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*ALSO ADMITTED IN THE
DISTRICT OF COLUMBIA

March 6, 2026

Via Email and Hand Delivery

Board of Appeals for Montgomery County
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 217
Rockville, Maryland 20850

Re: Petition of Holton Arms School, Inc.;
Special Exception Case No. CBA-1174-E

Chair Hines and Board Members:

I represent Vivian Riefberg and the Bradley Boulevard Citizens Association as to the special exception Major Modification application that was filed with the Board on or about December 13, 2024, on behalf of the Holton Arms School, Inc. (“Holton Arms”) and denominated as Case No. CBA-1174-E. This special exception is for an “Educational Institution, Private” and was initially approved by the Board in Case No. CBA-1174, decided November 29, 1961.

By its resolution of January 15, 2025, the Board referred the December 2024 application to the Office of Zoning and Administrative Hearings (“OZAH”) for hearing, report, and recommendation as provided under the Zoning Ordinance. A copy of that resolution is attached hereto as **Exhibit A**. The Board’s resolution expressly stated that its referral to OZAH was Case No. CBA-1174 and no other special exception. It designated this application as Case No. CBA-1174-E. *See, Exhibit A*, p. 1. (“Under the Board’s standard procedures for designating cases, this modification would be Board of Appeals’ Case No. CBA-1174-E.”¹).

All public notices of Holton’s December 2024 Major Modification application have been given as applying *only* to Case No. CBA-1174-E. In fact, the public notice posting of the application (required by the Zoning Ordinance) was for a Private Education Institution,

¹ Previous modifications to the Holton special exception were designated by the Board as CBA-1174-A, CBA-1174-B, CBA-1174-C, and CBA-1174-D.

Case No. CBA-1174-E, as plainly evident by the photograph attached hereto as **Exhibit B**.

On Monday, March 2, 2026, legal counsel for Holton Arms filed with the Board a letter (with attachments) of that date to “correct” the Board’s resolution of January 15, 2025 (**Exhibit A**) to not only include CBA-1174-E *but to add another special exception case referred as S-2503-B*. But, no BOA case S-2503-B is known to exist, much less designated as such by this Board under its standard procedures. The designation “S-2503-B” has been created by counsel for Holton Arms in the letter.

BOA Case No. S-2503 is a special exception held by Holton Arms for a co-educational summer camp for 645 children granted June 20, 2002. Subsequently, in Case No. S-2503-A the Board authorized an increase in enrollment to 665 by a resolution of March 23, 2004. *This special exception is a free-standing special exception, separate and apart from the private school special exception in Case No. CBA-1174, including CBA-1174-E.*

Based on counsel’s letter of March 2, 2026, it is understood that Holton Arms wishes to cure a defect in its Major Modification application relative to the increase in enrollment of its summer camp special exception, Case Nos. S-2503 and S-2503-A. But, such a Major Modification of that special exception has never been the subject of a referral to OZAH by this Board or public notice. Accordingly, if the Holton Arms application is to include a modification of its summer camp special exception it must be the subject of a proper referral to OZAH by the Board and the public notice required by the Zoning Ordinance. That has not occurred, and, therefore, the Board may not merely “correct” its resolution of January 15, 2025, after the fact. Rather, there must be a proper referral to OZAH and public notice.

Aside from the fatal deficiency in attempting to include Case No. S-2503 (and S-2503-A) in the pending OZAH proceeding without proper referral to OZAH and public notice, the last paragraph of the March 2 letter is worded so broadly and inartfully as to possibly include a request that the Board authorize or approve the summer camp enrollment increase to 970 campers without any OZAH hearing, report, and recommendation. On this point, the last paragraph of the Holton letter states:

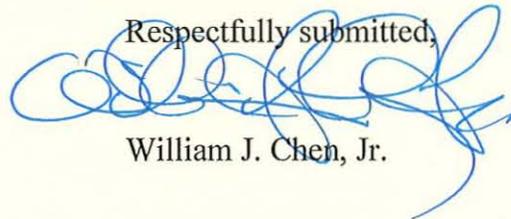
Based on all the above, the School requests that the Board’s record in the pending Major Modification case be corrected to accurately reflect the full scope of review that has already been undertaken by the Planning Board and Staff and relevant outside agencies such as MCDOT and SHA, inclusive of a summer camp registration cap increase to 970, in advance of the OZAH hearings currently scheduled for April 7-10, 2026.

