

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
for
MONTGOMERY COUNTY
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CASE NO. CU 16-07, HANNAH WEISER CONDITIONAL USE

OPINION AND ORDER RESOLVING CONDITIONAL USE REVOCATION ISSUES
BY MODIFYING THE CONDITIONAL USE FOLLOWING SHOW CAUSE HEARING

**I. THE CONDITIONAL USE, THE NEIGHBOR'S COMPLAINT AND THE NOTICE
OF VIOLATION ISSUED BY THE DEPARTMENT OF PERMITTING SERVICES**

Conditional Use CU 16-07 was granted by the Hearing Examiner on July 8, 2016, to permit the Applicant, Hannah Weiser, to operate a Child Day Care Center for up to 15 children in her home at 9205 Fernwood Road in Bethesda, Maryland. The Subject Site is Lot 1, Block 8 of the Green Tree Manor Subdivision, and it is zoned R-90. The Hearing Examiner's Decision imposed 22 conditions on the Conditional Use, including Condition 21, which allowed a waiver of Zoning Ordinance §§59.6.2.9.B.1.a., b., and c., but required that the parking lot landscaping "be in accordance with the revised landscape and lighting plan (Exhibit 48(b))."

Although the Board of Appeals issued a resolution effective September 21, 2016, modifying Condition No. 4, shortening outdoor play time by one hour, it did not modify any other condition imposed on the Conditional Use, and a subsequent request by Ms. Weiser to further modify Condition No. 4 was later withdrawn (Exhibits 69 and 80).

On April 4, 2019, the abutting neighbors to the south of the subject site, Robert Joseph ("Joe") and Karen Webster of 9203 Fernwood Road, filed a complaint (Exhibit 82) with the Department of Permitting Services, alleging the following:

COMPLAINT: Hannah Weiser cut down and removed; or caused to be cut down and removed entire 41' Emerald Green Arborvitae screening on her south property line. Minimum of 13 arborvitae approximately 10' tall were cut and removed.

On or about Friday, 29 March 2019, arborvitae were cut down and removed. We, Karen and Joe Webster, abutting neighbors on the south at 9203 Fernwood Road had no knowledge, no communication prior to removal.

These 10' tall arborvitae stretching from the property corner at Fernwood Road extending 41 feet east were in fact a "Condition of Use." Attached photos show before and after.

Please require Hannah Weiser to fully comply with "Condition of Use" permit by installing a minimum of 13 arborvitae minimum of 8 feet tall per drawing attached. This location, spacing, plant variety is same prior to cutting and removal.

The Weisers' home and the Websters' home are both depicted below, looking east-southeast from Fernwood Road (Exhibit 40, p. 17). The landscaping shown on this photo depicts the screening along the southern, front yard lot line, as it was when the conditional use was granted.



On June 18, 2019, based on this complaint from the abutting neighbors to the south of the subject site, and a field inspection, the Department of Permitting Services (DPS) issued a Notice of Violation (Exhibit 83) directing the conditional use holder to come into compliance with Condition 21 by June 25, 2019.

On July 9, 2019, Jennyffer Vargas, Permitting Services Inspector with the Department of Permitting Service, sent a Report of the Violation to the Hearing Examiner (Exhibit 84), stating the following:

On April 4th, 2019, DPS received a complaint regarding Conditional Use 16-07. The complainants, Joe and Karren Webster, state that the Conditional Use (CU) holder, *"Hannah Weiser cut down and removed; or caused to be cut down and removed entire 41' Emerald Green Arborvitae screening on her south property line. ... These 10' tall arborvitae stretching from the property corner at Fernwood Road extending 41 feet east were in fact a "Condition of Use.""* On April 8th, DPS performed a field inspection of CU 16-07 which confirmed that the 10' arborvitae that existed at the time the CU was approved, had been replaced with nine (9) shorter bushes (Schip Cherry Laurel evergreen). DPS believes that this is a violation of the conditions of the CU and pursuant to Zoning Ordinance Section §59.7.3.1.L. Compliance and Inspection, the Department of Permitting Services files this Report of Violation to the Hearing Examiner at the Office of Administrative Hearings, grantor, of the above referenced Conditional Use.

