

## Case No. 1174

PETITION OF THE HOLTON-ARMS SCHOOL, INC.  
(Hearing held November 21, 1961; case decided November 29, 1961)

OPINION OF THE BOARD

This proceeding is on a petition for a special exception under Section 107-28ml(5) of the Zoning Ordinance (Chap. 107, Mont. Co. Code 1955, as amended) to permit the construction and operation of a private educational institution for 400 students on approximately 59.6 acres adjacent to River Road, Bethesda 14, Maryland, in R-90 and R-R zones.

Petitioner moved to amend the application and notice to read from first through twelfth grades instead of from third through twelfth grades and to increase the number of students from 400 to 425. Without objection this motion was granted.

There was no opposition to the petition.

Petitioner proposes to erect buildings to house a school to be used by approximately 415 students, of which 100 students will be boarders. The school will include grades from one through twelve. There is proposed an athletic field with spectator stands, an area for nature study and walks, classrooms, dormitories and other necessary buildings.

Holton-Arms School, Inc. is a non-profit non-stock educational company, incorporated in the District of Columbia. Petitioner proposed to incorporate in Maryland when it moves to this jurisdiction.

All area and setback requirements have been met.

Petitioner proposes not to cut down any trees unless it is impossible to construct buildings without cutting. At the hearing petitioner stated that all parking requirements of the Ordinance will be met and that lighting on the parking lots will be on low standards and will be of low wattage.

Petitioner has coordinated its plans with the Maryland State Roads Commission concerning dualization of River Road and ingress and egress will be provided by a service driveway.

There will be four large busses used to transport day students to and from the proposed school.

There will be an appropriate sign at the gate on River Road and also subdued lights on the entrance gate.

Between the parking lot and the adjoining residential property to the west, there is a 25 foot strip of woods, therefore the Board will not require fencing in this area.

We find that each of the relevant requirements of Sections 107-26 and 107-28ml(5) of the Zoning Ordinance is satisfied.

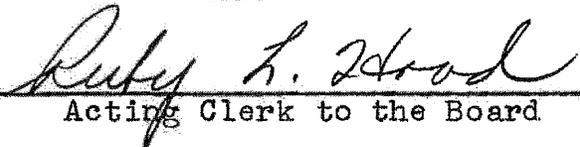
The special exception for the proposed use, in the manner set forth in the exhibits and testimony, is granted.

The Board adopted the following Resolution:

"Be it Resolved by the County Board of Appeals for Montgomery County, Maryland, that the opinion stated above be adopted as the Resolution required by law, as its decision on the above-entitled Petition."

The foregoing Resolution was proposed by Mrs. Mary A. Hepburn and concurred in by Messrs. Everett R. Jones, Chairman and Philip M. Fairbanks, Vice Chairman. Mrs. Rita C. Davidson and Mr. Edwin L. Bright were necessarily absent from the hearing and did not participate in this decision.

I do hereby certify that the foregoing Minutes were officially entered upon the Minute Book of the County Board of Appeals this 1st day of December, 1961.

  
\_\_\_\_\_  
Acting Clerk to the Board

NOTE: Please see Section 107-23c of the Zoning Ordinance regarding the 12-months' period within which the right granted by the Board must be exercised.

This opinion sent to all persons who received notice of hearing.

COUNTY BOARD OF APPEALS  
FOR  
MONTGOMERY COUNTY

STELLA B. WERNER COUNCIL OFFICE BUILDING  
100 MARYLAND AVENUE  
ROCKVILLE, MARYLAND 20850

Telephone  
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279-1226

Case No. CBA-1174

PETITION OF THE HOLTON-ARMS SCHOOL, INC.

RESOLUTION TO MODIFY SPECIAL EXCEPTION  
(Resolution adopted March 14, 1985)

The Board has received a letter from Holton Arms School, which states, in part:

"This is a request for a minor modification to Holton-Arms' existing special zoning exemption which would permit us to construct a maintenance building, attached to the existing building.

"The proposed building, approximately 75' x 25', would hardly be visible, if at all, to neighbors due to topography and existing buildings. The building would be used for general repair and maintenance of school furniture and fixtures and for the construction of items such as bookshelves, bulletin boards, tables and desks.

"This building would fill a long-standing, basic need of the School, and your consideration of this request would be greatly appreciated.

"Enclosed are a plan of the proposed maintenance building, a list of property owners contiguous to our property, a site plan ..."

Based on the foregoing information, the Board is of the opinion that Holton Arms School's request represents a minor modification to the special exception and can be granted without substantially changing the nature, character or intensity of the use of the property, nor changing the effect on traffic or on the immediate neighborhood. Therefore, in accordance with the provisions of Section 59-G-1.3(c)(1) of the Zoning Ordinance,

BE IT RESOLVED by the County Board of Appeals for Montgomery County, Maryland, that Case No. CBA-1174, Petition of The Holton-Arms School, Inc., shall be and hereby is reopened to receive the letter from Holton Arms School as Exhibit No. 13; Site Plan as Exhibit No. 14(a); Building plans/elevations as Exhibit No. 14(b); and an updated list of adjoining and confronting property owners as Exhibit NO. 15.

BE IT FURTHER RESOLVED by the County Board of Appeals that petitioner may construct a maintenance building, attached to the existing building, which shall be constructed in accordance with plans entered into the record as Exhibit Nos. 14(a) and (b).

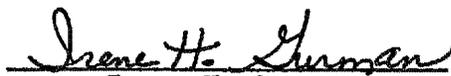
All other terms and conditions of the special exception shall remain in full force and effect.

Case No. CBA-1174

2.

The foregoing Resolution was proposed by Doris Lipschitz, Chairman, and concurred in by Joseph E. O'Brien, Jr., Harry M. Leet, Thomas S. Israel and Howard Jenkins, Jr.

Entered in the Minute Book of  
the County Board of Appeals  
this 15th day of March, 1985.

  
Irene H. Gurman  
Clerk to the Board

COUNTY BOARD OF APPEALS  
FOR  
MONTGOMERY COUNTY

STELLA B. WERNER COUNCIL OFFICE BUILDING  
100 MARYLAND AVENUE  
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Case No. CBA-1174

PETITION OF THE HOLTON-ARMS SCHOOL, INC.

RESOLUTION TO MODIFY SPECIAL EXCEPTION  
(Resolution Adopted April 4, 1985)

The Board has received a letter from Holton Arms School, which states, in part:

"This is a request for a minor modification to Holton Arms' existing exception which would permit us to operate a Day Care Center.

"The proposed Center would be operated within existing facilities, with minor modifications as required by the Department of Health. No additional building or construction would be required. No increase in automobile traffic would result.

"This facility would be used solely by the faculty and staff of Holton-Arms, and would accommodate approximately 8 to 10 children.

"This Center would provide a very significant benefit for our faculty and staff, and your consideration would be appreciated. ..."

Based on the foregoing information, the Board is of the opinion that Holton Arms' request represents a minor modification to the special exception and can be granted without substantially changing the nature, character or intensity of the use of the property, or changing the effect on traffic or on the immediate neighborhood. Therefore, in accordance with the provisions of Section 59-G-1.3(c)(1) of the Zoning Ordinance,

BE IT RESOLVED by the County Board of Appeals for Montgomery County, Maryland, that Case No. CBA-1174, Petition of The Holton-Arms School, Inc., shall be and hereby is reopened to receive the letter from Holton Arms School as Exhibit No. 17.

BE IT FURTHER RESOLVED by the County Board of Appeals that petitioner may operate a Day Care Center to be used by the faculty and staff of Holton-Arms school only, and which may accommodate up to ten (10) children.

All other terms and conditions of the special exception shall remain in full force and effect.

The foregoing Resolution was proposed by Doris Lipschitz, Chairman, and concurred in by Joseph E. O'Brien, Jr., Harry M. Leet, Thomas S. Israel and Howard Jenkins, Jr.

Case No. CBA-1174

2.

Entered in the Minute Book of  
the County Board of Appeals for  
Montgomery County, Maryland,  
this 10th day of April, 1985.



Irene H. Gurman  
Clerk to the Board

COUNTY BOARD OF APPEALS  
FOR  
MONTGOMERY COUNTY

STELLA B. WERNER COUNCIL OFFICE BUILDING  
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Case No. CBA-1174

PETITION OF THE HOLTON-ARMS SCHOOL, INC.

RESOLUTION TO MODIFY SPECIAL EXCEPTION  
(Resolution adopted May 21, 1987)

The Board is in receipt of a letter dated May 5, 1987, from Stephen P. Elmendorf, attorney for the petitioner, which states, in part:

"This law firm represents Holton-Arms School, Inc. the holder of a special exception for a private educational institution, Holton-Arms School, located at 7303 River Road, Bethesda, Maryland. My purpose in writing is to request that the Board of Appeals approve ... a minor modification to this special exception.

"The proposed modification involves the regrading and enlargement of an existing soccer field on the school campus. The present soccer field is undersized, and Holton-Arms desires to regrade and enlarge it to more closely approximate a regulation soccer field.

"For your review, I have enclosed ... copies of the master plan for the entire Holton-Arms School campus, showing the location of the proposed enlarged soccer field ...

"... We are requesting that the Board consider ... this minor modification to the soccer field ...to enable Holton-Arms to immediately begin the regrading of the field so that it will be available for the students' use at the beginning of the next school year.

"This proposed modification of the soccer field will not change the nature, character or intensity of use of the existing Holton-Arms School. Similarly, this proposed modification will have no impact on existing traffic conditions or on the immediate neighborhood. The existing soccer field is situated well below the elevation of the adjacent residential properties. As shown on the proposed grading plan for the field (... included with this letter), the regraded soccer field will be at an even lower elevation.

"The modification of this soccer field will not require and does not involve the construction of any new structure or the installation of any additional parking or driveway areas on the Holton Arms site.

"In short, we are requesting ... to modify the existing soccer field to a more acceptable playing facility for the school children. ..."

Case No. CBA-1174  
 Petition of The Holton-Arms School, Inc.  
 Page 2

Based on the foregoing information, the Board is of the opinion that Holton Arms School's request represents a minor modification to the special exception and can be granted without changing the nature, character or intensity of the use of the property, or changing the effect on traffic or on the immediate neighborhood. Therefore, in accordance with the provisions of Section 59-G-1.3(c) (1) of the Zoning Ordinance,

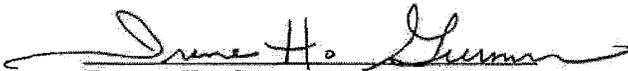
BE IT RESOLVED by the County Board of Appeals for Montgomery County, Maryland, that Case No. CBA-1174, Petition of The Holton-Arms School, Inc., shall be and hereby is re-opened to receive Mr. Elmendorf's letter as Exhibit No. 19; Holton-Arms School Master Plan, Exhibit No. 19(a); proposed Soccer Field topo, Exhibit No. 19(b); updated list of adjoining/confronting property owners as Exhibit No. 19(c); and

BE IT FURTHER RESOLVED by the County Board of Appeals for Montgomery County, Maryland, that petitioner may regrade and enlarge the existing soccer field in accordance with Mr. Elmendorf's letter, Exhibit No. 19 and as shown on the School Master Plan (Exhibit No. 19(a) and on the Soccer Field topo, Exhibit No. 19(b).

All other terms of the special exception, except as modified, shall remain in full force and effect.

The foregoing Resolution was proposed by Thomas S. Israel, Chairman, and concurred in by Joseph E. O'Brien, Jr., Howard Jenkins, Jr., Max H. Novinsky and Helen R. Strang.

Entered in the Minute Book of  
 the County Board of Appeals for  
 Montgomery County, Maryland,  
 this 27<sup>th</sup> day of May, 1987.



Irene H. Gurman  
 Clerk to the Board

**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.

...

COUNTY BOARD OF APPEALS  
for  
MONTGOMERY COUNTY

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850

Telephone  
Area Code 301  
279-1226

Case #CBA - 1174-A

PETITION OF HOLTON ARMS SCHOOL, INC.  
(Hearing Held August 27, 1987)

OPINION OF THE BOARD

This proceeding arises from a Petition filed by Holton Arms School, Inc., for a modification to an existing special exception pursuant to Section 59-G-2.19 of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1984) for a Private Educational Institution to permit it to construct a performing arts center, gymnasium, tennis courts, and track/soccer field.

The subject property is Parcel One, Burning Tree Valley Subdivision, located at <sup>7303</sup>703 River Road, Bethesda, Maryland in the R-90 and R-200 Zones.

Decision of the Board: Special Exception granted to Petitioner only, subject to the conditions enumerated herein.

PETITIONER'S CASE

Petitioner's witnesses appeared and presented binding testimony and exhibits as follows:

Mr. Stephen Elmendorff, counsel for the petitioner and an associate with the law firm of Linowes and Blocher, stated that the Maryland-National Capital Park and Planning Commission has recommended approval for the petition subject to several conditions. Mr. Elmendorff said that the petitioner has consented to all of these conditions.

Mr. Charles Lord, headmaster of Holton Arms School, stated that the construction/renovations were being undertaken to augment the facilities available to students, not to increase student enrollment at the school. He said that the school had no immediate plans to increase the enrollment or hire additional faculty members. Mr. Lord also testified that the proposed tennis courts would be unlighted. He stated that the only non-school use of the courts would be the W.T.A. women's tennis tournament, which raises money for student scholarships and intra-school matches. He also noted that three homeowners associations, representing 150 nearby property owners, indicated their approval of the proposed construction/renovations subject to satisfaction of traffic and parking concerns. He testified that because the

school was not intending to grow it would not require additional parking spaces. Mr. Lord also stated that the school had access to parking facilities at a nearby church and would provide a shuttle bus to the school if specific programs created such a need. Mr. Lord testified that the school had never needed and would never allow parking in residential areas.

Mr. Steven Martin, an associate with the architecture firm Oldham & Seltz and project architect for the proposed construction/renovations, was admitted as an expert in the field of architectural design. Mr. Martin stated that the school was attempting to meet the suggestions proposed by the Planning Board in its recommendation. He testified that in response to the recommendation, the school has eliminated one of the proposed tennis court located nearest Booze Creek. He also said that the school has relocated the proposed track further away from the creek. The school has included alternate emergency access points into its renovation plans.

He stated that the school currently meets all zoning and parking requirements and would continue to do so after the proposed construction/renovations are complete. He testified the school currently possesses 244 parking spaces, 165 of which are paved and 79 of which are gravel. He said that the school employs its fields if additional parking space is necessary. Mr. Martin also said that the sites of the proposed new tennis courts are flat and do not require grading or clearing of trees. He stated that there would be buffering along the side of the courts facing adjacent property owners. Mr. Martin testified that he had walked around the six courts closest to the adjoining neighbors when all of the courts were in use and that he did not regard the resulting noise as being excessive in nature. He testified that the proposed buildings would be compatible in style and materials to the existing buildings and surrounding residential neighborhood. He said that the location of the creek, the topography of the land, and the need to have facilities grouped together for supervisor reasons were factors in creating the proposed plan.

Ms. Carol Browner, an associate with the firm EDAW, Inc. and lead architect in developing the master plan for the proposed construction/renovations, was admitted as an expert in the field of landscape architecture. Ms. Browner stated that buffer foliage existed along the perimeters of the school's property facing adjoining property owners and that additional foliage would also be added to supplement this growth. She stated that the added foliage would be deciduous and evergreen and would match the species of existing trees in the area. She testified that the screening would be at a higher elevation than the tennis courts and would thus be more effective.

Ms. Donna Daugherty, senior associate with the firm of Barton-Aschman Associates, Inc., was admitted as an expert witness in the fields of traffic, engineering and transportation planning. Ms. Daugherty stated that the proposed construction/renovations met all county traffic requirements and were approved by the Park and Planning Commission. She testified that the construction/renovations would not increase either the enrollment of students or number of teachers at the school. She stated that she had analyzed the intersection of River Road and Royal Dominion Drive and had determined that the construction/renovations would have no impact at all on the surrounding community during peak driving hours. Ms. Daugherty did state that as a result of the construction/renovations, the school would be able to have more

programs. She noted, however, that these events would be scheduled at mid-day or late Friday evening, and would therefore not affect peak driving hours. She also testified that the school was working with the appropriate state and county authorities to improve the safety of the busy intersection fronting the school on River Road. The school proposes to install a deceleration lane on River Road as well as widening the school's access road to the intersection. Ms. Daugherty said that the school was also proposing to install a Metro bus stop on the side of River Road opposite the school. She said that school is also requesting that the county have the lights on River Road synchronized and paint a cross walk across the intersection. Ms. Daugherty also testified that the school has 244 parking spaces although the Montgomery County Zoning Ordinance required only 160 spaces.

Mr. Kurt Pronske, president of Pronske, PC., was admitted as an expert in the field of civil engineering. Mr. Pronske was responsible for the site development design of the proposed construction/renovations. He stated that the development of the proposed construction/renovations was influenced by the 100 year flood plain for the region and the fact that Booze Creek intersected much of the school's property. He testified that storm water management and quality control were addressed in the construction/renovation plans. Mr. Pronske testified that the proposed construction/renovation plans would provide adequate public facilities and would not adversely impact on Booze Creek or on the health, safety and welfare of the surrounding community.

Mr. Thomas J. Dougherty, a contiguous property owner to the school, testified in opposition to the proposed construction/renovations. He stated that tennis courts which the construction/renovations plans include will be located within three hundred feet of his back yard. Currently this property is utilized by the school as a softball field. He stated that the noise from the existing tennis courts is quite loud in the evenings and that the proposed new courts would compound the problem. Mr. Dougherty said that he would prefer if two to three less courts were built on the property immediately behind his back yard. He also testified that the tennis courts would be more irritating than the currently existing softball field.

Mr. Lord stated, in response to Mr. Dougherty's comments, that the school would try to have matches on the courts concluded by 6:00pm to 6:30pm. He also testified that the school has in the past made efforts to be sensitive to neighbors' concerns and would continue to do so with respect to this issue.

Mr. Steve Elmendorff, who represented the Petitioner, stated that tennis courts utilized by two to eight people would most likely be quieter than a softball field utilized by dozens of youths and would not encourage spectators. He also testified that the school would add to the existing foliage which buffers Mr. Dougherty's property from the proposed renovations.

Mr. Andrew Lang, representing the Al Marah Neighborhood Association, an association which is comprised of homeowners located on the opposite side of River Road from the school, stated that while he was concerned about the traffic at the intersection of River Road and Royal Dominion Drive and the school's parking facilities, he would not object to the renovations if the school would be bound by Mr. Lord's testimony concerning the number of students and faculty members and the school's athletic and extra-curricular programs. Mr. Lang said that the school should be praised for the efforts

which it undertook to inform nearby property owners of its proposed construction/renovations.

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING  
COMMISSION RECOMMENDATION:

The Planning Board recommended that the Holton Arms School's petition, to modify its existing special exception by constructing and renovating several of its facilities, should be granted subject to the following conditions:

1. That the subdivision plan shall be approved by the Montgomery County Planning Board.
2. That the Petitioner shall be bound by the submitted statement of operation and plans except as modified by condition No. 3.
3. That the Petitioner's plan shall show a maximum of two tennis courts on the east side of Booze Creek.
4. That no clearing of trees or grading of property shall take place prior to approval of the running track and tennis court location by the Water Resources Administration, Department of Environmental Protection, and of a landscape/grading plan by the technical staff of M-NCPPC.
5. That the Petitioner shall obtain approval of land/grading plan by the technical staff. The Petitioner will address the concerns as cited by the Urban Design and Environmental Planning Divisions. The plan shall also show the design of the emergency access drives.

In its recommendation, the staff noted that the Petitioner's options for the proposed construction/renovations were limited. The Board stated that "...though the school's property is sizeable, all existing facilities are located on the west side of Booze Creek which divides the property essentially in half." The Board later observed that while "...the undeveloped property to the east would provide more space for students and might be a better site for recreational facilities, it is at the same time heavily wooded and lies on a slope."

The Planning Board also concluded that the placement of tennis courts in the north-west sector of the property, where there is currently a ball field, will not result in a nuisance to the adjoining neighbors.

FINDINGS OF THE BOARD

Based on the testimony and evidence of record, the Board finds that the Petitioner meets the general requirements for a special exception as set forth in Section 59-G-1.21 of the Zoning Ordinance as follows:

1. The proposed construction/renovations are a permitted special exception in the R-90 and R-200 zones;
2. The proposed construction/renovations are consistent with the general plan for the physical development of the region;

3. The proposed construction/renovations are in harmony with the general character of the neighborhood;
4. The proposed construction/renovations will not be detrimental to the use, peaceful enjoyment, economic value or development of the surrounding properties in the general neighborhood;
5. The proposed construction/renovations will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area;
6. The proposed construction/renovations will not intensify special exception uses to affect the area adversely or alter its predominantly residential character; and
7. The proposed construction/renovations will be served by adequate public services and facilities, including adequate water and sewer service.

The Board further finds that the special requirements of Section 59-G-2.19 have been met as follows:

1. The proposed construction renovations will not constitute a nuisance because of traffic, number of students or any other element which is incompatible with the environment and character of the surrounding neighborhood
2. The proposed construction/renovations will be architecturally compatible with other buildings in the surrounding neighborhood.
3. The proposed construction/renovations will not affect adversely or change the present character or future development of the surrounding residential community.
4. The proposed construction/renovations can and will be developed in conformity with the area, density, building coverage, frontage, setback access and screening requirements described in Section 59-G-2.19.

Accordingly the Board grants, to Petitioner only, permission to modify the existing special exception to allow the construction of the performing arts center, gymnasium, tennis courts, and track/soccer field subject to the following conditions:

1. The Petitioner is bound by all evidence, testimony and exhibits of record as regarding construction plans, operations, parking, traffic and all physical activities associated with the modification of the Special Exception.
2. Subdivision shall be approved by the Maryland-National Capital Park and Planning Commission.
3. No more than two tennis courts shall be constructed on the east side of Booze Creek.

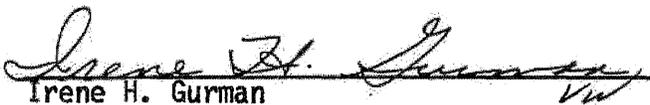
4. No clearing of trees or grading of property shall take place prior to approval of the running track and tennis court location by the Water Resources Administration, Department of Environmental Protection, and of a landscape/grading plan of the technical staff of Maryland-National Capital Park and Planning Commission.
5. Plans shall show designs of emergency access as approved by the technical staff of the Maryland-National Capital Park and Planning Commission.

The Board adopted the following resolution:

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

The foregoing resolution was proposed by Joseph E. O'Brien, Jr., and concurred in by Max H. Novinsky, Thomas S. Israel, Chairman, and Helen R. Strang. Howard Jenkins, Jr., was necessarily absent for the hearing and did not participate in the foregoing resolution.

I do hereby certify that the foregoing Minutes were officially entered in the Minute Book of the County Board of Appeals this 23rd day of October, 1987.

  
Irene H. Gurman  
Clerk to the Board

NOTE: See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve-months' period within which the right granted by the Board must be exercised.

See Section 59-A-3.2 of the Zoning Ordinance regarding Use and Occupancy Permit.

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.

COUNTY BOARD OF APPEALS  
FOR  
MONTGOMERY COUNTY

STELLA B. WERNER COUNCIL OFFICE BUILDING  
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Case No. CBA-1174-A

PETITION OF HOLTON ARMS SCHOOL, INC.

RESOLUTION TO CORRECT OPINION OF THE BOARD  
(Resolution adopted January 21, 1988)

Upon the Board's own motion, the Board adopted the following Resolution:

The Opinion of the Board dated the 23rd day of October, 1987, shall be corrected in the following manner: Second paragraph, property description, shall read:

"The subject property is a portion of the Holton Arms School, Inc., property, containing 48.47 acres of land (as indicated on Exhibit No. 18) and located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones."

The foregoing Resolution was proposed by Judith B. Heimann, Chairman, and concurred in by Howard Jenkins, Jr., Max H. Novinsky, Helen R. Strang and K. Lindsay Raufaste.

Entered in the Minute Book of  
the County Board of Appeals for  
Montgomery County, Maryland,  
this 22nd day of January, 1988.

