

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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

WORSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, September 1, 2004, 9:00 a.m.

ACTION ITEMS:

1. **Minutes**, July 21, 2004 Worksession.

Action: Approved, (AMC/LLM, 4-0).

2. **Order Extending Time for the Board's Written Opinion** for 30 days is required in the following case:

(a) **A-5976, Petition of GBI Corporation** (single-family dwellings/townhouses).
Hearing held 5/5/04 and Worksession held 7/14/04.

(b) **A-5992, Petition of Mary H. and Ta-Jen Hu** (existing single-family dwelling
and one-story addition). Hearing held 7/7/04 and Worksession held 7/14/04.

Action: Granted Order Extending Time, (LLM/AIF, 4-0).

3. **A-5896, Petition of Stephen Kern** (existing single-family dwelling and second-story addition). Letter to the Board from Ben Van Dusen requesting a one-year extension.

Action: Denied extension of time, (LLM/AMC, 4-0).

4. **A-5900, Petition of Patrick and Deborah Logsdon** (second-story addition). Letter to the Board from Kinley R. Dumas, Esquire, requesting a six-month extension.

Action: Denied extension of time, (LLM/AMC, 4-0).

5. **A-5986, Appeal of Patrick Welch** (Department of Permitting Services [DPS] – Letter dated March 10, 2004). Letter to the Board from Michael P. Machetti, Esquire, withdrawing the appeal and requesting a refund of the filing fee.

Action: (1) Dismissed appeal as withdrawn; (2) granted 50% (\$100.00) refund of the filing fee, (AMC/LLM, 3-0/DHS/recused).

6. **A-6013, Petition of Fitwi Tekeste** (8-foot fence). Letter to the Board from the petitioner requesting a continuance.

Action: Granted continuance, (AIF/LLM, 4-0).

7. **A-6014, Appeal of Kevin J. O'Donnell** (Department of Permitting Services – Notice of Violation). Letter to the Board from Jeffrey Van Grack, Esquire, and Stuart Barr, Esquire, requesting to intervene.

Action: Granted request to intervene. (AIF/LLM, 4-0).

8. **CBA-181 [CBA-270, CBA-698, CBA-698-A, CBA-1101], Petition of Fairland Nursing Home** (nursing home). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing. (LLM/AIF, 4-0).

9. **CBA-434 [CBA-882], Petition of Wheaton Woods Swimming Pool, Inc.** (community swimming pool). Letter to the Board from Mike Holder and Ellie Shutak requesting an administrative modification. (Large exhibits: original site location plan, site plan, patio/shelter plan and site and lighting plan).

Action: Granted administrative modification. (LLM/AMC, 4-0).

10. **CBA-1036 [CBA-2648] Petition of Nicholas J. Chaconas** (radio station and transmitter towers). Letter from Lon Hamann, President, Montgomery Village Foundation to the Board requesting a public hearing.

Action: Denied request for public hearing. (AMC/LLM, 4-0).

11. **CBA-1096 [CBA-1290], Petition of American National Red Cross** (medical practitioner's office/office building). Letter to the Board from Stanley D. Abrams, Esquire, requesting an administrative modification. (Large exhibits: rendered site plan, vicinity maps and floor plans).

Action: Granted administrative modification. (AIF/AMC, 4-0).

12. **CBA-1495 [CBA-3061], Petition of Old Farm Swim Club** (community swimming pool). Memorandum from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing. (AMC/AIF, 4-0).

13. **CBA-3057, Petition of Chevron USA** (automobile filling station). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing. (AMC/AIF, 4-0). Hearing scheduled for 9/15/04 @ 10:30 am.

14. **S-68 [CBA-2255], Petition of Scott Shuck d/b/a Grosvenor Market, Inc.** (delicatessen within a multiple family structure). Letter of complaint to the Board from Jude Wikramanayake, Esquire.

Action: Referred to DPS for inspection of the special exception, consensus.

15. **S-511, Petition of Woman's Board of Montgomery General Hospital** (service organization). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing. (AMC/LLM, 4-0).

16. **S-684, Petition of Georgia-Dennis Associates** (dental/medical clinic). Letter to the Board from Jeff Van Grack, Esquire, and Stuart Barr, Esquire, with an update and a request to transfer the special exception. (Large exhibit: landscape and lighting plan).

Action: Re-opened the record to include Mr. Van Grack and Mr. Barr's letter with attachments. (LLM/AMC, 4-0).

17. **S-850, Petition of Amoco Oil Company** (automobile filling station). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing. (AIF/AMC, 4-0).

18. **S-858 [S-858-A], Petition of Surjeet K. Singh** (child day care center). Letters to Board from Susan W. Carter, Esquire, requesting an administrative modification. Also included is memorandum from Stanley N. Garber.

Action: Granted administrative modification with the conditions that: (1) the existing pool will be filled; (2) the existing electricity will be removed; and (3) the special exception will be inspected by DPS. (AMC/AIF, 4-0).

19. **S-1064, Petition of Leon Trager and Greentech Landscaping** (horticultural nursery and greenhouse). Inspection report from Stanley N. Garber, Investigator, DPS.

Action: Re-opened the record to include Mr. Garber's inspection report. (LLM/AIF, 4-0).

20. **S-1078, Petition Sugarloaf Service Center** (automobile repair and services). Status report to the Board from John R. Barr, Esquire.

Action: Re-opened the record to include Mr. Barr's letter. (AIF/AMC, 4-0).

21. **S-1266, Petition of Edith Schubert** (off-street parking in connection with a commercial use). Inspection report to the Board from Stanley N. Garber, Investigator, DPS.

Action: Schedule Show Cause Hearing. (LLM/AIF, 4-0).