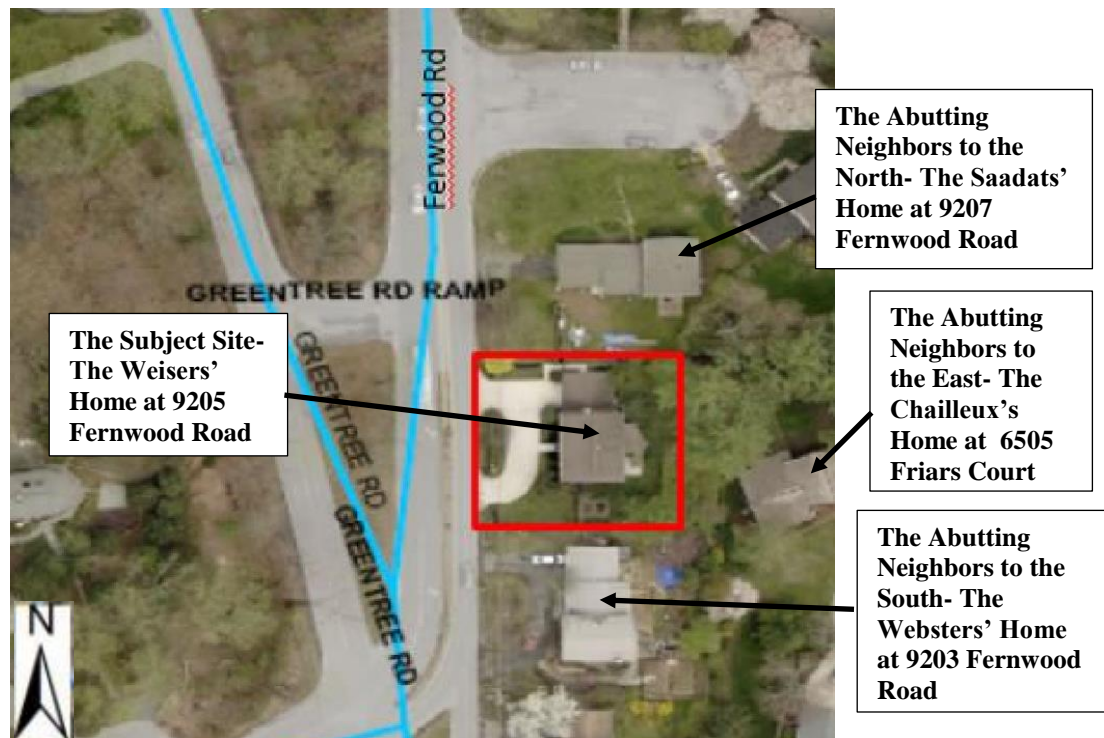
Upon inquiry from the Hearing Examiner, DPS expanded upon its rational for the Report of Violation (Exhibit 86):

When this CU was originally reviewed by MNCPPC Staff, a fully mature row of arborvitae stood just inside the property of the CU holder and their neighbors. It was essentially a tall, solid hedge row, completely screening the property. MNCPPC Staff noted this as “alternative compliance” regarding the screening requirements for the CU application. So, the CU applicant wasn’t required to provide fencing or additional, vegetative screening that would satisfy their requirements. So, when the CU holder completely removed the entire mature row of arborvitae, there was absolutely no screening. We communicated this to the CU holder and they quickly took it upon themselves to plant various shrubbery along that property line. What has been planted provides substantially less screening than what was there at the time of initial MNCPPC Staff review. Therefore, it is our determination that the CU holder needs to modify the CU to accurately reflect screening that would satisfy MNCPPC Staff requirements. Because what the CU holder installed isn’t close to what was there, we didn’t feel it our place to make this determination.

II. THE ORDER TO SHOW CAUSE, SUBMISSIONS BY OTHER NEIGHBORS AND THE SHOW-CAUSE HEARING

Having received written notice from DPS that the conditional use holder is violating the terms or conditions of a conditional use, the Hearing Examiner, on July 26, 2019, issued an Order to Show Cause and Notice of Show Cause hearing (Exhibit 87), in accordance with Zoning Ordinance §§59.7.3.1.L.4. & 5. The Order scheduled the Show Cause hearing for September 6, 2019.

Letters of support for the conditional use were filed by the Weisers’ abutting neighbor to the north, Agha Adeel Saadat, of 9207 Fernwood Road (Exhibit 92(b)), and by the Weisers’ abutting neighbors to the east (rear) of the subject site, Anais and Lionel Chailleux (Exhibit 92(a)). It is helpful to see an aerial photo of the subject site and the properties of the abutting neighbors provided by the Technical Staff for the original condition use hearing (Exhibit 40, p. 3):



The letter of complaint from the Websters is quoted in Part I of this Opinion and Order, above. The letter from the abutting neighbors to the East – the Chailleuxs, who live at 6505 Friars Court, in Bethesda – states the following (Exhibit 92(a)):

We, Anais and Lionel Chailleux, abutting and confronting property owners to Chris and Hannah Weiser at 9205 Fernwood Rd, Bethesda, MD, 20817, the subject property for the Order to Show Cause for revocation of the conditional use for a child day care center, CU 16-07, hereby write this letter in strong support of the continuation of this conditional use.

It has come to our attention that issues have been raised regarding the presence of this child day care center in our neighborhood and it is our intention to speak favorably regarding the service it provides in our community and the kind nature of Chris and Hannah as the property owners. Our community is a neighborhood of children, as multiple elementary schools are within minutes of our home. Our children, and others in the community, regularly play outside in a cul-de-sac in the front of our home. Our three children also regularly play outside in our yard. Many children play outdoors in this neighborhood and we believe the child day care center provides the same type of outdoor play setting without adding noise or changing the residential aesthetics of the neighborhood. Furthermore, we live in a segment of Bethesda that is near Fernwood Rd, a busy road. This road's high traffic far exceed any disruption of the children coming and going from the child care.