  
Irene H. Gurman  
Clerk to the Board

BOARD OF APPEALS  
for  
MONTGOMERY COUNTY

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850

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217-6600

Case No. CBA-1174-B

PETITION OF HOLTON ARMS SCHOOL  
(Hearing held March 9, 1994)

OPINION OF THE BOARD  
(Effective date of Opinion, April 15, 1994)

This proceeding is on a petition filed for a modification of an existing special exception for a private educational institution pursuant to Section 59-G-2.19 of the Zoning Ordinance to permit: (1) an increase in enrollment to 650 students; (2) a decrease in the amount of property subject to the special exception; (3) the construction of an addition for a semi-detached elevator tower; (4) the construction of an addition to contain bathrooms which will be accessible to handicapped persons and to contain some kitchen facilities; (5) regrading and realignment of several athletic fields and construction of seven tennis courts; and (6) realignment of lower school driveway system and relocation of lower school recreation areas.

The subject property was previously identified as Parcel 1, Burning Tree Valley, containing 80 acres. It is now identified as Parcel Two, Burning Tree Valley, containing 54.68051 acres and is located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 zones.

Decision of the Board: Modification to the special exception GRANTED to Petitioner only, subject to the conditions enumerated herein.

PETITIONER'S PROPOSAL

Jody Kline, Esquire, represented the petitioner, Holton Arms School. He called as witnesses Diana Beebe, Head of School; Doug Lohmeyer, expert civil engineer; Alan Lockman, expert in architecture; and David Holtz, expert in architecture and land planning.

According to witnesses, the site now contains 55+ acres, reduced from 80 acres by the sale of the southeast corner in 1987-1988. The property fronts primarily on River Road, with a very small amount of frontage on Burdette Road. Booze Creek essentially bisects the property and separates the portion which is zoned R-90 from the R-200 portion. No development is proposed on the east side of Booze Creek. The surrounding property is developed in single family detached homes except for a country club across Burdette Road, Primary Day School across River Road, a public elementary school to the north, a special exception for a horticultural nursery to the southwest, and an Maryland-National Capital Park and Planning Commission (M-NCPPC) park.

FINDINGS OF THE MARYLAND-NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

Technical Staff at the Maryland-National Capital Park and Planning Commission recommended approval with conditions (Exhibit No. 12).

FINDINGS OF THE BOARD

Based on the testimony and evidence in the record which is binding on the Petitioner, the Board finds that the proposed modification satisfies the general conditions for special exceptions as defined by Section 59-G-1.21 of the Montgomery County Code, as well as the specific requirements for private educational institutions as set forth in Section 59-G-2.19.

The Board is mindful of the conditions recommended by the staff of the Environmental Planning Division of M-NCPPC, and shares their concern about the environmental sensitivity of Booze Creek and the need for compliance with the Forest Conservation Ordinance. Therefore, the Board will condition the approval of the proposed modification on their recommended conditions, among others.

Therefore, this modification to the special exception to permit: (1) an increase in enrollment to 650 students; (2) a decrease in the amount of property subject to the special exception; (3) the construction of an addition for a semi-detached elevator tower; (4) the construction of an addition to contain bathrooms which will be accessible to handicapped persons and to contain some kitchen facilities; (5) regrading and realignment of several athletic fields and construction of seven tennis courts; and (6) realignment of lower school driveway system and relocation of lower school recreation areas is hereby granted to the Petitioner only, subject to the following conditions:

1. Petitioner is bound by all testimony, both oral and written, and all evidence and exhibits in the record.
2. Petitioner must obtain approval from the Planning Board of a revision of Condition No. 1 of the approved Preliminary Plan No. 1-87171 and the Adequate Public Facilities Ordinance Agreement, dated April 13, 1988, to increase the maximum enrollment from 630 to 650 students.
3. Petitioner must comply with all conditions recommended by the Environmental Planning Division. They include:
  - a. Satisfaction of the requirements of the Montgomery County Forest Conservation legislation prior to the issuance of building permits and sediment and erosion control permits.
  - b. Provision of in-kind replacement of conservation easement lost to construction of access road along Booze Creek.

Case No. CBA-1174-B

- 2 -

Diana Beebe, Head of School, explained that the requested increase in enrollment was designed to address two problems. The rate of acceptances fluctuates, and it is difficult for the school to determine exactly how many students will be enrolling. In addition, a "demographic bubble" is moving through the school from the lower grades, and is expected to reach the upper school in the next few years. While the upper school is normally limited to 300, a larger enrollment will be needed to accommodate the additional students currently enrolled in the lower school. If the maximum enrollment is increased to 650, as requested, the school will have the flexibility it needs to respond to the needs of the students and to remain within the requirements of the special exception. The additional enrollment limit will not result in changes to the program or an increase in the intensity of the use.

Witnesses explained that athletic fields and the tennis courts are substandard and interfere with the students' full participation in inter-scholastic competition. To rectify the situation, the school proposes to reconstruct the existing soccer field, the "upper field" located near the Lower School. The new field will be located in essentially the same place but will be larger to conform to regulations.

The school currently has six tennis courts located to the east and the north of the main academic building. They are separated into two groups. Seven courts are required for inter-scholastic tennis matches. The school has proposed the construction of seven new courts, located so that they are grouped together.

An athletic field is also proposed to the north and east of the existing facilities. It will replace an existing field and will be regulation size.

Other alterations include the relocation of the Lower School play areas to the east side of the driveway, so that they will be on the same side of the driveway as the school building. Modifications to the locations of the driveways, parking areas, and access driveways for delivery trucks are also planned and will include the addition of 39 parking spaces. The driveway will be widened to the full 20' width required for two-way driveways.

Two modifications are proposed to improve access for handicapped persons. An elevator tower will be built at the front of the main academic building. It will provide access to all three levels of the building. Also, the school has proposed a one-story addition to the theater lobby which will not be visible off-site. It will contain bathrooms and music practice rooms which will be accessible to the handicapped. A small kitchen will be included in the addition.

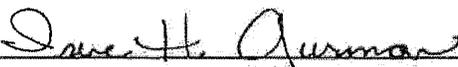
Even though it is not part of the proposed modifications, representatives of the petitioner informed the Board that the entire roof would be replaced with a stainless steel roof. The profile will not be altered in most of the roof, except in those areas in which it is necessary for the solution of drainage problems.

- c. Satisfaction of all prior agreements with the Planning Board as related to the conservation easement along Booze Creek.
  - d. Receipt of all federal, state and county permits required to do work in wetlands and/or floodplains prior to issuance of building permits.
  - e. Removal of existing gravel parking within the aforementioned conservation easement.
4. Construction must comply with Exhibit Nos. 5(a)-(d), 9, and 10.
  5. All terms and conditions of the special exception, except as modified by this Opinion, remain in full force and effect.

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

The foregoing Resolution was proposed by William Green, and concurred in by Allison Bryant, Judith B. Heimann, Chairman, and K. Lindsay Raufaste. Helen R. Strang was necessarily absent and did not participate in the foregoing Resolution.

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 15th day of April, 1994.

  
 Irene H. Gurman  
 Clerk to the Board

NOTE: See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four-months' period within which the right granted by the Board must be exercised.

See Section 59-A-3.2 of the Zoning Ordinance regarding Use and Occupancy Permit.

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.

BOARD OF APPEALS  
for  
MONTGOMERY COUNTY

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850

Telephone  
Area Code 301  
217-6600

Case No. CBA-1174-B

PETITION OF HOLTON ARMS SCHOOL, INC.

RESOLUTION TO MODIFY SPECIAL EXCEPTION

(Resolution adopted June 13, 1995

(Effective date of Resolution, August 11, 1995)

The Board is in receipt of correspondence dated June 7, 1995, from Jody S. Kline, petitioner's attorney, which states, in part:

"I am writing on behalf of Holton-Arms School, Inc. to request that you amend the School's special exception administratively to permit the construction and use of a new maintenance building ...

"... when representatives of Holton Arms appeared before you in March, 1994, ... it was indicated that a new maintenance building would be necessary, but its location was undetermined at that time. ... Further planning ... has determined that the maintenance building would best be situated near the existing repair shop/service area and should be designed in such a way that it would screen the School's service area and service functions, to the greatest extent possible, from both the windows of the school as well as from adjacent properties.

"... No elevations of the building itself are available because the structure is a typical 'Butler-type' building that will be completely customized on site to be consistent with the design and materials of the existing adjacent School buildings. ... the building will be clad on the west and north (rear) sides in the same rose shaded brick that has been used everywhere else on the campus. ... the building will have the same 'aged copper' (light green) crimped metal roof. ... the north (rear) brick wall of the Maintenance Building will be extended to connect with the existing Administrative Wing in order to screen the loading dock and the air conditioning cooling equipment. ...

"... the Maintenance Building will be a single story structure measuring 77 feet by 32 feet. ... this Maintenance Building will replace a decrepit facility. ... it will be used to store and service all of the grounds equipment used on the campus. ...

"... the Maintenance Building is visible from off-site from only one property. ... the Maintenance Building will not intensify the use of the campus or change any traffic patterns. ... the Maintenance Building mitigates the effects from some of the most intense activities on the property. ..."

The Board, after careful consideration of the correspondence and a review of the record in the above-referenced case, finds that the request to permit construction of a Maintenance Building can be granted without the necessity of a public hearing. The Board further finds that the request will have no effect on traffic and on the immediate neighborhood.

THEREFORE, in accordance with the provisions of Section 59-G-3.1(c)(1) of the Zoning Ordinance, BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that Case No. CBA-1174-B shall be and hereby is reopened to receive Mr. Kline's June 7, 1995, letter; site plan; roof plan; an updated list of adjoining and confronting property owners; a letter dated June 12, 1995, from Thomas and K. Yano, adjacent property owners; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland, that petitioner may construct a single story maintenance building, 77' x 32', as described in Mr. Kline's June 7, 1995, letter and in accordance with the site plan and roof plan entered in the record; and

BE IT FURTHER RESOLVED that, except as modified herein, all terms and conditions of the special exception modification granted the 15th day of April, 1994, shall remain in full force and effect.

The subject property consists of 54+ acres, Parcel Two, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The foregoing Resolution was proposed by Helen Strang and concurred in by Allison Bryant, William Green, K. Lindsay Raufaste and Judith Heimann, Chairman.

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland,  
this 11th day of August, 1995.

  
\_\_\_\_\_  
Tedi S. Osias  
Executive Secretary to the Board

**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.

BOARD OF APPEALS  
for  
MONTGOMERY COUNTY

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Case No. CBA-1174-B

PETITION OF HOLTON-ARMS SCHOOL, INC.

RESOLUTION TO APPROVE PROPOSED SIGNAGE

(Resolution adopted August 7, 1996)

(Effective date of Resolution, October 24, 1996)

On July 31, 1996, the Board received correspondence from Jody S. Kline, Petitioner's attorney, which states, in part:

"I am writing to you on behalf of my client, Holton-Arms School, to request an administrative modification ... pursuant to the provisions of Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance.

"... Holton is embarking on a campus-wide revision to its identification and 'way-finding' signs. The first step ... is replacement of the existing 'V' shaped identification sign fronting on River Road with a new entry feature which incorporates a new identification sign. ...

"The Board will note that the new sign carries the message 'The Holton-Arms School' incised in a precast concrete panel measuring 16' x 2/6". The sign will be inset in a fieldstone wall that will be bracketed by oversized square stone piers.

"The sign and fieldstone wall will act as a backdrop for the School's entrance and will be visible from River Road due to its size and illumination. The sign and stone wall will eventually be incorporated into new gates and a stone entry wall ...

"This new identification sign will not substantially increase the nature, intensity or character of Holton's special exception. Indeed, it merely replaces a somewhat outdated existing sign. ..."

The Board, after careful consideration of the correspondence and a review of the record in the above-referenced case, finds that the proposed signage can be approved.

THEREFORE, in accordance with the provisions of Section 59-G-3.1(c)(1) of the Zoning Ordinance, BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that Case No. CBA-1174-B, shall be and hereby is reopened to receive the following exhibits: Mr. Kline's July 31, 1996, letter; drawing entitled 'Entrance Sign'; siting plan, construction notes and elevation of the ID sign; site plan showing location of the existing 'V'-shaped sign to be removed; and an updated list of adjoining/confronting property owners; and

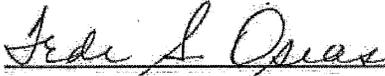
BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland, that petitioner must submit to the Board a copy of the Sign Review Board's approval for the proposed signage; and

BE IT FURTHER RESOLVED that, except as modified herein, all terms and conditions of the original special exception and any modifications thereto, shall remain in full force and effect.

The subject property contains approximately 54 acres, Parcel Two, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The foregoing Resolution was proposed by Allison Bryant and concurred in by William Green and Helen Strang, Chairman. Susan Turnbull was necessarily absent and did not participate in the foregoing Resolution. The Board members aforementioned constituted the current members of the Board at the time of adoption of the foregoing Resolution.

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland,  
this 24th day of October, 1996.



Tedi S. Osias  
Executive Secretary to the Board

**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.

BOARD OF APPEALS  
for  
MONTGOMERY COUNTY

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Case No. CBA-1174-B

PETITION OF HOLTON-ARMS SCHOOL, INC.

RESOLUTION TO MODIFY SPECIAL EXCEPTION

(Resolution adopted August 11, 1998)

(Effective date of Resolution, August 27, 1998)

On August 6, 1998, the Board received correspondence from Jody S. Kline, Esquire, petitioner's attorney, which states, in part:

"I am writing to you on behalf of Holton-Arms School, Inc., to request an administrative modification of Special Exception No. CBA-1174-B pursuant to the provisions of Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance.

"In October, 1996, the Board granted an administrative modification to allow construction of a new entry feature which incorporates a new identification sign. ... The identification sign has been constructed. ...

"At the time of the School's 1996 request, Holton explained that the new identification sign was the first phase in the construction of a stone and limestone entry feature including a fieldstone wall, stone piers and black metal gate. At the time of Holton's 1996 submission, plans for the entire entry feature were not available so approval for the entire composition was not sought. Plans have now been completed ... to construct the wall/piers/gate ... As part of the wall, to the right side of the sign itself, there will be a panel that will allow display of temporary signage announcing special events at Holton-Arms ... The piers on either side of the gate will support a bronze cast coat of arms ...

"The proposed entry feature will improve the appearance and will better identify the School's entrance. The gate will replace a functional but unattractive wooden post and horizontal metal bar. The new features will not substantially increase the nature, intensity or character of Holton's special exception. ...

Submitted with Mr. Kline's modification request are a site plan showing the location of the entry feature; a rendered plan of the entrance walls and gate; a drawing showing the bronze cast coat of arms; and an updated list of adjoining and confronting property owners.

The Board, after careful consideration of the correspondence and a review of the record in the above-referenced case, finds that the request to modify the above-referenced special exception can be granted without the necessity of a public hearing. The Board further finds that the request will have no effect on traffic and on the immediate neighborhood.

THEREFORE, in accordance with the provisions of Section 59-G-3.1(c) of the Zoning Ordinance, BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that Case No. CBA-1174-B, Petition of Holton-Arms School, Inc., shall be and hereby is reopened to receive the following exhibits: Mr. Kline's August 6, 1998, letter; site plan; rendered drawing of the proposed entry feature; bronze coat-of-arms drawing; and an updated list of adjoining and confronting property owners; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland, that petitioner may complete construction of the entry feature by the addition of stone piers; a black metal gate; and a fieldstone wall which will have a panel that will allow display of temporary signage announcing special events; to be constructed in accordance with Mr. Kline's August 5, 1998, letter and with the plans and drawings entered in the record; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland, that, except as modified herein, all terms and conditions of the original special exception and any modifications thereto, shall remain in full force and effect.

The subject property contains approximately 54 acres, Parcel Two, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the, R-90 Zone.

On a motion by Louise L. Mayer, seconded by Angelo Caputo, and with Wendell M. Holloway, Donna Barron and Susan W. Turnbull, Chair, in agreement, the Board adopted the foregoing Resolution.

Entered in the Opinion Book of the  
Board of Appeals for Montgomery  
County, Maryland, this 27th day of  
August, 1998.

  
Tedi S. Osias  
Executive Secretary to the Board

**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.

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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**Case No. CBA-1174-C**

**PETITION OF HOLTON-ARMS SCHOOL, INC.**  
(Hearing held October 30, 2001)

**OPINION OF THE BOARD**  
(Effective date of Opinion, May 29, 2002)

Case No. CBA-1174-C is a petition pursuant to Section 59-G-2.19 of the Zoning Ordinance (Chapter 59, Montgomery County Code 1994, as amended) for a modification of a special exception for a private educational institution to make various improvements to the Holton-Arms School, located at 7303 River Road, Bethesda, Maryland.

**Decision of the Board:** Special exception modification **GRANTED**, subject to conditions enumerated below.

A public hearing was held on Tuesday, October 30, 2001, pursuant to Section 59-A-4.11(a) of the Zoning Ordinance. Appearing on behalf of the Petitioner were Jody S. Kline, Esquire, and Harry W. Lerch, Esquire; Diana Beebe, Head of School; William Gridley, Architect; Alfred Blumberg, Land Planner; Brian Stephenson, Landscape Architect; and Lee Cunningham, Traffic Engineer.

Norman Knopf, Esquire, participated in the hearing representing the Bradley Boulevard Citizens Association and Complainants George Esenwein, Jane Kinzie, Richard Fong, Peter Masters, and Wendy Meer ("Complainants"); George Esenwein participated on behalf of the Complainants; George Springston participated on behalf of the Burning Tree Civic Association; and Linda Kauskay participated on behalf of the Bradley Boulevard Citizens Association. Bradley Boulevard Citizens Association, Burning Tree Civic Association, Complainants and Holton-Arms School are collectively referred to herein as "Parties."

William Chen, Esquire and Carol Lynn Green, Esquire, participated on behalf of Vivian Riefberg and John Ashford, adjoining property owners.

Martin Klauber, Esquire, the People's Counsel of Montgomery County, Maryland, participated in the proceedings neither in support of, nor in opposition to, the requested special exception.

Also participating in the proceedings were William Landfair and Seekey Cacciatore of the Technical Staff, Maryland-National Capital Park and Planning Commission (M-NCPPC), who testified neither in favor of, nor in opposition to, the proposed special exception.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

#### **EVIDENCE PRESENTED TO THE BOARD:**

1. The Holton-Arms School is a private preparatory day school for girls in grades 3 through 12. It is located on the north side of River Road (MD 190), east of the intersection with Burdette Road. The school has been at this location since 1963. The subject property, comprised of 58 acres, has approximately 770 feet of frontage with River Road and 110 feet of frontage with Burdette Road. The site also has frontage on the unimproved right-of-way for Burning Tree Road approximately 150 feet west of the intersection of Burning Tree and Beech Tree Roads. Bisecting the campus from north to south is Booze Creek, a tributary of the Cabin John Creek main stem. The existing school facilities located west of the creek include a library, a performing arts center, classroom buildings, a gymnasium/pool, tennis courts, two athletic fields, a former residence used as a child day care facility, and 307 striped parking spaces. Access to the school is provided by a signalized entrance at River Road opposite Royal Dominion Drive. Emergency access to the school was approved in 1987 from Burdette Road. The site contains approximately 21 acres of forest, most of which is located east of Booze Creek. The land area east of Booze Creek is undeveloped and includes some steep slopes, wetlands, and several identified sensitive plant colonies including "melic grass," "showy skullcap" and "shining bedstraw." The area east of Booze Creek contains a Washington Suburban Sanitary Commission easement for a buried sanitary sewer line.

2. The subject property is within the area of the 1990 Bethesda-Chevy Chase Master Plan ("Master Plan"). The Master Plan affirms the existing R-90 and R-200 zoning of the subject property, with R-90 zoning located east of Booze Creek and all the school land to the west of the creek zoned R-200 (Exhibit No. 12). Private educational institutions are allowed by special exception in the R-90 and R-200 Zones.

3. On February 14, 2000, Petitioner filed an application requesting a modification of its special exception to: (a) incorporate into the existing special exception additional land area donated to the Petitioner in 1998; (b) increase school enrollment limits to 665 students; (c) construct a new science wing; (d) expand its performing arts center, lower school facilities, and athletic facilities; and (e) add a second entrance to the campus (Exhibit Nos. 1 and 3).

4. On February 26, 2000, the Board of Appeals received a written complaint from various neighbors of the Petitioner regarding certain aspects of the operations of

(a) deletion of the proposed "second entrance," a gated driveway that would have connected the main campus to the intersection of Burning Tree and Beech Tree Roads.

(1) Petitioner advised the Board that it will record a covenant barring access to the school from Burning Tree and Beech Tree Roads under certain circumstances. (Exhibit F to Exhibit No. 180)

(b) relocation of the proposed athletic field and track approximately 120 feet further south than originally requested to reduce ground disturbance and tree loss. The re-siting would expand the separation between the athletic fields and colonies of sensitive plants, and the reorientation of the field and track would increase the distance from the critical root zones of trees located on the adjacent park property. The athletic facility will be connected to the main campus by a two-lane driveway traversing a bridge over Booze Creek, as originally proposed. The remaining improvements associated with the track/field have been reduced in scale. Seating for spectators has been reduced from 750 to 200. The covered press box has been replaced with a concrete "Scorers" pedestal, located at the top of the seating. Parking for vehicles and buses in the immediate vicinity of the athletic field has been reduced to four handicapped spaces and driveway parking for four buses, and all other parking for athletic events would be restricted to the school's main parking lot. Parking on neighborhood streets for athletic events and any activity related to the school will be prohibited. In lieu of two support buildings, the Petitioner now proposes a single structure containing bathrooms, a first aid/training room, coach's rooms, and storage areas (Exhibit No. 190(b) and Exhibits I(1) and I(2) to Exhibit No. 180).

(c) a request for a "Centennial Garden," located in front of the southern face of the campus's main building (Exhibit No. 196)

9. Petitioner's amended special exception modification request includes six new features:

(a) the widening and reconfiguration of the River Road entrance to improve the movement of cars entering and exiting the school. A fourth lane will be added, resulting in one inbound lane and three outbound lanes (Exhibit No. 192(b), Exhibit D to Exhibit No. 180). The redesign of the entrance will require the relocation of the Petitioner's existing sign, stone pillars, and entrance gate;

(b) the construction of a new interior circulation road running roughly parallel to River Road (Exhibit No. 192(b), Exhibit D to Exhibit No. 180) to provide a connection between the Lower School and the Upper School;

(c) the upgrading of an existing emergency driveway connecting the school to Burdette Road, for its entire length and extending to the Lower School parking lot. A gate will be installed to restrict access, except in emergency situations.

the school. On January 23, 2001, Petitioner amended the Statement of Operations submitted with its petition to address issues raised in the written complaint. While that complaint was being reviewed and acted upon by the Board of Appeals, further processing of this Petition was deferred. The Board's Resolution to Modify and Reaffirm Special Exception (Exhibit No. 164), dated September 7, 2001, completed the review and action on the complaint.

5. In an effort to avoid further contested proceedings, the parties negotiated a Neighborhood Reconciliation Agreement ("Agreement") which was executed on October 17, 2001 (Exhibit No. 180). The Agreement resolved the parties' differences and concerns.

6. In accordance with the terms of the Agreement, the Petitioner amended its Special Exception Modification to restate certain original requests (described in paragraph 10 below), eliminate or modify other elements of the original petition (described in paragraph 11 below), and request approval of new features not included in the original petition (described in paragraph 12 below) (Exhibit No. 185).

7. The Petitioner's original requests, which were not modified by the Petitioner's amended proposal, include the following:

(a) incorporation into the existing special exception of approximately 3.6 acres of land donated to the school in 1998. This land area is bisected by Booze Creek and has frontage on the unimproved right-of-way for Burning Tree Road;

(b) construction of a new science wing containing approximately 16,720 square feet, which includes a three-story addition proposed for each side of an existing breezeway corridor that connects the main academic building with the existing Performing Arts Center ("PAC").

(c) expansion of the existing PAC to include (1) a small theater for presentations, rehearsals, and experimental productions; (2) a larger "Music Room" for both instruction and small group rehearsals/ presentations; and (3) an expanded "Orchestra Room" for teaching and presentation sessions for larger groups. The improvements will be located on the interior of a courtyard created by the PAC and the Gymnasium/Pool building and will not be visible from any adjoining properties; and

(d) construction of an approximately 6,056 square foot addition to the Lower School, which will include an "All Purpose Room" to provide space for gatherings, physical education, and lunches that is to be connected to the southern end of the existing Lower School building by a short passageway.

8. The Petitioner's amended proposal modified certain elements of the original special exception request as follows:

- (1) Petitioner has advised the Board that it will record a covenant limiting use of the access driveway to emergencies (Exhibit No. 177(l), Exhibits G and H to Exhibit No. 180).
- (2) These improvements, together with the proposed intra-campus roadway, will provide emergency access to the entire campus.

