

**BEFORE THE OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS  
FOR MONTGOMERY COUNTY, MARYLAND**

**IN THE MATTER OF THE APPLICATION           :**  
**OF HOLTON ARMS SCHOOL, INC. FOR A       :**       **Conditional Use Application**  
**MAJOR MODIFICATION OF SPECIAL       :**       **Case No. CBA-1174-E**  
**EXCEPTION FOR A PRIVATE               :**  
**EDUCATIONAL INSTITUTION               :**

**RESPONSE TO MOTION TO AMEND**

Pursuant to OZAH Rule 3.9 opposition parties Vivian Riefberg and Bradley Boulevard Citizens Association file this response to the Motion to Amend (OZAH Exhibit 72) that the Applicant Holton Arms School, Inc. (“Holton Arms” or “Holton”), has filed with the Office of Zoning and Administrative Hearings (“OZAH”).

This proceeding is before OZAH pursuant to a referral from the Board of Appeals (“Board”) for hearing, report, and recommendation on an application filed by Holton Arms to modify its special exception for a private school. The Board designated the modification application as CBA-1174-E. **Exhibit A.**

The instant motion seeks to include in this proceeding a modification of the enrollment cap of Holton’s special exception for a summer camp (S-2305) and to withdraw its modification request to allow permanent use of the on-site detached residential dwelling, known as the Granger House, for administrative office use. CBA-1174-D. **Exhibit B.**

**Preliminary Statement**

The Motion to Amend was filed on Thursday, February 26, 2026, at 11:11 p.m. This Motion is egregiously untimely given the proceedings that were before OZAH at

the hearing of November 17, 2025. At that time the Hearing Examiner raised a preliminary issue about the adequacy of the modification application and the special exceptions that were before OZAH. There were extensive discussions and a transcript of the November 17, 2025, hearing is in the record. The following excerpts merely highlight those discussions.

MR. CHEN: .....What I can give you is a copy of the application. The document you got is the application. It was filed with the Board of Appeals in December. The Board of Appeals referred it to you with the notation that it would be, if I may, it would be designated as 7411-E. That is the referral resolution of the Board of Appeals. Not any other applications. None whatsoever.

OZAH Transcript, p. 10, lines 18-25.

\* \* \*

MR. CHEN: .....its my understanding that an application has to be amended if its going to be changed and indeed under the zoning ordinance there's a process.

HEARING EXAMINER: Has there been a notice of motion to amend in this case?

MR. CHEN: No. Pardon me. I defer to Ms. Cho. I haven't seen one if there is.

OZAH Transcript, p. 12, lines 18-25.

\* \* \*

MR CHEN: .....Not only that, Madam Examiner, when you look at these other - - and I don't know - -you know better than me, I think. I don't know how this matter is now a modification proceeding involving four applications, and that is what it is all about. It is not now, pursuant to this notice, 1174-E. And when you look at these other applications, they are dovetailing to what is before you on the application that was filed in December. They go to daycare. They go to pupils. They go to those types

of matters so that any decision that is made by the Board of Appeals after you issued your report and recommendation, assuming you were to grant a modification, it's going to modify those additional applications. So I don't know how - -

HEARING EXAMINER: I understand what you're saying.

MR. CHEN: Do you? I mean, I apologize. I didn't hear that. Do you understand what I'm saying?

HEARING EXAMINER: Yes.

MR. CHEN: So, and your notice even - - I apologize for repeating this, but we're no longer before you on 1174-E. We're before you on five, five, board decisions, and there's been no amendment at all that has been filed. And I'm sorry, I respectfully disagree. A statement of justification ain't the application.

OZAH Transcript, p. 13, lines 22-26; p. 14, lines 1-25.

\* \* \*

HEARING EXAMINER: .....And as Mr. Chen said, there is so - - you know, I'm confused about what cases we're modifying and what cases we aren't modifying.

OZAH Transcript, p. 29, lines 12-15.

\* \* \*

HEARING EXAMINER: .....I would like to see a summary of the old opinions and exactly which ones you're modifying.

MS. LEE-CHO: We are only modifying CBA 1174-E to the extent that these old numbers were different numbers tracking use by the Board of Appeals.

