

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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

**WORKSESSION MINUTES**

**Second Floor Davidson Memorial Hearing Room**

**Wednesday, July 27, 2005, 9:30 a.m.**

**ACTION ITEMS:**

1. **Minutes**, July 13 and 20, 2005 Worksessions.

Action: Approved, (AMC/WMH, 5-0).

2. **A-6086, Appeal of Joseph E. Russ** (Department of Permitting Services (DPS) – Issuance of Building Permit No. 380025). Letter to the Board from William and Kristine Money, property owners, requesting to intervene.

Action: Granted request to intervene, (LLM/AMC, 5-0).

3. **CBA-1437, Petition of John D. Hyman** (landscape contractor). Memorandum to the Board from Stanley N. Garber, Investigator, requesting Show Cause Hearing.

Action: Schedule Show Cause Hearing, (LLM/DLB, 5-0).

4. **CBA-2234, Petition of WIN Broadcasting Corporation** (radio broadcasting towers and transmitter). Letter to the Board from Jane Lawton, Chair, Telecommunications Transmission Facility Coordinating Group (TTFCG), Department of Technology Services. Also included in a memorandum from Joseph P. Blocher, Esquire, to the Montgomery Tower Committee.

Action: Re-opened the record to include letters from Ms. Lawton and Mr. Blocher, (DLB/LLM, 5-0).

5. **CBA-2467, Petition of Dawn S. Crafton** (private educational institution). Letter from Suk K. Hong, property owner, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Revoked special exception as abandoned, (AMC/WMH, 5-0).

6. **CBA-2568, Petition of UTF-Maryland Limited Partnership** (automobile filling station). Letter to the Board from Stanley D. Abrams, Esquire. (Large exhibits: site and landscape plans). Show Cause Hearing held 6/22/05.

Action: Re-opened the record to include Mr. Abrams' letter with attachments (DLB/WMH, 5-0). Item deferred until 9/7/05 Worksession.

7. **CBA-2778 [CBA-2778-A], Petition of Milton O. Johnson** (horticultural nursery and landscaping contractor). Memorandum to the Board from Stanley N. Garber,

Investigator, DPS, requesting a Show Cause Hearing. Also included is a letter from William Chen, Esquire.

Action: Item deferred for 30 days, consensus. Item will return to the Worksession agenda on 9/7/05.

8. **S-657-B [S-657, S-657-A], Petition of Kensington Center, LLC** (automobile filling station). Memorandum to Board from Stanley N. Garber, Investigator, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (DLB/LLM, 5-0).

9. **S-2582, Petition of SPRINT PCS/APC Realty and Equipment Company, LLC and Potomac Conference Corporation of Seventh Day Adventists** (public utility buildings, public utility structures and telecommunication facilities). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing.

Action: Schedule Show Cause Hearing, (LLM/DLB, 5-0).

10. **S-1049, Petition of Pentalpha Masonic Temple and Library Association, Inc.** (service organization). Letter to the Board from Allen J. Katz, Esquire. (Large exhibit: plat plan).

Action: (1) Re-opened the record to include Mr. Katz's letter with attachments; (2) rescind Show Cause Hearing; (3) granted modification of the special exception, (AMC/LLM, 5-0).

11. **S-1087, Petition of Nancy Frankel** (accessory apartment). Letter from the petitioner notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Revoked special exception as abandoned, (DLB/WMH, 5-0).

12. **S-1355-A [S-1355], Petition of SNH CHS Properties Trust** (housing and related facilities for the elderly or handicapped persons). Letters to the Board from Jody S. Kline, Esquire, requesting an administrative modification. (Large exhibit: fence plan).

Action: Granted administrative modification, (LLM/AMC, 5-0).

13. **S-1614, Petition of Sam Holtgraver** (accessory apartment). Letter from the petitioner notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Revoked special exception as abandoned, (AMC/LLM, 5-0).