(d) the siting of the new science wing, referenced in No. 8 above, will bring the face of the buildings closer to the existing traffic circle at the school's main entrance. To maintain an adequately sized lawn in front of the science wing, the Petitioner will reconfigure the traffic circle to create more space and separation from the curb line to the face of the building. The redesign will result in less paved area and will permit construction of a ramp to provide improved handicapped access to the adjacent theater (Exhibit 195(b));

(e) the construction of a pathway at the northwest corner of the site to facilitate movement around the Library (Exhibit No. 177(l)); and

(f) the replacement of several outdated light poles around the campus with more efficient, better designed models.

10. Diana Beebe, Head of School, described the history of Holton-Arms and the state of existing facilities. Ms. Beebe testified about the proposed improvements, including the new science wing, Lower School All-Purpose Room, addition to the PAC, the new athletic facilities and the importance of those facilities to each of the programs that they will serve. Ms. Beebe also testified about the value of the Centennial Garden. Ms. Beebe described the importance of the revised access/circulation system, including the improved entrance to the school, the new intra-campus access road, and the enhanced Burdette Road emergency route. Finally, Ms. Beebe stated that the Petitioner's proposal would be in harmony with the surrounding neighborhood, that it would not be a nuisance, and that it would create no objectionable noise or activity.

11. William Gridley, testifying on behalf of the Petitioner as an expert in architecture, explained the architectural aspects of the proposal including the intended improvements to the science wing, PAC, and activities room (Exhibit Nos. 184 and 186). Mr. Gridley testified that construction of the associated facilities would be in substantial conformance with the plans submitted to the Board and referenced as SE-9, SE-10, and SE-11 (Exhibits 177(i), 177(j) and 177(k)); also Exhibit Nos. 187, 188 and 189). Mr. Gridley also stated that the proposed improvements would meet the general and specific conditions associated with special exceptions, including Section 59-G-1.2 and Section 59-G-2.19, and that the proposed uses would be compatible with the surrounding neighborhood. Mr. Gridley described the proposed single athletic field building, proposed by Petitioner, including motion-activated security lights under the canopy on the building and the low wattage, timed roadway lighting (Exhibit No. 177(k)).

Finally, Mr. Gridley described the improvements to be made to the traffic circle as designated on Drawing SE-15 (Exhibit Nos. 195(a) and 195(b)).

12. Al Blumberg, testifying on behalf of the Petitioner as an expert in land use planning, described the features of the Petitioner's proposal and testified about the additional land area that would be added to the special exception (Exhibit No. 184). Mr. Blumberg stated that the proposal would comply with the general and specific standards associated with the special exception, would conform to the Master Plan recommendations, and that the intended uses would be in harmony with the surrounding neighborhood.

13. Mr. Blumberg also testified about the proposed athletic field and track, as well as the related landscaping features, and described the current proposal for these facilities and the modifications to the original design (Exhibit Nos. 190(a) and 190(b)). Mr. Blumberg explained how the athletic field landscaping relates to the adjacent parkland, including the protection of critical root zones of trees within the park. Mr. Blumberg stated that the relocation of the athletic field and track would increase the separation from the sensitive plant colonies and described the protection and preservation efforts that will be undertaken by the Petitioner.

14. Mr. Blumberg described the Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) (Exhibit No. 193) and the Conservation Easement that Petitioner will have recorded in the Montgomery County Land Records to protect environmental features and undeveloped portions of the subject property. Under the terms of the Conservation Easement Agreement, all wetlands on the Petitioner's property east of Booze Creek, including "Potential Wetlands" as that term is defined in the Conservation Easement Agreement, will be protected and left in an undisturbed state. The area covered by the Conservation Easement, including Wetlands and Potential Wetlands, is shown on the Conservation Easement Areas Plan (Exhibit No. 191, Exhibit J to Exhibit No. 180).

15. Mr. Blumberg further testified as to the details of the Burdette Road emergency driveway improvements (Exhibit G to Exhibit No. 180), and explained the details of the front entrance improvements (Exhibit Nos. 192(a) and 192(b)). Mr. Blumberg testified about the proposed improvements to the path around the Library (Exhibit No. 177(I) and Exhibit K to Exhibit No. 180) and represented that proposed landscaping for the path will be finalized in consultation with the adjoining property owners. Mr. Blumberg also testified that the Petitioner's proposed facilities would be served by adequate sewer and water service and that adequate stormwater management facilities were proposed to accommodate the new development. Finally, Mr. Blumberg described the design and functioning of the new traffic lanes and related transportation improvements at the River Road entrance including a bus stop and sidewalk installed by Montgomery County, Maryland.

16. Brian Stephenson, testifying on behalf of the Petitioner as an expert in landscape architecture, described the overall landscape and lighting aspects of the

proposed special exception (Exhibit Nos. 190(a), 190(b) and 194). Mr. Stephenson testified about the landscaping and lighting details associated with the traffic circle (Exhibits Nos. 195(a) and 195(b)), the athletic field and track (Exhibit Nos. 190(a) and 190(b)), and the front entrance (Exhibit Nos. 192(a) and 192(b)). Mr. Stephenson also testified about how the hillside in front of Granger House, the residence of the Head of School, would be tiered and landscaped in order to complement the new intra-campus road running parallel to River Road (Exhibit Nos. 195(a) and 195(b)). Mr. Stephenson explained the lighting and landscaping details proposed for the Centennial Garden (Exhibit Nos. 96 and 196). Mr. Stephenson additionally testified that all the proposed improvements would be in compliance with the general and specific standards for the special exception and, particularly, that the proposed landscaping and lighting would be compatible with the surrounding neighborhoods.

17. Lee Cunningham, testifying on behalf of the Petitioner as an expert in traffic engineering, described the effects that the proposed physical improvements to the Holton-Arms School campus would have on traffic, turning movements to/from the school, queuing on River Road, and traffic circulation. Mr. Cunningham testified that the intersection improvements at the school's entrance on River Road would ease the entering of cars onto the school and would improve the operating capacity of the intersection. He explained how the new interior roadway parallel to River Road would provide intra-campus relief in the event that an accident at the intersection of River Road/Holton entrance/Old Dominion Drive closed the School's entrance on River Road. Mr. Cunningham also explained the effects that the proposed Transportation Management Program ("TMP") (Exhibit E to Exhibit No. 180) would have on traffic volume and timing, as well as on traffic management. Mr. Cunningham testified that the critical intersections would work at acceptable levels of service and that the traffic from the school would not cause a nuisance or any objectionable conditions. Finally, Mr. Cunningham testified that both on-site and off-site traffic generated by the Petitioner's proposal would operate in a safe and efficient manner.

18. Mr. Kline stated that the Petitioner had amended this petition to be consistent with the provisions of the Neighborhood Reconciliation Agreement (Exhibit No. 180). He acknowledged Exhibit 181(a) (Memorandum relating to the Agreement) and Exhibit No. 181(b) (Statement relating to binding exhibits) on behalf of the Petitioner. Ms. Beebe stated that the Petitioner would implement and operate this special exception, as modified, in accordance with the exhibits of record and the testimony presented to the Board.

19. On behalf of the Bradley Boulevard Citizens Association, Linda Kauskay testified in unqualified support of the Petition of Holton-Arms School, as amended, provided that the revised proposal was constructed and operated in accordance with the terms and conditions of the Petitioner's submissions and the Agreement.

20. William Chen, Esquire described the concerns of Vivian Riefberg and John Ashford about Petitioner's proposed special exception, in particular, the proper identification and protection of wetlands on the Petitioner's property. Mr. Chen

introduced the Stipulated Statement of Testimony of Joseph A. Berg, Ecologist and Senior Environmental Scientist (Exhibit No. 182), the wetlands expert of Ms. Riefberg and Mr. Ashford. Mr. Berg's Statement of Testimony based upon his inspection of Petitioner's property and his review of technical information, site plans, and maps in the files of the United States Army Corps of Engineers, the Maryland Department of the Environment, the Montgomery County Department of Permitting Services, and the M-NCPPC, found that there are five additional wetlands and Waters of the United States (called "potential wetlands") located on the Petitioner's property. Mr. Berg found that these potential wetlands had not been properly delineated or labeled as wetlands requiring protection. Mr. Chen explained that Ms. Riefberg and Mr. Ashford had reached an agreement with Petitioner to treat the potential wetlands that Mr. Berg identified (Exhibit No. 182) in the same manner as the wetlands already delineated by the Corps of Engineers and to record a conservation easement (Exhibit J to Exhibit No. 180 and Exhibit No. 191) subjecting the potential wetlands to the same protections and same restrictions as other wetlands on the Holton-Arms property. Legal counsel for Petitioner acknowledged its agreement with Ms. Riefberg and Mr. Ashford.

21. George Springston testified that the Burning Tree Civic Association generally supported Holton's proposal with the exception of the athletic field and track. He stated that the Association would not address issues of inconsistency between the athletic improvements, the Master Plan and the Environmental Guidelines published by M-NCPPC.

22. George Esenwein, on behalf of the Complainants, testified that they were not opposed to the new athletic facilities and that they supported all of the other proposed modifications.

23. M-NCPPC Technical Staff reviewed the Petitioner's amended proposal, and recommended approval with conditions in a written report (Exhibit No. 173). At the hearing, William Landfair orally modified recommended condition number 3 to allow not more than 35 events per year, including track and field events, on the requested athletic field.

24. Mr. Blumberg testified that this requested special exception modification is subject to the Montgomery County Forest Conservation Law. Accordingly, a Natural Resources Inventory - Forest Stand Delineation plan (No. 4-99132) has been approved (Exhibit No. 193), showing that there are approximately 21 acres of high-quality, upland forest cover in the northeast portion of the property. The dominant tree species within that forest are tulip, maple, sycamore, beech, oak, and hickory. A Preliminary Forest Conservation Plan (Exhibit No. 177(u)) has also been approved for the project, detailing that approximately 7 acres of forest will be cleared to accommodate the athletic field and track. Technical Staff found that reforestation requirements for the site total 2.6 acres and can be met with a mixture of landscaping and on-site reforestation (Exhibit No. 173, page 6).

25. The Technical Staff reported that the Countywide Stream Protection Strategy assesses the Lower Booze Creek subwatershed as having poor stream conditions and fair to good habitat conditions, labeling it as a Watershed Restoration Area (Exhibit No. 173, page 6). Mr. Blumberg testified that the Petitioner proposes to provide water quality control via surface sand filters and water quantity control via an underground storage tank.

26. A stream restoration plan was submitted by the Petitioner to the M-NCPPC to mitigate the effects on Booze Creek of the athletic field and track, stream crossing and related construction.

27. Mr. Blumberg testified that the subject property contains wetlands as described in Exhibit No. 191. The site further contains a 100-year floodplain bisecting the property from north to south. In addition, five sensitive plant colonies have been identified within the proposed forest retention areas and will not be disturbed (Exhibit No. 191). Seekey Cacciatore, of the M-NCPPC Technical Staff, testified that it would be better if the identified sensitive plant colonies were not fenced or otherwise identified after construction is completed to preserve their anonymity.

28. A preliminary subsurface exploration report was undertaken by the Petitioner to determine whether blasting would be required (Exhibit No. 62(b)). All blasting to be conducted by the Petitioner will be regulated by the State Fire Marshall's office. Based on Section 22-71 of the Fire Safety Code of Montgomery County Code and State blasting regulations, blasting will be limited to the hours of 7 a.m. to 7 p.m. weekdays and from 9 a.m. to 7 p.m. Saturdays.

29. The Staff found that the proposed improvements to the School's transportation network would manage the flow of traffic at the River Road entrance in a safe and efficient manner without impeding the flow of traffic on the State Highway. Staff also found the Petitioner's proposed TMP to be consistent with the contents of the previous TMP that Staff found to be acceptable (Exhibit No. 173, page 5).

30. Staff found that the proposed modification satisfies the general and specific requirements for the uses found in Sections 59-G-1.21, 59-G-2.19, and 59-G-2.13.1 of the Zoning Ordinance and recommended approval, subject to conditions (Exhibit Nos. 173 and 202).

#### **FINDINGS OF THE BOARD:**

Based on the Petitioner's binding testimony, the evidence of record and the exhibits presented at the public hearing, the Board concludes that the requested modification to the special exception can be granted with the conditions set forth below.

**Section 59-G-1.2.1 Standard for Evaluation**

Section 59-G-1.2.1 sets forth the standard by which the Board must evaluate a special exception or its modification. That standard requires that a special exception be evaluated based on its inherent and non-inherent adverse effects at the particular location proposed, irrespective of adverse effects if elsewhere established in the zone (Zoning Text Amendment No. 99004, Opinion, page 4). Section 59-G-1.2.1 States:

*A special exception must not be granted absent the findings required by the Article. In making these findings, the Board of Appeals ... must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with the inherent effects, are a sufficient basis to deny a special exception.*

The Board interprets this section to require the following analysis. The Board must:

- (1) Make a determination as to the general neighborhood affected by the proposed use.
- (2) Establish those inherent, generic physical and operational characteristics associated with a given use, in this case the modification of an existing private educational institution special exception, to create an evaluation standard. The evaluation standard does not include the physical size and scale of operations.
- (3) Determine separately the physical and operational characteristics of the requested modification proposed by the Petitioner.
- (4) Compare the generic physical and operational characteristics with the particular characteristics of the proposed modification. Inherent adverse effects are those characteristics of the modification that are consistent with the generic characteristics of the evaluation standard. Non-inherent adverse effects are those characteristics caused by the modification that are not found in the evaluation standard.

Applying the above analysis to this case, the Board finds as follows:

(1) The General Neighborhood

The Board finds that the surrounding neighborhood is predominantly residential in character. Adjoining the school to the north are single-family homes in the R-200 Zone. Adjoining the school to the east are single-family homes in the R-90 Zone and Burning Tree Local Park owned by the M-NCPPC. Located nearby to the southeast is Burning Tree Elementary School. Across River Road to the south are single-family homes in the R-200 Zone and the Primary Day School. Adjoining the campus to the west are single-family homes in the R-200 Zone and further to the west is Burning Tree Country Club. The interchange between River Road and the Capital Beltway (I-495) begins approximately 1,100 feet west of the school

(2) Evaluation Standard – Physical and Operational Characteristics

The Board recognizes that Planning Board staff has, in previous cases, offered seven criteria to be used to establish the physical and operational characteristics of a requested special exception use. These are: size, scale, scope, lighting, noise, traffic, and environment.

The Board finds that typical of a public or private elementary school in Montgomery County is a substantially sized building in terms of square footage. These buildings are generally one to two stories in height. Operationally, the Board finds that a private or public elementary school can be expected to have anywhere between 100 to 500 students. The Board finds that a certain degree of outdoor lighting for security purposes is inherent at such schools, that noise from outdoor recess or sports gatherings on outdoor fields is to be expected, and that special events such as Back-to-School nights or other post school hour activities will take place on occasion. The expected hours of operation would generally be between 8:00 A.M. and 3:00 P.M. Bus and automobile traffic are expected to be associated with a private or public elementary school. Finally, impacts on the environment, such as runoff from the school building and the parking facility, are to be expected.

(3) Proposed Modification: Physical and Operational Characteristics

The Petitioner has requested modifications to accommodate the needs of the academic, athletic, and extra-curricular activities. These improvements include the construction of a new science wing, expansion of the PAC, an addition to the Lower School Building, and a new athletic field and track. The Board finds that the new facilities will conform to the setbacks, design, and materials of the existing buildings and are located on the part of the campus which provides sufficient distance from adjoining properties to mitigate satisfactorily noise or possible adverse impacts. The Board finds with regard to the requested athletic field and track that the location, size, setbacks, scope of activities, forest conservation easements, and extensive new plantings will provide a satisfactory buffer for neighboring properties. The Board finds that the proposed TMP is designed to reduce traffic to and from the campus, and that the new facilities, as well as existing ones, will be served by an expanded and improved road

system which will accommodate the traffic generated by the school without adverse impact on neighboring properties. The Board further finds the Petitioner's proposed lighting is more efficient than the existing lighting that it replaces and that the new lighting fixtures will reduce the potential impact on neighbors. The Board also finds that the proposed landscaping in the vicinity of the new entrance on River Road will mitigate the impact of the grading necessary to accommodate that road improvement.

(4) Comparison of Characteristics

After considering the generic characteristics of the use and comparing them with the physical and operational characteristics of the proposed modification, based on the Technical Staff analysis and recommendation, the Planning Board recommendation, the Petitioner's Transportation Management Plan, the evidence and testimony presented by the Petitioner and the other parties of record as set out above; and the amended modification, as described and set out above, the Board finds that all of the physical or operational characteristics associated with this requested modification will be inherent adverse effects.

Section 59-G-1.21 General Conditions.

The Board find that the petitioner has, by a preponderance of the evidence of record, established that the proposed modification meets the requirements in Section 59-G-1.21 as follows:

(1) *Is a permissible special exception in the zone.*

The Board finds that the modification of the Petitioner's special exception as proposed is permissible in the R-90 and R-200 zones.

(2) *Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.*

As noted below, the Board finds that the proposed modification satisfies the standards and requirements for private educational institutions, in Section 59-G-1.21(a)(2) of the Zoning Ordinance.

(3) *Will be consistent with the general plan for the physical development of the District, including any master plan thereof adopted by the Commission. Any decision to grant or deny special exception must be consistent with a recommendation in an approved and adopted master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that the granting of a particular special exception at a particular location would be inconsistent with the land use objectives of*

*the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.*

The Board finds that the subject property is covered by the 1990 Bethesda-Chevy Chase Master Plan. The Plan affirms the existing R-90 and R-200 Zones for the property and recognizes that private school use may continue on the property.

*(4) Will be in harmony with the general character of the neighborhood considering population density, design, scale, and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions and number of similar uses.*

The Board finds that the proposed use will be in harmony with the general character of the neighborhood when considering population density, design, scale, and bulk of the proposed new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses. The modification, because of the siting, design, landscaping, buffering and limitations on use, will be in harmony with the surrounding neighborhood. The Board further finds that there is adequate parking on site and the proposed transportation network changes will improve intersection operation, circulation and safety.

*(5) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The Board finds that the proposed modification will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood.

*(6) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The Board finds that the proposed modification will cause no objectionable noise, vibrations, fumes, odors, dust, glare or physical. Restrictions on the times and frequency of use, public address system and permitted number of spectator seats, together with the increased setbacks and buffered areas, will result in no objectionable noise on nearby properties from the use of the athletic field and track. The anticipated noise from the athletic field and track will be within the standards imposed by the Montgomery County Noise Ordinance and should not have any effect on existing noise levels in the surrounding neighborhood. The track and field will not be lit. The Board finds that other lighting proposed will be limited and will not cause glare or other adverse impacts on the adjacent residential neighborhood; and that emphasis will be placed on shielding the source point of the lights to control their spread of light.

(7) *Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.*

The Board finds that the proposed use will not, when evaluated in conjunction with existing and approved special exceptions in the neighboring one-family residential area, increase the number, intensity or scope of special exception uses sufficiently to affect the area adversely or alter its predominantly residential nature.

(8) *Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The Board finds that the proposed use will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area. The existing special exception has operated for many years without causing such adverse effects and that the proposed road system modification will enhance traffic safety and emergency access for the school.

(9) *Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.*

The Board finds that the subject property will continue to be served by adequate public facilities.

(i) *If the special exception use requires approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception.*

The Board finds that the modification will not require approval of a preliminary plan of subdivision.

(ii) *With regard to findings related to public roads, the Board ... must further determine that the proposal will have no detrimental effect on the safety of vehicular or pedestrian traffic.*

The Board finds that the reconstructed River Road entrance, intra-campus road improvements and the Burdette Road emergency driveway will improve the Petitioner's transportation operations and facilities in a manner that is consistent with the goals of the School and its neighbors, and will have no detrimental effect on the safety of vehicular or pedestrian traffic.

**Section 59-G-2.19 Educational institutions, private.**

(a) *Generally. A lot, tract or parcel of land may be allowed to be used for a private educational institution upon a finding by the Board:*

*(1) That such use will not constitute a nuisance because of traffic, number of students, noise, type of physical activity or any other element which is incompatible with the environment and character of the surrounding neighborhood; and"*

The Board finds that the proposed modification will not constitute a nuisance because of traffic, number of students, noise, type of physical activity or any other element. The school has been in operation at this location since 1963. The requested buildings, proposed athletic field and track, and other activity areas are well set back from adjoining uses, and the topography and forest buffer will provide additional buffering. The Board finds that the minimum setback for the field and track will be substantially greater than the minimum 100 feet recommended in the Montgomery County Recreational Facility guidelines referenced in the Staff Report (Exhibit No. 173). Bleacher seating for the track and field will be limited to 200. Use of the new field and track is limited to daylight hours and in the number, frequency and type of event that can occur.

*(2) That, except for buildings and additions thereto completed, or for which building permits have been obtained prior to the time of adoption of this section, such use will be housed in buildings architecturally compatible with other buildings in the surrounding neighborhood, and, in the event such building is to be located on a lot, tract or parcel of land of 2 acres or less, in either an undeveloped area or an area substantially developed with single-family homes, that the exterior architecture of such building will be of a residential home design, and at least comparable to existing residential homes, if any, in the immediate neighborhood; and*

The proposed science wing, performing arts center expansion, and lower school building will be designed and constructed of materials that are similar to those of existing buildings and will be architecturally compatible with the surrounding neighborhood. The support building for the athletic field, while of institutional design, will be inset into the proposed grade to mitigate its impact and shielded by forest buffer from the view of neighboring residences. The Board finds that the proposed school buildings are architecturally compatible with the surrounding neighborhood.

*(2) That such use will not, in and of itself or in combination with other existing uses, affect adversely or change the present character or future development of the surrounding residential community; and*

The proposed setbacks and buffering will be sufficient to prevent any adverse effect.

*(4) That such use can and will be developed in conformity with the following area, density, building coverage, frontage, setback, access and screening requirements, where specified:*

*(a) Area, Frontage and Setback: As shall be specified in a site plan of development approved by the Board; provided, that in no event shall such standards be less than the area regulations for the zone in which the private educational institution is proposed to be located; and*

*(b) Access Building Coverage and Screening: As shall be specified in a site plan of development approved by the Board; and*

*(c) Density: Such density, being the allowable number of pupils per acre permitted to occupy the premises at any one time as shall be specified by the Board upon consideration of the following factors:*

*1. Traffic patterns, including:*

- (a) Impact of increased traffic on residential streets;*
- (b) Existence of arterial highways; and*

*2. Noise or type of physical activity; and*

*3. Character, percentage and density of existing development and zoning within the community;*

*4. Topography of the land to be used for the special exception;*

*5. Provided that a density in excess of 87 pupils per acre may only be permitted upon a finding that:*

- (a) the program of instruction, special characteristics of students, or other circumstances justify reduced space and facility requirements,*
- (b) the additional density will not adversely affect adjacent properties,*

(c) *additional traffic generated by the additional density will not adversely affect the surrounding streets; and*

(d) *adequate provisions for drop-off and pick-up of students will be provided.*

The Board finds that the Petitioner has, by testimony, written statements, site plans, architectural drawings and other exhibits, demonstrated that the modification will conform to the development standards for the R-200 and R-90 Zones. The campus is comprised of 58.5 acres. The minimum lot sizes for the R-200 and R-90 Zones is 20,000 and 9,000 square feet respectively. The school buildings are set back well in excess of the required 40 foot minimum front yard, 15 foot side yard, and 30 foot rear yard setbacks. The location of the proposed athletic field exceeds the minimum setback of 100 feet recommended in the County Recreational Guidelines. Traffic patterns will not change. The enrollment of 645 full time students results in a ratio of students per acre well below the maximum allowed density of 87 students per acre.

(b) *Site Plan*

(1) *In addition to submitting such other information as may be required, an applicant shall submit with his application a site plan of proposed development. Such plan shall show the size and shape of the subject property, the location thereon of all buildings and structures, the area devoted to parking and recreation facilities, all access roads and drives, the topography and existing major vegetation features, the proposed grading, landscaping and screening plans, and such other features necessary for the evaluation of the plan.*

The Board finds that the applicant has submitted such a plan (Exhibit Nos. 177(l) and 184).

