

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Case Nos. CBA-1174-E and S-2503-B

PETITION OF THE HOLTON ARMS SCHOOL

**CORRECTION TO THE BOARD'S JANUARY 15, 2025, RESOLUTION TO REFER
MAJOR MODIFICATION TO THE HEARING EXAMINER TO CONDUCT A PUBLIC
HEARING AND ISSUE A REPORT AND RECOMMENDATION**

(Resolution Adopted March 11, 2026)

(Effective Date of Resolution: March 27, 2026)

At its December 18, 2024, Worksession, the Board of Appeals considered an Application and a Statement in Support of Special Exception Modification Application, dated December 13, 2024, received from Patrick O'Neil, Esquire, on behalf of The Holton Arms School. At the Worksession, the Board voted to refer this major modification request to the Office of Zoning and Administrative Hearings ("OZAH") for a public hearing and the issuance of a report and recommendation, in accordance with Section 59-A-4.125(a) of the Zoning Ordinance (2004). On January 15, 2025, the Board issued a written Resolution to Refer Major Modification to the Hearing Examiner to Conduct a Public Hearing and Issue a Report and Recommendation, formally referring this matter to OZAH. The Resolution stated that under the Board's standard procedures for designating cases, this modification would be Board of Appeals' Case No. CBA-1174-E. The heading of the Resolution referring this matter to OZAH references Case No. CBA-1174-E, Petition of The Holton Arms School.

The Board is in receipt of a letter dated March 2, 2026, with attachments, from Soo Lee-Cho, Esquire, on behalf of the Holton Arms School ("Holton Arms" or "School"). Ms. Lee-Cho requests correction of the Board's January 15, 2025, Resolution referring the School's major modification request to OZAH. Ms. Lee-Cho states in her letter that the "Statement in Support of Special Exception Modification Application" that was submitted by the School with the major modification Application "encompassed only operational changes as follows: 'Increase Student Enrollment to 870' (pg. 7), 'Increase Summer Camp Enrollment to 970' (pg. 9), and 'Flexibility in Facility Operations [to Outside Users]' (pg. 11)." Ms. Lee-Cho includes a copy of this Statement as Exhibit B to her letter. Her letter thus states that "Case No. S-2503-B should have also been included in the case number designation for the summer camp component of the Application, as that aspect of the School's programmatic offerings was originally approved by the Board under

S-2503 and later amended under S-2503-A pursuant to a consolidated hearing process with CBA-1174-D.”¹ Finally, Ms. Lee-Cho’s letter states that Case No. S-2503 was included on the Application form, which she attaches as Exhibit D to her letter. Ms. Lee-Cho’s letter therefore “requests that the Board’s record in the pending Major Modification case be corrected to accurately reflect the full scope of review that has already been undertaken by the Planning Board and Staff and relevant outside agencies such as MCDOT and SHA, inclusive of a summer camp registration cap increase to 970, in advance of the OZAH hearings currently scheduled for April 7-10, 2026.”

In addition to the attachments originally included with her letter, Ms. Lee-Cho submitted four additional Exhibits in support of her request, as follows:

Exhibit E: This Exhibit is a September 30, 2025, Notice of Public Hearing and Notice, signed by Kathleen Byrne, Hearing Examiner, OZAH, that states that it is a Notice for a hearing “on an application for a major modification to existing special exception numbers CBA-1174-E, S-2467-A, S-2503-B, S-516 and S-729, which may be referred collectively by case number CBA-1174-E, filed by Holton Arms School, Inc.”

Exhibit F: This Exhibit is the Planning Department’s November 3, 2025, Staff Report on Case No. CBA-1174-E, which is described as a “Request to modify the existing special exception approvals (CBA-1174-E, S-2467-A, S-2503-B, S-516 and S-729) collectively under CBA-1174-E for the Holton Arms School to allow: 1) an increase in enrollment cap from 665 to 870 students, 2) an increase in summer camp enrollment cap from 665 to 970, 3) flexibility in use of facilities by third-party users, and 4) incorporate previous Board of Appeals administrative approval regarding Granger House, with no physical changes onsite.”

Exhibit G: This Exhibit is a September 30, 2025, email from Hearing Examiner Byrne to Ms. Lee-Cho and others stating the following:

On September 10, 2003, the Board issued a resolution granting the request from Holton Arm’s attorney at the time, Elsie Reid, that CBA-1174-D, S-2467-A and S-2503-A be consolidated. Because the Board acted after 2003 and modified S-2467-A in 2009 and S-2503-A in 2006, there is some confusion about consolidation of all the prior cases numbers and whether using just CBA-1174-E as the sole case number would be an adequate description for the pending matter.

Since we are acting out of an abundance of caution and in keeping with the Board’s naming convention we will change S-2503-A to S-2503-B. The caption will now list the following case #s – CBA-1174-E, S-2467-A, S-2503-B, S-516, and S-729 referencing all prior Board case numbers associated with the property.