Our house is located such that our back lawn faces the lawn of the subject property. Christopher and Hannah Weiser have been our neighbors for almost three years. In this time, they have been good neighbors, improving the quality of their home, and maintaining good communication with us about the child day care center and other community matters. Notably, Chris and Hannah removed an old chain link fence that we shared at the border of our properties and built a new, wooden fence, at a taller height, to help provide additional privacy for the daycare to us and to them. Chris and Hannah spoke with us in the planning phase, and regularly throughout this project, to make sure our needs were met as well as their own and to avoid disruption during the building process. We are confident that in continuing this conditional use to allow this daycare at their home, they will continue to operate it with the utmost respect to their neighbors and the community.

As parents ourselves, we understand the need for high quality daycare, in a home setting. We believe this child day care center provides a valuable service to our community with minimal disruption. We strongly support the continuation of the Conditional Use application 16-07.

The show-cause hearing proceeded as scheduled on September 6, 2019. Testimony was offered by Jennyffer Vargas of the Department of Permitting Services, Hannah Weiser, the Conditional Use holder, her husband, Christopher Weiser (a co-owner of the subject property), Kathy Reilly of the Planning Department's Technical Staff, and Joe Webster, the neighbor to the south who is the complainant. Karen Webster, the co-complainant, was present but elected not to testify.

The substance of the dispute is readily apparent from viewing “before and after” photographs showing the landscaping along the southern lot line at the time the conditional use was granted and the landscaping in that area after the conditional use holder removed almost all the existing 10-foot tall, Emerald Green Arborvitae Trees that had screened the front yard portion of the southern lot line and replaced them with 3-foot tall Schip Cherry Laurel Hedges. That this change in screening was made is undisputed, and it is the only issue in this “show cause” matter. No other neighbor has complained and no other area of the screening is at issue.



Screening along Front Yard Southern Lot Line
BEFORE the Conditional Use Holder Replaced the
Emerald Green Arborvitae Trees (Exhibit 40, p. 18)



Screening along Front Yard Southern Lot Line
AFTER the Conditional Use Holder Replaced the
Trees with Schip Cherry Laurel Hedges (Exhibit 90(j))

Jennyffer Vargas of the Department of Permitting Services testified at the hearing that she inspected the premises and confirmed the allegations of the Websters that the screening trees along the southern property line had been cut down and replaced with “very small shrubberies.” Tr. 14-15. Since, in her opinion, the replacement shrubs did not meet the screening requirements of Condition 21 of the conditional use, she issued a Notice of Violation (Exhibit 83) with a compliance date of June 25, 2019. When the correction was not timely made, she referred the matter to the Hearing Examiner for action. On cross-examination, Ms. Vargas indicated that it was not her role to suggest any alternative solutions, but rather to ensure that the conditions of the grant were carried out. Tr. 17-18.

Ms. Weiser explained in her Pre-hearing Statement why she removed and replaced the trees along the southern front yard lot line with “Schip Cherry Laurel” hedges (Exhibit 90, p. 2):

When the Conditional Use was granted there was an existing 41’ row of approximately 10 evergreen Arborvitae trees abutting the southern property line shared with the Complainants. However, over the next two years many of the plants died or were permanently damaged due to winter storms and other natural causes. See Exhibit 2 for the state of the bushes immediately prior to removal.

Over multiple seasons we replaced three individual trees with full-sized specimens of the same species. However, none of the plants survived, due in part to the substantial shade of a nearby tree on the Complainant's property. We removed all

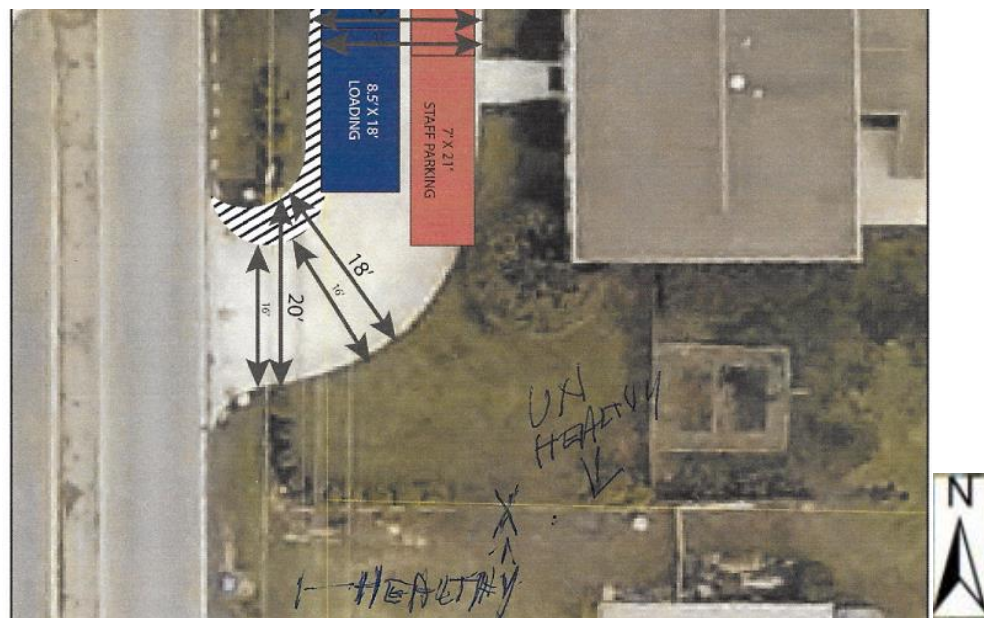
Arborvitae on March 29, 2019 believing that they no longer provided adequate screening of the property.

