

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
[www.montgomerycountymd.gov/boa/](http://www.montgomerycountymd.gov/boa/)  
(240) 777-6600

**Case No. S-2385  
PETITION OF OLNEY BOYS AND GIRLS CLUB**

**RESOLUTION TO MODIFY SPECIAL EXCEPTION**  
(Resolution Adopted June 7, 2023)  
(Effective Date of Resolution: June 21, 2023)

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 administratively modified this special exception in Resolutions dated November 15, 2006, July 14, 2011, and June 4, 2019.

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

The Board of Appeals has received a letter with attachments, dated May 26, 2023, from Peter E. Ciferri, Esquire, on behalf of the Olney Boys and Girls Club, Inc. ("OBGC"). See Exhibit 39. Mr. Ciferri requests an administrative modification of the special exception to "modify the originally approved Lighting and Landscaping Plans, in order to obtain a commercial building permit for the installation of modern ballfield lighting apparatus and appurtenant fixtures." He explains in his letter that in Finding No. 4 of the Board's July 26, 1999, Opinion granting this special exception, the Board found that the lighting proposed at the time was well-shielded and buffered, and could be allowed, as follows:

The proposed lighting for the outdoor athletic fields and the parking and driveway areas will be located, shielded, landscaped, and otherwise buffered so that no direct light will intrude into any residential area. The existing tree cover and distance protects that area as does the orientation and direction of the lighting downward and away from adjoining properties. The lighting will be turned off (except for necessary security lighting) at 10:30 p.m. each night.

Mr. Ciferri states in his letter that in Condition No. 15 of its original approval of this special exception, the Board required that "[a]ll lights, other than security lights, shall operate from dusk to 10:30 p.m." His letter states that this was the only condition of approval pertaining

to the lighting. Finally, Mr. Ciferri's letter states that in 2002, the Applicant's final Landscape and Lighting Plan was accepted into the record as Exhibit 26(c), but that the "approved lighting apparatus and fixtures were never installed."

Mr. Ciferri states in his letter that, consistent with the phased implementation of this special exception, the OBGC is now seeking an administrative modification of its special exception to permit it to install lighting "in the same locations as originally approved, using modern equipment and with minor modifications to the height, as proposed herein." Mr. Ciferri includes the following information about the proposed lighting with his letter: (1) the proposed Lighting Plans, identified as "Olney Boys and Girls Club Baseball Field Lighting Project" (Sheets E000 through E004) [Petitioner's Exhibit 36; BOA Exhibit No. 39(a)]; and (2) manufacturing and technical details for the lighting equipment [Petitioner's Exhibit 37; BOA Exhibit No. 39(b)]. In addition, Mr. Ciferri includes Spill Plans for the proposed lighting [Petitioner's Exhibit 38; BOA Exhibit No. 39(c)], and a letter from Nathan Chizek, Operational Engineering Manager at Musco Lighting, supporting the Spill Plans, along with the portions of the Site Plans that Mr. Chizek reviewed in preparing his letter [Petitioner's Exhibits 39 and 39(a); BOA Exhibit Nos. 39(d) and (d)(1)].

With respect to the specifics of the proposed modification, Mr. Ciferri states in his letter that the OBGC is seeking to "modify its prior approved Lighting Plan, as to the outdoor recreational lighting approved for one of its baseball/softball fields." His letter states that the OBGC "is currently approved for the applicable baseball/softball field for six lighting apparatus and fixtures of varying heights between 50-70 feet, as shown on the Preliminary Concept Lighting Plan, included in the record as Exhibit 13(g)" and is seeking approval to "modify the approved height by 10-feet in five instances and seeks no modification for the sixth lighting fixture," as shown on the proposed Lighting Plan revisions [Petitioner's Exhibit 36; BOA Exhibit No. 39(a)]. Mr. Ciferri includes a chart, reproduced below, that compares the previously-approved light heights with the proposed light heights:

Light Location	Current Approvals	Proposed Modification
First Base Dugout (A1)	60'	70' (10 foot change)
First Base Line (B1)	70'	80' (10 foot change)
Left Field (C1)	60'	70' (10 foot change)
Right Field (C2)	60'	70' (10 foot change)
Third Base Line (B4)	70'	80' (10 foot change)
Third Base Dugout (A2)	70'	70' (no change)

Mr. Ciferri recounts in his letter the testimony that the Board heard regarding the field lighting in its 1999 grant of this special exception, and asserts that those reasons remain valid today:

As part of the original Special Exception approvals, the Board accepted the testimony of Philip E. Perrine, of Perrine Planning and Zoning, that the Property is uniquely situated for its proposed use as surrounded by public parkland and school

facilities. See 1999 Opinion, Case No. S-2385. The Board accepted Mr. Perrine's testimony that the proposed field lighting will be directed downward to avoid glare on any adjoining residential property, and that the residential property nearest to the fields bearing lights "is significantly distant from the site" and separated by public parkland. *Id.*

Mr. Ciferri states in his letter that "[t]he portion of the Property that would be improved with the requested outdoor recreational lighting is approximately 900 feet from the nearest property line of any residential property, and is separated by a fully matured portion of Reddy Branch Stream Valley Park (a parcel of 19.81 acres of County-owned land bearing Tax ID Number 08-01819336)." His letter further states that "per SDAT data, the nearest residential houses were constructed around 1969 and were, therefore, occupiable at the time the Board made its original findings and conclusions in this case." Finally, Mr. Ciferri states in his letter that as shown in the Spills Plans and supporting documentation, the proposed lighting will not exceed 0.1 footcandles at any of the lot lines for the OBGC property, and "will not cause glare or reflection into abutting or facing residential properties, nor interfere with safe operation of vehicles." See Exhibit Nos. 39(d) and (d)(1) [Petitioner's Exhibits 39 and 39(a)].

Mr. Ciferri concludes, on the basis of the foregoing, that the Petitioner's request "for a 10-foot height modification to its existing Lighting Plan should be approved because the proposal does not substantially change the nature, character, or intensity of the use, or its effect on traffic or the immediate neighborhood."

The Board of Appeals considered the modification request at its Worksession on June 7, 2023. Mr. Ciferri was present at the Worksession in support of the modification request, along with Brad Scott, the Executive Director of the OBGC, John Windsor of Musco Lighting, and Helen Kerner, Vice President of Dalton Electric Service, Inc., which will be installing the lighting. Mr. Ciferri explained that lighting for this field was approved with the original special exception but was never installed. He stated that the originally-approved lighting is now outdated and is ten (10) feet too short. Mr. Ciferri stated that the requested modification, needed to allow the taller lighting, will not substantially change the nature, character, or intensity of the special exception use, or its impact on traffic or the immediate neighborhood. He stated that the lighting will not cause any glare on residential properties or roads.

Mr. Scott explained why the OBGC is seeking to install the lighting now, and stated that the field that will be lit is about 900 feet from the nearest residence.

Mr. Walton stated that Musco Lighting has done 68 projects in Montgomery County, and that the current lighting technology is drastically different than what was previously approved for the OBGC. He explained that with the new lights, the lighting on the footprint of the field will be brighter, but everything else will be dark. Mr. Walton stated that the taller lights allow for the light to be focused down onto the field for the safety of participants but that as you walk away from the field, you wouldn't even know the lights are on.

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 modification request must be reviewed under the standards and procedures in effect on October 29, 2014 (Chap. 59, Mont. Co. Code, 2004, as amended), unless the applicant elects otherwise. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance (2004) provides, pertaining to modification of special exceptions:

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the Board, without convening a public hearing to consider the proposed change, may modify the term or condition.

The Board finds, based on Mr. Ciferri's letter and the attachments thereto, and the representations made at the Worksession, that the proposed changes to the originally approved lighting are minor, and will provide better field lighting than was originally approved without causing spillage or glare onto neighboring properties or roads. The Board further finds that the proposed changes to the previously-approved lighting, necessary to allow the installation of lights that use improved technology, will not substantially change the nature, character or intensity of the use or its effect on traffic or on the immediate neighborhood. Therefore, on a motion by Richard Melnick, Vice Chair, seconded by John H. Pentecost, Chair, with Caryn Hines, Laura Seminario-Thornton, and Alan Sternstein in agreement:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the record in Case No. S-2385, Petition of Olney Boys and Girls Club, is re-opened to receive Mr. Ciferri's correspondence dated May 26, 2023, with attachments (Exhibit Nos. 39, 39(a)-(d)(1)); and

**BE IT FURTHER RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception as described in Mr. Ciferri's letter and described herein, and shown on the attachments to Mr. Ciferri's letter, notably Exhibit No. 39(a), is granted; and

**BE IT FURTHER RESOLVED** by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.

  
John H. Pentecost, Chair  
Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 21st day of June, 2023.

  
Barbara Jay  
Executive Director

**NOTE:**

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision and conduct a public hearing to consider the action taken.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book. Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

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

