

**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, July 23, 2008, 9:30 a.m.

ACTION ITEMS:

1. **Minutes**, June 25 and July 2, 2008 Worksessions.

Action: Approved as amended, (CGT/DKP, 3-0).

2. **A-5769, Appeal of Robert Zarnetske** (Department of Permitting Services (DPS) – Letter dated April 1, 2002). Docket from the Circuit Court affirming the Board's Opinion dated 7/15/03.

Action: Re-opened the record to include the Circuit Court Docket, (DKP/CGT, 3-0).

3. **A-5982 [A-5983, A-5984, S-5594], Appeals of Donald McGee, McGee Enterprises, and Greentree Associates L.L.C.** (Department of Permitting Services – Notice of Violation). Order from the Circuit Court notifying the Board of the grant of a Consent Motion.

Action: Re-opened the record to include the Order from the Circuit Court, (CGT/DKP, 3-0).

4. **A-6199, Appeal of Rudolph Geist** (Department of Permitting Services – Issuance of Building Permit No. 438435). Order from the Circuit Court affirming the Board's Opinion dated 8/23/07.

Action: Re-opened the record to include the Order from the Circuit Court, (DKP/CGT, 3-0).

5. **A-6226, Appeal of Michael Carey** (Department of Permitting Services – Issuance of Building Permit No. 446728). Letter to the Board from Keith Rosa, Esquire, requesting reconsideration. [Large exhibit: building high site plan].

Action: Denied the request for reconsideration, (DKP/CGT, 3-0).

6. **A-6235, Appeal of John Ridenour, III** (Department of Permitting Services – Historic Area Work Permit No. 463768 and Historic Preservation Commission Decision and Opinion dated 9/11/07). Letter to the Board from Rebecca Walker, Esquire, withdrawing the administrative appeal.

Action: Dismissed the administrative appeal as withdrawn, (CGT/DKP, 3-0).

7. **A-6252, Petition of Bing Lu and Yingzi Yang** (second-story addition). Letter to the Board from the petitioners requesting reconsideration.

Action: Denied the request for reconsideration (CGT/DKP, 3-0).

8. **CBA-722 [CBA-722-A, CBA-722-B, CBA-554, CBA-554-A, CBA-652, CBA-1113, S-245, S-245-A, S-245-B], Petition of Chevy Chase Club, Inc.** (private country club). Letters to the Board from Timothy Dugan, Esquire, submitting the construction access plan and requesting an administrative modification. [Large exhibits: site plan of proposed conditions; landscape structures details; tennis/pool facilities; temporary construction access; neighborhood low disturbance plan; reduced plans: proposed/approved elevations; tennis/pool facilities – plan diagram; tennis/pool facilities – landscape structures details; site plan of proposed conditions].

Action: (1) Granted the approval of the proposed access plan; (2) the Club to provide confirmation from the neighboring communities of the approval of the proposed access plan; (3) deferred administrative modification requests, (DKP/CGT, 3-0).

9. **CBA-867 [CBA-717, CBA-717-A, CBA-2048, S-1187], Petition of Our House, Inc.** (nursing home/domiciliary care home). Letters to the Board from Stuart Barr, Esquire, submitting information in support of an application for modification as a domiciliary care home.

Action: (1) Re-opened the record to include Mr. Barr's letters; (2) confirmed that the current use satisfies the standards as a special exception and domiciliary care home use, (CGT/DKP, 3-0).

10. **CBA-969-A, Petition of Millenium Health Services** (nursing home or domiciliary care home). Mandate from the Court of Special Appeals: statement of costs.

Action: Re-opened the record to include the Mandate from the Court of Special Appeals, (CGT/DKP, 3-0).

11. **CBA-1456 [CBA-1456-A], Petition of Lindsay Management Company** (off-street parking). Memorandum to the Board from Barbara Piczak, Inspector, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (CGT/DKP, 3-0).

12. **S-274-C, Petition of Suburban Hospital, Inc.** (hospital). Letter to the Board from Barbara Sears, Esquire, submitting the hospital's noise testing results.

Action: (1) Re-opened the record to include Ms. Sears' letter; (2) noise levels' verification to be submitted to the Community Liaison Council, (DKP/CGT, 3-0).

13. **S-538-C, Petition of Aspen Hill Club** (private club). Letter to the Board from Anne Martin, Esquire, submitting information of the club's replanting schedule and minutes from the Neighborhood Council meeting.

Action: Re-opened the record to include Ms. Martin's letter with attachments, (CGT/DKP, 3-0).

14. **S-1695, Petition of Hill and Sanders Ford** (off-street parking). Memorandum to the Board from Barbara Piczak, Inspector, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (DKP/ CGT, 3-0).

15. **S-2124, Petition of American Personal Communication** (telecommunications facility). Memorandum from Ralph Wilson, Development Review Division, M-NCPPC, forwarding the special exception's approved landscape plan.

Action: Re-opened the record to include Mr. Wilson's memorandum with attachment, (CGT/DKP, 3-0).