Therefore, based on the foregoing, the Board **GRANTS** the requested special exception modification, subject to the following conditions:

1. The Petitioner is bound by its testimony and exhibits of record, the testimony of its witnesses and representations of its attorneys to the extent that such evidence and representations are identified in this Opinion, including the following exhibits:

- a. Amended Statement of Operations (Exhibit 185)
- b. Special Exception Site Plan (Exhibit Nos. 177(l) and 184)
- c. Elevations (Exhibit Nos. 177(i) and 187, 177(j) and 188, and 177(k) and 189)

- d. Track and Field Plan (Exhibit Nos. 190(a) and 190(b))
- e. Conservation Easement Areas Plan (Exhibit No. 191)
- f. Front Entrance Improvements Plan (Exhibits Nos. 192(a) and 192(b))
- g. Lighting Plan (Exhibit No. 194)
- h. Front Circle Improvement Plans (Exhibits Nos. 195(a) and 195(b))
- i. Centennial Garden Plan (Exhibits Nos. 96 and 196)

2. Petitioner shall establish a neighborhood liaison committee for the purpose of facilitating communication between the school and its neighbors and to provide a mechanism to resolve potential disputes between the school and its neighbors. The People's Counsel of Montgomery County shall be an ex officio member of the committee. The committee shall meet at least quarterly.

3. The Petitioner shall implement the Transportation Management Plan (Exhibit E to Exhibit No. 180) to minimize and manage the vehicular traffic to and from its campus.

4. Holton-Arms shall not permit access to its campus from Burning Tree or Beech Tree Roads.

5. Access to Holton-Arms' campus from the improved Burdette Road emergency access shall be limited to emergency vehicles and/or emergency evacuation of the campus.

6. Petitioner's use of the new athletic field and track ("athletic improvements") shall be limited to (a) Holton-Arms' regular physical education classes; (b) school functions attended solely by Holton-Arms family (defined as students enrolled in Holton-Arms during the academic year, their siblings and parents, Holton-Arms faculty and staff, and their children); (c) sports practices for Holton-Arms' teams; (d) solo track or sport practice by a member of the Holton-Arms family; (e) interscholastic athletic competitions (not to exceed a total of 35 per academic year, including track and field events) between Holton-Arms and other schools consisting of the Holton-Arms team and one opposing team from another school; provided, however, that track and field events may include up to four (4) opposing teams; and (f) interscholastic athletic conference championships in which Holton-Arms is a host school for conference elimination and/or championship events (regardless of whether Holton-Arms is a participant in the finals) for a conference or league in which Holton-Arms has participated that year; provided, however, that (i) any individual sport's conference elimination and/or championship events shall not be held on the athletic improvements more

frequently than once every five (5) years and (ii) conference elimination and/or championship events shall not be held on the athletic improvements more frequently than once per year. During such championships, the number of events shall not exceed one match or game per weekday and two on weekend days. Except for such conference elimination and/or championship events, the total number of events held on the athletic improvements on weekend days shall not exceed five (5) per year. The proposed athletic improvements shall not be used during the time period June 15 through August 31, except for try-outs and sports practices for Holton-Arms teams or when one or both of the other fields are closed for periodic maintenance. Holton-Arms may request a change in the frequency of field use.

7. No non-portable public address system shall be installed in the vicinity of the new athletic field and track. Any portable public address system shall be used only by coaches or officials and only for track and field events.

8. Spectator seating for the proposed athletic field and track shall be limited to a maximum of 200 seats.

9. Parking on streets in the surrounding neighborhood is prohibited for athletic or other school related activities.

10. Petitioner must receive approval of a Final Forest Conservation Plan (which identifies wetlands on the Plan in a manner and with notations identical to Exhibit No. 191) from Maryland-National Capital Park and Planning Commission Technical Staff prior to release of sediment and erosion control or building permit, as appropriate. No grading, tree cutting, brush clearing or other work shall commence on that portion of the Petitioner's property which is the subject of the Conservation Easement (Exhibit 191 and Exhibit 180(j)) before the Conservation Easement is recorded in the land records of Montgomery County.

11. Petitioner must comply with the Montgomery County Department of Permitting Services requirements for stormwater management and sediment erosion control.

12. The Petitioner must comply with a stream restoration plan to be approved by the Montgomery County Department of Environmental Protection and the Maryland-National Capital Park and Planning Commission Technical Staff and with permits issued by the United States Army Corps of Engineers, Baltimore District, and/or the Maryland Department of the Environment, Wetlands and Waterways Program, that may be required by law, prior to implementation and prior to release of building permit or sediment and erosion control permit, as appropriate for any improvements on the east side of Booze Creek. Prior to release of building permit or sediment and erosion control permit for improvements on the east side of Booze Creek, the Environmental Planning

Division of the Maryland-National Capital Park and Planning Commission shall verify that the Petitioner has received all necessary permits.

13. Any blasting shall be limited to 7 a.m. to 7 p.m. weekdays and 9 a.m. to 7 p.m. Saturdays, consistent with the requirements of the State Fire Marshall and the Montgomery County Fire Safety Code. The Petitioner shall provide notice 24 hours in advance to property owners located within 500 feet of the blasting site, and to the neighborhood liaison committee, of a blasting event.

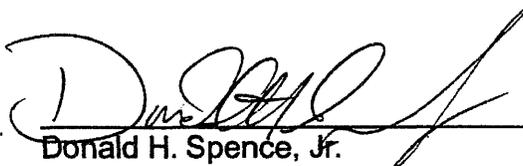
14. All construction equipment and material must enter and exit the subject property via the River Road entrance.

15. No new building authorized by this modification shall be occupied, nor any new athletic facilities constructed, until completion of the roadway improvements set forth in Exhibit Nos. 192(a) and 192(b) and the completion of the emergency access improvement set forth in Exhibit Nos. 177(l) and Exhibit G to Exhibit 180.

16. Prior to commencement of construction, east of Booze Creek, Petitioner shall fence the identified sensitive plant colonies and protect them during the construction phase. Upon completion of construction and stabilization, the fencing shall be removed and the sensitive plant colonies shall not be otherwise identified to preserve their anonymity.

On a motion by Angelo M. Caputo, seconded by Donna L. Barron, with Donald H. Spence, Jr., Chairman, Louise L. Mayer, and Allison Ishihara Fultz in agreement, the Board adopted the following Resolution:

**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 case.



Donald H. Spence, Jr.

Chairman, Montgomery County Board of Appeals

**Case No. CBA-1174-C****Page 21.**

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 29<sup>th</sup> day of May, 2002.



Katherine Freeman  
Executive Secretary to the Board

**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 any party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.

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 (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.

See Section 59-A-3.2 of the Zoning Ordinance regarding Use and Occupancy Permit for a Special Exception.

BOARD OF APPEALS  
for  
MONTGOMERY COUNTY

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

**Case No. CBA-1174-C**

**PETITION OF HOLTON-ARMS SCHOOL, INC.**

**RESOLUTION TO GRANT ADMINISTRATIVE MODIFICATION**

(Resolution Adopted July 31, 2002

(Effective Date of Resolution: August 19, 2002)

Petitioner, Holton-Arms School, Inc., has requested that the Board of Appeals modify Special Exception No. CBA-1174-C administratively, pursuant to the provisions of Section 59-B-1.3(c)(1) without the necessity of a public hearing, to allow for the temporary use of portable modular classrooms on site.

The Board of Appeals is in receipt of a letter from Jody S. Kline, Esquire dated July 15, 2002. Mr. Kline's letter states in part:

"Recently, Holton-Arms identified that it may need some type of temporary classroom facilities during the construction phase of the new science wing which was approved by the Board on May 29, 2002. In particular, Holton's contractor, Hitt Contracting, has pointed out some efficiencies that can be achieved if Holton could transfer certain classrooms to temporary space while it sequentially renovates interior space in the existing structure during the simultaneous construction of the new science wing. Using this technique, the construction schedule can be "tightened up" and the School can be more confident that all construction will be completed by the opening of school in September, 2003."

"Since space in the existing buildings is at a premium..., there is no place within the School today to which classes can be reassigned. Accordingly, Holton would like the Board's permission to install two modular classrooms in the rear of its main academic and administration buildings. As shown on the attached site plan, the two structures will be located near the Marriott Library. One will be accessed by a ramp and stairs leading from the corridor that connects the Library to the Academic Building. The second modular will be accessed by a walkway leading from the traffic circle in front of the Library. Students using the second portable classroom building will proceed through the Library, will exit through the entrance facing the traffic circle and will then

walk on the paved surface of the driveway to the walkway leading to the temporary structure."

"The Board may recall the geography of the Holton campus well enough to recognize that, due to the proposed locations and existing vegetation, the modular classrooms will be visible from only one adjacent property (the Yano property) and will only be visible during certain times of the year in a "filtered" manner because of the trees and shrubs along the common property line."

"Information about the modular classrooms (manufactured by a General Electric affiliate) is contained in materials attached to this letter request. The dimensions of each building are 28' wide by 66' long by approximately 13' high (at the peak of the roof line). The buildings are constructed of wooden panels sheathing a wood and metal frame, and will be colored in a subtle pewter hue ("Driftwood") with darker accent pieces ("Ironwood") to complement the existing Holton buildings. The buildings will have electricity, heating and air conditioning but no toilet facilities. Each modular will sit on temporary concrete footings but there will be a "skirt" on the building extending the side walls to the ground giving the portable classrooms a sense of permanence and stability. Each building will hold up to 40 students and teachers in two classrooms but, depending on which classes are utilizing the space at any given time, actual occupancy is expected to be less. Because of the location of the structures, no landscaping need be installed to supplement the trailers nor will any existing vegetation be lost by the installation and use of the modulsars."

"Holton-Arms anticipates that the modular classrooms will be in place and in use from September, 2002 through September, 2003 when they will be disassembled and removed by the owner."

"This request for use of temporary modular classrooms is modest in nature and of a limited duration. The portable classrooms will not change the nature, character or intensity of the use of the property as a private educational institution. Furthermore, this proposal will not change the effect of the School on traffic, neither volume nor patterns, and will have no adverse affect on the surrounding neighborhood. Therefore, Holton-Arms requests that the Board of Appeals grant this modification administratively, pursuant to the provisions of Section 59-G-1.3.c without the necessity of a public hearing."

The subject property is zoned R-200 and R-90 and is located at 7303 River Road, Bethesda, Maryland, on the north side of River Road, east of that road's intersection with Burdette Road. The property has approximately 770 feet of frontage with River Road and 110 feet of frontage with Burdette Road. The school also has frontage on the unimproved right-of-way for Burning Tree Road approximately 150 feet west of the intersection of Burning Tree and Beech Tree Roads. Bisecting the campus from north to south is Booze Creek, a tributary of the Cabin John Creek main stem.

The Board of Appeals considered the request at its worksession on July 31, 2002. After careful consideration and a review of the record, the Board finds that the requested modification can be granted without the necessity of a public hearing.

With respect to modification of special exceptions, Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance provides in pertinent part:

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 that the portable modular classrooms described in this request for administrative modification serve a valuable and necessary purpose and are compatible with the uses in the area in which they are located. The Board further finds that the requested portable modular classrooms will neither substantially change the nature, character or intensity of this private educational institution nor change the effect on traffic or otherwise adversely effect the surrounding neighborhood. Therefore,

On a motion by Louise L. Mayer, seconded by Donna L. Barron, with Angelo M. Caputo, Allison Ishihara Fultz, and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the following Resolution:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-C, Petition of Holton-Arms School, is hereby reopened to receive Jody S. Kline's July 15, 2002 letter; and

**BE IT FURTHER RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception to allow the use of portable modular classrooms as described herein 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 granted in Case No. CBA-1174-C, together with any modifications thereto granted by the Board of Appeals, remain in full force and effect.

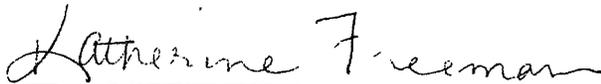


Donald H. Spence, Jr.  
Chairman, Montgomery County Board of Appeals

Case No. CBA-1174-C

Page 4.

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
This 19<sup>th</sup> day of August, 2002.



Katherine Freeman  
Executive Secretary to the Board

**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.

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 (See Section 59-A-4.63 of the County Code). 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.

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**Case No. CBA-1174-D, S-2467-A, S-2503**

**PETITION OF HOLTON-ARMS SCHOOL**

**OPINION OF THE BOARD**

(Effective Date of Opinion: March 23, 2004)

Case No. CBA-1174-D is an application for a special exception modification to permit continuation of existing after-school programs, initiation of other after-school programs, and an increase in the permitted general enrollment of the school from 650 to 665, with the possible addition of another 5 students if circumstances warrant.

Case No. S-2467-A is an application for a special exception modification to permit increase in day care enrollment from 15 to 20, with permission to have children of other specified schools fill up to 12 slots if they are not filled by children of Holton faculty and staff.

Case No. S-2503-A is an application for a special exception modification to permit an increase in enrollment of the summer camp from 650 to 665.

The Board of Appeals consolidated the cases and, pursuant to the authority in Section 59-A-4.125 of the Zoning Ordinance, referred the cases to the Hearing Examiner for Montgomery County to conduct a public hearing and submit a Report and Recommendation. The Hearing Examiner convened a public hearing on November 14, 2003, which was continued on November 25, 2003, closed the record on December 5, 2003, and on January 9, 2004, issued a Report and Recommendation for approval of the requested modifications, subject to conditions.

Decision of the Board: **Special Exception Modifications Granted  
Subject to Conditions Enumerated Below.**

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on January 21, 2004. After careful consideration and a review of the record, the Board adopts the Report and Recommendation and **grants** the requested modifications subject to the following conditions:

1. The Petitioner shall be bound by all of its testimony and exhibits of record, and by the testimony of its witnesses and representations of counsel identified in the Hearing Examiner's Report and Recommendation.
2. All terms and conditions of the approved special exceptions shall remain in full force and effect, except as modified by the Board of Appeals.
3. Petitioner will continue to use its best efforts to obtain State approval for extension of the left-turn storage lane on eastbound River Road at the intersection with the Holton-Arms entrance and Royal Dominion Drive.
4. Petitioner's Transportation Management Plan, Exhibit E to Exhibit 180 in Case No. CBA-1 174-C, should be amended, as follows:

Insert as item I(C)(3):

It is expected that students under the age of 16 residing with a member of the faculty or staff will travel with that faculty or staff member to and from school.

Insert the following as Section IV:

Holton's Director of Special Events, or other designated staff member, will maintain a Master Calendar to ensure that activities approved by the Board of Appeals as additional uses of the campus (for example, college preparatory classes, Center of the Arts activities, recreational programs, and uses of the theatre) are scheduled in such a manner as to avoid traffic movements during the School's arrival and departure times to the extent reasonably possible. The Director of Special Events, or other designated staff member, will ensure there is sufficient parking for the scheduled activities. At no time will events or activities be scheduled that will overburden the School's ability to manage the anticipated traffic and to contain all parking on-site.

5. Petitioner shall conduct a traffic study, as follows:

In May 2005, the Petitioner will submit a traffic study to the Board of Appeals and the Transportation Planning staff of the Maryland-National Capital Park & Planning Commission, after consultation with the Bradley

Boulevard Citizens Association (BBCA), the Burning Tree Civic Association (BTCA), and the Office of the People's Counsel (OPC) as to the parameters of the traffic study. Copies of the study shall be provided to the BBCA, BTCA, and the OPC. In accordance with Section 59-G-2.19(b), the traffic study will evaluate the traffic generated by the increased enrollment and by the After-Hours/Non-School activities in combination with all other approved activities on the special exception site, including any adverse effects on pedestrian and vehicular traffic safety, capacity, queuing and turning movements arising from the River Road, Holton-Arms and Royal Dominion intersection. Upon receipt of the analysis and comments of the Transportation Planning staff and other interested parties, the Board of Appeals may conduct a public hearing to discuss the study and the analysis and comments of the Transportation Planning staff. Should the Board of Appeals determine that there has been an adverse traffic impact due to the modified uses, then the Board may, after a public hearing, amend the conditions of approval for the modified uses approved by this Opinion; however, every effort will be made to avoid any reduction in enrollment from the approved level of 665.

6. Petitioner's enrollment cap is increased to 665, but on rare occasions Petitioner may admit up to five additional students on the following conditions:

- Admission request received outside regular admissions process which is January- April of preceding school year.
- Student must be academically eligible.
- Any student admitted pursuant to this provision will be included in the enrollment cap in future years.
- Holton-Arms must have available classroom space and faculty to accommodate student without adding any new personnel.
- Holton-Arms will report in its Annual Report (September) its enrollment figures for the academic year just ended, including the number of students admitted outside the regular admissions process in excess of 665 students.

7. Petitioner may increase the number of children in its day care program to 20 under the following conditions:

- Enrollment capped at 20 children, ages 6 weeks to 5 years, supervised by five full-time staff members and additional student volunteers.
- Enrollment priority given to Holton-Arms Faculty/Staff.
- Open to Faculty/Staff of Burning Tree Elementary, Primary Day, Landon and Norwood Schools in order to form suitable classes for children of Holton-Arms faculty and staff.

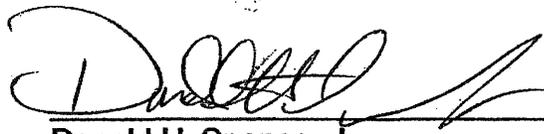
- Academic calendar only (September to June).
- Hours: 7:30 a.m. until 5 p.m. weekdays, and 4 p.m. on Fridays. No weekends.
- Holton-Arms will include, in its Annual Report to be filed in connection with the school's special exception case (Case No. CBA-I 174), enrollment data for the child day care facility, identifying the number of non-Holton children, if any, enrolled in the program for the year just ended as well as the total number of children afforded care during that same year.
- Non-Holton faculty/staff children will not exceed twelve.

8. Petitioner may increase the number of children in its summer camp to match the number of children in its approved regular enrollment, capped at 665 children under these approved modifications.

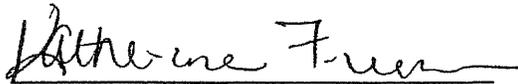
9. Petitioner may conduct the after-school and miscellaneous activities specified in the attached Exhibits 25c-1 through 25c-7, as amended, in accordance with the conditions specified in the last column of each of those exhibits.

On a motion by Donna L. Barron seconded by Louise L. Mayer, with Angelo M. Caputo, Allison Ishihara Fultz and Donald H. Spence, Jr., Chairman in agreement, the Board adopted the following Resolution:

**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.

  
\_\_\_\_\_  
Donald H. Spence, Jr.  
Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 23<sup>rd</sup> day of March, 2004.



Katherine Freeman  
Executive Secretary to the Board

**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 (See Section 59-A-4.63 of the County Code). 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.

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**Case No. CBA-1174-D**

**PETITION OF HOLTON ARMS SCHOOL**

**RESOLUTION TO MODIFY SPECIAL EXCEPTION**

(Resolution Adopted September 13, 2006

(Effective Date of Resolution: October 27, 2006)

The Board of Appeals has received a letter, dated August 18, 2006, from Elsie L. Reid, Esquire, on behalf of The Holton Arms School. Ms. Reid writes to make the Board aware that the school has modified its school day slightly, changing to a six-day cycle, and closing at the same time each day. Previously, the school had closed a half-hour early on Fridays.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered Ms. Reid's letter at its Worksession on September 13, 2006. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance 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 that the change in school hours on Fridays 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 Angelo M. Caputo, seconded by Donna L. Barron, with Wendell M. Holloway and Allison Ishihara Fultz, Chair, in agreement and Caryn L. Hines necessarily absent:

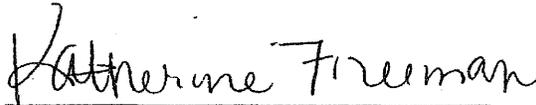
**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D, Petition of The Holton Arms School, is re-opened to receive Elsie L. Reid's letter dated August 18, 2006; and

**BE IT FURTHER RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception 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.

  
\_\_\_\_\_  
Allison Ishihara Fultz  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 27<sup>th</sup> day of October, 2006.

  
\_\_\_\_\_  
Katherine Freeman  
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 (See Section 59-A-4.63 of the County Code). 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.

**BOARD OF APPEALS  
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**Case No. CBA-1174-D**

**PETITION OF HOLTON ARMS SCHOOL**

**RESOLUTION TO MODIFY SPECIAL EXCEPTION**

(Resolution Adopted December 19, 2007)

(Effective Date of Resolution: January 18, 2008)

The Board of Appeals has received a letter, dated December 6, 2007, from Elsie L. Reid, Esquire, on behalf of The Holton Arms School. Ms. Reid requests administrative modification of the special exception to permit replacement of its lower school athletic field with a synthetic turf field, to slightly relocated an emergency access path, to enlarge an existing outdoor blacktop court to approximately fifty feet by seventy five feet, and to install five additional, ground-mounted lights at its main entrance. Ms. Reid encloses drawings and lighting specification information in support of the request [Exhibit Nos. 111-111(c)(iii)].

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered Ms. Reid's letter at its Worksession on December 19, 2007. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance 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.

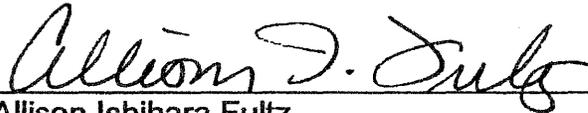
The Board finds that the requested modifications will have little outward impact and will not substantially change the nature, character or intensity of the use or its effect on traffic or on the immediate neighborhood. Therefore, on a motion by

Catherine G. Titus, Vice-Chair, seconded by David K. Perdue, with Wendell M. Holloway, Caryn L. Hines and Allison Ishihara Fultz, Chair, in agreement:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D, Petition of The Holton Arms School, is re-opened to receive Elise L. Reid's letter dated December 6, 2007, with attachments [Exhibit Nos. 111-111(c)(iii); and

**BE IT FURTHER RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception 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.



Allison Ishihara Fultz  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 18<sup>th</sup> day of January, 2008.



Katherine Freeman  
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 (See Section 59-A-4.63 of the County Code). 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.

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**Case No. CBA-1174-D**

**PETITION OF THE HOLTON ARMS SCHOOL, INC.**

**RESOLUTION TO MODIFY SPECIAL EXCEPTION**

(Resolution Adopted April 16, 2008)

(Effective Date of Resolution: May 15, 2008)

The Board of Appeals has received a letter, dated April 10, 2008, from Elsie L. Reid, Esquire, on behalf of The Holton Arms School. Ms. Reid requests administrative modification of the special exception to permit two activities at the school: 1) extension of the school's education program through summer participation in an international exchange program with 24 tennis players from other countries, during the week of August 9-17 2008, and in future summers; 2) use of meeting space at Holton Arms by the neighboring Fox Hill Sunrise community, on Saturday April 26, from 9 a.m. to Noon. Ms. Reid informs the Board that members of the school's Neighborhood Liaison Committee discussed the proposals and viewed them favorably at an April 8, 2008 meeting.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered Ms. Reid's letter at its Worksession on April 16, 2008. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance provides, pertaining to modification of special exceptions:

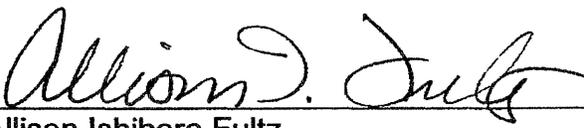
If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the Board, without convening a public hearing to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

The Board finds that neither of the two requested activities will substantially change the nature, character or intensity of the special exception use or its effect on traffic or on the immediate neighborhood. The Board does note that it received somewhat short notice of the requests. Therefore, on a motion by Catherine G. Titus, Vice-Chair, seconded by David K. Perdue, with Caryn L. Hines, Wendell M. Holloway and Allison Ishihara Fultz, Chair, in agreement:

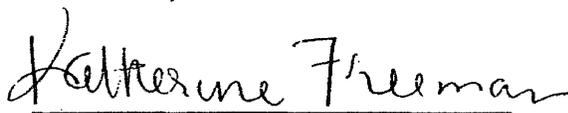
**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D, Petition of The Holton Arms School, is re-opened to receive Elsie L. Reid's letter dated April 10, 2008 [Exhibit No. 118]; and

**BE IT FURTHER RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception 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.

  
Allison Ishihara Fultz  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 15<sup>th</sup> day of May, 2008.

  
Katherine Freeman  
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 (See Section 59-A-4.63 of the County Code). 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.