Exhibit H: This Exhibit contains a September 30, 2025, email and a corrected Notice of Hearing that OZAH purportedly mailed to all parties on that day. The Notice

¹ Ms. Lee-Cho includes a copy of the Board’s March 2004 decision amending Case No. S-2503-A pursuant to a consolidated hearing process with CBA-1174-D as Exhibit C to her letter.

references Case Nos. CBA-1174-E, S-2467-A, S-2503-B, S-516, & S-729 in the caption and in the body of the Notice, and states in part that OZAH:

... will hold a public hearing on Monday, November 17, 2025 at 9:30 a.m. and continue on Thursday, November 20, 2025 at 9:30 a.m. should a second day be necessary, or as soon thereafter as this matter can be heard, on an application for a major modification to existing special exception numbers CBA-1174-E, S-2467-A, S-2503-B, S-516 and S-729, which may be referred collectively by case number CBA-1174-E, filed by Holton Arms School, Inc. The modifications requested are to: 1) increase its enrollment cap to 870 students, 2) increase its summer camp enrollment numbers to 970, 3) offer use of its facilities to third-party users, and 4) incorporate previous Board of Appeals administrative approval regarding Granger House.

In response to Ms. Lee-Cho's request, the Board is also in receipt of two letters from William Chen, Esquire, opposing the request. Mr. Chen's first letter states that the Board's referral to OZAH references Case No. CBA-1174, and no other cases. In addition, his letter states that "[a]ll public Notices of Holton's December 2024 Major Modification application have been given as applying *only* to Case No. CBA-1174-E." His letter states that the signs that were posted to notify people of the pending modification only reference Case No. CBA-1174-E, which is for a "Private Educational Institution." He includes a photograph showing a special exception sign marked with Case No. CBA-1174-E and "Private Educational Institution" as Exhibit B to his letter. Mr. Chen's letter states that Case No. S-2503 was granted for a co-educational summer camp, and that it is a "free-standing special exception, separate and apart from the private school special exception in Case No. CBA-1174, including CBA-1174-E." His letter states that a major modification of Case No. S-2503 has never been referred to OZAH by the Board, and that a proper referral and public Notice are required. Mr. Chen disputes that what Ms. Lee-Cho is seeking is a "correction."

Mr. Chen's second letter states that the additional materials submitted by Ms. Lee-Cho on behalf of Holton Arms:

... do not change or otherwise contradict the basic facts that (a) the Board of Appeals has *never* issued a resolution pursuant to the Zoning Ordinance authorizing OZAH to conduct a hearing, prepare a report, and issue a recommendation on Holton's summer camp special exception, S-2503; (b) no public hearing notice on a modification of that special exception has been issued as required by the Zoning Ordinance; and (c) no notice of such a special exception modification application has ever been posed on the Holton Arms property.

Mr. Chen's letter further states that the Notice included as Exhibit E to Ms. Lee-Cho's letter was not the official hearing Notice mailed by OZAH, as follows:

Exhibit E purports to be an OZAH notice issued on September 30, 2025, of the hearing scheduled for November 17 and 20. The EXHIBIT LIST on OZAH's

website on this case lists its "Notice of Hearing issued September 30, 2025" as Exhibit 42, a copy of which is attached hereto as Exhibit C. OZAH Exhibit 42 is the *official* OZAH public notice and it is *not* the same notice that has been submitted by Hollon Arms as Exhibit E. Exhibit E is not an official OZAH notice. OZAH Exhibit 42 is the official notice that went to hearing on November 17, 2025, and only references Case No. CBA-1174-E.

As indicated above, Mr. Chen includes a copy of OZAH Exhibit 42 as Exhibit C to his second letter. This Exhibit is hand-marked "OZAH Exhibit 42," is dated September 30, 2025, and is signed by Hearing Examiner Kathleen Byrne. Finally, Mr. Chen's second letter states that questions about what exactly was being modified were raised by the Hearing Examiner as a preliminary issue at the November 17, 2025, OZAH hearing. His letter asserts that without a proper referral from the Board, OZAH cannot consider a modification to Case No. S-2503.

The Board is in receipt of numerous emails both supporting and opposing the requested correction.

The Board of Appeals considered Ms. Lee-Cho's submissions, Mr. Chen's responses, and the responses from others both for and against the proposed correction at a Worksession held on March 11, 2026. Ms. Lee-Cho and Mr. Chen were both present at the Worksession, and explained their respective positions. Ms. Lee-Cho stated that the major modification request filed by Holton Arms delineated three distinct components of the modification, one of which was an increase to summer camp enrollment. She stated that Holton Arms had run a camp on their property for at least a dozen years before obtaining special exception Case No. S-2503. Ms. Lee-Cho explained that the School obtained this special exception after the Board found in 2001 that a summer camp was not allowed as an ancillary use to the School's Private Educational Institution under the Zoning Ordinance. She stated that special exception Case No. S-2503 was obtained as a "fallback" protection for the School's camp in case a Zoning Text Amendment ("ZTA") that was pending at that time, which redefined a Private Educational Institution to allow for summer camps for students and non-students, and other activities, was not adopted. Ms. Lee-Cho stated that this ZTA was adopted shortly after the Board's hearing in Case No. S-2503 but before its decision granting that special exception was issued. Thus Ms. Lee-Cho stated that the School could pursue the requested increase to the number of campers as a modification to Case No. CBA-1174, but that because there is an existing special exception that permits up to 665 campers (S-2503-A), it would be cleaner to have the total number of campers that are allowed on the property authorized under the same special exception. She stated that the only special exceptions affected by the requested major modification were Case Nos. CBA-1174 (as CBA-1174-E) and S-2503 (as S-2503-B).