16. **S-2367, Petition of Robert D. Egan** (outdoor catering facility). Letter to the Board from Jody Kline, Esquire, submitting an email from the Washington Suburban Sanitary Commission regarding the special exception's sewer service.

Action: Re-opened the record to include Mr. Kline's letter with attachment, (CGT/DKP, 3-0).

17. **S-2423 [S-2423-A], Petition of Meadow Ridge Seniors' Villas** (housing for the elderly and the handicapped). Inspection Report from Barbara Piczak, Inspector, DPS, and a request for a Show Cause Hearing.

Action: (a) Schedule Show Cause Hearing; (b) Community Association to be contacted concerning consultation with Mr. Klauber regarding a community liaison committee, (DKP/CGT, 3-0).

18. **S-2471, Petition of Kids 'N Care Learning Center** (child day care facility). Letter to the Board from Clayton Townsend.

Action: Re-opened the record to include Mr. Townsend's letter, (DKP/CGT, 3-0).
19. **S-2506 [S-2506-A], Petition of East Coast Landscape, Inc.** (landscape contractor). Letter to the Board from Martin Hutt, Esquire, submitting the Planning Board's Resolution approving a preliminary plan of subdivision for the subject property.

Action: Re-opened the record to include Mr. Hutt's letter with attachment, (CGT/DKP, 3-0).
20. **S-2644, Petition of Greencastle Lakes Community Association, Inc.** (community swimming pool). Letter to the Board from Ruchita Patel submitting the club's current membership list and pool rules.

Action: (1) Re-opened the record to include Ms. Patel's letter with attachment; (2) the petitioner to provide confirmation of the termination of the contract with Maryland Suburban Swim Club, (DKP/CGT, 3-0).
21. **S-2668, Petition of Taiwan Culture Center** (service organization). Memorandum to the Board from Barbara Piczak, Inspector, DPS, in response to the Board's Resolution dated 4/10/08.

Action: Re-opened the record to include Ms. Piczak's memorandum, (CGT/DKP, 3-0).
22. **S-2730, Petition of Sarah E. deLone** (accessory apartment). Letter to the Board from the petitioner withdrawing the special exception and requesting a refund.

Action: (1) Dismissed the special exception as withdrawn; (2) granted 50% (\$125) refund of the filing fee, (CGT/DKP, 3-0).

DECISION ITEMS:

23. **A-6187, Appeal of Mark P. Johnson** (Department of Permitting Services – Letter dated November 2, 2006). Letter from Robert Lawlor, Esquire, submitting DPS's final inspection approval. Also included is a letter from Malcolm Spicer, Esquire, submitting a letter dated 12/5/05 from Mark Moran to the appellant.

Action: Granted the administrative appeal, (DKP/CGT, 3-0).
24. **A-6257, Petition of Eric and Pamela Morrison** (accessory structure/swimming pool). Documents from the petitioner showing where Jamestown Road ends and a letter dated 7/15/08.

Action: Granted the variance, (CGT/DKP, 3-0).

25. **S-2674, Petition of Reynaldo and Zorayda Lee-Llacer** (accessory apartment). Hearing Examiner's Report and Recommendation. Also included is a letter from John Jassin, M.D., requesting Oral Argument and a letter from Norman Knopf, Esquire, on behalf of Linda and Gregory Locraft.

Action: Item deferred pending resolution of the sewer option connection issue. BOA to advise County Council.

26. **S-2699, Petition of ExxonMobil Corporation** (automobile filling station). Hearing Examiner's Report and Recommendation. Also included is a letter from Jody Kline, Esquire, requesting Oral Argument.

Action: (1) Denied the request for Oral Argument; (2) deferred the Hearing Examiner's Report and Recommendation, (???, 3-0).

27. **S-2711, Petition of Melody Butler d/b/a Butler Landscape Design** (landscape contractor). Hearing Examiner's Report and Recommendation. Also included are letters from Susan Carter, Esquire, and Caroline Taylor, requesting Oral Argument.

Action: (1) Denied the request for Oral Argument; (2) deferred the Hearing Examiner's Report and Recommendation, (DKP/CGT, 3-0).

PENDING ITEMS:

28. **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].
29. **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].
30. **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, consensus [W/S 6/25/08].

PENDING ITEMS (continued):

31. **S-924, Petition of Thomas E. and Patricia M. Doss** (major home occupation). Show Cause Hearing held open to receive revised site plan and written agreement re: use of church parking lot. Hearing held 6/11/08.
32. **S-1073, Petition of Phyllis Smith-Larkins** (accessory apartment). Check received from Rita Larkins requesting the transfer of the special exception. Letter sent to Ms. Larkins notifying her of the required posting for the transfer of a special exception. Letter dated 3/31/08.
33. **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].
34. **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].

Board Members

Allison Ishihara Fultz, Chair
Catherine G. Titus, Vice Chair
Wendell M. Holloway - ABSENT
David K. Perdue

Staff

Barbara Jay, Associate County Attorney
Katherine Freeman, Executive Director
Hermene Jones, Administrative Specialist