**BOARD OF APPEALS  
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**Case No. CBA-1174-D**

**PETITION OF THE HOLTON ARMS SCHOOL, INC.**

**RESOLUTION TO MODIFY SPECIAL EXCEPTION**

(Resolution Adopted May 7, 2008)

(Effective Date of Resolution: May 15, 2008)

The Board of Appeals has received a letter, dated April 18, 2008, from Elsie L. Reid, Esquire, on behalf of The Holton Arms School. Ms. Reid requests administrative modification of the special exception to allow the school to host up to four enrichment programs per year, such as lectures or discussions, to be held outside the school's normal operating hours. Holton proposes to invite residents within the Bradley Boulevard Citizens Association (BBCA) and Burning Tree Civic Association (BTCA), as well as residents of the neighboring Fox Hills Sunrise community to these events. Ms. Reid informs the Board that members of the school's Neighborhood Liaison Council discussed the proposed modification at the Council's April 8, 2008 meeting, and that representatives of BBCA and BTCA support the requested modification.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered Ms. Reid's letter at its Worksession on May 7, 2008. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance 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 that for the school to hold up to four enrichment programs per year, such as lectures or discussions, outside normal operating hours, and to invite residents within the Bradley Boulevard Citizens Association (BBCA) and Burning Tree Civic Association (BTCA), as well as residents of the neighboring Fox Hills Sunrise community, to these events will not substantially change the nature, character or intensity of the use and will not substantially change its effect on traffic or on the immediate neighborhood. Therefore, on a motion by Catherine G. Titus, Vice-Chair, seconded by Wendell M. Holloway, David K. Perdue and Allison Ishihara Fultz, Chair, in agreement:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D, Petition of The Holton Arms School, is reopened to receive Elsie L. Reid's letter dated April 18, 2008 [Exhibit No. 119]; and

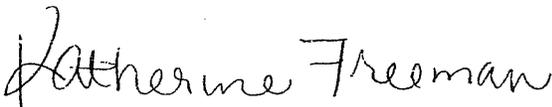
**BE IT FURTHER RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception is granted; and

**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.



Allison Ishihara Fultz  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 15<sup>th</sup> day of May, 2008.



Katherine Freeman  
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 (See Section 59-A-4.63 of the County Code). 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.

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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(240) 777-6600

**Case No. CBA-1174-D**

**PETITION OF THE HOLTON-ARMS SCHOOL**

**RESOLUTION TO ALLOW EVENT ON A TRIAL BASIS**

(Resolution Adopted December 17, 2008)

(Effective Date of Resolution: ~~May 14, 2009~~)

The Board of Appeals has received a letter, dated December 9, 2008, from Elsie L. Reid, Esquire, on behalf of The Holton Arms School. Ms. Reid requests the Board's approval for the school to host a track and field championship event at the request of the Independent School League (ISL) athletic conference. Ms. Reid informs the Board that through the neighborhood Liaison Council process, Holton asked the Bradley Boulevard Citizens Association (BBCA) and the Burning Tree Civic Association (BTCA) to consider ISL's request for Holton to host this event, and that the associations expressed their willingness for Holton to host the event in 2009 "on a trial basis".

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

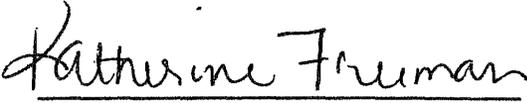
The Board of Appeals considered Holton Arms' request at its Worksession on December 17, 2008. The Board finds, with the concurrence of the members of the Neighborhood Liaison Council, that it can grant the school's request to host the championship track and field event on a one-time, trial basis.

On a motion by David K. Perdue, seconded by Allison Ishihara Fultz, Chair, with Catherine G. Titus, Vice-Chair and Walter S. Booth in agreement, and Carolyn J. Shawaker necessarily absent the Board adopted the following Resolution:

**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.

  
Catherine G. Titus  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 14<sup>th</sup> day of May, 2009.

  
Katherine Freeman  
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 (See Section 59-A-4.63 of the County Code). 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.

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(240) 777-6600

**Case No. CBA-1174-D**

**PEITITION OF THE HOLTON ARMS SCHOOL**

**RESOLUTION TO MODIFY SPECIAL EXCEPTION**

(Resolution Adopted March 23, 2011)

(Effective Date of Resolution: May 24, 2011)

The Board of Appeals has received a letter, dated March 3, 2011, from Elsie L. Reid, Esquire, on behalf of The Holton Arms School. Ms. Reid requests administrative modification of the special exception to permit a short-term use of the parking facilities on the school's campus by the U.S. Golf Association (USGA) during the U.S. Open Tournament being held at Congressional Country Club in Potomac, which is close to Holton Arms. Ms. Reid states that USGA has requested to use about 175 spaces from June 13<sup>th</sup> to June 19<sup>th</sup> 2011, after the close of the academic year, but before the start of camp programs at the school. She states that during this period, faculty and staff will park either at Primary Day or St. Marks Church and be bused to and from school. Ms. Reid informs the Board that Mrs. Susanna Jones, Head of School, spoke individually with representatives from Bradley Boulevard Citizens' Association and Burning Tree Civic Association about this event and reports that the associations do not object to this use of the school's parking.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered Ms. Reid's request at its Worksession on March 23, 2011. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance 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 that the temporary use of the school's parking facility, at a time when neither the school's academic nor summer programs are in session, and with faculty and staff parking off-site, will not substantially change the impact of the special exception or its effect on traffic or the immediate neighborhood. Therefore, on a motion by Stanley B. Boyd, seconded by David K. Perdue, Vice-Chair, with Carolyn J. Shawaker, Walter S. Booth and Catherine G. Titus, Chair, in agreement:

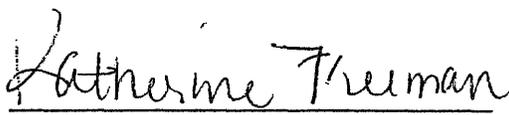
**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D, Petition of The Holton Arms School, is re-opened to receive Elise Reid's letter dated March 3, 2011; and

**BE IT FURTHER RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception 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.

  
Catherine G. Titus  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 24<sup>th</sup> day of May, 2011.

  
Katherine Freeman  
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

Case No. CBA-1174-D

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 (See Section 59-A-4.63 of the County Code). 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.

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**Case No. CBA-1174-D**

**PETITION OF THE HOLTON ARMS SCHOOL**

**RESOLUTION TO MODIFY SPECIAL EXCEPTION**

(Resolution Adopted April 18, 2012)

(Effective Date of Resolution: May 21, 2012)

The Board of Appeals has received a letter, dated March 27, 2012, from Elsie L. Reid, Esquire, on behalf of The Holton Arms School. Ms. Reid requests administrative modification of the special exception to allow "enclosure of the existing entry portico at the school's front entrance to include the extension of a cantilevered roof from the enlarged reception area out onto the front sidewalk." Ms. Reid encloses Architectural Drawings and a General View of the Campus to illustrate the request. Ms. Reid advises that the front entrance is not visible from nearby residences, and that the school will undertake interior remodeling of the lobby as well as repair and interior work to the dining room area at the same time as the enlargement of the portico. Ms. Reid informs the Board that all members of the Neighborhood Liaison Council received copies of the Architectural Drawings, and that school representatives have spoken with representatives of the Bradley Boulevard Citizens' Association and the Burning Tree Civic Association, which have no objection to the requested change.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered the modification request at its Worksession on April 18, 2012. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance 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,

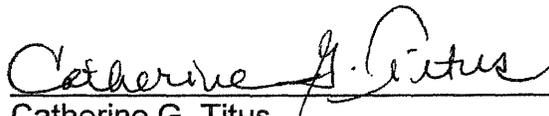
without convening a public hearing to consider the proposed change, may modify the term or condition.

The Board finds that enclosure of the school's entrance, not visible to nearby residences, 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 Carolyn J. Shawaker, seconded by David K. Perdue, Vice-Chair, with Walter S. Booth, Stanley B. Boyd and Catherine G. Titus, Chair, in agreement:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D is re-opened to receive Elsie L. Reid's March 27, 2012 letter, with attachments; and

**BE IT FURTHER RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception is **granted**; and

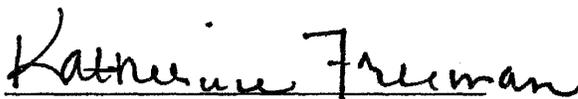
**BE IT FURTHER RESOLVED** by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.



Catherine G. Titus

Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 21<sup>st</sup> day of May 2012.



Katherine Freeman  
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 (See Section 59-A-4.63 of the County Code). 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.

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**Case No. CBA-1174-D**

**PETITION OF THE HOLTON ARMS SCHOOL**

**RESOLUTION TO MODIFY SPECIAL EXCEPTION**

(Resolution Adopted May 25, 2022)

(Effective Date of Resolution: June 8, 2022)

The Board of Appeals has received a letter, dated May 17, 2022, from Soo Lee-Cho, Esquire, on behalf of The Holton Arms School. Ms. Lee-Cho requests an administrative modification of the School's special exception to allow the School to add indoor and outdoor space in connection with the School's renovation of its existing Marriott Library building. Ms. Lee-Cho's letter explains that the "corridor" that currently connects the library and classroom building will be removed, and the space between those two buildings will be "reconfigured to create a larger enclosed area that will serve as a casual gathering space for the girls to congregate and interact, build social relationships and engage in group study." Ms. Lee-Cho states in her letter that the new area, which she refers to as the "Learning Commons," has been "designed to work with the existing grade of the site, utilizing the space between the library and classroom building seamlessly." Her letter states that the new Learning Commons will have no more than 2,500 square feet of floor area, and will be no taller than 21 feet in height. She includes proposed floor plans and elevations of the proposed new space with her letter. In addition to the proposed enclosed space, Ms. Lee-Cho indicates in her letter that the School is also seeking to add new hardscape/outdoor space around the library, stating that "the outdoor areas surrounding the Marriott Library will be enhanced with hardscape, connecting stairs and landscaping to create outdoor areas where teachers/students can engage." Again, Ms. Lee-Cho includes proposed floor plans showing those areas with her submission. Ms. Lee-Cho's letter states that the proposed changes "will not substantially change the nature, character or intensity of the School's special exception use, will not negatively impact traffic in any way, [and] will not otherwise adversely affect the surrounding neighborhood." She includes an aerial photograph, marked to show the area of the proposed changes, with her request, as well as floor plans and elevations showing the proposed changes.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road in Bethesda, Maryland, in the R-90 and R-200 Zones.

Due to COVID-19, the Board of Appeals considered the modification request at a remote Worksession held on May 25, 2022, using Microsoft Teams. Ms. Lee-Cho participated on behalf of the School, in support of the proposed modification. She explained that the requested modification is referred to by the School as the "Learning Commons" project, and that the School would like to undertake this project in connection with the renovation of the interior of the existing Marriott Library. Referring to the aerial photograph she submitted, Ms. Lee-Cho oriented the Board to the campus and the area of proposed construction. She stated that the proposed Learning Commons would be in the area between the School's main academic building and the existing Marriott Library, which are currently connected by a corridor that would be demolished. Ms. Lee-Cho stated that the Learning Commons addition would be approximately 2,500 square feet in size, and would be used for group study, gathering, and social interaction.

Referring to the elevations, Ms. Lee-Cho stated that the addition would not be visible to the closest neighbors because it would be "tucked" between the existing library and academic building. She stated that the School held a "virtual" neighborhood meeting on March 17, 2022, to discuss the proposed project, and that the primary concern raised regarding the modification was whether trucks associated with the proposed construction would use neighborhood streets to access the site.<sup>1</sup> In response to a Board question, Ms. Lee-Cho stated that there had been no changes to the concept for the proposed project since that meeting. In response to additional Board questions, she stated that the proposed Learning Commons was intended for use by the School's existing students, and that the School was not requesting an enrollment increase. In addition, she stated that there would be no significant noise impact from the proposed modification once the construction is finished.

Because Case No. CBA-1174-D 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, unless the applicant elects otherwise. Section 59-G-1.3(c)(1) of the 2004 Zoning Ordinance provides:

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.

Based on the record before it, the Board finds that the proposed addition between the existing classroom building and library, and the proposed outdoor spaces between those buildings and around the library, as described herein and in Ms. Lee-Cho's letter,

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<sup>1</sup> Ms. Lee-Cho stated at this juncture that trucks would enter the property from River Road.

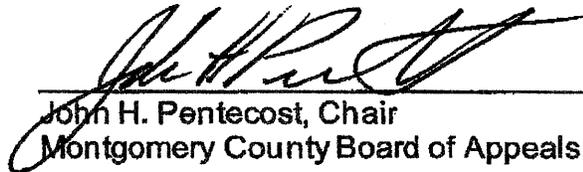
and as shown on the attachments to that letter, will not substantially change the nature, character or intensity of the use or its effect on traffic or on the immediate neighborhood, and thus can be granted. The Board notes that the proposed construction is in an area of the School's campus that is already occupied by School buildings, and per Ms. Lee-Cho's letter and statements at the Worksession, will not impact adjoining properties. In addition, the Board notes that the requested modification will not increase the number of students on the campus, or the hours of the School's operation, and thus will not change the nature, character, or intensity of the use, or the effect of the use on traffic.

On a motion by John H. Pentecost, Chair, seconded by Caryn Hines, with Richard Melnick, Vice Chair, and Roberto Pinero in agreement:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D is re-opened to receive Soo Lee-Cho's May 17, 2022, letter, with attachments; and

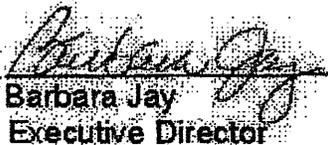
**BE IT FURTHER RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception is **granted**; and

**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 8<sup>th</sup> day of June, 2022.



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.

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**Case No. CBA-1174-D  
PETITION OF THE HOLTON ARMS SCHOOL**

**RESOLUTION TO MODIFY SPECIAL EXCEPTION**  
(Resolution Adopted July 26, 2023)  
(Effective Date of Resolution: August 4, 2023)

The Board of Appeals has received a letter, dated July 18, 2023, from Soo Lee-Cho, Esquire, on behalf of The Holton Arms School. Ms. Lee-Cho requests an administrative modification of the School's special exception to allow "renovation and use of the former Head of School's on-campus residence, known as the Granger House." Ms. Lee-Cho states in her letters that "[t]he School seeks to renovate the first floor with classrooms and conference rooms as well as incorporate required ADA access improvements needed to be able to use the Granger House as a temporary library and associated staff office facility" while the School finishes the improvements to the Marriott Library and Learning Commons addition that were approved by the Board on June 8, 2022.

Ms. Lee-Cho's letter details the proposed changes to the Granger House, as follows:

... the 1st floor of the house will be converted into temporary business offices and two classrooms. The existing basement and 2nd floor will be unoccupied. The existing 1st floor full bathroom will be renovated into an ADA compliant bathroom. The interior stairs will be closed off to render the floors above and below not accessible. On the exterior, an ADA ramp will be built to allow for access to the front entrance. The existing range in the existing kitchen will be removed. The existing living, dining, and library will be converted to classroom and conference room spaces. A more detailed Site Plan (**Exhibit C**) and architectural floor plans (**Exhibit D**) are also provided in support of this modification request.

As noted above, she includes a Site Plan and architectural plans with her request.

Ms. Lee-Cho's letter states that because the Granger House was previously used as a residence for the Head of School, the proposed changes constitute a "change of use" for this building, which her letter states had "continued to be identified as 'residential' despite its location on a private educational institution site." Because of this, Ms. Lee-Cho's letter states that the Department of Permitting Service is requiring that the use and

occupancy of the Granger House "be revised to educational use, with ancillary business/office use." Her letter states that this change in the use of the Granger House will not result in any "increased occupancy on the school site" because the people in the Granger House will all have been "relocated from elsewhere on the School's campus, i.e., Marriott Library."

Ms. Lee-Cho states in her letter that the "requested renovation of the Granger House to provide limited and temporary Library space and associated staff office facilities while the Marriott Library renovation/Learning Commons addition...is completed, will not substantially change the nature, character or intensity of the School's special exception use, will not negatively impact traffic in any way, will not otherwise adversely affect the surrounding neighborhood." Thus she asserts that the requested modification can be granted administratively.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road in Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered the modification request at a Worksession held on July 26, 2023. Ms. Lee-Cho was present at the Worksession on behalf of the School, along with William Spack, AIA, of cox graae + spack architects. Ms. Lee-Cho explained that in seeking building permits for the previously granted modification involving the School's Marriott Library renovation and Learning Commons addition,<sup>1</sup> the School was informed by the County's Department of Permitting Services that the proposed relocation of library resources and staff to the School's Granger House would require a modification of the special exception because of the change in the use of the Granger House building (residential to educational). She stated that the Granger House was previously used as a residence by the Head of School. Ms. Lee-Cho stated that the incoming Head of School will reside elsewhere for the duration of the Marriott Library/Learning Commons construction, and that when that construction is completed and these renovated/new School facilities are operational, the Granger House will once again be used as a residence for the Head of School. Thus she noted that the requested modification is for interim use of the Granger House while the Marriott Library facility and Learning Commons space are under construction.

Mr. Spack stated that the entrance to the Granger House and its first floor bathroom were being made ADA-compliant. He stated that the School plans to block access to the upper level of the house. In response to a Board question, Mr. Spack stated that the footprint of the Granger House is not changing. He estimated that the Marriott Library/Learning Commons construction would take about a year.

Because Case No. CBA-1174-D 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, unless the applicant elects otherwise. Section 59-G-1.3(c)(1) of the 2004 Zoning Ordinance provides:

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<sup>1</sup> This construction was authorized by the Board's June 8, 2022, modification of this special exception.

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.

Based on the record before it, the Board finds that the proposed changes to the Granger House, as described herein and in Ms. Lee-Cho's letter, and as shown on the attachments to that letter, will not substantially change the nature, character, or intensity of the use or its effect on traffic or on the immediate neighborhood, and thus can be granted. The Board notes that the proposed renovations to the Granger House are modest in scope, and that the Granger House is interior to the School's campus. The Board further notes that the anticipated use of the Granger House for educational (and office) purposes is only for the duration of the Marriott Library/Learning Commons construction, that the anticipated use of the Granger House will be by persons who would already be on the School grounds but have been displaced by that construction, and that this use will therefore not increase the number of people who would otherwise be on campus. Finally, the Board finds that the proposed modification will have no effect on the other existing operations at the School.

On a motion by John H. Pentecost, Chair, seconded by Richard Melnick, Vice 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. CBA-1174-D is re-opened to receive Soo Lee-Cho's July 18, 2023, letter, with attachments; and

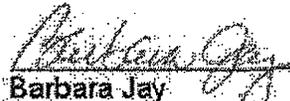
**BE IT FURTHER RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception is granted on the condition that this modification shall only be effective for such time as is necessary for the School to complete the construction on the Marriott Library and Learning Commons space and place the renovated Library and new Learning Commons space into service for the School; 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 4th day of August, 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.

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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

**Case No. S-2503**

**PETITION OF HOLTON-ARMS SCHOOL**

(Hearing held January 16, 2002)

**OPINION OF THE BOARD**

(Effective date of Opinion, June 20, 2002)

Case No. S-2503 is a petition pursuant to Section 59-G-2.13.1 (Child day care facility) of the Montgomery County Zoning Ordinance (Chapter 59, Montgomery County Code 1994, as amended) for a special exception to operate a co-educational summer day camp for up to 645 children and 160 staff members on the grounds of Holton-Arms School located at 7303 River Road, Bethesda, Maryland.

**Decision of the Board:** Special exception **GRANTED**, subject to conditions enumerated below.

A public hearing was held on Wednesday, January 16, 2002, pursuant to Section 59-A-4.11(a) of the Zoning Ordinance. Appearing on behalf of Holton-Arms ("Petitioner") were Jody S. Kline, Esquire; Diana Beebe, Head of School; Susan Spingler, Director of Special Programs; and Lee Cunningham, Land Use/Transportation Planner.

Also participating in the proceedings were Margaret Kaii-Ziegler, Technical Staff of the Maryland-National Capital Park and Planning Commission (M-NCPPC), who testified neither in favor, nor in opposition to the proposed special exception; Linda Kauskay, representative of the Bradley Boulevard Citizens Association; and George Springston, representative of the Burning Tree Civic Association.

Martin Klauber, Esquire, the People's Counsel for Montgomery County, Maryland, also participated in the proceedings in support of the requested special exception, with conditions.

**EVIDENCE PRESENTED TO THE BOARD:**

1. The Petitioner has requested a special exception to operate a co-educational summer day camp on 58 acres of property located at 7303 River Road (MD 190), Bethesda, Maryland. The Petitioner previously operated a summer day camp on the subject property under the assumption that it was an ancillary use to its special exception as a private educational institution approved in Case No. CBA-1174. That assumption was determined to be incorrect as a result of a decision by the Board of Appeals dated September 7, 2001 as part of Case No. CBA-1174-C. The Petitioner

now requests this special exception in order to operate the camp without limitation on the proportion of students outside of the Holton-Arms' student body who may attend.

2. The subject property is zoned R-200 and R-90 and is located on the north side of River Road, east of that road's intersection with Burdette Road. The property has approximately 770 feet of frontage with River Road and 110 feet of frontage with Burdette Road. The school also has frontage on the unimproved right-of-way for Burning Tree Road approximately 150 feet west of the intersection of Burning Tree and Beech Tree Roads. Bisecting the campus from north to south is Booze Creek, a tributary of the Cabin John Creek main stem.

3. The surrounding neighborhood is predominantly residential in character. Adjoining the subject property to the north are single-family homes in the R-200 Zone. Adjoining the site to the east are single-family homes in the R-90 Zone and Burning Tree Local Park owned by the M-NCPPC. Located to the southeast is Burning Tree Elementary School. Across River Road to the south are single-family homes in the R-200 Zone and the Primary Day School. Adjoining the site to the west are single-family homes in the R-200 Zone and a retail nursery and commercial greenhouse operating by special exception. Further to the west across Burdette Road is Burning Tree Country Club and the site of the Marriott senior housing facility. The interchange at River Road and the Capital Beltway (I-495) begins approximately 1,100 feet west of the school's entrance on River Road.

4. The subject property is a recorded lot and will not require approval of a preliminary plan of subdivision.

5. The subject property is located within the area of the 1990 Bethesda-Chevy Chase Master Plan (Exhibit No. 8). The Master Plan affirms the existing R-90 and R-200 zoning of the subject property, with R-90 zoning found east of Booze Creek and all the land located west of the creek zoned R-200 (Exhibit No. 12). Child day care facilities are allowed by special exception in the R-90 and R-200 Zones.

6. The Petitioner proposes to operate a co-educational summer day camp program ("Camp") in which children can participate in such activities as dance, drama, music, visual arts, sports, swimming, outdoor exploration, and computers. The Camp will begin in late June and conclude in early August and will offer over 80 different classes to children ranging in age from three to thirteen years. The Camp will be operated Monday through Friday, no weekends, for a total of six weeks. The camp will have two sessions: Session I will run for three weeks from late June until mid-July, and Session II will run three weeks from mid-July through early August. The total number of campers enrolled in each of these camp sessions will not exceed 645 children (Exhibit No. 3 - Statement of Operations).

7. Campers will participate in indoor and outdoor classes; participation is geared predominantly towards indoor classes. Campers will have full access to school facilities, including the Petitioner's art, dance, and music studios; 400-seat theater; double gymnasium; indoor swimming pool; outdoor stage; photography lab; tennis

courts; nature trails; playground; and one of the school's two athletic fields (Exhibit No. 3 - Statement of Operations).

8. The Camp is comprised of half-day and full-day programs beginning each day at 9:00 a.m. Campers participating in the half-day program will arrive between 8:30 and 9:00 a.m. and will depart at 1:00 p.m. Campers participating in the full-day program will arrive between 8:30 and 9:00 a.m. and will depart at 3:00 p.m. Extended care arrangements will also be in place, commencing at 7:30 a.m. and concluding at 6:00 p.m. Under the extended care arrangements, approximately 25 campers will arrive between 7:30 and 8:30 a.m. and approximately 50 campers will depart the campus between the hours of 3:00 and 6:00 p.m. Campers participating in the full-day program will bring a bagged lunch, except on days when the school provides a pizza lunch (Exhibit No. 3 - Statement of Operations).

9. Diana Beebe explained the history of the Camp and its function in the community. She testified that the Camp is a source for employment for local teaching professionals and early work experience for students, and that the Camp serves a critical local need for summer camp educational and recreational activities. Ms. Beebe testified that the Petitioner would initiate construction of improvements to an emergency access at Burdette Road, as approved in Case No. CBA-1174-C, prior to the commencement of camp operations in Summer, 2002. Ms. Beebe stated that the driveway would be restricted to emergency use only.

