

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
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www.montgomerycountymd.gov/content/council/boa/index.asp

WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, October 31, 2007, 9:30 a.m.

ACTION ITEMS:

1. **Minutes**, October 17, 2007 Worksession.

Action: Approved, (CLH/WMH, 4-0).

2. **A-6185, Appeal of Carol Ann Placek** (Department of Permitting Services – Issuance of Building Permit No. 423918). Letter from the appellant requesting a refund of the filing fee.

Action: Granted 100% (\$200.00) refund of the filing fee, (CGT/WMH, 4-0).

3. **CBA-517-A, Petition of Burning Tree Country Club** (private country club). Letter to the Board from Jody Kline, Esquire, requesting an administrative modification.

Action: Granted administrative modification, (WMH/CGT, 4-0).

4. **CBA-969-A, Petition of Millennium Health Services** (nursing home). Opinion from the Court of Special Appeals of Maryland.

Action: Re-opened the record to include the Opinion from the Court of Special Appeals of Maryland, (CLH/CGT, 4-0).

5. **CBA-1079 [CBA-1079-A], Petition of Northwest Branch Recreation Incorporated** (community swimming pool). Letter to the Board from Richard Celotto, President, requesting an administrative modification. Also included is a letter from Jody Kline, Esquire, for The Learning Care Group, Inc.

Action: Item deferred for additional information regarding how modification of the special exception could occur without a separate special exception and information about any traffic loads at peak times, consensus.

6. **CBA-1937, Petition of John J. and Jean B. Brewer** (outdoor automobile sales lot). Letter from the petitioner notifying the Board that the special exception has been abandoned and requesting that it be revoked.

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

7. **CBA-2469, Petition of Betty R. and Janet C. Casey** (child day care facility). Letter from Leonard Raymo, Jr., Trustees/President, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

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

8. **S-45, Petition of Montgomery County Child Day Care Association, Inc. and Rock Creek Terrace Limited Partnership** (child care facility). Letter from Ruby Palmer, Community Manager, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

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

9. **S-274-C, Petition of Suburban Hospital, Inc.** (hospital). Letters to the Board from Norman Knopf, Esquire, and Barbara Sears and Erin Girard, Esquire. included is a letter to Brian Gragnolati, CEO, Suburban Hospital from the Huntington Terrace Citizens' Association. Memorandum to the Board from Barbara Piczak.

Action: (1) Re-opened the record to include the letters from Mr. Knopf, Ms. Sears, Ms. Girard, Huntington Terrace Citizens' Association, and Ms. Piczak; (2) schedule Show Cause Hearing, (DLB/CGT, 4-0/WMH/recused).

10. **S-538, Petition of Aspen Hill Club** (private club). Annual Report from the Aspen Hill Club.

Action: (1) Re-opened the record to include the Annual Report; (2) staff to request additional information regarding the site planting, (CLH/WMH, 5-0).

11. **S-924, Petition of Thomas E. and Patricia M. Doss** (major home occupation). Memorandum to the Board from Barbara Piczak, Inspector, Department of Permitting Services (DPS), requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (CGT/CLH, 5-0).

12. **S-1122, Petition of Laurence E. and Hilda T. Seibel** (accessory apartment). Letter to the Board from the petitioner, Paul Chou and Karen Huang, requesting a transfer of the special exception.

Action: Item deferred to meet the required posting period, consensus.

13. **S-1352, Petition of Paul Zaleski** (accessory apartment). Memorandum from Robert Goff, Housing Code Inspector, Department of Housing and Community Affairs (DHCA), requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (WMH/DLB, 5-0).

14. **S-1924, Petition of Carla Perlo** (accessory apartment). Letter from the petitioner notifying the Board that the special exception has been abandoned and requesting that it be revoked.

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

15. **S-2258, Petition of Juan C. and Graciela Gutierrez** (accessory apartment). Letter from the petitioners notifying the Board that the special exception has been abandoned and requesting that it be revoked.

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

16. **S-2451, Petition of Karen L. Halverstadt** (accessory apartment). Letter from Virginia Kemp and Michael Biondi requesting a transfer of the special exception.

Action: Granted transfer of the special exception, (WMH/CLH, 5-0).

17. **S-2471, Petition of Kids 'N Care Learning Center** (child day care facility). Letters to the Board from Clayton Townsend and Stephen Orens, Esquire.

Action: Re-opened the record to include the letters from Mr. Townsend and Mr. Orens, (DLB/CLH, 5-0).

18. **S-2648, Petition Metropolitan Washington Orthodox Seniors Housing, Inc.** (housing for the elderly and handicapped). Letter from George Koutras, Vice President, notifying the Board of compliance with Condition No. 4 as required in its Opinion dated 1/19/06.

Action: Re-opened the record to include the letter from Mr. Koutras, (CGT/WMH, 5-0).

19. **S-2683, Petition of Nichols Development, LLC, Agent for Ashton Meeting, LLC** (dwellings in a commercial district). Letter to the Board from Jody Kline, Esquire, withdrawing the special exception and requesting a refund of the filing fee.

Action: (1) Dismissed the special exception petition as withdrawn; (2) granted 50% (\$4,62.50) refund of the filing fee, (CGT/WMH, 5-0).

20. **S-2715, Petition of Natural Surroundings, Inc. by George J. Roche** (landscape contractor) and **S-2716, Petition of Natural Surroundings, Inc. by George J. Roche** (wholesale nursery). Letter to the Board from James Parsons, Jr., Esquire, requesting that the public hearings be consolidated and to pay the higher of the two special exception filing fees.

Action: (1) Granted the request to consolidate the special exception public hearings; (2) allowed the applicant to pay the higher of the two filing fees, (CLH/DLB, 5-0).

PENDING ITEMS:

21. **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].
22. **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].
23. **CBA-470-A, Petition of Kensington Nursery School** (private educational institution). Item deferred for the site plan required in Condition No. 3 of the Hearing Examiner's Report and Recommendation. [W/S 5-31-06]. (1) Re-opened the record to include Mr. Smith's letter; (2) record will remain open until 5/15/07 to receive the required site plan; (3) administrative modification will be dismissed upon non-receipt of the required site plan after 5/17/07. [W/S 4/18/07].
24. **S-232, Petition of R. P. Patton & Sons, Inc.** (horticultural nursery and commercial greenhouse). Letter to the Board from Melvin Laney requesting an inspection of the special exception and a public hearing. (1) Re-opened the record to include the letter from Mr. Laney; (2) Board to request DPS to inspect the special exception and provide the Board with an inspection report. [W/S 4/18/07].
25. **S-2217, Petition of Shell Oil Company** (automobile filling station). Inspection report from Heather Gottke, Inspector, DPS. Also included are letters from George Rudy, Program Manager [Large exhibits: site plan/landscape layout; site plan/fence layout; site plan/physical layout; canopy plan and elevations; stormwater management]. (1) Re-opened the record to include the correspondence from Ms. Gottke and Mr. Rudy (WMH/CGT, 5-0); (2) DPS has given the special exception holder 60 days in come into compliance; (3) item deferred until after the compliance period which ends 11/24/07. [W/S 10/17/07].

PENDING ITEMS (continued):

26. **S-2328, Petition of Judith Himmelfarb** (accessory apartment). Letter to the Board from Ariel De notifying the Board that the special exception has been abandoned and requesting that it be revoked. Item deferred until confirmation that the accessory apartment's kitchen has been removed. [W/S 7/26/06].

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