

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
100 Maryland Avenue, Room 200
Rockville, Maryland 20850
<http://www.montgomerycountymd.gov/ozah/index.html>
Phone: (240) 777-6660; Fax (240) 777-6665**

BOA CASE NO. CBA-2643-A

APPLICATION OF AUDUBON NATURALIST SOCIETY

NOTICE OF PUBLIC HEARING ON REMAND

On September 30, 2021, the Hearing Examiner approved a major modification to the above-captioned special exception. The decision was appealed to the Montgomery County Board of Appeals. On December 8, 2021, the Board of Appeals remanded the case to the Hearing Examiner for additional hearings as follows:

The Board finds, based on the correspondence from Ms. Rutsch and Ms. Rosenberg, and after examining Exhibit 46, that Notice of the August 23, 2021, hearing before the Hearing Examiner was defective. The Board further finds that this constitutes a “mistake” for the purposes of Board Rule 10.1.2, and is thus a valid reason to grant reconsideration and rehearing. Accordingly, the Board finds that reconsideration and rehearing should be granted, and that its November 10, 2021, Opinion should be suspended, and that this matter should be remanded to the Hearing Examiner to Notice and hold a new hearing on this major modification, to ensure that proper Notice is provided to all persons and parties entitled to such Notice, including the four persons who contacted the Board regarding its November 10, 2021, Opinion, and to ensure that any issues that were not addressed, or that were not fully addressed, at the August 23, 2021, hearing can be fully and fairly considered. The Board requests that Mr. Kline and any necessary representatives of the Audubon Naturalist Society meet, prior to the new hearing, with Ms. Rutsch, Ms. Rosenberg, Ms. McNeill, Ms. Nelson-Drake, and any other persons expressing an interest in participation, including but not limited to Mr. Robert Rutsch, to collectively determine and stipulate for the Hearing Examiner to any aspects of the requested modification and existing Report and Recommendation that are uncontested, and as a result to generate a list of issues remaining, in the hopes of avoiding the need for the Petitioner and Hearing Examiner to revisit all aspects of the requested major modification during the new hearing.

Therefore, **PLEASE TAKE NOTICE** that a public hearing on the remand of the above-captioned application is **currently scheduled for April 22, 2022 at 9:30 a.m.** The applicant seeks a major modification to a special exception for a charitable and philanthropic institution under Section 59.3.4.2 of the Montgomery County Zoning Ordinance.

The subject property is identified as P744, Map HP 561 and located at 8940 Jones Mill Road, Chevy Chase, Maryland 20815, in the R-90 Zone (Tax Account Number 5-30233716).

PLEASE NOTE: Due to the COVID-19 pandemic, this hearing will be held remotely via Microsoft Teams. You do not need to sign up in advance to testify or view the hearing. You do not need a subscription to Microsoft Teams to join the hearing. Instructions to access the public hearing may be found under the link “Public Hearing Remote Access and Exhibits” and the Hearing Calendar on OZAH’s website at least two days before the public hearing.

All exhibits filed in the case will be available to view via the link “Public Hearing Remote Access and Exhibits” on OZAH’s website the day of the public hearing. Exhibits must be received 2 days in advance of the hearing to be included on the public hearing website. Exhibits are removed the day after the public hearing so that staff can prepare for the next hearing. If you wish to download any of the exhibits, you should do so no later than 5:00 p.m. of the day of the public hearing.

OZAH is now operating remotely to the extent possible. You may review the application online at the [Planning Departments Development Activity Center \(DAIC\) website](#) under the application number CBA2643. If you wish to review the full file (all submission in the case) before it is published on the website or have other questions, please contact Sara Behanna at (240) 777-6661 or sara.behanna@montgomerycounty.gov.

Persons or associations that are (1) represented by counsel, (2) intending to appear in organized opposition, or (3) intending to introduce expert evidence or testimony must file a pre-hearing statement containing the information required by Rules 3.4 and 3.5 of OZAH’s Rules of OZAH’s Amended Land Use Rules of Procedure. These Rules may be found on OZAH’s website listed above. The Applicant must submit its pre-hearing statement at least 30 days before the public hearing. Persons in opposition that are required to file a pre-hearing statement must do so no less than 20 days before the public hearing. Deadlines for submissions are close of business (5:00 p.m.) on the date due. If the County is not open on the date due, the deadline is 5:00 p.m. on the next business day.

Any party submitting documentary evidence for the record must file electronic copies of their submissions by email. Paper copies must also be sent by U.S. mail, postmarked the day of the email. This includes all amended filings.

In compliance with Maryland requirements regarding the practice of law, groups or associations must have counsel unless their witnesses are members of the group or association who will offer testimony in narrative form (i.e., there is no need for an attorney to conduct a direct examination).

Nothing in this notice is intended to limit the rights of individual members of the public to testify during the hearing or to submit pertinent written materials at any time while the record remains open for that purpose. You may submit a signed letter to OZAH, which will be considered by the Hearing Examiner as part of the record but doing so will not automatically make you a party of record. Applicants and members of the public who testify at an OZAH hearing, whether for or against the application, are automatically considered parties of record. A person or organization that does not wish to appear at the OZAH hearing but wishes to be a party of record may request that status in a signed letter to OZAH. See OZAH Rule 3.1.

If you need services to participate in a public hearing, please contact this Office no later than seven (7) days in advance of the public hearing by calling 240-777-6660 (TTY 240-777-7914) or emailing us at ozah@montgomerycountymd.gov. OZAH cannot guarantee that an interpreter can be made available if notified of the request less than seven (7) days in advance of the public hearing. This document is

Notice of Public Hearing on Remand

available in alternative format such as large print upon request, via the same phone numbers and email address.

SO ORDERED, this 22nd day of March, 2022.



Lynn Robeson Hannan
Hearing Examiner

COPIES TO:

Jody Kline, Esquire, Applicant's Attorney

Janet Rutsch

Katherine Rosenberg

Jan Nelson-Drake

Mariana MacNeill

Cliff Royalty, Esquire, Associate County Attorney

Mitra Pedoeem, Director, Department of Permitting Services

Victor Salazar, Manager, DPS

Elza Hisel-McCoy, Planning Department

Stephanie Dickel, Planning Department

Washington Suburban Sanitary Commission

Abutting and Confronting Property Owners

(or a condominium's council of unit owners, if applicable)

Civic, Renters' and Homeowners' Associations within a half mile of the site

Any Municipality within a half mile of the site