On March 30, 2019, we re-planted the entire property line with nine Schip Cherry Laurel evergreen bushes. The bushes were purchased from Sun Nurseries in Woodbine, MD in consultation with the nursery staff. We were advised that the Laurel bushes were ideal for screening as they grow rapidly, are shade tolerant, evergreen, and easily reach 12' - 15' in height and 6' - 8' in width. All plants have exhibited new growth since planting, and currently stand approximately 3' tall.

The new evergreen bushes currently provide at least as much screening as the plants that have existed on the northern property line since the Conditional Use was granted. See Exhibit 7 for northern plot boundary plantings. Moreover, they will continue to grow at a fast pace to provide more effective screening than the Arborvitae that were replaced. At both their current and future sizes, the Laurel plants reflect the residential character of the surrounding neighborhood and conform to the spirit of the original landscaping plan.

Mrs. Weiser testified consistently with the above quotation at the show-cause hearing (Tr. 19-26), as did her husband, Christopher Weiser (Tr. 26-31). Mrs. Weiser also offered to put up a six-foot tall wooden privacy fence in the disputed area, which would provide additional screening (Tr. 31-32), but Joe Webster did not agree, feeling it “would be out of character with the neighborhood.” Tr. 53-54. He later added that it would not be tall enough to provide sufficient screening. Tr. 79-80.

Mr. Webster further testified that 21 feet of emerald green arborvitae that extended from the property corner east to the birch tree were in “extremely healthy condition,” and the remaining 20 feet were in questionable condition in respect to health. “Continuing east along the property line from the rivers birch tree to the fence, those arborvitae were damaged, and uncared, for and unhealthy.” Tr. 37-38. Mr. Webster noted the locations of the healthy and unhealthy trees on a diagram of the area, and it was marked as Exhibit 99. Tr. 40-41. The relevant portion of Exhibit 99 is reproduced below:



Mr. Webster also noted that a number of the unhealthy trees east of the birch tree were in that state because they were struck by an automobile in 2012, and others were affected by a harsh winter that year. Tr. 43-44. Mr. Webster also provided views from his driveway, demonstrating the difference in screening after the emerald green arborvitae were replaced with the Schip Laurel hedges in question. Tr. 45-50. They are included in Exhibit 101, and are reproduced below:



Screening along Front Yard Southern Lot Line, as viewed from the Webster property, **BEFORE** the Conditional Use Holder Replaced the Emerald Green Arborvitae Trees (Exhibit 101, p. 2)



Screening along Front Yard Southern Lot Line, as viewed from the Webster property, **AFTER** the Conditional Use Holder Replaced the Trees with Schip Cherry Laurel Hedges (Exhibit 101, p. 3)

In response to a question from the Hearing Examiner, Mrs. Weiser indicated that she had removed healthy trees in addition to damaged ones because the entire line of plants was difficult to maintain and she “thought it would be better for the screening aesthetics and the community if there was one line of plants that was removed from the state, further away from the fence so that we wouldn’t have that same type of damage and that they were all the same species instead of the half and half row.” Tr. 51-52.

