

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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

Case No. S-2385

PETITION OF OLNEY BOYS AND GIRLS CLUB

**RESOLUTION TO SUSPEND MODIFICATION
AND REFER MATTER TO OZAH TO CONDUCT A PUBLIC HEARING**
(Resolution Adopted September 11, 2024)
(Effective Date of Resolution: September 18, 2024)

The Board of Appeals granted Case No. S-2385 to Olney Boys and Girls Club on July 26, 1999, under Sections 59-G-2.24 and 59-G-2.42 of the Zoning Ordinance, to permit the establishment and operation of a service organization. The Board previously granted administrative modifications of this special exception in Resolutions dated November 15, 2006, July 14, 2011, and June 4, 2019. Effective June 21, 2023, the Board granted an administrative modification of the originally approved Lighting and Landscaping Plans. This modification was suspended on July 26, 2023, following receipt of a request for a public hearing, and reinstated on October 11, 2023, after that request was withdrawn. Effective July 26, 2024, the Board granted an administrative modification of the special exception to confirm the placement of existing fundraising structures and to clarify the conditions of approval to reference fundraising.

The subject property is Lot 5, Brooke Farm Subdivision, located at 4501 Olney-Laytonsville Road, Olney, Maryland, 20832, in the AR Zone.

On August 12, 2024, the Board of Appeals received seven email letters regarding this modification. The letters from W. Taylor Smith and Leonard Smith, Wendy Atkinson and T.J. Atkinson, and Patricia Lane requested that the Board reconsider its grant of this modification. The letter from Emmanuel and Kristen (Nikki) Korson requests a public hearing on the action taken and requests reconsideration. The letters from Caragh Fay Owens and Matthew Nace, and from Caroline Taylor of the Montgomery Countryside Alliance, request a public hearing regarding this modification. Finally, the letter from Pleasant Valley Farms and Randy Stadler expresses opposition to the requested modification. In addition, the Board received email correspondence from Caragh Fay Owens and from Kristen (Nikki) Korson moving to have the past modifications of this special exception reconsidered and voided.

On August 20, 2024, the Board of Appeals received an email with three attachments from Christopher Allen, Manager III, Acting Supervisor for Commercial

Building Inspections with the County's Department of Permitting Services ("DPS"), providing the Board with additional information regarding the structures that were approved as part of the administrative modification. Mr. Allen's email states that DPS has not issued permits for these structures, and that their continued use would violate Chapter 8 of the Montgomery County Code. Mr. Allen's email also notes that the OBGC has filed a building permit application to allow them to demolish the existing structures and build new ones.

The Board of Appeals considered the afore-mentioned email correspondence at its September 11, 2024, Worksession. Peter Ciferri, Esquire, was present on behalf of the Olney Boys and Girls Club. Neighbors Taylor and Leonard Smith, T.J. Atkinson, Nikki and Emmanuel Korson, and Caragh Fay were also present, to oppose or otherwise express their concerns regarding this modification.

Because Case No. S-2385 was approved prior to October 30, 2014, under Section 59.7.7.1.B of the current Zoning Ordinance, this request for a public hearing must be reviewed under the standards and procedures in effect on October 29, 2014, unless the applicant elects to proceed under the current Zoning Ordinance. Section 59-G-1.3(c)(1) of the 2004 Zoning Ordinance provides that when the Board of Appeals grants an administrative modification, "any party may, within 15 days after the Board's resolution is mailed, request a public hearing on the Board's action," and that "[i]f a request for a hearing is received, the Board must suspend its decision and conduct a public hearing to consider the action taken." The Board finds that the August 12, 2024, requests for a public hearing regarding the Board's July 26, 2024, Resolution to Modify Special Exception are timely, and that a public hearing must be held. The Board recognizes that other types of correspondence, such as requests for reconsideration, were also submitted in connection with this modification. The Board finds that to the extent that the other correspondence received bears on a determination of whether the administrative modification that was granted by the Board on July 26, 2024, substantially changes the nature, character or intensity of this special exception use, or its effect on traffic or on the immediate neighborhood, it can be considered at the public hearing.

In addition, the Board notes that Section 59-A-4.125(a) of the 2004 Zoning Ordinance states that:

(a) The Hearing Examiner's Office has the functions and duties of scheduling and conducting public hearings and rendering written reports and recommendations to the County Board of Appeals on the following matters:

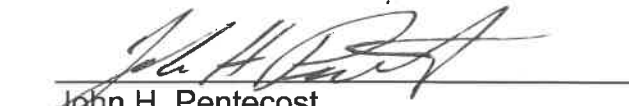
- (1) any petition for a special exception; and
- (2) upon request of the Board and with approval of 3 of its members, any other matter pending before the Board.

After considering the nature of the correspondence received in connection with its July 26, 2024, administrative modification of this special exception, the Board voted to refer this matter to the Office of Zoning and Administrative Hearings for a public hearing and

the issuance of a report and recommendation to the Board, in accordance with Section 59-A-4.125(a) of the 2004 Zoning Ordinance.¹

Therefore, on a motion by John H. Pentecost, Chair, seconded by Richard Melnick, Vice Chair, with Caryn Hines, Alan Sternstein, and Amit Sharma in agreement, the Board suspends its July 26, 2024, Resolution modifying this special exception, and refers this matter to the Office of Zoning and Administrative Hearings to (1) hold a public hearing to determine whether the administrative modification that the Board granted in Case No. S-2385, effective July 26, 2024, substantially changes the nature, character or intensity of the special exception use, or its effect on traffic or on the immediate neighborhood, and (2) issue a written Report and Recommendation to the Board.

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.


John H. Pentecost
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 18th day of September, 2024.


Barbara Jay
Executive Director

NOTE:

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the

¹ The Board notes that similar authority exists under Section 59.7.6.2.B.2 of the current Zoning Ordinance, which states in relevant part that "The Hearing Examiner may schedule and conduct a hearing or write a report and recommendation for any other matter pending before the Board of Appeals upon request of the Board of Appeals and with approval of 3 of its members."

Circuit Court proceedings, and this right is unaffected by any participation by the County.