Undeniably, the Board has no authority to authorize or approve the summer camp enrollment increase without its hearing process or referral to OZAH or public notice, all as

required by the Zoning Ordinance.

The Board has authority to refer the Holton Arms application to increase enrollment for its summer camp special exception in S-2503 to OZAH for hearing, report, and recommendation. But, such a Major Modification application must be the subject of a resolution by the Board referring the application to OZAH. Without such a resolution it is respectfully submitted that OZAH has no authority or jurisdiction to consider the special exception Major Modification application. It also is subject to the public notice requirements of the Zoning Ordinance. Stated otherwise, the application to modify Case No. S-2503 to increase the summer camp enrollment is subject to all normal and usual processing requirements for a major modification of a special exception as required by the Zoning Ordinance.

Respectfully submitted,



William J. Chen, Jr.

WJC:mml

Enclosures

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Exhibit A

BOARD OF APPEALS for MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue, Suite 217
Rockville, Maryland 20850
<http://www.montgomerycountymd.gov/boa/>
(240) 777-6600

Case No. CBA-1174-E

PETITION OF THE HOLTON ARMS SCHOOL

RESOLUTION TO REFER MAJOR MODIFICATION
TO THE HEARING EXAMINER TO CONDUCT A PUBLIC HEARING AND
ISSUE A REPORT AND RECOMMENDATION
(Resolution Adopted December 18, 2024)
(Effective Date of Resolution: January 15, 2025)

Case No. CBA-1174 is a special exception granted to the Holton Arms School on November 29, 1961. The special exception has been modified on numerous occasions since that time, most recently in 2023.

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 has received an Application and a Statement in Support of Special Exception Modification Application, dated December 13, 2024, from Patrick O'Neil, Esquire, on behalf of The Holton Arms School. The School is seeking a major modification of its special exception. Under the Board's standard procedures for designating cases, this modification would be Board of Appeals' Case No. CBA-1174-E.

Because Case No. CBA-1174 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)(2) of the Montgomery County Zoning Ordinance (2004) provides that the Board "must convene a public hearing" to consider a proposed major modification, and that the request is subject to the requirements of Sections 59-A-4.2 and 59-A-4.4 of that Ordinance, which pertain to filing and scheduling requirements. Section 59-A-4.125(a) of that Ordinance states that:

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

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

The Board of Appeals considered Mr. O'Neil's submission at a Worksession held on December 18, 2024. At the Worksession, the Board voted to refer this major modification request to the Office of Zoning and Administrative Hearings for a public hearing and the issuance of a report and recommendation, in accordance with Section 59-A-4.125(a) of the Zoning Ordinance (2004).¹ Accordingly, on a motion by Caryn L. Hines, Chair, seconded by Donald Silverstein, with Alan Sternstein and Amit Sharma in agreement, and with Richard Melnick, Vice Chair, necessarily absent:

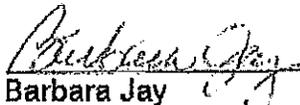
BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that, pursuant to the authority granted in Section 59-A-4.125 of the Montgomery County Zoning Ordinance (2004), the Board refers the above-described major modification to the Hearing Examiner for Montgomery County to schedule and conduct a public hearing, and for the issuance of a written report and recommendation to the Board of Appeals.



Caryn L. Hines

Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 15th day of January, 2025.



Barbara Jay
Executive Director

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

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

Exhibit B

SPECIAL EXCEPTION PENDING FOR
Private Educational
BOARD OF APPEALS HEARING
Institution
CASE NO. CBA-1174-E
TELEPHONE NO. 240-777-6600

Holton-Arms
is not seeking
to add new
entrances to
the property.