OZAH Transcript, p. 36, lines 11-17.

\* \* \*

HEARING EXAMINER:

\* \* \*

But I agree that we should postpone and let - - and I'm going to take a break, and I'm not discounting the importance of this to the school and I'm not saying that I'm denying it. *I'm just saying we have to know what we're dealing with and right now I can't say that I really know.*

And as Mr. Chen said, there is so - - you know, *I'm confused about what cases we're modifying and what cases we aren't modifying.*

OZAH Transcript, p. 29, lines 6-15 (emphasis added).

Notwithstanding the passage of three (3) months (November 17, 2025 — February 26, 2026) since those hearing discussions, Holton Arms has filed its last minute Motion to Amend. A motion to amend should have, and could have, been filed shortly after the November 17, 2025, OZAH hearing. No motion to amend was filed until the eleventh hour.

### **The Summer Camp Special Exception**

Among the special exceptions held by Holton Arms is a special exception for a summer camp. This special exception is reflected in two (2) decisions of the Board of Appeals, Case Nos. S-2503 and Case No. S-2503-A.

The introductory paragraph of the Motion to Amend is misleading when it states that it is to “correct the case number designation in this matter to include both CBA-1174-E and S-2503-B”. *At the time the motion was filed there was no Case No. S-2503-B.* The fact of the matter — the legal fact of the matter — is that Holton's request is not merely a “correction” to a quasi-judicial proceeding. It is a proposed modification to an existing separate, free-standing special exception (S-2503) and must comply with the

Zoning Ordinance process for its modification. In that regard, an application to modify a special exception must be filed with the Board of Appeals, and Board may refer such an application to OZAH for hearing, report, and recommendation. *See*, §59-A-4.125(a), Zoning Ordinance (2004); §59.7.6.2.B.2., Zoning Ordinance (2014).

Clearly, as a matter of law under the Zoning Ordinance, the Board, and not OZAH, is the sole County agency which can authorize an administrative proceeding to modify a special exception. Consequently, as to the summer camp special exception, because the Motion to Amend is directed to OZAH (and not the Board) it is absolutely without merit and should be *denied* as a matter of law.

Subsequent to filing the Motion to Amend, however, on Monday, March 2, 2026, Holton filed a letter with the Board of Appeals to “request correction” of the resolution of January 15, 2025, that referred the modification application for CBA-1174-E to OZAH to *also include the expansion of the summer camp enrollment in S-2503*. It is understood that a copy of the aforesaid letter has been filed with OZAH as OZAH Exhibit 74.

During a work session on the Holton letter held by the Board of Appeals on Wednesday, March 11, 2026, the Board decided to authorize OZAH to conduct a hearing, prepare a report, and issue a recommendation on Holton’s application to *modify* the summer camp special exception and the designation for that requested modification probably will be S-2503-B. As of the filing of this response the written document

reflecting the Board's work session action has not yet been received by counsel.<sup>1</sup> That action moots the part of the Motion to Amend that seeks to have the Examiner amend this proceeding improperly to include a modification of the school's summer camp special exception.

### Granger House

In Case No. CBA-1174-D the Board of Appeals approved an administrative modification requested by Holton Arms to *temporarily use* the Head of School's on-campus residence, known as the Granger House, for administrative office use. That authorization was by resolution adopted at a work session of July 26, 2023, and was effective August 4, 2023. The resolution for CBA-1174-D is attached hereto as **Exhibit B**.<sup>2</sup>

The pending application (CBA-1174-E) includes a request to modify the private school special exception to permit the *permanent use* of Granger House for administrative offices.

However, the Motion to Amend asks to "withdraw" the requested modification for the *permanent use* of the Granger House for administrative office use.<sup>3</sup> The result of

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<sup>1</sup> That authorization apparently will also include an instruction or direction that the OZAH hearing scheduled from April 7-10 proceed forward with inclusion of the modification application for the summer camp special exception.

<sup>2</sup> **Exhibit B** is a copy of the BOA resolution in CBA-1174-D as re-produced at pages 16-18 of Holton's "Petitioner's Revised Statement of Justification and Summary of Proof" of September 12, 2025.