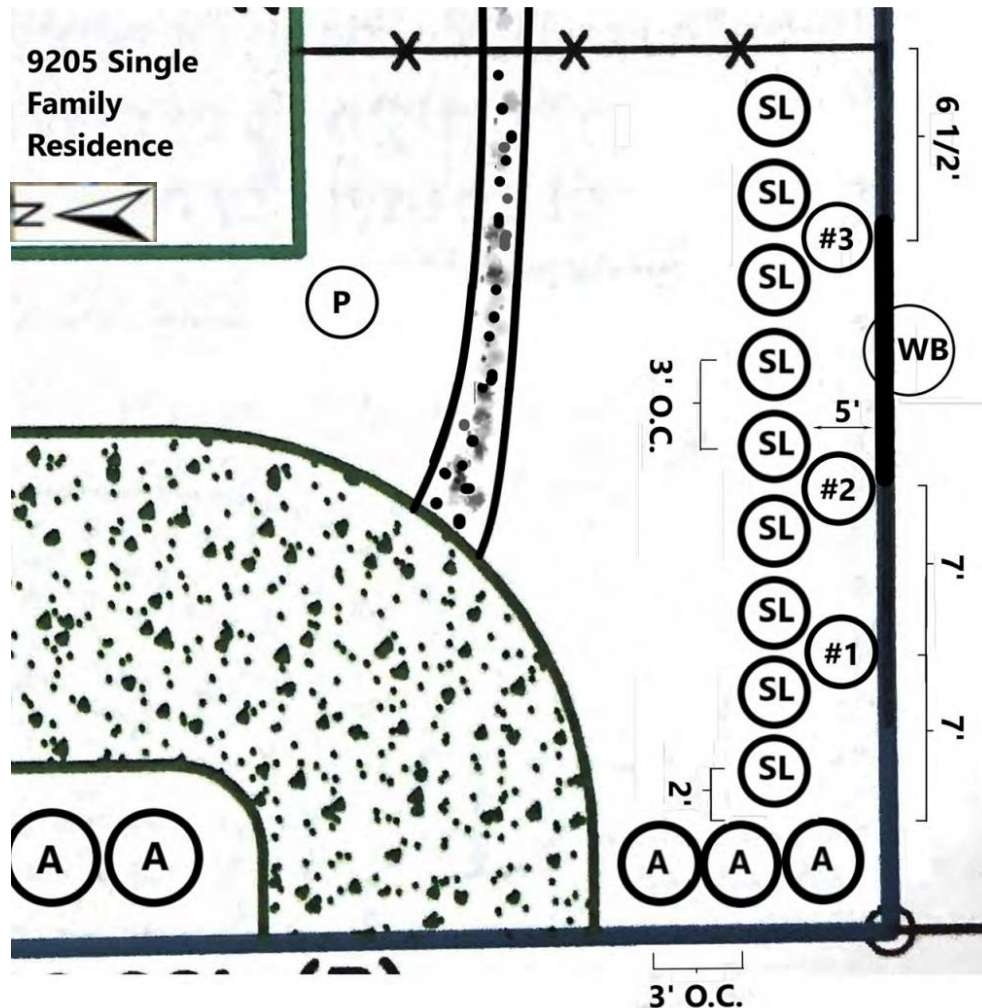
Mr. Webster also introduced an ad from a local plant nursery (Exhibit 102) showing that emerald green arborvitae, 5 to 6 feet tall at planting, could be obtained for a reasonable price of \$63.99 a piece. He testified that about 14 of those trees would be sufficient to provide the needed screening. Tr. 56-58.

The final witness at the hearing was Kathleen Riley of the Planning Department’s Technical Staff. She testified that, at the request of the Hearing Examiner, she had inspected the premises and confirmed that the 10-foot tall screening trees had been removed and replaced with much shorter screening. Exhibit 96 and Tr. 58-60. Ms. Reilly stated, in her opinion as a land planner, that the newly planted vegetation would not provide sufficient screening to the next-door neighbors. “The suggested remedy was to plant additional evergreen plantings on materials a minimum of 5 to 8 feet.” Tr. 60. She suggested that Mrs. Weiser should have an arborist submit a plan to the Technical Staff for review.

At the conclusion on the hearing, the Hearing Examiner gave the conditional use holder until September 20, 2019, to file a revised landscape plan and suggested that she first consult with an arborist and her next-door neighbor to see if an agreement could be reached.

Mrs. Weiser was unable to reach any agreement with her neighbor (Exhibits 105 and 107), but she did consult an arborist who suggested a plan calling for adding three trees to the south of the existing Schip Cherry Laurel Hedges (Exhibit 107(a)).

After some exchanges with Technical Staff, Mrs. Weiser submitted a revised landscape plan showing all of the landscaping on her site, including the Schip Cherry Laurel Hedges and the three new trees recommended by her arborist along the southern, front yard, property line. The revised plan submitted by Mrs. Weiser on September 30, 2019, is Exhibit 115(a). The portion of that proposed plan pertaining to the show-cause issue is reproduced below:

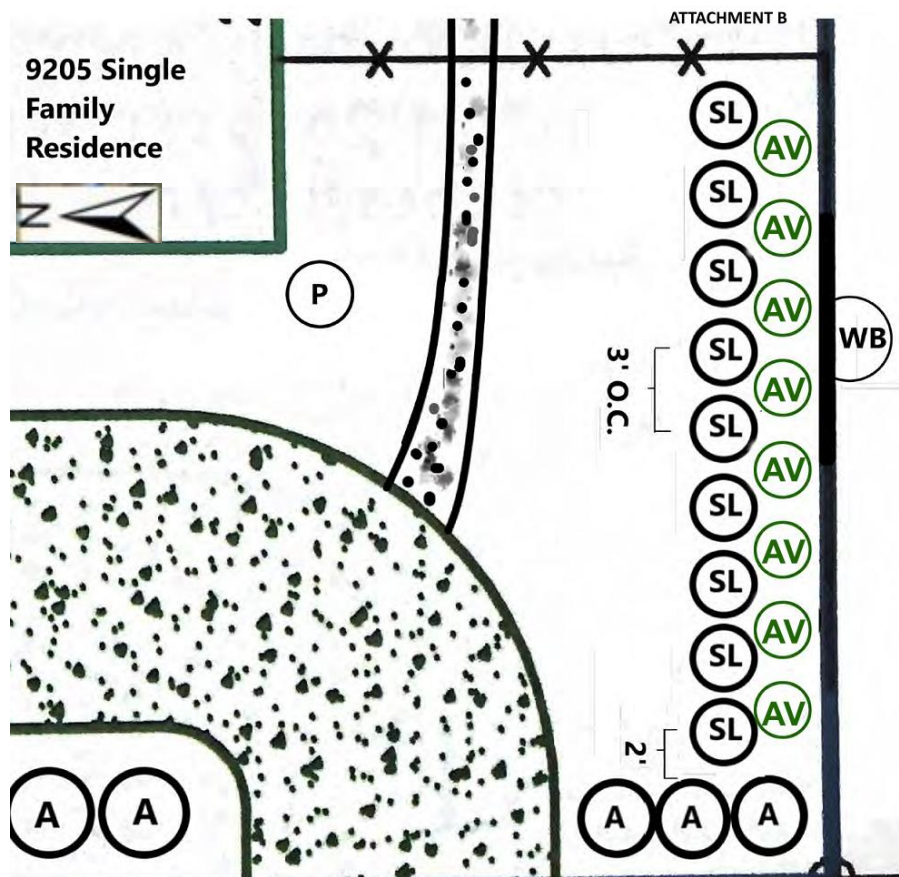


The property line currently has 9 Schip Cherry Laurel evergreen bushes planted approximately 3' on center, and 5' from the property line. Each bush is approximately 3' tall. There are 3 Green Emerald Arborvitae at the end of the row of Laurels planted parallel to the street that are spaced 3' on center and measure approximately 6.5' tall. Circles #1, #2, & #3 represent three proposed plantings of either Eastern Red Cedar, Leyland Cypress or American Holly. Trees #1 and #2 should be spaced roughly 7' apart and 7' from the Arborvitae. Tree #3 should be planted roughly 6.5' from the fence. This spacing should give sufficient room between specimens and from the existing Willow Birch root system. All specimens should be approximately 5-6' tall at planting.

Technical Staff reviewed Mrs. Weiser's proposed new plan and in a Supplemental Memorandum dated October 9, 2019, found it to be insufficient to provide the needed screening along the southern property line (Exhibit 116):

Staff reviewed this submittal and found that the species and quantity of proposed trees will not sufficiently screen the parking area of the approved conditional use from the abutting residential property to the south. Under favorable conditions and in time, the schip cherry laurel bushes and the three proposed trees may grow to form a landscaping buffer, but as proposed at the time of planting they would not adequately screen the parking area. Staff recommends that the Conditional Use Holder not plant these species of trees and install 8 or 9 arborvitae planted approximately 2 to 3 feet apart along this section of the southern property line. The arborvitae will grow and expand faster than the proposed trees and should be installed at a minimum height of 5 feet to 6 feet at the time of planting. Arborvitae in this location will provide an adequate and effective screening that will be compatible with and reinforce the presence of the existing arborvitae planted at the beginning of the southern property line.

Technical Staff submitted a revised portion of the landscape plan showing the part that pertains to the show-cause issue, with the additional trees it recommends for that area. It is reproduced below:



The property line currently has 9 Schip Cherry Laurel evergreen bushes planted approximately 3' on center, and 5' from the property line. Each bush is approximately 3' tall. There are 3 Green Emerald Arborvitae at the end of the row of Laurels planted parallel to the street that are spaced 3' on center and measure approximately 6.5' tall. Plant 8 - 9 Arborvitae (AV) approximately 2-3 feet on center, as shown above. All specimens should be approximately 5-6 feet in height at time of planting.

On October 9, 2019, the Hearing Examiner gave all parties until October 21, 2019, to respond to Technical Staff's proposed Landscape Plan for the site (Attachment to Exhibit 116). The Hearing Examiner also set October 21, 2019, as the date on which the record would close.

No further filings were made by the parties, and the record closed, as scheduled, on October 21, 2019.

III. THE CONTROLLING PROVISIONS OF THE ZONING ORDINANCE

The Zoning Ordinance details procedures for the enforcement of conditional uses by the Hearing Examiner. Zoning Ordinance §§59.7.3.1.L.4.,5. and 6. provide:

4. *If the Board of Appeals or the Hearing Examiner receives a written notice from DPS that the conditional use holder is violating the terms or conditions of a conditional use or the terms, conditions, or restrictions attached to the grant of any permit issued under the conditional use approval, the Board of Appeals or the Hearing Examiner must order the conditional use holder and the property owner to appear before the Board of Appeals or the Hearing Examiner to show cause why the conditional use should not be revoked.*
5. *The notice of a show cause hearing must be issued to the conditional use holder and the property owner by certified mail, return receipt requested. Notification must also be sent to DPS, and to any party who submitted a written complaint concerning the conditional use, and must:*
 - a. *include the nature of the alleged violations;*
 - b. *state that the hearing is limited to a consideration and a determination of the validity of the allegations; and*
 - c. *advise the conditional use holder and the property owner that failure to attend and participate in the hearing may result in revocation of the conditional use.*
6. *The Board of Appeals or the Hearing Examiner must conduct a show cause hearing limited to consideration of the issues identified in the notice of hearing. The Board of Appeals or the Hearing Examiner may reaffirm or revoke the conditional use or amend, add to, delete or modify the existing terms or conditions. The Board of Appeals or the Hearing Examiner must make a determination on the issues presented within 15 days after the close of record. The decision of the Board of Appeals or the Hearing Examiner must be by the adoption of a written resolution and copies of the resolution must be transmitted to the conditional use holder, the property owner, DPS, the Planning Director, and other relevant parties.*

IV. OPINION AND ORDER

The Hearing Examiner finds that the actions taken by the conditional use holder in removing the screening along the southern lot line in the front yard area without seeking an

amendment to the conditional use was inconsistent with the screening requirements of the conditional use.

