

**BEFORE THE HEARING EXAMINER FOR MONTGOMERY COUNTY, MARYLAND**

Office of Zoning and Administrative Hearings  
Stella Werner County Council Office Building  
100 Maryland Avenue, Room 200  
Rockville, Maryland 20850

IN THE MATTER OF:	)	
PETITION OF HOLTON-ARMS	)	
SCHOOL, INC. FOR A MAJOR	)	Case No. CBA-1174-E
MODIFICATION OF AN EXISTING	)	
PRIVATE EDUCATIONAL	)	
INSTITUTION SPECIAL EXCEPTION	)	
Petitioner,	)	
	)	
	)	
Soo Lee-Cho, Esquire	)	
Attorney for the Petitioner.	)	

**PETITIONER’S REPLY IN FURTHER SUPPORT OF MOTION TO AMEND**

Pursuant to OZAH Rule 3.9, Applicant Holton-Arms School, Inc. (“Holton-Arms”, “School”, “Applicant” or “Petitioner”) submits this Reply in Further Support of Motion to Amend to address the Response to Motion to Amend (“Response”) filed by Mr. Bil Chen, Esq. on behalf of his clients, Vivian Riefberg and Bradley Boulevard Citizens Association.

- I. The Motion to Amend to include S-2503-B in the captioning of this case was proper and should be granted based on the conclusions reached by the Board of Appeals at the March 11, 2026, Worksession.**

Mr. Chen makes several assertions regarding the propriety of the Motion to Amend with respect to the case number designations appropriately included with this application, in particular S-2503-B. These assertions were unequivocally rejected at the Board’s work session on March 11, but since Mr. Chen chose to reiterate them only two days later directly to the Hearing Examiner, the Applicant responds.

**A. The Motion to Amend was timely under OZAH Rules.**

Curiously Mr. Chen complains that the Motion to Amend was untimely, asserting that the motion “should have, and could have, been filed shortly after” the prior hearing in November. However, there is no basis in the Zoning Ordinance or the OZAH Rules for the statement that the Motion to Amend “should have” been filed at any point before it was. Mr. Chen provides no citation to the Zoning Ordinance or OZAH Rules for this assertion because there is none.

The Applicant is obligated to do no more than is required by the Zoning Ordinance and the OZAH Rules, the relevant provision in this instance being OZAH Rule 22, and need not conform to a timeline which is to Mr. Chen’s preference. OZAH Rule 22 does not provide any timeframe for bringing a motion to amend which Applicant has run afoul of, and in fact, allows a motion to amend to be made as late as at the public hearing. Applicant, however, submitted its Motion to Amend well over a month in advance of the April hearing dates. Given that the addition of the S-2503-B case number changes absolutely nothing substantive about the application, which has undisputably always included a summer camp enrollment increase, there is no basis for Mr. Chen to assert that the timing of the Applicant’s Motion to Amend was inappropriate in any way.

**B. The Motion to Amend is not mooted by the Board’s action.**

The Response first rehashes arguments unsuccessfully made by Mr. Chen to the Board of Appeals at the March 11, 2026, Worksession. Mr. Chen disputed whether OZAH could move forward with conducting a hearing on the summer camp enrollment based on the fact that the initial Board Resolution referring this case to the Hearing Examiner named only CBA-1174-E without also explicitly listing S-2503-B. The Board disagreed and found that its referral of CBA-1174-E was in conjunction with and supported by the School’s application materials in the record which clearly from the beginning included a proposed increase to the summer camp enrollment,

providing actual public notice of the full scope of the School's proposed modification. In rejecting Mr. Chen's arguments, the Board found that the School applied for a modification of S-2503-A by virtue of the inclusion of the summer camp increase in *Petitioner's Statement in Support of Special Exception Modification Application* (Exhibit 10) and granted the School's request for a correction of the Board's referral Resolution to OZAH to clarify the record.

The Motion to Amend is not mooted by the Board's action as is suggested by Mr. Chen. Applicant's counsel intentionally filed the letter to the Board of Appeals requesting a technical correction of the January 15, 2025, resolution concurrently with the Motion to Amend such that OZAH's consideration of the Motion to correct the record would be aided by direction from the Board. We request OZAH grant this aspect of the Motion to Amend in order to leave no doubt in the record that the summer camp aspect of the School's modification, which is covered by S-2503 – a separate special exception, is and always has been a substantive part of Applicant's Petition and foreclose additional arguments to the contrary, either in these proceedings or on appeal.