<sup>3</sup> The Examiner cannot decide whether to allow withdrawal of an application or part  
(continued...)

the withdrawal of that modification request would allow Holton Arms *to continue its supposed temporary administrative office use of Granger House as authorized in CBA-1174-D indefinitely. See, Exhibit B.* In July 2023 the reason given for the temporary use of the Granger House for administrative offices was because of construction work. The Board's resolution states:

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. ...

\* \* \*

... 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.*

**Exhibit B**, p. 2 (emphasis added).

At the July 26, 2023, Board work session Holton's architect testified, stating that it was "estimated that the Marriott Library/Learning Commons construction *would take about a year.*" **Exhibit B**, p. 2 (emphasis added).

It is now March 2026, well over a year since the adoption (July 26, 2023) of the Board of Appeals resolution in CBA-1174-D, as well as and its effective date of August

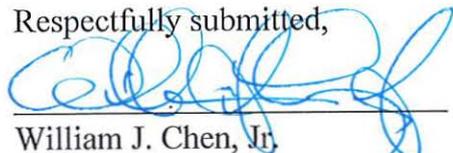
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<sup>3</sup>(...continued)  
of an application. Rather, OZAH would make a recommendation to the Board of Appeals.

4, 2023. *See*, **Exhibit B**.

The authorization to use the Granger House for administrative office use was to be *temporary*. *See*, **Exhibit B**. It was not for *indefinite temporary* office use. Accordingly, if Holton Arms is permitted to withdraw its modification request for the permanent use of Granger House for administrative offices, it will continue indefinitely with its “temporary” administrative office use of Granger House as authorized in CBA-1174-D. **Exhibit B**. That would, essentially, convert Granger House to permanent administrative office use without required authorization by the Board of Appeals. In this situation, because the Granger House modification application is before OZAH, the report and recommendation to be issued by the Examiner should include a recommendation that the school be required to report to the Board of Appeals the status of the construction activity that was the reason for the temporary administrative office use authorized in CBA-1174-D. In other words, if the Hearing Examiner recommends the withdrawal of the Granger House modification request for permanent administrative office use of Granger House, the report and recommendation to be issued should include a recommendation that the Board’s decision include the aforesaid proposed reporting requirement as to the status of the construction activity that necessitated the “temporary” use of Granger House as administrative offices.

Respectfully submitted,



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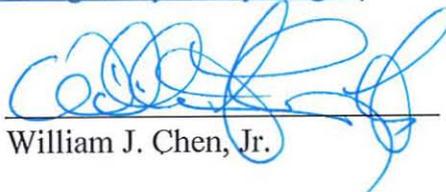
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 13<sup>th</sup> day of March, 2026, a copy of the foregoing "Response to Motion to Amend" was transmitted by email and mailed first class, postage prepaid, to:

Office of Zoning and Administrative Hearings  
[ozah@montgomerycountymd.gov](mailto:ozah@montgomerycountymd.gov)  
Stella B. Warner Council Office Building  
100 Maryland Avenue, Room 200  
Rockville, Maryland 20850

and transmitted by email, to:

Lynn Robeson Hannan ([lynn.robessonhannan@montgomerycountymd.gov](mailto:lynn.robessonhannan@montgomerycountymd.gov))  
Soo-Lee Cho, Esq. ([sleecho@bregmanlaw.com](mailto:sleecho@bregmanlaw.com))  
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William J. Chen, Jr.

# 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/boal/>  
(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).<sup>1</sup> 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:

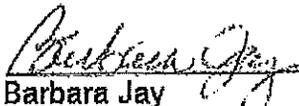
**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that, pursuant to the authority granted in Section 59-A-4.125 of the Montgomery County Zoning Ordinance (2004), the Board refers the above-described major modification to the Hearing Examiner for Montgomery County to schedule 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.

<sup>1</sup> 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."

**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 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:

<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.

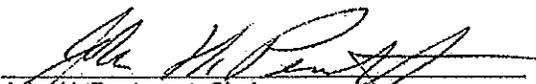
Based on the record before it, the Board finds that the proposed changes to the Granger House, as described herein and in Ms. Lee-Cho's letter, and as shown on the attachments to that letter, will not substantially change the nature, character, or intensity of the use or its effect on traffic or on the 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 Meinck, 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