Mr. Chen stated that special exception Case No. S-2503-B does not exist. He stated that the summer camp that was originally operated at the School was never legal, as determined by the Board in an extensive opinion issued approximately 20 years ago. Mr. Chen stated that this is why the School applied for and was granted special exception

Case No. S-2503. He stated that this is a distinct special exception from Case No. CBA-1174, and noted that it was amended on March 23, 2004, in Case No. S-2503-A. In response to a Board question asking if he objected to Ms. Lee-Cho's request, Mr. Chen stated that it was his clients' position that Case No. S-2503 must be amended, and that OZAH has no authority to address a modification of that special exception because it has not been referred to OZAH by the Board of Appeals. When asked if the requested clarification to make clear that Case No. S-2503 was also referred to OZAH in connection with this major modification would allow the requested modification of the summer camp program to go forward, Mr. Chen stated that he did not know, and that any proceeding before OZAH has to comply with the procedures set forth in the Zoning Ordinance.

In response to a Board suggestion that the Board's Resolution specifically instruct OZAH to proceed with the currently scheduled April 7, 2026, hearing date, invoking if necessary the Board's authority to shorten any Notice requirements, Ms. Lee-Cho stated that it was important for the Board to direct OZAH to proceed with the hearing as scheduled, and explained that the Zoning Ordinance requires no less than 30 days' Notice unless an emergency exists.² Mr. Chen stated that the criteria for a shortened Notice period are not met in this case. Ms. Lee-Cho stated that it was in the community interest to allow this hearing to proceed, and that if the Board would not direct OZAH to proceed with the hearing, she would withdraw her request for clarification.

After considering the written materials received and the representations of counsel at the Worksession, the Board hereby confirms that its January 15, 2025, referral of this major modification to OZAH should have been made under Case Nos. CBA-1174-E and S-2503-B, pursuant to the Board's standard procedures for designating major modification cases, and hereby corrects its January 15, 2025, Resolution to do so. In addition, the Board hereby directs OZAH to proceed with the previously scheduled April hearings pertaining to the School's major modification request, invoking, if necessary, the Board's authority to shorten the notice provisions due to the community hardship that would be posed by delay.

Accordingly, on a motion by Caryn L. Hines, Chair, seconded by Richard Melnick, Vice Chair, with Alan Sternstein and Donald Silverstein in agreement, and with Amit Sharma not in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Board hereby amends and corrects its January 15, 2025, Resolution referring the

² Ms. Lee-Cho was presumably referring to Section 59-G-1.3(c)(3) of the Zoning Ordinance (2004), which reads as follows:

Petitions for modification of the terms or conditions of a special exception must be scheduled for hearing as promptly as possible, provided that hearings on petitions for modifications of a special exception must be held not less than 30 days following the date of public notice. Nothing herein prohibits the Board from convening a hearing within a shorter period of time if the Board determines by the vote of at least 3 members that an emergency exists which poses an immediate threat to the public health, safety, convenience, welfare or necessity, or that delay would impose unusual individual or community hardship.

major modification filed by Patrick O'Neil, Esquire, on behalf of Holton Arms School, to the Hearing Examiner for Montgomery County to schedule and conduct a public hearing, and for the issuance of a written report and recommendation to the Board of Appeals, to reference and refer both Case No. CBA-1174-E and Case No. S-2503-B; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland, that to the extent that there remains any question about the cases that the Board referred to OZAH in connection with this requested major modification, the Board has now referred a major modification of both Case No. CBA-1174-D and Case No. S-2503-A, as Case No. CBA-1174-E and Case No. S-2503-B, respectively, to the Office of Zoning and Administrative Hearings, to schedule and conduct a public hearing, and for the issuance of a written report and recommendation to the Board of Appeals; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland, that in accordance with this Resolution, the Board hereby directs the Hearing Examiner in the Office of Zoning and Administrative Hearings to proceed with the currently scheduled April 7, 2026, hearing date in this matter, invoking if necessary the Board's authority to shorten any Notice requirements due to the community hardship that the Board finds would be posed by further delay; and

BE IT FURTHER 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 in this matter.



Caryn L. Hines
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 27th day of March, 2026.



Barbara Jay
Executive Director

NOTE: 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.