It is clear beyond fair debate that the screening provided by the 3-foot tall Schip Cherry Laurel Hedges does not come close to matching the screening provided by the Emerald Green Arborvitae Trees Mrs. Weiser removed. See “Before and After” photos on pages 5 and 7 of this Opinion and Order. The Hearing Examiner further finds, based on the entire record, that the newly planted bushes do not provide sufficient screening to the Webster property abutting the subject site to the south.

However, these findings do not require revocation of the conditional use, since much less drastic remedies are available. As set forth in Part III of this Opinion and Order, Zoning Ordinance §59.7.3.1.L.6. gives the Hearing Examiner broad authority to “. . . *reaffirm or revoke the conditional use or amend, add to, delete or modify the existing terms or conditions.*”

Although the new plan submitted by Mrs. Weiser (Exhibits 115(a) and (b)) was recommended by her arborist, the Hearing Examiner agrees with Technical Staff’s conclusion that it will not provide adequate screening for the southern neighbors, at least not in the immediate future. Exhibit 116. Instead, the remedy adopted by the Hearing Examiner is the one proposed by the Planning Department’s Technical Staff. Staff would require the Conditional Use Holder to “install 8 or 9 *arborvitae* planted approximately 2 to 3 feet apart along this section of the southern property line. The *arborvitae* . . . should be installed at a minimum height of 5 feet to 6 feet at the time of planting.” Exhibit 116. Since Staff’s recommended plan shows 8, not 9, new arborvitae in the designated location, the Hearing Examiner has imposed a requirement for 8 new trees.

The new full Landscape Plan for the subject site is shown on the next page. It is also appended to this Opinion and Order (Exhibit 118) as an Attachment (Exhibit 118(a)), so that it can be enforced by the Department of Permitting Services. It uses the Conditional Use Holder’s label of “A” to designate the new Arborvitae, rather than Technical Staff’s “AV” label to be consistent with the other labelling on the amended landscape plan provided by Mrs. Weiser in this show-cause proceeding.

This Opinion and Order will amend Conditions 21 and 22 of the Conditional Use, which will henceforth read:¹

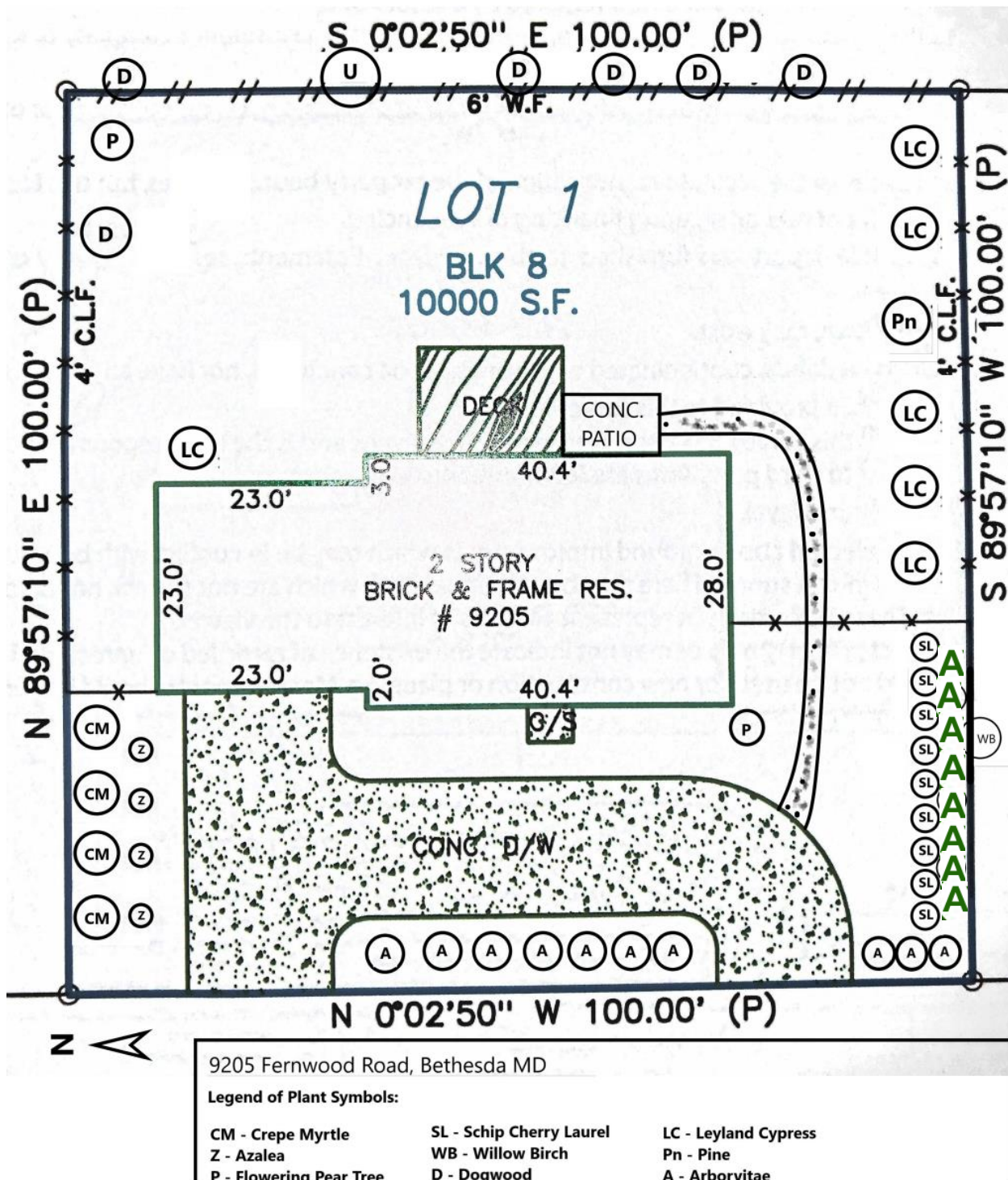
21. Waivers of the following provisions of Division 6.2 are hereby granted pursuant to Zoning Ordinance §59.6.2.10:
- from Section 59.6.2.5.D.1, modifying the requirement for striping and marking of off-street parking spaces to instead require marking in accordance with Condition No. 12.d, above;
 - from Section 59.6.2.5 K 2.b. reducing the minimum side yard setback along the northern lot line for the parking facility to 7 feet, instead of 16 feet; and
 - from Section 59.6.2.9.B.1.a., b., and c., allowing the parking lot landscaping to be in accordance with the revised landscape plan (Exhibit 118(a)).