10. Susan Spingler explained the daily operations of the Camp. Ms. Spingler emphasized that Creative Summer was not a sports camp but is rather an indoor camp that "catered to the arts." Ms. Spingler testified that for the limited outdoor activities under the camp program, the campers would utilize only one of the existing outdoor athletic fields on the campus. Ms. Spingler testified as to the very high level of competition for enrollment in a limited number of camp slots and that a priority in enrollment is given to Holton-Arms students, children of Holton-Arms employees, returning campers, and children residing in the 20817 zip code area surrounding the school campus.

11. Ms. Spingler testified about the total number of staff and campers associated with the Camp. She stated that there will be 160 staff members associated with the Camp comprised of professional teachers, coaches, counselors, graduate students, college students, and Holton-Arms' students used as "counselors-in-training;" a registered nurse will be on duty at the school's infirmary during regular camp hours.

12. Ms. Spingler described the operational aspects of the Camp carpool program, including the issuance of carpool numbers to campers participating in the carpool program. Ms. Spingler explained the Camp's morning and afternoon "extended day" programs, designed for working parents, in which approximately 25 students would arrive at staggered times between 7:30 a.m. and 8:30 a.m. and approximately 50 campers would depart the campus between 3:00 p.m. and 6:00 p.m. Utilizing a site plan for the subject property (Exhibit No. 21), Ms. Spingler demonstrated the operational aspects of the vehicular circulation system, testifying to the manner in which staff and

local police would direct the flow of traffic to and from the Holton-Arms campus in the morning and afternoon hours. In response to a question from George Springston, Ms. Spingler indicated that she was not aware of any traffic back-ups on River Road for either arrivals or departures from the campus and that she had never received any complaints from parents of campers to that effect.

13. In response to questioning from Martin Klauber, Esquire, Ms. Spingler discussed a component of the Camp program called "Evening Carnival" ("Carnival"). Ms. Spingler testified that the Carnival is held during the last two days of each of the camp sessions as a means of allowing the campers, through performances, to showcase to their families what they have learned and achieved at the Camp. Carnival generally involves approximately 35 campers and their parents and runs from 3:30 p.m. until 7:00 p.m. on the first evening, and culminates in one-hour performances beginning at 4:30 p.m. and 7:30 p.m. on the following evening. Ms. Spingler testified that approximately eight to ten staff members assist with traffic management during the evenings for Carnival.

14. Ms. Spingler testified that the Camp would be operated in harmony with the surrounding neighborhood and that the associated camp activities would not cause any adverse effects on the health, safety or welfare of the surrounding neighborhood.

15. Margaret Kall-Ziegler testified that the Technical Staff had concluded that the Camp's traffic impact on the surrounding transportation network will be less than that generated during Holton-Arms' "regular school year." She testified that, based on the information provided by the Petitioner, fewer children would be arriving/departing the campus during the summer peak traffic hours than during peak traffic hours for Holton-Arms' regular school year. Ms. Kall-Ziegler testified that for the Camp, the Technical Staff adopted its findings on traffic from the analysis previously conducted in connection with Case No. CBA-1174-C (Holton-Arms Special Exception Modification).

16. Lee Cunningham testified that in preparing his analyses, he utilized traffic data from Case No. CBA-1174-C because Petitioner had not previously been required to conduct a formal traffic analysis for the summer months, nor had the Petitioner had an opportunity to conduct such analysis. Mr. Cunningham testified that based on the traffic analysis conducted for Case No. CBA-1174-C, it was his opinion that the intersections of River Road with Beech Tree Road, Royal Dominion Drive and Burdette Road would continue to operate at acceptable levels during the Camp operations. Mr. Cunningham also testified that the traffic calculations that were performed for the subject application indicated hourly arrivals during the highest peak hour of 281 vehicles and buses, versus arrivals of 378 vehicles and buses during the same peak hour for the regular school year. In response to questioning from Mr. Springston, Mr. Cunningham testified that based on his years of experience with state traffic studies, peak hour traffic for the summer months is slightly lower than during the regular school year. Mr. Cunningham explained the Petitioner's Transportation Management Plan ("TMP") (Exhibit No. 22) and testified that the surrounding transportation network for the subject site is adequate to accommodate the Camp operations. Finally, Mr. Cunningham testified that the traffic circulation system for the campus site would be safe and

adequate and that the Camp's operations would not have any detrimental effect on traffic safety or traffic movement.

17. In response to a question from Board Member Allison Fultz, Jody Kline, Esquire, stated that Petitioner would agree, as reflected in its TMP (Exhibit No. 22), to performance standards governing busing operations, carpooling, and individual vehicle trips. Mr. Kline explained that Petitioner expects to transport approximately one-third of its campers by bus; approximately one-third of its campers by carpool; and approximately one-third of its campers by individual vehicle trips (Exhibit No. 22). In addition, in response to a question from Linda Kauskay, Esquire, Mr. Kline verified that the TMP includes a provision requiring Petitioner to work with the "Neighborhood Liaison Committee", established in Case No. CBA-1174-C, to develop specific incentives to encourage campers to carpool or to use bus service (Exhibit No. 22). Also, Mr. Kline confirmed that the Petitioner will include, as part of its quarterly report to be submitted for Case No. CBA-1174-C, an assessment of the Petitioner's progress in meeting the goals of the Camp TMP (Exhibit No. 22).

18. In its Memorandum submitted to the Board (Exhibit No. 15), the Technical Staff explained that the number of campers and staff arriving or departing during the morning and evening peak hours "is anticipated to be less than during the regular school year due to staggering of camp activities" and that the Petitioner's proposed TMP and its associated carpool and bus services "will reduce the number of trips to the campus." The Staff found that with the TMP the use would not have an adverse impact on the area transportation system.

19. An approved Natural Resources Inventory/Forest Stand Delineation Plan and a Preliminary Forest Conservation Plan for the subject site are on record as part of the Applicant's case in CBA-1174-C. The Technical Staff found that this application would not alter or pose additional impacts to the site (Exhibit No. 15). The Petitioner is bound by the conditions set forth in the Preliminary Forest Conversation Plan for Case No. No. 1174-C and is required to submit a Final Forest Conversation Plan to the Technical Staff.

20. Ms. Kauskay stated that the Bradley Boulevard Citizens Association had received a letter from Petitioner committing to begin construction of the Burdette Road emergency access improvements prior to commencement of the Camp and that the Association therefore generally supported the application.

21. The Technical Staff found that the proposed use satisfies the general and specific requirements of the Zoning Ordinance and recommended approval of the request for special exception, subject to conditions (Exhibit 15).

**FINDINGS OF THE BOARD:**

Based on the Petitioner's binding testimony, the evidence of record and the exhibits presented at the public hearing, the Board concludes that the requested special exception can be granted with the conditions set forth below:

**Section 59-G-1.2 Conditions for granting.**

*59-G-1.21 Standard for evaluation. A special exception must not be granted absent the findings required by the Article. In making these findings, the Board of Appeals ... must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with the inherent effects, are a sufficient basis to deny a special exception.*

The Board interprets this section of the Zoning Ordinance to require the following analysis. The Board must:

- (1) Make a determination as to the general neighborhood affected by the proposed use.
- (2) Establish those inherent, generic physical and operational characteristics associated with a given use, in this case the operation of a summer camp, not including the physical size and scale of operations.
- (3) Determine separately the physical and operational characteristics of the summer camp special exception use proposed by the Petitioner.
- (4) Compare the generic physical and operational characteristics with the particular characteristics of the summer camp. Inherent adverse effects are those characteristics of the modification that are consistent with the generic characteristics. Non-inherent adverse effects are those characteristics of the modification that are unique given the facts of a particular case.

Applying the above analysis to this case, the Board finds as follows:

(1) The General Neighborhood

The Board finds that the surrounding neighborhood is predominantly residential in character. Adjoining the subject property to the north are single-family homes in the R-200 Zone. Adjoining the site to the east are single-family homes in the

R-90 Zone and Burning Tree Local Park owned by the M-NCPPC. Located to the southeast is Burning Tree Elementary School. Across River Road to the south are single-family homes in the R-200 Zone and the Primary Day School. Adjoining the site to the west are single-family homes in the R-200 Zone and a retail nursery and commercial greenhouse operating by special exception. Further to the west across Burdette Road is Burning Tree Country Club and the site of the Marriott senior housing facility. The interchange at River Road and the Capital Beltway (I-495) begins approximately 1,100 feet west of the school's entrance on River Road.

(2) Evaluation Standard – Physical and Operational Characteristics

The Board recognizes that Planning Board staff has, in previous cases, offered seven criteria to be used to establish the physical and operational characteristics of a requested special exception use. These are: size, scale, scope, lighting, noise, traffic, and environment.

The Board finds that summer camps display many of the same features and the same activities, as private educational institutions on whose campuses many summer camps are located. These features and activities include indoor and outdoor activities, traffic, parking, and special events. Additionally, a summer camp may often involve use of substantially sized structures in terms of building area and a height of one to two stories. Summer camps vary in terms of size but do not typically exceed the density permitted for private educational institutions located in residential zones (87 children per acre). Summer camps typically involve outdoor activities that can be expected to generate noise and bustle. Camps occur during the summer months, during weekdays, usually between the hours of 8:00 a.m. and 4:00 p.m., but occasional special evening events (e.g. banquets, award ceremonies, performances) may take place after regular camp hours of operation. Camps require little exterior lighting. Substantial traffic volumes, including buses, are associated with camp operations, for commuting to and from the camp as well as for off-site trips. Impacts on the environment are related to physical improvements, such as buildings, parking lots and athletic facilities.

(3) Physical and Operational Characteristics

The Petitioner proposes to operate a summer camp that utilizes the facilities of the private school on which it is to be located. These facilities have met the standards for a special exception use as a private educational institution and for the zone in which they are located.

The Board finds that the Camp's activities are predominantly located inside the buildings and when they are conducted outside there is sufficient separation from adjoining properties to satisfactorily mitigate noise or other possible adverse affects. The Camp will not have more than 645 campers per session, a number which can be readily handled on a campus of 58 acres. The hours of operation are generally within the range expected for camps with an extended day program for 25 to 50 campers arriving or departing outside of the normal hours, 7:30 a.m. to 6:00 p.m. Evening

activities are conducted on two nights of each Camp session. The Camp is located on an arterial road and has adopted a Transportation Management Plan with specific performance goals designed to minimize the impact of traffic generated by the Camp. The Petitioner's traffic management efforts will eliminate any adverse impact due to the volume of automobiles and buses entering and exiting the subject property. Substantial paved parking, over 300 striped parking spaces, exists on site to accommodate needs for daily and special event parking.

(4) Comparison of Characteristics

After considering the generic characteristics of the use and comparing them with the physical and operational characteristics of the Camp, based on the Technical Staff analysis and recommendation, the Planning Board recommendation, the evidence and testimony presented by the Petitioner and the other parties of record as set out above, the Board finds that all of the physical or operational characteristics associated with this requested modification will be inherent adverse effects.

**Section 59-G-1.21 General Conditions.**

(a) *A special exception may be granted when the Board ... finds from a preponderance of the evidence of record that the proposed use:*

(1) *Is a permissible special exception in the zone.*

The Board finds that the proposed use is allowed in the R-200 and R-90 Zones, in accordance with Section 59-G-1.21(a)(1) of the Zoning Ordinance.

(2) *Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.*

The Board finds that the proposed application satisfies the standards and requirements for a child day care facility under Section 59-G-2.13.1, in accordance with Section 59-G-1.21(a)(2) of the Zoning Ordinance.

(3) *Will be consistent with the general plan for the physical development of the District, including any master plan thereof adopted by the Commission. Any decision to grant or deny special exception must be consistent with a recommendation in an approved and adopted master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that the granting of a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.*

The Board finds that the proposed use is consistent with the Bethesda-Chevy Chase Master Plan. The Master Plan affirms the existing R-200 and R-90 Zones for the subject property; child day care facilities are allowed by special exception in those zones, in accordance with Section 59-G1.21(a)(3).

*(4) Will be in harmony with the general character of the neighborhood considering population density, design, scale, and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions and number of similar uses.*

The Board finds that the proposed use will be in harmony with the general character of the neighborhood when considering population density, design, scale, and bulk of the proposed new structure, intensity and character of activity, traffic and parking conditions, and number of similar uses, in accordance with Section 59-G-1.21(a)(4) of the Zoning Ordinance.

The Board finds that proposed use will not require any new structures nor criteria.

*(5) Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The Board finds that the use will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood, in accordance with Section 59-G-1.21(a)(5) of the Zoning Ordinance.

*(6) Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare, or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The Board finds that the proposed use will cause no objectionable noise, vibrations, fumes, odors, dust, glare or physical activity in accordance with Section 59-G-1.21(a)(6) of the Zoning Ordinance. The Board finds that the camp is geared predominantly towards indoor activities and the use of outdoor facilities will be well-buffered.

*(7) Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendations of a master or sector plan do not alter the nature of an area.*

The Board finds that the proposed use will not, when evaluated in conjunction with existing and approved special exceptions in the neighboring one-family residential

area, increase the number, intensity or scope of special exception uses sufficiently to affect the area adversely or alter its predominantly residential nature, in accordance with Section 59-G-1.21(a)(7) of the Zoning Ordinance.

(8) *Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The Board finds that the proposed use will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area, in accordance with Section 59-G-1.21(a)(8) of the Zoning Ordinance.

(9) *Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public facilities.*

The Board finds that the proposed use is adequately served by public services and facilities, in accordance with Section 59-G-1.21(a)(9).

(i) *If the special exception use requires approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception.*

The Board finds that the subject property is a recorded lot and will not require approval of a preliminary plan of subdivision.

(ii) *With regard to findings related to public roads, the Board ... must further determine that the proposal will have no detrimental effect on the safety of vehicular or pedestrian traffic.*

Based on the testimony of M-NCPCC staff and Mr. Cunningham, and the Transportation Management Plan (Exhibit No. 22), the Board finds that the proposal will have no detrimental effect on the safety of vehicular or pedestrian traffic.

#### **Section 59-G-2.13.1 Child day care facility.**

(a) *The Hearing Examiner (or Board of Appeals) may approve a child day care facility for a maximum of 30 children if:*

1) *a plan is submitted showing the location of all buildings and structures, parking spaces, driveways, loading and unloading areas, play areas and other uses on the site;*

In accordance with Section 59-G-2.13.1(a)(1), the Board finds that the Petitioner has submitted a plan in compliance with this subsection.

2) *parking is provided in accordance with the Parking Regulations of Article 59-E. The number of parking spaces may be reduced by the Hearing Examiner if the Applicant demonstrates that the full number of spaces required in Section 59-E-3.7 is not necessary because:*

- (A) *existing parking spaces are available on adjacent property or on the street abutting the site that will satisfy the number of spaces required; or*
- (B) *a reduced number of spaces would be sufficient to accommodate the proposed use without adversely affecting the surrounding area or creating safety problems;*

In accordance with Section 59-G-2.13.1(a)(2), the Board finds that the parking space requirements for the proposed use, as set forth in Section 59-E-3.7, will be met by the Petitioner. The proposed use will require 268 parking spaces, 160 spaces for faculty, plus 108 drop-off and pick-up spaces. The subject site provides at least 300 striped spaces on-site and has additional area that is not marked for parking but could be used for parking. Parking will not be permitted on the adjacent public streets.

(3) *an adequate area for the discharge and pick-up of children is provided;*

In accordance with Section 59-G-2.13.1(a)(3), the Board finds that there will be adequate area for the discharge and pick-up of children. The site has a long entrance road with a large drop-off and pick-up circle at the entrance of the school. The road and loop are wide enough for parked cars and through movement to continue.

- (4) *the Petitioner submits an affidavit that the Petitioner will:*
  - (A) *comply with all applicable State and County requirements;*
  - (B) *correct any deficiencies found in any government inspection;*
  - (C) *be bound by the affidavit as a condition of approval for this special exception;*

In accordance with Section 59-G-2.13(a)(4), the Board finds that the Petitioner has submitted an affidavit stating compliance with the conditions cited above.

*(5) the use is compatible with surrounding uses and will not result in a nuisance because of traffic, parking, noise or type of physical activity. The hearing examiner (or Board of Appeals) may require landscaping and screening and the submission of a plan showing the location, height, caliper, species, and other characteristics, in order to provide a physical and aesthetic barrier to protect surrounding properties from any adverse impacts resulting from the use.*

In accordance with Section 59-G-2.13.1(5), the Board finds that the proposed use will be compatible with the surrounding uses and will not result in a nuisance because of traffic, parking, noise or type of physical activity.

*(b) A child day care facility for 31 or more children may be approved by the Board of Appeals subject to the regulations in subsection (a) above, and the following additional requirements:*

*(1) a landscaping plan must be submitted showing the location, height or caliper, and species of all plant materials; and*

In accordance with Section 59-G-1.13.1(b)(1), the Board finds that the Petitioner has submitted a landscaping plan that includes the existing and proposed landscaping for the site (Exhibit No. 7(a-d)).

*(2) In the one-family residential zones, facilities providing care for more than 30 children must be located on a lot containing at least 500 square feet per child.*

In accordance with Section 59-G-2.13.1(b)(2), the Board finds that the subject site is in excess of the required 7.4 acres for 645 children. The subject site contains 58 acres.

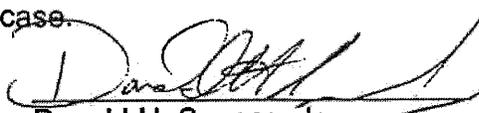
Therefore, based on the foregoing, the Board **GRANTS** the requested special exception for a child day care facility (summer day camp), subject to the following conditions:

1. The Petitioner shall be bound by its testimony and exhibits of record, the testimony of its witnesses and the representations of its attorney in these proceedings.

2. The Petitioner shall comply with conditions of approval of the Preliminary Forest Conservation plan for CBA-1174-C. A Final Forest Conservation Plan must be approved by M-NCPPC Technical Staff.
3. The Petitioner must implement the Transportation Management Plan (Exhibit 22), to minimize and manage vehicular traffic to and from the camp.
4. The Petitioner's Transportation Management Plan shall be made available to parents of campers via the Creative Summer camp handbook.
5. Camp enrollment shall be limited to a maximum of 645 campers per session, with a maximum number of two camp sessions per summer.
6. The Petitioner shall advise camp parents as to the potential difficulty of left turn movement onto the campus from River Road and shall suggest alternative means of access.
7. The Petitioner shall record in its September Quarterly Report required by Case No. CBA-1174-C an evaluation of its performance in meeting the goals of the Transportation Management Plan and its effectiveness. The Petitioner shall report such observations in its September report annually thereafter.
8. The Liaison Committee established in conjunction with Case No. CBA-1174-C shall be incorporated into and be applicable to Case No. S-2503.
9. The Petitioner shall prepare and submit studies and a request to the State Highway Administration seeking approval to extend the storage area for left turns into the subject property from River Road and to extend the time during which such a protected movement can be made. The Petitioner shall use its best efforts to secure such approval.
10. The Petitioner's proposed construction as shown on Exhibit 7 (a) - (d) shall be completed prior to commencement of Camp in 2004.

On a motion by Angelo M. Caputo, seconded by Donna L. Baron, with Donald H. Spence, Jr., Chairman, Louise M. Mayer and Alison Ishihara. Fultz in agreement, the Board adopted the following Resolution:

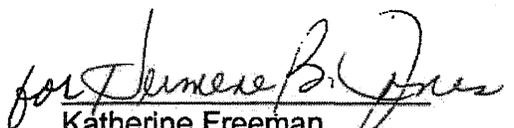
**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled case.



Donald H. Spence, Jr.  
Chairman, Montgomery County Board of Appeals

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Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 20th day of June, 2002.

  
Katherine Freeman  
Executive Secretary to the Board

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 any party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.

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 (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.

See Section 59-A-3.2 of the Zoning Ordinance regarding Use and Occupancy Permit for a Special Exception.

COUNTY BOARD OF APPEALS  
For  
MONTGOMERY COUNTY

Case No. S-516

PETITION OF HOLTON ARMS SCHOOL  
(Hearing held November 11, 1976)

OPINION OF THE BOARD

These proceedings are on the petition of the Holton Arms School for a Special Exception filed pursuant to Section 59-142 of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1972, as amended) to permit the construction of a playground area, a small vehicle parking area, and an access road leading into Burdette Road, on a 3.39 acre parcel, part of the Thomas D. Rixey property, Liber 3038, Folio 298, Burning Tree Estates Subdivision, fronting on Burdette Road, Bethesda, Maryland, in a R-200 Zone. The subject property adjoins Parcel 1, which contains 59.6 acres, Burning Tree Estates Subdivision, at 7303 River Road, Bethesda, Maryland, upon which is located the existing private educational institution originally granted by the Board in Case No. 1174.

Decision of the Board: Additional playground and parking areas granted, subject to conditions enumerated herein; access road from the school to Burdette Road denied.

DESCRIPTION OF THE PROJECT

Spokesmen for the petitioner appeared and agreed to be bound by testimony to the effect that: the school presently enrolls approximately 575 students, and has purchased an additional 3.39 acre parcel immediately west of the property upon which the school is located. The school's regular schedule runs from September through June, and a summer camp program is offered in July and August. No increase in enrollment is proposed in connection with the requested new facilities. The proposed playground facilities would be used exclusively as play fields for elementary grade students, during school days from 8:30 a.m. to 3:30 p.m., with no weekend or evening activity. Petitioner testified that the site is heavily wooded and that some vegetation would have to be removed in order to accommodate the proposed facilities. They stated that trees would be removed only as needed, and that existing landscaping would be preserved in such a manner that no additional landscape screening would be required to shield the view of the play fields and parking area from nearby existing single-family homes. No additional exterior lighting is proposed.

The petitioner testified that the new play fields are needed because there is no play field conveniently close to the elementary school. He stated that groups of children would be

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supervised in their play activities, and that the use of the playing fields would not create noise or any other nuisance adversely affecting the use, enjoyment or economic value of nearby residential properties.

The petitioner further testified that additional on-site parking is required to accommodate faculty, parent, and visitor's cars. The petitioner's original site plan indicated an addition of 21 vehicle parking spaces; the revised site plan (Exhibit No. 16) shows parking for 29 cars, 8 of which spaces appear to be located on the original 59 acre parcel, with the balance to be developed on the parcel which is the subject of this petition. The petitioner testified that, in his opinion, the use of this parking area would have no adverse impact upon the use, enjoyment or economic value of nearby properties.

No additional water or sewer is required in connection with this petition; since no additional school enrollment is proposed, it is anticipated that there would be virtually no change in traffic conditions from those prevailing at present, and no adverse impact on public roads and other public facilities and services.

The petitioner's request for additional play fields and parking areas was supported by the technical staff of the Maryland-National Capital Park and Planning Commission (Exhibit No. 8(b)) and by the Montgomery County Planning Board (Exhibit No. 8(a)).

Representatives of the Bradley Boulevard Citizens Association appeared and testified in support of the request for additional playgrounds and parking areas, but they vigorously opposed the petitioner's proposal for a driveway leading from the new parking area to a new exit at Burdette Road.

The petitioner proposed the new access to Burdette Road to relieve alleged congested conditions which occasionally occur at the intersection of the school's driveway at River Road. This intersection is controlled by a traffic light. In addition, the petitioner testified that the proposed driveway to Burdette Road would relieve internal congestion on the school site, and would enable safer loading and unloading of school children on the school property.

The report of the technical staff of the Maryland-National Capital Park and Planning Commission (Exhibit No. 8(b)) described the narrow pavement width of Burdette Road, the severe vertical curbs along Burdette Road, and the problem of inadequate sight distance at the point at which the proposed driveway would intersect Burdette Road. The staff deferred a final recommendation on the proposed access road, however, pending further technical assistance from the Montgomery County Department of Transportation.

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The Montgomery County Planning Board, however, voted unanimously to deny the requested access to Burdette Road, citing the serious traffic safety problems which they felt would be created on Burdette Road at the intersection of River and Burdette Roads.

Mr. and Mrs. Arthur Mason, residents of 8315 Burdette Road, appeared as individuals and as spokesmen for the Bradley Boulevard Citizens Association in opposition to the extension of the proposed driveway to Burdette Road. In light of the many serious questions raised by the opposition, the petitioner requested during the course of the hearing that it be permitted to withdraw its request for the controversial driveway (which permission was granted thereby eliminating the said controversial driveway from Board consideration), and to submit a revised site plan showing only the proposed new play fields and parking area, with the driveway deleted entirely. Spokesmen for the opposition agreed that this would be a desirable solution which they felt the Citizens Association would be pleased to support.

With the permission of the Board, the record was held open to receive the revised site plan, Exhibit No. 16.