14. **S-1640, Petition of George B. Patrick, Jr., M.D.** (non-resident medical practitioner). Letter to the Board from the petitioner requesting an administrative modification.

Action: Item deferred until Worksession on 9/7/05. Petitioner to provide a revised site plan, consensus.

15. **S-1835, Petition of Patricia Haseman and Richard Mason** (private riding stable). Letter from Christine Reilly Lombardo notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Item deferred for future Worksession for staff to contact Mr. Lombardo, consensus.

16. **S-2005, Petition of Jeannette and Peter Assaf** (accessory apartment). Letter from the petitioner notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Revoked special exception as abandoned, (AMC/DLB, 5-0).

17. **S-2207, Petition of Mid-Atlantic Petroleum Properties** (automobile filling station). Inspection report from Stanley N. Garber, Investigator, DPS.

Action: (1) Re-opened the record to include Mr. Garber's inspection report; (2) rescind Show Cause Hearing; (3) granted modification of the special exception, (LLM/AMC, 5-0).

18. **S-2504, Petition of Sunrise Development, Inc.** (housing for the elderly or handicapped persons). Letter from Timothy Dugan, Esquire, requesting a transfer and an administrative modification. (Large exhibits: elevations).

Action: (1) Granted transfer of the special exception; (2) granted administrative modification, (LLM/AMC, 4-0/AIF/recused).

19. **S-2580, Petition of Margaret Walker-Bruce** (accessory apartment). Letter to the Board from the petitioner requesting a waiver of the annual special exception fees.

Action: Denied request for waiver of annual special exception fees, (LLM/AMC, 5-0). BOA has no jurisdiction to waive fees.

20. **S-2653, Petition of International Investments, Inc.** (horticultural nursery). Letter to the Board from Stanley D. Abrams, Esquire, on behalf of Bennett H. Goldberg and requesting that the special exception be dismissed.

Action: (1) Opened record to include Mr. Abrams' letter; (2) applicant required to file completed application by 9/7/05 or petition will be dismissed for insufficiency, (LLM/AMC, 5-0).

#### **INFORMATION ITEM:**

21. **S-1593, Petition of AGJS Associates, LP** (child day care center). Special exception status report from Timothy Dugan, Esquire.

Action: Re-opened the record to include Mr. Dugan's status report, (AMC/WMH, 5-0).

**DECISION ITEMS:**

22. **S-289-B [CBA-321 A&B, CBA-2545, CBA-2546], Petition of Little Falls Swim Club.** (community swimming pool). Supplemental Hearing Examiner's Report and Recommendation. Also included is correspondence from Marion Clark and Mary Becker, Vice-President, Little Falls Swim Club.

Action: (1) Adopted Hearing Examiner's Report and Recommendation; (2) granted special exception with revised exhibits as marked, (WMH/AMC, 4-0/AIF/recused),

23. **S-2636, Petition of Fall Creek, LLC** (landscape contractor). Hearing Examiner's Report and Recommendation.

Action: (1) Adopted Hearing Examiner's Report and Recommendation; (2) final schedule for Condition 8 in the Hearing Examiner's Report and Recommendation to be submitted to BOA by 9/7/05; (3) Condition No. 11 shall be as included in the record; (4) granted special exception as amended with conditions, (LLM/AMC, 5-0).

24. **S-2639, Petition of Korean Senior Housing and Ominpoint Communications, LLC** (public utility structures, public utility building and telecommunication facilities). Hearing Examiner's Report and Recommendation. Also included are letters from Thomas J. Carroll, Esquire, requesting an administrative modification in Case No. S-1424, and that the Board consider the Report and Recommendation on July 27, 2005.

Action: (1) Adopted the Hearing Examiner's Report and Recommendation; (2) granted the special exception with conditions; (3) granted the administrative modification, (LLM/AMC, 4-0/AIF/recused).