¹ The revised language is underlined.

22. The new plantings of Arborvitae along the southern lot line of the subject site's front yard, required by the modification of Condition 21 and shown in the revised landscape plan (Exhibit 118(a)), must be made within 30 days from the date of this Opinion and Order (i.e., by November 29, 2019).

All other conditions of the conditional use will remain unchanged.

The newly Revised Landscape Plan (Exhibit 118(a)), is reproduced below:

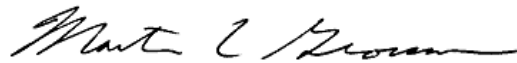


Based on the foregoing, it is, this 30th day of October, 2019:

ORDERED: That Conditions 21 and 22 of the Conditional Use, are hereby modified to read:

21. Waivers of the following provisions of Division 6.2 are hereby granted pursuant to Zoning Ordinance §59.6.2.10:
 - from Section 59.6.2.5.D.1, modifying the requirement for striping and marking of off-street parking spaces to instead require marking in accordance with Condition No. 12.d, above;
 - from Section 59.6.2.5 K 2.b. reducing the minimum side yard setback along the northern lot line for the parking facility to 7 feet, instead of 16 feet; and
 - from Section 59.6.2.9.B.1.a., b., and c., allowing the parking lot landscaping to be in accordance with the revised landscape plan (Exhibit 118(a)).
22. The new plantings of Arborvitae along the southern lot line of the subject site's front yard, required by the modification of Condition 21 and shown in the revised landscape plan (Exhibit 118(a)), must be made within 30 days from the date of this Opinion and Order (*i.e.*, by November 29, 2019).

It is **FURTHER ORDERED:** That all other conditions of the Conditional Use will remain unchanged and continue in effect. These "other conditions" include Condition 4, as modified by the Board of Appeals on September 21, 2016.



Martin L. Grossman
Hearing Examiner

NOTICE REGARDING POSSIBLE APPEAL RIGHTS

The Parties are hereby notified that the section of the Zoning Ordinance (Section 59.7.3.1.L.) that governs conditional use revocation proceedings does not specify any right of appeal from revocation decisions. That is unlike Zoning Ordinance §59.7.3.1.F, pertaining to appeals from grants or denials of conditional use applications, and Zoning Ordinance §59.7.3.1.K., pertaining to appeals from grants or denials of applications to amend existing conditional uses, both of which provide for appeals to the Board of Appeals from decisions of the Hearing Examiner under those sections. Given the absence of any similar statutory provision in the Zoning Ordinance governing appeals from decision of the Hearing Examiner in conditional use revocation matters, any party considering appellate review in this matter, should immediately consult with counsel as to what appellate route, if any, is appropriate in this case, and pursue it in a timely manner.

Copies of this Opinion and Order Resolving Conditional Use Revocation Issues by Modifying the Conditional Use Following Show Cause Hearing, were mailed, this 30th day of October, 2019, to:

Hannah Weiser

Joe and Karen Webster, Complainants

Barbara Jay, Executive Director

Montgomery County Board of Appeals

Gwen Wright, Planning Director

Kathleen Reilly, Planning Department

Ehsan Motazedi, Division Chief, Zoning & Site Plan Enforcement, DPS

Greg Nichols, Manager, SPES, Zoning & Site Plan Enforcement, DPS

Victor Salazar, Program Manager II, Zoning & Site Plan Enforcement, DPS

Jennyffer Vargas, Permitting & Code Enforcement Inspector, DPS