#### FINDINGS OF THE BOARD

After reviewing all exhibits of record, the testimony of the petitioner which is binding upon the petitioner, the Board finds that the proposed play fields and the additional parking area, as shown in Exhibit No. 16, meet both the general standards of the special exception set forth in Section 59-123 (Appendix I), and the particular requirements of a private educational institution set forth in Section 59-142 (Appendix II).

The petitioner's amended petition is, therefore, and hereby shall be granted, subject to the following conditions:

1. Development shall be according to plans shown in Exhibit No. 16.
2. No vehicle access from the Holton Arms School property to Burdette Road shall be provided.
3. Petitioner shall submit a landscape screening plan for review and approval by the technical staff of the Maryland-National Capital Park and Planning Commission.
4. No exterior lighting shall be provided on either the playing fields or parking areas approved in this petition.
5. Petitioner shall take precautions so that surface

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water run-off shall be adequately controlled during construction and after installation of the new facilities.

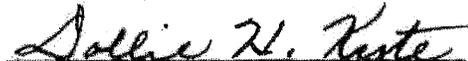
6. School enrollment shall be maintained at the current level of approximately 575 students during the regular school year.

The Board adopted the following Resolution:

"Be it Resolved by the County Board of Appeals for Montgomery County, Maryland, that the opinion stated above be adopted as the Resolution required by law as its decision on the above-entitled petition."

The foregoing Resolution was proposed by Mrs. Marjorie H. Sonnenfeldt, Chairman, and concurred in by Mrs. Doris Lipschitz, Mrs. Shirley S. Lynne, Mr. Joseph E. O'Brien, Jr., and Mr. Sheldon P. Schuman.

I do hereby certify that the foregoing Minutes were officially entered in the Minute Book of the County Board of Appeals this 23rd day of December, 1976.

  
Clerk to the Board

NOTE: See Section 59-6.(c) of the Zoning Ordinance regarding the 12-months' period within which the right granted by the Board must be exercised.

Section 59-122.(c) of the Montgomery County Zoning Ordinance 1972, as revised, requires that "On or before March 15 of each year, each applicant who has been granted a special exception shall file with the Department of Environmental Protection a sworn certificate specifying current hours of operation, number of employees and occupants, equipment utilized, and stating that such operation is in all respects in full compliance with the terms and conditions imposed by the Board; provided, however, that the first such certificate shall not be filed unless and until at least twelve months have elapsed since the date of the grant of the special exception."

Case No. S-516

-Appendix I-

Section 59-123. Prerequisites to granting.

(a) A special exception may be granted when the Board, or the director, as the case may be, finds from a preponderance of the evidence that the proposed use:

(1) Will be consistent with the general plan for the physical development of the district, including any master plan or portion thereof adopted by the commission;

(2) Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions and number of similar uses;

(3) Will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties or the general neighborhood; and will cause no objectionable noise, vibrations, fumes, odors, dust, glare or physical activity;

(4) Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area;

(5) Will be served by adequate public services and facilities, including schools, police and fire protection, water, sanitary sewer, public roads, storm drainage and other public improvements. In making this determination the Board, or the director, as the case may be, shall take into consideration existing development in the area, the proposed use, uses that have valid building permits and development reasonably probable of fruition in the foreseeable future. The Board, or director, as the case may be, shall also take into consideration planned improvements or additions to public services and facilities including those shown in public capital improvement programs and the Montgomery County Ten Year Water and Sewerage Plan. Documentation of the adequacy of water and sewerage facilities and services shall be provided by the applicant.

With regard to findings relating to facilities for the transmission and treatment of sewage generated by the use: the Board or the director as the case may be, shall further consider estimates of sewage flow anticipated to be generated by the proposed use; data regarding sewage generated by existing development using public sewer facilities in the sewer basin serving the

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-Appendix I-

Page 2

project; estimates of flow in the sewer basin serving the project to which WSSC has committed public sewer service; and local, state and regional plans, programs and policies. A project for which the WSSC has made a sewer commitment in accordance with the Montgomery County Ten Year Water and Sewerage Plan and other applicable regulations shall be deemed to have satisfied the requirement of this section regarding adequate sewerage facilities.

With regard to findings relating to public roads, the Board or the director as the case may be, shall further determine that the proposal will have no detrimental effect on the safety of vehicular or pedestrian traffic.

Nothing herein shall be construed as relieving the applicant from the necessity of complying with all requirements for obtaining a building permit or any other authorization or approval required by law, nor shall the Board's finding of facts regarding sewerage facilities be binding on any other governmental agency or department responsible for making a determination relevant to the authorization, approval, or licensing of the project.

(6) Meets the definition and specific standards set forth elsewhere in this chapter for such use.

(b) The applicant for a special exception shall have the burden of proof which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact which are to be determined by the Board or the director.

(c) The provisions of this ordinance shall not apply to petitions for special exceptions for which public hearings by the Board of Appeals have begun as of August 12, 1975.

Ordinance No. 8-8; adopted 8-12-75

Amended by Ordinance No. 8-19; adopted 12-9-75

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-Appendix II-  
Page 1 of 3

Sec. 59-142. Educational institutions, private.

(a) Generally. In any residential zone, a lot, tract or parcel of land may be allowed to be used for a private educational institution upon a finding by the board:

(1) That such use will not constitute a nuisance because of traffic, number of students, noise, type of physical activity or any other element which is incompatible with the environment and character of the surrounding neighborhood; and

(2) That, except for buildings and additions thereto completed, or for which building permits have been obtained prior to the time of adoption of this section, such use will be housed in buildings architecturally compatible with other buildings in the surrounding neighborhood, and, in the event such building is to be located on a lot, tract or parcel of land of two acres or less, in either an undeveloped area or an area substantially developed with single-family homes, that the exterior architecture of such building will be of a residential home design, and at least comparable to existing residential homes, if any, in the immediate neighborhood; and

(3) That such use will not, in and of itself or in combination with other existing uses, affect adversely or change the present character or future development of the surrounding residential community; and

(4) That such use can and will be developed in conformity with the following area, density, building coverage, frontage, setback, access and screening requirements, where specified:

a. AREA, FRONTAGE AND SETBACK---As shall be specified in a site plan of development approved by the board; provided, that in no event shall such standards be less than the area regulations for the zone in which the private educational institution is proposed to be located; and

b. ACCESS BUILDING COVERAGE AND SCREENING---As shall be specified in a site plan of development approved by the board; and

c. DENSITY---Such density, being the allowable number of pupils per acre permitted to occupy the premises at any one time as shall be specified by the board upon consideration of the following factors:

1. Traffic patterns, including:

i. Impact of increased traffic on residential streets;

ii. Existence of arterial highways; and

2. Noise or type of physical activity; and

3. Character, percentage and density of existing development and zoning within the community; and

4. Topography of the land to be used for the special exception;

Provided, that in no event shall a special exception be granted for a density in excess of eighty-seven pupils per acre.

(b) Site plan.

(1) In addition to submitting such other information as may be required, an applicant shall submit with his application a site plan of proposed development. Such plan shall show the size and shape of the subject property, the location thereon of all buildings and structures, the area devoted to parking and recreation facilities, all access roads and drives, the topography and existing major vegetation features, the proposed grading, landscaping and screening plans and such other features necessary for the evaluation of the plan.

(2) No special exception, building permit or certificate of occupancy shall be granted or issued except in accordance with a site plan of development approved by the board. In reviewing a proposed site plan of development, the board may condition its approval thereof on such amendments to the plan as shall be determined necessary by the board to assure a compatible development which will have no adverse effect on the surrounding community, and which will meet all requirements of this chapter. Any departure from a site plan of development as finally approved by the board shall be cause for revocation of the special exception, building permit or certificate of occupancy, in the manner provided by law.

(c) Exemptions. The requirements of this section shall not apply to the use of any lot, lots or tract of land for any private educational institution which is a parochial school or which is located in a building or on premises owned or leased by any church or religious organization, the government of the United States, the State of Maryland or any agency thereof, Montgomery County or any incorporated village or town within Montgomery County.

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-Appendix II-  
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(d) Nonconforming uses. Nothing in this chapter shall prevent any existing private educational institution which obtained a special exception prior to the effective date of this chapter, from continuing its use to the full extent authorized under the resolution granting the respective special exception, subject, however, to article VII of this chapter. (Mont. Co. Code 1965, § 111-37; Ord. No. 6-141, § 1.)



COUNTY BOARD OF APPEALS  
FOR  
MONTGOMERY COUNTY

COUNTY OFFICE BUILDING  
ROCKVILLE, MARYLAND 20850

Case No. S-729

Telephone  
Area Code 301  
279-1226

PETITION OF HOLTON-ARMS SCHOOL, INC.

ORDER TO CANCEL AND DISMISS SHOW CAUSE HEARING  
(Resolution adopted September 18, 1980)

The Board has received information by letter dated September 10, 1980, from George E. Hamilton, III, Esq., that "...the Holton-Arms School has terminated the tennis program on School tennis courts. ... I will assume, until further notice, that the Show Cause Order issued by your Board will be withdrawn in view of the School's action in terminating the tennis program."

Based on the foregoing information, the Board finds that the cause for the hearing has been eliminated and the need for the hearing (scheduled for October 16, 1980) has become moot; therefore,

BE IT RESOLVED by the County Board of Appeals for Montgomery County, Maryland, that the Show Cause Hearing has become unnecessary due to the termination of the tennis program (private club activity), and it shall be, and hereby is dismissed.

The foregoing Resolution was proposed by Mrs. Marjorie H. Sonnenfeldt, Chairman, and concurred in by Mrs. Shirley S. Lynne, Mrs. Doris Lipschitz, Mr. Wallace I. Babcock and Mr. Joseph E. O'Brien, Jr.

Entered in the Minute Book of  
the County Board of Appeals  
this 25th day of September, 1980.

  
Clerk to the Board



COUNTY BOARD OF APPEALS  
For  
MONTGOMERY COUNTY

Case No. S-729

PETITION OF THE HOLTON-ARMS SCHOOL, INC.  
(Hearing held April 3, 1980)

OPINION OF THE BOARD

This proceeding arises on the petition for a special exception pursuant to Section 59-G-2.19 of the Zoning Ordinance (Chap. 59, Mont. Co. Code 1977, as amended) to permit addition of a library to the existing private educational institution. The subject property consists of approximately 80 acres, at 7303 River Road, Bethesda, Maryland, in an R-200 Zone.

Decision of the Board: Special exception granted,  
as conditioned herein.

Petitioner's Proposal

Spokesmen for the petitioner appeared and agreed to be bound by testimony, exhibits and evidence in the record as follows: James W. Lewis, headmaster of Holton-Arms, testified that the school moved to Montgomery County in 1963 and presently serves approximately 600 students, girls attending grades 3 through 12. Most students live in Montgomery County, although the school draws also from the District of Columbia and Northern Virginia. The school is known for its strong academic program, and has determined that a new library is needed to support that program, since the library built in 1961 has become inadequate to accommodate the number of students and the new uses now required in a library program. Mr. Lewis indicated that a planning committee has carefully considered the long range future needs of the school. They conclude that the proposed location for the new library is the most suitable both in terms of its relationship to the existing classroom building, and the need to preserve space for additional classrooms (to be added at the north end of the present classroom building) and an auditorium (to be constructed adjacent to the existing building, see site plan, Exhibit No. 21). Although these facilities would not be built in the immediate future, the school wishes to reserve the sites for eventual future construction. In the headmaster's opinion, the proposed location is the only workable site in which to construct a library meeting the criteria established by the school: that it be built on a single floor affording easy access for handicapped persons and

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others coming to and from the academic building, and that it require no increase in staff. He noted that the wooded area across Booze Creek is covered by covenants barring construction until after 1986.

The headmaster testified that there would be no measurable increase in vehicle traffic on the school site as a result of the library extension, since there would be no increase in the student body. The driveway shown at the rear of the site would be used for access by construction vehicles during the construction period. After completion of the library, this driveway would be used solely for necessary delivery of materials to the library. In his opinion, such use would not constitute a nuisance to residents of the surrounding neighborhood.

Mr. Lewis further testified that he believes the proposed addition is compatible with the architecture of the school: it has been designed to achieve the lowest possible silhouette, and would use building materials blending with those used in the existing classroom buildings, and compatible with those of neighborhood homes. In response to questions, he indicated that he felt that the addition would not adversely affect the use and enjoyment of the home, rear yard and swimming pool area of the Hurwitz' property (immediately adjacent to the north), since the library would be 20 feet from the common property line, and the pool area appeared to be an additional forty to fifty feet inside the Hurwitz property.

Arther Keyes, the project architect, testified that his firm had conducted extensive studies considering the future needs of the school as outlined by the school's planning committee. After considering various possible locations, they concluded that the only practical site for the library was on the west side of the upper school building, since other potential sites were better suited for future classroom or auditorium additions, or "difficult" for building. In his judgment, the area at the north end of the existing classroom building (which opponents cited as a possible site for the library) is not large enough to accommodate a one-story building, since that would impinge upon present play fields and would require taking additional trees. He stressed that a plan for a one-story library (rather than a multi-story building) was an essential criterion established by the school.

The proposed library would be constructed according to plans entered into the record as Exhibits Nos. 4(c) through (e), 17 and 18. The structure would be an irregularly-shaped building comprised of an octagonal core area (the central library room, 18 feet high), with "wings" extending from four corners.

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Only one of these (the southwest corner closest to the driveway) would be two stories high. This structure would be linked to the existing school building by a 30-foot-long "bridge," which would extend from a point midway between the first and second levels of the classroom building. The architect emphasized that the connection at this elevation is essential; due to the design of the stairwell and elevator in the existing building, the passageway to the library must take off from a landing area of the stairway to allow for unimpeded passage. This plan allows easy access to all floors of the school building for both persons and equipment, since the elevator is available to assist in moving handicapped persons or heavy loads of books or equipment.

The architect testified that the library building "digs itself into the hill" so that the bookstacks would be underground, but library, faculty and meeting rooms could get natural light. The highest point of the library structure would reach approximately to the level of the rain gutter at the base of the roof of the existing school. Air-handling equipment would be installed on the roof above the 18-foot-high central library room, and would be concealed from view by masonry walls. He stated that fans can function most efficiently at roof top level, and enclosure behind masonry is the best way to restrict sound transmission. The architect does not anticipate that the noise of the fans would cause disturbance to nearby property owners, since the fans would be installed in the corner of the library building nearest the school and shielded by the masonry wall. In his opinion, any noise would be more disturbing to persons on the school site than to residents of nearby properties.

The building would be approximately 12 feet above grade at the corner of the structure nearest the property line; from this point the roof would angle upward to a point approximately 18 to 20 feet above grade. Exterior walls would be constructed of a rose-colored brick similar to those in the existing school building; the roof would be painted a light neutral gray. These colors were selected to achieve greatest possible harmony with existing surroundings.

In response to questions, the architect indicated that the 30-foot-long bridge between the existing school and the library structure was necessary in order to retain the natural drainage swale between the existing building and the addition, to allow enough light and air to reach windows in the existing classroom building, and to avoid the necessity for significantly more expensive materials and construction techniques which would be required by the building code if the addition were less than 30 feet from the existing building. He testified that it would not be feasible to build the bridge directly from

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the first level of the classroom building, because design of the existing stairwell would foreclose access to the bridge. In reply to a question concerning the feasibility of installing the bridge on a slight slope, so that the library addition could be depressed five or six feet further into the ground, the architect replied that this could be done, but it would make it "somewhat harder to push carts of books" through the passageway between the library and classrooms.

Mr. Keyes testified that the location of the service road had been redesigned (see Exhibit No. 19) in order to save trees. He acknowledged that construction of the library would require removal of trees on the library site itself, but stated that some trees now on-site include a mixture of old evergreens (some of which appear to be dying) and small new growth. In his opinion, it would be possible to preserve many trees in the area between the building and property line. He noted that it is only the northwest corner of the structure which would extend to within 20 feet of the property line; from this point the building would drop back from surrounding property lines. The architect testified that additional screening would be installed along the property line at the point closest to the library, to screen the view of the structure from the Hurwitz home and yard. He proposed installation of twelve white pine trees, 10 feet high at time of planting, in a staggered pattern on 10-foot centers; he felt this complied with recommendations of the Maryland-National Capital Park and Planning Commission (MNCPPC) technical staff. In his opinion, additional landscaping is not needed to screen view of the school site from the home adjacent to the Hurwitz'. He introduced photographs taken from the point on the school site which would be the closest point from the library extension to the property line. These pictures show numerous trees, both old and new growth, on both the school property and the Hurwitz property. In the architect's opinion, the view of the building from the Hurwitz property would be adequately shielded by existing and proposed trees; he noted that white pines grow rapidly and in a few years would be as tall as the building itself. He indicated that the highest point in the new building (parapet wall surrounding the central core) would be some 70 feet from the property line. In response to Dr. Hurwitz' concern that the proposed screening would be inadequate because his home is built at a higher elevation than the library site, Mr. Keyes testified that he believes the first floor level of the Hurwitz home is approximately the same elevation as the proposed school driveway.

In the opinion of the architect, the structure as designed is in harmony with the existing school and the surrounding neighborhood, in scale, size, and use of materials. Use of the

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building would cause no unusual noise, vibrations, dust or glare, nor any disturbing on-site activity. No additional parking would be required since there would be no enlargement of the student body. The only exterior lighting would be recessed soffit fixtures in the building, and small low-level fixtures along the driveway; no light or glare would be cast on adjacent properties. In his opinion, the building is "very residential in character," thanks to its low profile and choice of materials; admittedly it would not possibly "match" the nearby homes. The extension closest to the Hurwitz property is not essential to the structural soundness of the building, but was planned to accommodate programmed needs indicated by the school and (in the opinion of the school librarian) essential features of the new addition.

In response to questions by the attorney for the opposition, the architect agreed it would be possible to build a library at other locations on the site, but stressed that alternate locations were not as suitable for a library of the type dictated by the school needs. Moreover, construction at these other sites would foreclose use of those sites for future classrooms or auditorium. He pointed out that the proposed auditorium location was chosen on account of the sloping topography, and the relationship to existing locker room areas and parking areas on that side of the building. Construction of the library at the north end of the existing classroom building would foreclose future classroom expansion in this area. He emphasized that the school had always intended to build in the area selected for the library addition, as indicated by existing water and sewer connections already installed within 50 to 60 feet of the proposed building site. With respect to the suggestion of the Montgomery County Planning Board that the library structure might be moved somewhat further north (Exhibit No. 9(a)), Mr. Keyes stated that he was not sure exactly what the Planning Board had in mind, but observed that moving the building north would bring the structure even closer to the Hurwitz property and would disturb more of the existing screening.

Mrs. Anna Smink, head librarian at Holton-Arms, testified that she had participated in an extensive planning project to determine needs for a new library which would meet current educational standards. The existing school library does not meet standards required by the Maryland State Department of Education for a school of the size of Holton-Arms. Since it was not constructed as a media center, it lacks necessary electrical outlets, conference space, and other facilities needed for a library program. She stressed the necessity to have all facilities on one level, for easy access and transfer of heavy equipment between library and classrooms, as well as for security purposes.

In her opinion, the meeting room and faculty area proposed in the corner of the library closest to the Hurwitz property are essential to the school program, and could not function successfully in any other part of the library.

### Opposition

Residents of three nearby properties appeared to testify in opposition. Dr. and Mrs. Byron Hurwitz, owner of the homesite at 7314 Burdette Court, the property closest to the proposed addition, expressed concern that construction of the addition and removal of much of the existing screening during construction would adversely affect their use and enjoyment of their home, whose family room and bedroom windows overlook the Holton-Arms site, as well as their yard and swimming pool area. Since their home is oriented to the rear, and includes some floor-to-ceiling windows, they believe the new building would be readily visible from both the exterior and interior of their home. Dr. Hurwitz introduced pictures showing the view of the school property from his home; he acknowledged that even in winter, trees partially shield the view of the existing school building, while in summer that building is now invisible. The witness stated that only 10 to 15 feet of the trees in these photographs are on his own property, however; the remainder are on the Holton-Arms site and many of these would be removed to make way for construction. Dr. Hurwitz noted his home is built at a higher elevation than the site of the proposed addition; in his opinion this would make it even more difficult to screen out the view of that addition. He believes his pool area is some 40 feet from the property line, and feels the new building would be "visually in our rear yard." He expressed concern that persons on the school property would be able to look into his yard and even into windows of his home.

Dr. Hurwitz' attorney introduced a letter from an architect, Edward Payne, which expressed concern that the construction of the library as proposed would adversely affect the use and enjoyment of the Hurwitz property, particularly considering the large areas of glazing at the rear of the Hurwitz home. The letter stated that the use of the existing swimming pool area would be particularly affected (Exhibit No. 13(b)).

William Davis of 7312 Burdette Court (adjacent to the Hurwitz' and also adjacent to the Holton-Arms property) stated that he believes that the library could be constructed between the classroom building and River Road, or elsewhere on the school site where construction would not adversely affect nearby residential properties. In his opinion, school activity is not

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compatible with a residential area, and the view of the existing facilities from Burdette Road is "institutional." His home is also built at a higher elevation than the school property, and he felt that the view of the new addition would adversely affect the use and enjoyment of his property.

Thomas Dougherty, of 7308 Burdette Court, appeared to testify and subsequently wrote a letter in opposition (Exhibit No. 23). He expressed concerns similar to those noted above.

Maryland-National-Capital-Park-and-Planning Commission Recommendation

The technical staff of the MNCPPC recommends approval of the petition, subject to installation of additional screen plantings at the northwest corner of the proposed library building, such planting to be subject to review and approval by the technical staff (see Exhibit No. 9(b)).

The report notes, "The Community Planning West staff have reviewed the subject application for a library at the Holton-Arms School. Since it would appear that the new facility will not significantly increase the student population, staff feel the proposal will not have any adverse effect on the master plan for that area. A library, by its nature, is a relatively unobtrusive activity, particularly in this instance, where there will be little or no outside traffic coming in. Staff therefore believe the proposed use will not have a detrimental effect on the neighborhood."

The Urban Design staff notes that "... the library building will come to within 20 feet of the property line of the adjacent homes on Burdette Court and will necessitate removal of all of the existing tree cover up to the property line at this point. Therefore, the staff recommendation is to require screen plantings at the northwest corner of the library building between it and the property line."

The Planning Board questioned the compatibility of the structure with the adjacent property, and raised questions whether the library building might be moved slightly to the north, or the structure built farther into the ground (Exhibit No. 9(a)).

Findings of the Board

The Board has carefully considered all testimony, evidence and exhibits in the record. Members of the Board visited the

property and viewed the site from various angles, including in particular the view from the adjacent residential properties. After considering all evidence in the record, including plans, exhibits and testimony binding upon the petitioner, as well as observations at the site, the Board finds that the use as conditioned herein meets both the general standards for the grant of the special exception and the particular requirements for a private educational institution set forth in Section 59-G-2.19, in the following manner: the proposed building is appropriately scaled to the existing school and is harmonious in design, scale and materials with other buildings in the surrounding neighborhood. Construction and use as proposed is consistent with the adopted area master plan, and will cause no increase in vehicle traffic, parking, or noise on the site which would adversely affect the use, enjoyment or value of nearby properties, since no increase in enrollment or faculty is contemplated in connection with the construction of the library. The facility would be served by adequate public services and facilities, including water and sanitary sewer which are already available, and would not adversely affect traffic on the school site or on streets in the surrounding area. The building meets all setback and height requirements in the R-200 Zone, and the school population is well within the limitation of 87 pupils per acre (in this case, approximately 600 students on a 98-acre site).

The primary concern expressed by nearby residents (and uppermost in the minds of the members of the Board) is the matter of the proximity of the proposed structure to nearby residential properties, in particular, to the Hurwitz property. The Board is persuaded by a preponderance of the evidence in the record, and particularly by the testimony of the project architect, that the location selected is the most appropriate site for a library to serve the needs of the school. While the Board is sympathetic to concerns of nearby property owners regarding construction to within 20 feet of the property line, and consequent loss of much of the existing tree screening on the site, the Board finds that such construction is clearly permitted by the Zoning Ordinance (the required setback is only 12 feet). Moreover, as conditioned herein, the Board finds that the school building will be adequately shielded from view from the nearby residences, and requisite privacy to the residential properties will be provided by the construction and landscaping requirements imposed by this Board.

