the administrative appeal as withdrawn, (SBB/WSB, 5-0).

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