

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS  
for**

**MONTGOMERY COUNTY  
Stella B. Werner Council Office Building  
100 Maryland Avenue, Room 200  
Rockville, Maryland 20850**

**<https://www.montgomerycountymd.gov/ozah/index.html>**

**Phone: (240) 777-6660; Fax (240) 777-6665**

CASE NO. CU 22-09, APPLICATION OF SBA COMMUNICATIONS CORP AND M.C.B.E

**Notice of Withdrawal of Conditional Use Application**

The application seeks a conditional use to operate a Telecommunications Tower under Section 59-3.5.2.C.2.c of the Zoning Ordinance. The subject property is identified as P550, Tax Map GQ61, located at 11211 Old Georgetown Road, Rockville, Maryland 20852, in the R-90 Zone (Tax Account Number 04-00045920).

At the July 28, 2022, hearing in this matter, a motion was made by Bart Gerstenblith, a party to the matter, to dismiss the Application for Conditional Use filed by SBA Communications Corp. (“SBA”) and the Montgomery County Board of Education (“BOE”) because the application did not include authorization of the owner of the land (BOE) for SBA to proceed with the application.

Rather than grant Mr. Gerstenblith’s motion on July 28, 2022, and dismiss the application, I adjourned the hearing and allowed thirty (30) days for the BOE to (1) inform me in writing how long the BOE will need to obtain proper authorization to proceed with the application, and (2) indicate that it agrees to waive the shot clock. At such time that I received a written statement by the BOE setting forth the length of time required to obtain proper authorization for the application to proceed, I would postpone the hearing until 30 days after the end of the period for the BOE to obtain authorization.

On August 29, 2022, counsel for the Montgomery County Board of Education (“BOE”) responded on behalf of the BOE to the requests I made on the record at the July 28, 2022, hearing. Because the statements and documents provided on August 29, 2022, did not meet the requirements of the Zoning Ordinance, in an Order dated September 15, 2022, I required that the “BOE shall, within 10 calendar days of the date of this order, file an amendment to the application stating that the BOE is an applicant and agrees to be bound by all conditions of approval, signed by a representative of the BOE with authority to do so.”

On September 26, 2022, Douglas Sampson, counsel for SBA, timely sent a letter to me stating that SBA was withdrawing the application and that the BOE consented thereto.

Withdrawal of a conditional use application is governed by §59.7.3.1.D.4 of the Zoning Ordinance, which provides:

**4. *Withdrawal of Application***

*The Hearing Examiner or the Hearing Examiner's designee must send a notice to all parties entitled to notice of the hearing when an applicant withdraws an application for a conditional use.*

Please take notice that the application CU 22-09, SBA COMMUNICATIONS CORP AND M.C.B.E, for a conditional use to operate a Telecommunications Tower under Section 59-3.5.2.C.2.c of the Zoning Ordinance at the property identified as P550, Tax Map GQ61, located at 11211 Old Georgetown Road, Rockville, Maryland 20852, in the R-90 Zone (Tax Account Number 04-00045920), shall be and hereby is WITHDRAWN.

Order issued this 4<sup>th</sup> day of October 2022, to:

Douglas A. Sampson, Esq., Attorney for the Applicant SBA  
Peter Fastow, Esq., Attorney for the Applicant BOE  
Matthew Folden, Planning Department  
Cliff Royalty, Esquire, Assistant County Attorney  
Department of Permitting Services Greg Nichols, Manager, SPES at DPS  
Parties of Record

Office of Zoning and Administrative Hearings



by:

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Katherine L. Taylor  
Hearing Examiner