

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
for**

MONTGOMERY COUNTY

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CU CASE NO. CU 21-06 and BOA CASE NO: A-6693

APPLICATION OF REFLECTION LIFE, INC.

**ORDER DENYING REQUEST TO RE-OPEN THE PUBLIC HEARING
AND RE-OPENING AND CLOSING THE RECORD**

A public hearing in the above case was held on July 30, 2021. At the public hearing, the Hearing Examiner closed the record as of August 9, 2021. T. 202. Testimony at the public hearing raised concerns about the impact of necroleachate on groundwater and the Rocky Gorge Reservoir. *See, e.g.*, T. 11-39.

Due to the importance of the issue raised, the Hearing Examiner reopened the record on August 10, 2021, to permit an analysis and recommendation from the Montgomery County Department of Environmental Protection (MCDEP) on the environmental impact of necroleachate. Exhibit 55. MCDEP timely responded to the referral on August 30, 2021, and parties submitted comments on MCDEP's analysis. Exhibits 66, 67, 74. The record closed again on September 10, 2021. Exhibit 66.

Subsequently, the Office of Zoning and Administrative Hearings (OZAH) received correspondence from Dr. Linda Smoling Moore asking whether she could file a request to reopen the record. The Hearing Examiner replied in the affirmative and Dr. Moore filed her request on September 24, 2021, arguing that she did not have adequate notice of the public hearing. Exhibit 71. Upon consideration, the Hearing Examiner issued an order denying her request on September 29, 2021. Exhibit 75.

After issuance of that Order, the Hearing Examiner received more requests to re-open the record of the public hearing, including one from Mr. James Putman, who testified at the public hearing, one letter in support of the application, and the Planning Board's resolution approving the Preliminary Forest Conservation Plan. Exhibits 76-79, 81, 82. The Hearing Examiner hereby re-opens the record to receive those requests, the additional documents submitted after September 29, 2021 and this Order.

Most correspondents argue that notice was of the public hearing was inadequate. Mr. Putman argued that prior appearances before the Council and Planning Board led him to believe that he only had a few minutes to present his case. Exhibit 76. He also argues that approval of a "simple" variance case should not be done with involving the Montgomery County Department of

Environmental Protection (MCDEP).

The Hearing Examiner did inform Mr. Putman at the public hearing that he could take as much time as needed (T. 10) and OZAH's Rules, which do not limit time for testimony, are on its website. The Hearing Examiner did refer the case to the MCDEP for review and analysis, which included comments from the WSSC, the agency that has jurisdiction over the Rocky Gorge Reservoir. Exhibits 66, 66(a).

For the same reasons stated in detail in her Order of September 29, 2021 (Exhibit 75), the Hearing Examiner denies all requests to re-open the public hearing and hereby closes the record in this case.

So Ordered this 11th day of October, 2021.



Lynn Robeson Hannan
Hearing Examiner

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