22. **S-1565-A, Petition of Howard Hughes Medical Institute** (charitable and philanthropic institution). Letter to the Board from Scott R. Wolford, RLA, AICP, requesting an administrative modification. (Large exhibits: site plan and photographs).

Action: Granted administrative modification. (AIF/AMC, 4-0).

23. **S-1751, Petition of Hanna D. Saah** (boardinghouse). Inspection report to the Board from Stanley N. Garber, Zoning Investigator, DPS. Also included is a letter from Aida Browne, the current property owner.

Action: Revoked special exception as abandoned. (AMC/LLM, 4-0).

24. **S-1930, Petition of Exxon Corporation** (automobile filling station). Information letter to the Board from Jody S. Kline, Esquire.

Action: Re-opened the record to include Mr. Kline's letter. (AMC/LLM, 4-0).

25. **S-2120, Petition of Landy Lane Management Corporation** (meeting center). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing. (AIF/AMC, 4-0).

26. **S-2613, Petition of Agnes M. Patti** (accessory apartment). Letter to the Board from the petitioner withdrawing the special exception and requesting a refund of the filing fee.

Action: (1) Dismissed the petition as withdrawn; (2) granted refund of 50% (\$100.00) of the filing fee (LLM/AIF, 4-0).

DECISION ITEMS:

27 **S-689-C, Petition of Kenwood Golf and Country Club** (golf and country club). Hearing Examiner's Report and Recommendation. Also included is memorandum from Thomas Carbo, Associate County Attorney, and a letter from Harry W. Lerch, Esquire, and Stuart Barr, Esquire.

Action: (1) Adopted the Hearing Examiner's Report and Recommendation; (2) denied administrative modification; and (3) denied request for oral argument. (LLM/AIF, 4-0).

28. **S-2588, Petition of Onkar Sharma and Rajesh Bhandari** (non-resident professional office). Hearing Examiner's Report and Recommendation.

Action: (1) Adopted the Hearing Examiner's Report and Recommendation; (2) granted the special exception with conditions. (AMC/AIF, 4-0).

29. **S-2607, Petition of John Ye** (accessory apartment). Hearing Examiner's Report and Recommendation.

Action: (1) Adopted the Hearing Examiner's Report and Recommendation; (2) granted the special exception with conditions. (AIF/AMC, 4-0).

PENDING ITEMS:

30. **CBA-1332, Petition of Huggins and Harrison, Inc.** (outdoor automobile sales lot). Letter to the Board from the petitioner requesting an administrative modification. Item deferred for additional information. Board requests a site plan with dimensions that shows the location of the trailer in relation to the property's boundary lines.

31. **CBA-2372 [CBA-2372-A], Petition of Mobil Oil Corporation** (automobile filling station). Letter to the Board from Jody S. Kline, Esquire, requesting an administrative modification. (Large exhibits: site development and landscape plans). Item deferred for site and photometric plans. [W/S 11/12/03].

32. **S-390, Petition of Twin Farms Club, Inc.** (community swimming pool). Letter to the Board from Teresa A. McKenna, President, requesting an administrative modification. (Large exhibit: site and grading plan). (1) Item deferred for receipt of a site plan with the existing conditions; (2) item referred to M-NCPPC Technical Staff of review of administrative modification_request.

PENDING ITEMS (continued):

33. **S-485, Petition of Laurence and Anne Karpman** (antique shop). Letter to the Board from the petitioners requesting an administrative modification. Item deferred for additional

information regarding: (1) detailed site plan; (2) updated exterior lighting plan; (3) detailed statement of operations. [W/S 7/21/04].

34. **S-569, [CBA-3051, S-95], Petition of C. O. and M. E. Bland** (horticultural nursery). Letter of complaint to the Board from David C. Gardner, Esquire, regarding the special exception use. Board requests DPS inspection of the special exception property.

35. **S-882, Petition of Rene Monserrat and Emilio A. Brouwer** (horticultural nursery and commercial greenhouse/garden center). Inspection report from Stanley N. Garber, Investigator, DPS. Also included is a memorandum from Andrew Thompson, Associate County Attorney. (1) Re-opened the record to include Mr. Garber's and Mr. Thompson's letter; (2) Show Cause Hearing deferred to a future Worksession. [W/S 6/16/04].

36. **S-1573, Petition of Robert H. Edmund** (side lot line setback). Letter to the Board from Judith M. Koenick requesting an explanation of a building permit issued by DPS. Item referred to DPS for inquiry.

37. **S-1747, Petition of Thompson R. and Nancy S. Buchanan** (accessory apartment). Memorandum to the Board from John Whitt, Housing Code Field Supervisor, DHCA, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the petitioner. Item deferred for future Worksession. [W/S 5/5/04].

38. **S-1903, Petition of Exxon Company, U.S.A.** (automobile filling station). Letter to the Board from Jody S. Kline, Esquire, requesting an administrative modification. Item deferred for an approved landscape and lighting plan. [W/S 11/12/03].

39. **S-2145, Petition of Southwestern Bell Mobile Systems, Inc.** (public utility buildings, public utility structures and telecommunications facilities). Letter to the Board from Brian Hurley, Regional Real Estate Manager, requesting a transfer of the special exception. Item deferred for future Worksession. [W/S 6/9/04].

40. **S-2184, Petition of Charles R. Gilbert** (indoor rifle and pistol range). Letters to the Board from Anthony R. Shore, Esquire, requesting an administrative modification. Item deferred for additional information from the petitioner. [W/S 3/17/04].

Board Members

Donald H. Spence, Jr., Chairman
Donna L. Barron, Vice Chairman - ABSENT
Louise L. Mayer
Angelo M. Caputo
Allison Ishihara Fultz

Staff

Thomas Carbo, Associate County Attorney
Katherine Freeman, Executive Secretary to the Board
Hermene Jones, Administrative Specialist