

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600**

www.montgomerycountymd.gov/content/council/boa/index.asp

WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, July 15, 2009, 9:30 a.m.

ACTION ITEMS:

1. **Minutes**, July 1 and 8, 2009 Worksessions.

Action: Approved, (SBB/WSB, 5-0).

2. **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 from Timothy Dugan, Esquire, submitting the materials in compliance with Condition No. 2 of the Board's Resolution dated 12/20/07 and letters of support.

Action: (1) Re-opened the record to include Mr. Dugan's letters; (2) materials submitted satisfy the requirements of Condition No. 2 of the Board's Resolution dated 12/20/07, (DKP/SBB, 5-0).

3. **CBA-1383, Petition of Tilden Woods Recreation Association, Inc.** Letter to the Board from Wendy Friedland, Treasurer, requesting a one-time waiver to permit the pool to host a swim team lock-in. Also included are letters from B. J. Sadoff and Suzanne Keller, adjoining neighbors.

Action: Statutory denial.

4. **CBA-1456-A [CBA-1456], Petition of Lindsay Management Company** (off-street parking). Status report from David Freishtat, Esquire, and Anne Marie Vassallo, Esquire.

Action: (1) Re-opened the record to include the status report from Mr. Freishtat and Ms. Vassallo; (2) Board to be provided with a status report in 60 days, Show Cause Hearing to re-convene on October 28, (DKP/WSB, 5-0).

5. **S-331, Petition of Dr. Jayshree Sawhney, D.D.S., LLC** (non-resident practitioner). Letter to the Board from James Peppe, Esquire, requesting a transfer of the special exception.

Action: Granted the transfer of the special exception, (WSB/CJS, 4-0/CGT/recused).

6. **S-550-A [S-550], Petition of Shirley Sardino and China Coast, Inc.** (antique shop). Letter to the Board from Moussa Moaadel, property owner.

Action: Re-opened the record to include the letter from Mr. Moaadel, (CJS/SBB, 5-0).

7. **S-569, Petition of PGC, Inc.** (horticultural nursery). Letter to the Board from Stephen Orens, Esquire, submitting revised plans. [Large exhibits: existing conditions plan and landscape and screening plan].

Action: Re-opened the record to include the letter from Mr. Orens, (CJS/WSB, 5-0).

8. **S-1437, Petition of John D. Hyman** (wholesale nursery and landscape contractor). Letters from Justin Hayes, Esquire, and Stephen Elmendorf, Esquire, requesting reconsideration of the conditions in the Board's Resolution dated 6/18/09.

Action: (1) Re-opened the record to include the letters from Mr. Hayes and Mr. Elmendorf; (2) granted the request for reconsideration and the requested revision, (DKP/CJS, 5-0).

9. **S-1748, Petition of James A. Ford** (private riding stable). Letter to the Board from Gail Palestine requesting a transfer of the special exception.

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

10. **S-2744, Petition of Donald and Tonya Gilchrist** (accessory apartment). Letter from the Calverton Citizens Association requesting reconsideration of the Board's decision.

Action: Denied the request for reconsideration, private agreements outside of BOA's jurisdiction, (CJS/SBB, 5-0).

DECISION ITEM:

11. **S-420-H and A-6279, Petition of Holy Cross Hospital of Silver Spring, Inc.** (hospital). Hearing Examiner's Report and Recommendation.

Action: (1) Adopted the Hearing Examiner's Report and Recommendation as amended; (2) granted the special exception with conditions, (DKP/WSB, 5-0).

PENDING ITEMS:

12. **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].
13. **A-6117, Appeal of Mary Hemingway and Edward Purich for Cloverly Civic Association** (Department of Permitting Services (DPS) – Issuance of Building Permit No. 402806). Opinion and Order from the Circuit Court. (1) Re-opened the record to include the Opinion and Order from the Circuit Court; (2) action by BOA deferred until 7/6/09. [W/S 6/17/09].
14. **CBA-2521-I, Petition of Montgomery General Hospital** (hospital). Letter to the Board from Jody Kline, Esquire, requesting an administrative modification. [Large exhibits: existing conditions plan and zoning vicinity map]. Item deferred for Mr. Kline to contact homeowner's association regarding its concerns [W/S 10/8/08].
15. **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. [W/S 6/25/08].
16. **S-894, Petition of Joan C. Wright** (major home occupation). Letter to the Board from the petitioner requesting an administrative modification. Item deferred for additional information regarding the number of employees, size of the workspace, renewal period. [W/S 3/11/09].
17. **S-1127, Petition of Mr. and Mrs. George Buchanan** (accessory apartment). Letter to the Board from Sakhouy Lay requesting a transfer of the special exception. Item deferred to determine if the accessory apartment address is the petitioner's primary residence. [W/S 6/17/09].
18. **S-1495, Petition of James Phillips** (accessory apartment). Letter to the Board from Tomas Dominguez requesting a transfer of the special exception. Item deferred for signed deed from the property owners. [W/S 4/22/09].
19. **S-1791, Petition of Melissa Martell Taylor** (private educational institution). Letter to the Board from Terry Lewis requesting a transfer of the special exception. Item deferred for (1) statement of operations; (2) confirmation the special exception will be operated in conformance with the Board's Opinion; (3) confirmation of the special exception holder. [W/S 9/10/08].

PENDING ITEMS (continued):

20. **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].
21. **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].
22. **S-2582, Petition of Sprint PCS/APC Realty and Equipment Company, LLC and Potomac Conference Corporation of Seventh Day Adventists** (telecommunications facility). Letter to the Board from Catherine Rodgers, Lease Accountant, requesting a transfer. Item deferred for the consent of the additional petitioners to the transfer of the special exception. [W/S 6/3/09].
23. **S-2699 and CBA-1660 [CBA-1660], Petitions of ExxonMobil Corporation** (automobile filling station). Hearing Examiner's Report and Recommendation. Also included is a letter to the Board from Jody Kline, Esquire, requesting oral argument or a rewording of Condition No. 16 in the Hearing Examiner's Report and Recommendation for Case No. S-2699 and requesting that special exception CBA-1660 be revoked as never implemented. (1) Granted request for oral argument; (2) deferred the Hearing Examiner's Report and Recommendation [W/S 9/24/08].

Board Members

Catherine G. Titus, Chair
David K. Perdue, Vice Chair
Walter S. Booth
Carolyn J. Shawaker
Stanley B. Boyd

Staff

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