Therefore, the special exception petition is granted, subject to the following conditions:

1. Construction shall be according to plans entered in the record as Exhibits Nos. 4(c) through (e), 17 and 18.

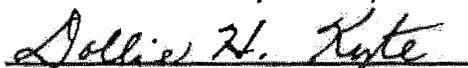
2. Special exception holder shall prepare a detailed landscape screening plan for review and approval by the technical staff of the MNCPPC. The plan shall make special provision for screening the library building from view from nearby residential properties, and shall include shrubs and/or trees not only along the property line, but near the building foundations and in the area between the library and the property line.
3. Special exception holder shall obtain a use and occupancy permit from the Department of Environmental Protection prior to inaugurating use of the library.
4. All windows in the proposed structure from which the Hurwitz property may be viewed by persons within the proposed building shall be baffled in such manner as to totally obscure the view of the Hurwitz property by persons within the building.

The Board adopted the following Resolution:

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

The foregoing Resolution was proposed by Mrs. Marjorie H. Sonnenfeldt, Chairman, and concurred in by Mrs. Shirley S. Lynne, Mrs. Doris Lipschitz, Mr. Joseph E. O'Brien, Jr., and Mr. Wallace I. Babcock.

I do hereby certify that the foregoing Minutes were officially entered in the Minute Book of the County Board of Appeals this 30th day of April, 1980.

  
Clerk to the Board

NOTE: See Section 59-A-4.53 of the Zoning Ordinance regarding the twelve-months' period within which the right granted by the Board must be exercised.

Any decision by the County Board of Appeals may, within thirty 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.



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**Case No. S-2467**

**PETITION OF HOLTON ARMS SCHOOL, INC.**

OPINION OF THE BOARD

(Public Hearing Held June 12, 2002)

(Effective Date of Opinion: August 8, 2002)

Case No. S-2467 is an application by the Holton Arms School, Inc. for a special exception pursuant to Section 59-G-2.13.1 (Child Day Care Facility) of the Montgomery County Zoning Ordinance to permit the expansion and relocation of the existing child day care facility for a maximum of 15 children. Pursuant to the provisions of Section 59-A-4.11 of the Zoning Ordinance, on June 12, 2002, the Board of Appeals held a public hearing on the application. Jody S. Kline, Esquire, appeared on behalf of the Holton Arms School. He called as witnesses Diana Coulton Beebe, Head of School at Holton Arms, and Leah Brixey, Director of the Lower School at Holton Arms. Martin Klauber, Esquire, Peoples' Counsel for Montgomery County also appeared. The Board received no correspondence or testimony in opposition to the application.

Decision of the Board:                      Special Exception **Granted**, subject to  
conditions enumerated below.

**EVIDENCE PRESENTED**

1. Holton Arms seeks permission to operate its on-site day care facility for a maximum of 15 children in the "Brown House", which is located south of the Lower School wing adjacent to the site of a proposed recreation hall and activities building. The main floor of the building and the play area will be devoted to the day care use. The lower level of the house is an apartment for the school's security guard. [Exhibit Nos. 5, 17].
2. Enrollment in the day care program is limited to children of Holton Arms faculty and staff. The facility will operate with 4-5 staff members, and possibly some volunteers from among Holton Arms' students. [Exhibit No. 17(b)].

3. The facility will operate only during the months that school is in session. Hours of operation will be from 7:30 a.m. to 5:00 p.m. Monday – Thursday and from 7:30 a.m. to 4:00 p.m. on Friday. [Exhibit No. 3].

4. Maryland National Capital Park and Planning Commission (MNCPPC) technical staff evaluated the special exception request and recommend approval. Staff finds the proposed use consistent with the 1990 Bethesda Chevy Chase Master Plan. Staff notes that because the childcare facility will serve faculty and staff of the school, it will generate no additional traffic. Staff also analyzed the inherent and non-inherent adverse effects of the proposed use and find that all of its adverse effects will be inherent. [Exhibit No. 25].

## FINDINGS OF THE BOARD

### *Sec. 59-G-1.2. Conditions for granting a special exception.*

*59-G-1.2.1. Standard for evaluation. A special exception must not be granted absent the findings required by this Article. In making these findings, the Board of Appeals, Hearing Examiner or District Council, as the case may be, must consider the inherent and non-inherent adverse effects of the use on nearby properties and the general neighborhood at the proposed location, irrespective of adverse effects the use might have if established elsewhere in the zone. Inherent adverse effects are the physical and operational characteristics necessarily associated with the particular use, regardless of its physical size or scale of operations. Inherent adverse effects alone are not a sufficient basis for denial of a special exception. Non-inherent adverse effects are physical and operational characteristics not necessarily associated with the particular use, or adverse effects created by unusual characteristics of the site. Non-inherent adverse effects, alone or in conjunction with the inherent effects, are a sufficient basis to deny a special exception.*

The Board interprets this section to require the following analysis. The Board must:

(1) Make a determination as to the general neighborhood affected by the proposed use.

(2) Establish those inherent, generic physical and operational characteristics associated with a given use, in this case a child daycare facility, to create an evaluation standard. The evaluation standard does not include the actual physical size and scale of operations of the use proposed.

(3) Determine separately the physical and operational characteristics of the

use proposed, in this case operation of an on-site child daycare facility for the children of faculty and staff of Holton Arms School.

(4) Compare the generic characteristics of the evaluation standard with the particular characteristics of the use proposed. Inherent adverse effects are those caused by characteristics of the use proposed consistent with the generic characteristics of the evaluation standard. Non-inherent adverse effects are those caused by characteristics of the use proposed that are not found in the evaluation standard.

Applying the above analysis to this case, the Board find as follows:

(1) The General Neighborhood

The Board adopts the definition of the neighborhood as adopted in the MNCPPC staff report. [Exhibit No. 9 and Exhibit No. 25, p. 3].

(2) Evaluation Standard - Physical and Operational Characteristics

The Board recognizes that Planning Board staff has, in previous cases, offered seven criteria to be used to establish the physical and operational characteristics of a use. Those are size, scale, scope, lighting, noise, traffic, and environment.

The Board finds that typical of a childcare facility in Montgomery County are outdoor play areas, parking and lighting. The Board finds that a certain degree of lighting for safety and security, traffic associated with drop off and pick up, and noise from children playing are to be expected. Hours of operation would generally be between 7 a.m. and 7 p.m. Finally, impacts on the environment, such as runoff from the building and the parking facility, may occur.

(3) Proposed Use Physical and Operational Characteristics.

The proposed childcare facility will serve children of faculty and staff of the school, and thus will generate no additional traffic. Enrollment is limited to fifteen children, creating moderate on-site activity or noise, which is buffered from neighboring properties by generous setbacks and vegetation. The nearest adjacent residence is approximately 200 feet away. [Exhibit No. 5.].

(4) Comparison of Characteristics.

(1) Inherent Adverse Effects.

After considering the generic characteristics of the use and comparing them with the physical and operational characteristics of the proposed use, the Board finds that, all of the physical and operational characteristics of the as proposed will be

inherent adverse effects.

(2) Non-Inherent Adverse Effects.

The Board finds that there are no non-inherent adverse effects associated with the proposal.

## GENERAL STANDARDS

### Section 59-G-1.21.

(a) *A special exception may be granted when the Board, the Hearing Examiner, or the District Council, as the case may be, finds from a preponderance of the evidence of record that the proposed use:*

(1) *Is a permissible special exception in the zone.*

Pursuant to Section 59-C-1.31 of the Zoning Ordinance, a Child Day Care Facility is permitted by special exception in the R-90 and R-200 Zones.

(2) *Complies with the standards and requirements set forth for the use in Division 59-G-2. The fact that a proposed use complies with all specific standards and requirements to grant a special exception does not create a presumption that the use is compatible with nearby properties and, in itself, is not sufficient to require a special exception to be granted.*

As detailed below, the use will be in compliance with the standards in Section 59-G-2.13.1.

(3) *Will be consistent with the general plan for the physical development of the District, including any master plan adopted by the commission. Any decision to grant or deny special exception must be consistent with any recommendation in an approved and adopted master plan regarding the appropriateness of a special exception at a particular location. If the Planning Board or the Board's technical staff in its report on a special exception concludes that granting a particular special exception at a particular location would be inconsistent with the land use objectives of the applicable master plan, a decision to grant the special exception must include specific findings as to master plan consistency.*

The Board adopts MNCPPC staff's finding that the proposed Child Day Care Facility is consistent with the Bethesda Chevy Chase Master Plan.

- (4) *Will be in harmony with the general character of the neighborhood considering population density, design, scale and bulk of any proposed new structures, intensity and character of activity, traffic and parking conditions, and number of similar uses.*

The proposed special exception will be in harmony with the general character of the neighborhood. Located on the campus of the existing school, it is well buffered from surrounding properties and will have a staff of no more than five, and an enrollment of no more than 15 children. It will generate no new traffic. No new structures are proposed.

- (5) *Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

Due to its setting and modest scope, the requested child care facility will have little impact on surrounding properties, and will not be detrimental to their use, peaceful enjoyment, economic value or development.

- (6) *Will cause no objectionable noise, vibrations, fumes, odors, dust, illumination, glare or physical activity at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The child care facility will have none of these adverse effects.

- (7) *Will not, when evaluated in conjunction with existing and approved special exceptions in any neighboring one-family residential area, increase the number, intensity, or scope of special exception uses sufficiently to affect the area adversely or alter the predominantly residential nature of the area. Special exception uses that are consistent with the recommendation of a master or sector plan do not alter the nature of an area.*

The child care facility will be located on the campus of and will be well subordinate to the existing private educational institution which exists by special exception.

- (8) *Will not adversely affect the health, safety, security, morals or general welfare of residents, visitors or workers in the area at the subject site, irrespective of any adverse effects the use might have if established elsewhere in the zone.*

The Board finds that the proposed child day care facility will have none of these adverse effects.

- (9) *Will be served by adequate public services and facilities including schools, police and fire protection, water, sanitary sewer public roads, storm drainage and other public facilities.*

The subject site is served by adequate public facilities.

- (i) *If the special exception use requires approval of a preliminary plan of subdivision, the adequacy of public facilities must be determined by the Planning Board at the time of subdivision review. In that case, subdivision approval must be included as a condition of the special exception.*

No preliminary plan of subdivision is required.

- (ii) *With regard to findings relating to public roads, the Board, the Hearing Examiner, or the District Council, as the case may be, must further determine that the proposal will have no detrimental effect on the safety of vehicular or pedestrian traffic.*

The requested special exception will rely on existing and proposed access road, drives and sidewalks connected with the school. It will introduce no new traffic and will have no detrimental effect on the safety of vehicular or pedestrian traffic.

## **SPECIFIC STANDARDS**

### **Section 59-G-2.13.1 Child day care facility**

- (a) *The Hearing examiner may approve a child day care facility for a maximum of 30 children if:*

- (1) *a plan is submitted showing the location of all buildings and structures, parking spaces, driveways, loading and unloading areas, play areas and other uses on the site;*

The applicant has submitted a site plan showing all of the required information. [Exhibit No. 5].

- (2) *parking is provided in accordance with the Parking Regulations of Article 59-E*

The Board adopts staff's findings that based upon the proposed size of the facility and number of staff, the required number of parking spaces is eight, and that a total of 20 spaces are available in the immediate vicinity of the proposed use [Exhibit No. 25, p. 8, Exhibit No. 5].

*The number of parking spaces may be reduced by the Hearing Examiner if the applicant demonstrates that the full number of spaces required in Section 59-E-3.7 is not necessary because:*

- (A) *existing parking spaces are available on adjacent property or on the street abutting the site that will satisfy the number of spaces required; or*
- (B) *a reduced number of spaces would be sufficient to accommodate the proposed use without adversely affecting the surrounding area or creating safety problems;*

Not applicable.

- (3) *an adequate area for the discharge and pick up of children is provided;*

The Board finds that the area for discharge and pick up of children is adequate [Exhibit Nos. 5, 24(a)-(g)].

- (4) *the petitioner submits an affidavit that the petitioner will:*

- (A) *comply with all applicable State and County requirements;*
- (B) *correct any deficiencies found in any government inspection; and*
- (C) *be bound by the affidavit as a condition of approval for this special exception; and*

The applicant has submitted the required Affidavit of Compliance [Exhibit No. 8].

- (5) *the use is compatible with surrounding uses and will not result in a nuisance because of traffic, parking, noise or type of physical activity. The hearing examiner may require landscaping and screening and the submission of a plan showing the location, height, caliper, species, and other characteristics, in order to provide a physical and aesthetic barrier to protect surrounding properties from any adverse impacts resulting from the use.*

The Board finds that the requested childcare facility will be compatible with surrounding uses. It will be located on the campus of the long-established

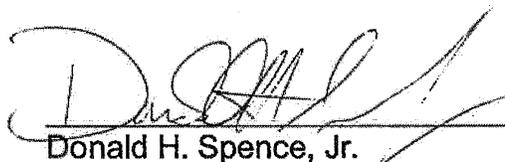
Holton Arms School and buffered from surrounding uses by generous setbacks and mature vegetation. As discussed above, because it serves only faculty and staff of the school, the childcare facility will generate no additional traffic.

Therefore, based upon the foregoing, the Board finds that the requested special exception for a childcare facility can be granted, subject to the following conditions:

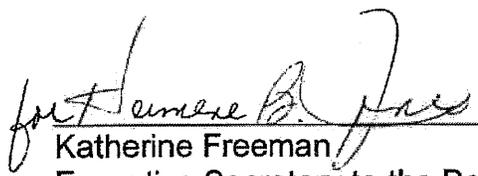
1. Petitioner shall be bound by its testimony and exhibits of record, the testimony of its witnesses and representations of its attorney, to the extent that such evidence and representations are identified in the Board's opinion granting the special exception.
2. Enrollment in the childcare facility will be limited to 15 children.
3. There will be a total of five staff members at the childcare facility.

On a motion by Donna L. Barron, seconded by Louise L. Mayer, with Angelo M. Caputo, Allison Ishihara Fultz and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the following Resolution:

**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 case.

  
 \_\_\_\_\_  
 Donald H. Spence, Jr.  
 Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book  
 of the Board of Appeals for  
 Montgomery County, Maryland  
 this 8th day of August, 2002.

  
 \_\_\_\_\_  
 Katherine Freeman  
 Executive Secretary to the Board

**Case No. S-2467****Page 9.****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 (See Section 59-A-4.63 of the County Code). 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.

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**Case No. S-2467-A**

**PETITION OF HOLTON ARMS SCHOOL**

**RESOLUTION TO MODIFY SPECIAL EXCEPTION**

(Resolution Adopted March 8, 2006)

(Effective Date of Resolution: June 13, 2006)

The Board of Appeals has received a letter, dated February 22, 2006, from Elsie L. Reid, Esquire, on behalf of The Holton Arms School. Ms. Reid requests administrative modification of the captioned special exception to permit one additional staff member, for a total of six, to accommodate an anticipated increase in the number of children under the age of 15 months at the center. She states that this enrollment increase will not exceed the 20 child enrollment cap. Ms. Reid requests modification of the first bullet point in Condition No. 7 of the Board of Appeals March 23, 2004 opinion, to change "five full time staff members" to "six full time staff members." Ms. Reid encloses a letter from the Bradley Boulevard Citizens Association, on behalf of itself and the Burning Tree Civic Association.

The Board of Appeals granted Case No. S-2467 to the Holton Arms School on August 8, 2002 to permit the expansion and relocation of an existing child day care facility for 15 children. Effective March 23, 2004, the Board granted a modification of the special exception to permit an increase in the day care enrollment to 20 children, with permission for children from other specified schools fill up to 12 slots if they are not filled by children of Holton faculty and staff. By Resolution dated June 16, 2005, the Board accepted a letter from Ms. Reid requesting that grandchildren of faculty at Holton Arms be allowed to enroll in the day care program.

The Board of Appeals considered the modification request at its Worksession on March 8, 2006. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance provides, pertaining to modification of special exceptions:

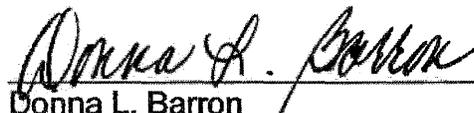
If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature,

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 that an increase of one faculty member for the child care facility will not substantially change the nature, character or intensity of the use and or its effect on traffic or on the immediate neighborhood. Therefore, on a motion by Angelo M. Caputo, seconded by Caryn L. Hines, with Wendell M. Holloway and Donna L. Barron, Vice Chair in agreement, and Allison Ishihara Fultz, Chair necessarily absent:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the record in Case No. S-2467-A, Petition of The Holton Arms School, is re-opened to receive Elsie L. Reid's letter of February 22, 2006, with attachments; 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.



Donna L. Barron

Vice Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 13<sup>th</sup> day of June, 2006.



Katherine Freeman  
Executive Director

**NOTE:**

Case No. S-2467-A

Page 3.

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 (See Section 59-A-4.63 of the County Code). 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.

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**Case No. S-2467-A**

**PETITION OF HOLTON ARMS SCHOOL**

**RESOLUTION TO MODIFY SPECIAL EXCEPTION**

(Resolution Adopted September 13, 2006)

(Effective Date of Resolution: November 1, 2006)

The Board of Appeals has received a letter, dated August 18, 2006, from Elsie L. Reid, Esquire, on behalf of The Holton Arms School. Ms. Reid requests administrative modification of the special exception to allow extension of the Hours of Operation of the Holton Arms Child Development Center from 4 p.m. to 5 p.m. on Fridays. This will harmonize the hours of operation of the Center with the hours of operation for the school. The Board of Appeals granted Case No. S-2467 to the Holton Arms School on August 8, 2002 to permit the expansion and relocation of an existing child day care facility for 15 children. Effective March 23, 2004, the Board granted Case No. S-2467-A, a modification of the special exception to permit an increase in the day care enrollment to 20 children, with permission for children from other specified schools fill up to 12 slots if they are not filled by children of Holton faculty and staff. By Resolution dated June 16, 2005, the Board accepted a letter from Ms. Reid requesting that grandchildren of faculty at Holton Arms be allowed to enroll in the day care program.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered Ms. Reid's letter at its Worksession on September 13, 2006. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance 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,

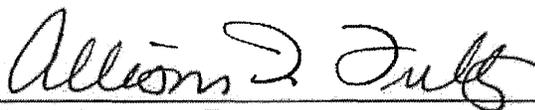
without convening a public hearing to consider the proposed change, may modify the term or condition.

The Board finds that extended the hours of operation of the Child Development Center by one hour on Fridays will not substantially change the nature, character or intensity of the use and or its effect on traffic or on the immediate neighborhood. Therefore, on a motion by Donna L. Barron, seconded by Wendell M. Holloway, with Angelo M. Caputo and Allison Ishihara Fultz, Chair in agreement:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the record in Case No. S-2467-A is re-opened to receive Elsie L. Reid's letter dated August 18, 2006, with attachments, as Exhibit Nos. 68(a) and (b); and

**BE IT FURTHER RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception 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.



Allison Ishihara Fultz  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
This 1<sup>st</sup> day of November, 2006.



Katherine Freeman  
Executive Director

**NOTE:**

Case No. S-2467-A

Page 3.

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 (See Section 59-A-4.63 of the County Code). 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.

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**Case No. S-2467-A**

**PETITION OF HOLTON ARMS SCHOOL**

**RESOLUTION TO MODIFY SPECIAL EXCEPTION**

(Resolution Adopted November 4, 2009)

(Effective Date of Resolution: March 19, 2010)

The Board of Appeals has received a letter, dated October 22, 2009, from Elsie L. Reid, Esquire, on behalf of The Holton Arms School. Ms. Reid requests administrative modification of the special exception to allow extension of the hours of operation of the Holton's Child Development Center (CDC) by one-half hour, from 5:00 p.m. to 5:30 p.m., Monday through Friday. Ms. Reid explains that this additional time will allow faculty and staff whose children are enrolled in the CDC to attend meetings and conferences that are scheduled at the end of the school day.

The Board of Appeals granted Case No. S-2467 to the Holton Arms School on August 8, 2002 to permit the expansion and relocation of an existing child day care facility for 15 children. Effective March 23, 2004, the Board granted Case No. S-2467-A, a modification of the special exception to permit an increase in the day care enrollment to 20 children, with permission for children from other specified schools fill up to 12 slots if they are not filled by children of Holton faculty and staff. By Resolution dated June 16, 2005, the Board accepted a letter from Ms. Reid requesting that grandchildren of faculty at Holton Arms be allowed to enroll in the day care program. In a Resolution dated November 1, 2006, the Board approved an extension of the of the CDC hours of operation from 4:00 p.m. until 5:00 p.m. on Fridays.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered Ms. Reid's letter at its Worksession on November 4, 2009. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance provides, pertaining to modification of special exceptions:

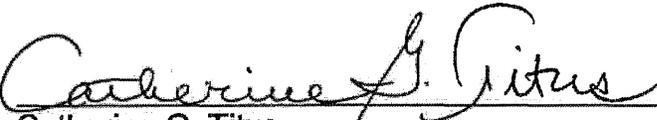
If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the Board, without convening a public hearing to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

The Board finds that the extension of the CDC's hours of operation by one-half hour will not substantially change the nature, character or intensity of the use or its the effect on traffic or on the immediate neighborhood. Therefore, on a motion by Stanley B. Boyd, seconded by Walter S. Booth, with Carolyn J. Shawaker, David K. Perdue, Vice-Chair and Catherine G. Titus, Chair, in agreement:

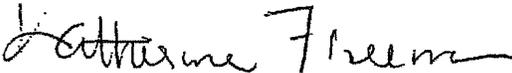
**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the record in Case No. S-2467-A is re-opened to receive Elsie Reid's letter dated October 22, 2009; and

**BE IT FURTHER RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception 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.

  
Catherine G. Titus  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 19<sup>th</sup> day of March, 2010.

  
Katherine Freeman  
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 (See Section 59-A-4.63 of the County Code). 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.

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
[www.montgomerycountymd.gov/content/council/boa/index.asp](http://www.montgomerycountymd.gov/content/council/boa/index.asp)

(240) 777-6600

**Case No. S-2467**

**PETITION OF HOLTON ARMS SCHOOL**

**RESOLUTION TO MODIFY SPECIAL EXCEPTION**

(Resolution Adopted March 12, 2014)

(Effective Date of Resolution: April 11, 2014)

Case No. S-2467 is a special exception granted August 8, 20002, pursuant to Section 59-G-2.13.1 (Child Day Care Facility) of the Montgomery County Zoning Ordinance, to permit a child care facility for the benefit of Holton Arms School faculty and staff. Effective March 23, 2004, the Board granted Case No. S-2467-A, a major modification of the special exception. Subsequently, the Board has granted several administrative modifications to allow changes to the hours and staffing of the special exception.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, 20817, in the R-90 and R-200 Zones.

The Board of Appeals has received a letter, dated March 6, 2014, from Elsie L. Reid, Esquire, on behalf of the Holton Arms School. Ms. Reid requests administrative modification of the special exception to allow an increase in enrollment at the child care center to 31 children, and to allow an increase in staffing to 10 full time staff positions. In addition, Ms. Reid requests an extension of the regular hours of operation for the center until 6:30 p.m., and permission to offer childcare to Holton faculty on evenings during the school year when there are major school events. Ms. Reid anticipates that such evening care would occur no more than seven to eight times per year.

In support of the request Ms. Reid states that the number of trips generated by the requested increases would fall within the approved overall enrollment for the Holton Arms School which has an approved enrollment of 665 students, but which is currently enrolled at 641, with next year's enrollment anticipated to be lower. Ms. Reid clarifies that the requested increase in enrollees will not increase the number of children allowed to be enrolled from schools outside Holton. Ms. Reid states that the arrival of center

staff "will largely be outside school peak traffic hours," and that "There is adequate parking on site for the additional staff." Ms. Reid reports that Holton discussed the requested modification with representatives of the Bradley Boulevard Citizens' Association and the Burning Tree Civic Association and that both groups have said they do not object to the modification.

The Board of Appeals considered the modification request at its Worksession on March 12, 2014. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance 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 that the requested modification will not cause significant additional activity or traffic impact, and therefore will not substantially change the nature, character or intensity of the use or its effect on traffic or on the immediate neighborhood.

On a motion by Stanley B. Boyd, seconded by Carolyn J. Shawaker, with John H. Pentecost and David K. Perdue, Vice-Chair, in agreement and Catherine G. Titus, Chair, necessarily absent:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the record in Case No. S-2467-A is re-opened to receive Elsie Reid's letter dated March 6, 2014; and

**BE IT FURTHER RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception 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.



David K. Perdue

Vice-Chair, Montgomery County Board of Appeals