**II. There is no reason for OZAH to make any recommendations with respect to the use of the Granger house as suggested by opposing counsel.**

Mr. Chen once again refuses to understand what is plain for the sake of mere argument. At the November hearing, Mr. Chen took the position that the Granger House was not properly before the Hearing Examiner because it was not part of the initial application and was never the subject of a motion to amend. See Transcript at 13:16-21. Now that the Applicant has decided it no longer wishes to seek permanent non-residential use of the Granger House, Mr. Chen has completely reversed course and claims that "the Granger House modification application is before OZAH." See Response at Page 8. It seems that Mr. Chen wants to have it both ways.

The above notwithstanding, Mr. Chen’s insinuation that the School needs to be prevented from continuing the temporary ancillary office use of the Granger House indefinitely is not just insulting but completely without merit. On April 9, 2025, the School went back to the Board and gained approval for continued “educational and ancillary office use” of the Granger House subject to review by the Board on a *year-to-year basis* and so the ancillary non-residential use of the Granger House is no longer tied to the end of construction activity as asserted by Mr. Chen. See Resolution to Modify Special Exception, CBA-1174-D, Exhibit 37(c). At such time as the Board determines that the educational and ancillary office use of the Granger House is no longer justified, the Board will issue a resolution to that effect. In the meantime, the Board does not need Mr. Chen’s assistance in determining when the use of the Granger House should be reviewed. All that the Applicant’s withdrawal of the Granger House request from the present Major Modification Application does is return the Granger House to the annual approval procedure already established by the Board under its administrative approval authority.

### **III. Conclusion**

A clear pattern emerges when one looks at Mr. Chen’s written submissions over the past several weeks. Mr. Chen insists on painting the School as a bad actor who either willfully or unknowingly does not follow the rule of law. In every instance, his accusations have been baseless. Mr. Chen clearly seems to think he is arguing for a show cause order, but this is not the case. The School’s application to modify was deemed sufficient for processing by both the Board of Appeals and Planning Staff at the time it was submitted, and the sufficiency of that application was reaffirmed by the Board at the March 11 Worksession. At this point, the School has not just complied with the law, it has undertaken additional efforts to facilitate review of this matter by the Hearing Examiner.

Mr. Chen's persistent efforts to mischaracterize the School as flouting the law are an obvious attempt to try and create unfair bias against the School. His assertions are wrong, and even if they were true, none are relevant to the findings the Hearing Examiner will need to make in this case.

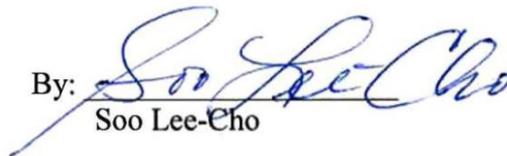
Applicant's counsel intentionally filed the letter to the Board of Appeals requesting a correction of the January 15, 2025, resolution concurrently with the Motion to Amend, so that all of these preliminary arguments could finally be put to rest before the April hearing dates. The application is and always has been sufficient. It is now time for the merits of the application to be addressed in a way that is fair and impartial to all parties.

Based on the foregoing, the Applicant requests that the Hearing Examiner grant the aforesaid Motion to Amend.

Respectfully submitted,

BREGMAN, BERBERT, SCHWARTZ & GILDAY, LLC

By:

A handwritten signature in blue ink that reads "Soo Lee-Cho". The signature is written in a cursive style and is positioned above the printed name "Soo Lee-Cho".

Soo Lee-Cho

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**CERTIFICATE OF SERVICE**

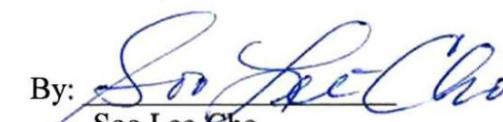
I HEREBY CERTIFY that on this 16th day of March, 2026, a copy of the foregoing Reply in Further Support of Motion to Amend was transmitted by email to:

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