**PENDING ITEMS:**

25. **A-6018, Appeal of Karen Day** (Department of Permitting Services (DPS) – Notice of Violation). Letter from Malcolm F. Spicer, Jr., notifying the appellant that the Notice of Violation has been withdrawn and that this action moots the action of the County. (1) Re-opened the record to include Mr. Spicer's letter; (2) letter sent to the appellant to withdraw the appeal with 30 day response time. [W/S 5-18-05].

26. **CBA-123 [S-462, S-1353], Petition of Sondra J. Littlejohn** (home occupation). Inspection report to the Board from Stanley N. Garber, Investigator, Department of Permitting Services (DPS). Re-opened the record to include Mr. Garber's memorandum. [W/S 10-20-04].

27. **CBA-1801, Petition of Shell Oil Company** (automobile filling station). Letter to the Board from Ramesh C. Bhalla requesting an administrative modification. Item deferred to a future Worksession. [W/S 6-8-05].

28. **CBA-2114-A [CBA-2114], Petition of International Monetary Fund** (golf course and country club). Letter to the Board from Jacqueline M. Karp, Esquire, requesting an administrative modification. (Large exhibits: location map, golf course site plans, elevations). Item deferred for a future Worksession. [W/S 5-4-05].

29. **CBA-3057, Petition Chevron USA** (automobile filling station). Letter to the Board from John Hutchinson requesting a transfer of the special exception. Deferred request until the Show Cause Hearing. [W/S 9-29-04].

**PENDING ITEMS continued:**

30. **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. [W/S 2-18-04].
31. **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. [W/S 5-22-02].
32. **S-684, Petition of Burkland Condominium Association, Inc.** (dental/medical clinic). Memorandum from Stanley N. Garber, Investigator, DPS, regarding the conditions of the Board's Resolution. (1) Re-opened the record to include Mr. Garber's memorandum; (2) Board to issue corrected Resolution; (3) an additional inspection of the special exception will be required. [W/S 7-13-05].
33. **S-727, Petition of Robert M. Mueller, D.V.M.** (non-resident professional office). Inspection report from Stanley N. Garber, Investigator, DPS. (1) Re-opened the record to include Mr. Garber's inspection report; (2) special exception holder has 40 days to comply with special exception conditions; (3) item will return to the Board's to Worksession agenda after compliance period (1/5/05). [W/S 11-10-04].
34. **S-1437, Petition of John D. Hyman** (wholesale nursery and landscape contractor). Letter to the Board from Timothy Dugan, Esquire. Granted extension to resolve Notice of Violation until 4/1/05. [W/S 1/5/05].
35. **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].
36. **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].
37. **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].
38. **S-2195, Petition of S. Ronald Furman t/a The Framer's Vise** (antique shop). Letter from the petitioner notifying the Board that the property has been sold and that new owner is not interested in retaining the special exception. Item deferred for future Worksession. [W/S 5-4-05].
39. **S-2487, Petition of Orchard Development Corporation** (housing and related facilities for the elderly or handicapped). Letter to the Board from Scott Armiger, Vice President, requesting an administrative modification. (Large exhibits: landscape and lighting plan and as-built site plan). Item deferred for additional information from the petitioner. [W/S 4-20-05].

**PENDING ITEMS continued:**

40. **S-2524, Petition of Two Goshen Oaks Center, LLC and Seven-Eleven, Inc.** (automobile filling station). Memorandum to the Board from Stanley N. Garber, Investigator, DPS, requesting a Show Cause Hearing. Deferred for DPS review of the record. [W/S 9-22-04].
41. **S-2580, Petition of Margaret Walker-Bruce** (accessory apartment). Letter to the Board from the petitioner modifying the floor plan of the accessory apartment. Referred new plans for DHCA review. [W/S 10-20-04].
42. **S-2596, Petition of Washington Gas** (public utility buildings, public utility structures and telecommunications facilities). Letters to the Board from Brian and Dian Belanger concerning construction on the special exception site. Item will returned to the Board's Worksession on 9-21-05. [W/S 7-13-05].

**Board Members**

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Hermene Jones, Administrative Specialist