

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
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www.montgomerycountymd.gov/content/council/boa/index.asp

WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, February 29, 2012, 9:30 a.m.

ACTION ITEMS:

1. Minutes, February 8, 2012 Worksession.

Action: Approved, (SBB/WSB, 4-0).

2. **Order Extending Time for the Board's Written Opinion** for 30 days is required in the following case:
A-6360, Petition of Glenn and Martha Orletsky (one-story addition/garage).

Action: Granted order extending time, (WSB/CJS, 4-0).

3. **A-6359, Appeal of Mary Belle Feltenstein** (Department of Permitting Services (DPS) – Service Request No. 1999961559). Letter from Michele Rosenfeld, Esquire, requesting a subpoena.

Action: Opened the record to receive the subpoena request, consensus.

4. **CBA-609, Petition of Mohican Swimming Pool Association** (community swimming pool). Letter to the Board from Dave Charlton, President, requesting an administrative modification. [Large exhibits: special exception plan and floor plan/lower level and bathhouse level].

Action: Granted the administrative modification, (SBB/CJS, 4-0).

5. **CBA-1261, Petition of Barrie School** (private educational institution). Letter to the Board from Susan Carter, Esquire, requesting an administrative modification. [Large exhibits: aerial photo; lower campus/proposed administrative modification; lower campus/existing modular units; north, south, east, west elevations; elevations/classroom B].

Action: Granted the administrative modification, (CJS/WSB, 4-0).

6. **CBA-2164, Petition of United Therapeutics Corporation** (off-street parking). Letter from the petitioner notifying the Board of the property transfer. Also included is a letter from William Moore in response to the Board's Resolution dated 9/23/2011.

Action: (1) Re-opened the record to include the letter from the petitioner, (CJS/SBB, 3-0/DKP/recused); (2) deferred BOA response to Mr. Moore's letter, consensus.

7. **CBA-2197-B, Petition of The Heights School** (private educational institution). Letter from Jody Kline, Esquire, submitting a copy of the change in the building footprint granted administratively at the Board's 2/8/2012 Worksession.

Action: Re-opened the record to include Mr. Kline's letter with attachment, (SBB/WSB, 4-0).

8. **S-274-C, Petition of Suburban Hospital** (hospital). Letter to the Board from Leslie Weber, Senior Vice President, submitting the noise testing results conducted in January 2012.

Action: Re-opened the record to include Ms. Weber's letter with attachments, (CJS/SBB, 4-0).

9. **S-695, Petition of James A. Loreto** (non-resident medical practitioner). Letter to the Board from Stanley Abrams, Esquire, requesting that the record be reopened to include the information regarding the special exception.

Action: Re-opened the record to include Mr. Abrams' letter with attachments, (CJS/SBB, 4-0).

10. **S-1910, Petition of Bahman Temourian** (non-resident medical practitioner). Letter to the Board from the petitioner requesting an administrative modification.

Action: Granted the administrative modification, (CJS/SBB, 4-0).

11. **S-2286, Petition of David A. and Carmen T. Doheny** (accessory apartment). Letter to the Board from the petitioners requesting equitable relief.

Action: (1) Re-opened the record to include the petitioners' letter; (2) denied request for equitable relief, (SBB/CJS, 4-0).

12. **S-2565, Petition of Emmanuel and Xlina Usim** (accessory apartment). Memorandum from Valerie Whitby, Inspector, Department of Housing and Community Affairs (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 property owner.

Action: Revoked the special exception as abandoned, (CJS/WSB, 4-0).

13. **S-2791, Petition of Nina V. Aks, D.M.S., LLC and Nina and Val Aks** (medical and dental clinic). Memorandum from Martin Grossman, Director, Office and Zoning and Administrative Hearings (OZAH), notifying the Board that the special exception has been withdrawn. Also included are letters from: Stephen Orens, Esquire, requesting that the special exception be withdrawn without prejudice and requesting a refund of a portion of the filing fee and Norman Knopf, Esquire, requesting that the special exception be withdrawn with prejudice.

Action: (1) Dismissed the special exception with prejudice, (WSB/CJS, 4-0); (2) denied the refund request, (CJS/SBB, 4-0).

14. **S-2814 [A-6351], Petition of Patricia Dunn d/b/a Pat's Outdoor Equipment** (farm machinery service and storage). Letter from David Brown, Esquire, notifying the Board that the petitions are being withdrawn and requesting a 50% refund of the filing fees.

Action: (1) Dismissed the special exception as withdrawn (SBB/CJS, 4-0); (2) granted 50% (\$2268.75) refund of the filing fee, (CJS/WSB, 4-0).

15. **S-2828, Petition of Fakhrozzaman Nesvaderani** (accessory apartment). Letter to the Board from the petitioner withdrawing the special exception. Also included a memorandum from the Hearing Examiner returning the record to the Board.

Action: (1) Dismissed the special exception as withdrawn, (CJS/SBB, 4-0); (2) granted 50% (\$137.50) refund of the filing fee, (SBB/WSB, 4-0).

DECISIONS:

16. **S-2820, Petition of Fairland Animal Hospital, Inc.** (veterinary hospital). Hearing Examiner's Report and Recommendation. Also included is a letter from Jody Kline, Esquire, requesting oral argument.

Action: (1) Granted the request for oral argument, (WSB/SBB, 4-0); (2) deferred the Hearing Examiner's Report and Recommendation.

17. **S-2823, Petition of Susan Vogelsang and Paul Treseder** (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, (CJS/SBB, 4-0).

PENDING ITEMS:

18. **S-763 [S-763-A], Petition of Silver Spring Temple and Library Association** (service organization). Letter to the Board from Sean Hughes, Esquire, requesting an administrative modification. [Large exhibits: title sheet, site survey, roof and equipment location plan, building elevations, equipment details). Deferred administrative modification request until a special exception application has been approved for the telecommunications facility. [W/S 3/10/10].
19. **S-2145, Petition of Southwestern Bell Mobile Systems, Inc.** (telecommunications facility). Letter to the Board from Karmen Rajamani, Zoning Manager, requesting a transfer of the special exception. Item deferred for confirmation of the transfer from Southwestern Bell Mobil Systems, Inc. [W/S 4/30/2008].
20. **S-2759, Petition of Darnestown Development, LLC t/a Goddard School** (child day care facility). Letter to the Board from Stephen Kaufman, Esquire and Debra Borden, Esquire, requesting a transfer of the special exception and an administrative modification. [Large exhibits: cover sheet, special exception site plan, special exception landscape plan/2 sheets, preliminary subdivision plan]. (1) Granted the transfer of the special exception; (2) deferred the administrative modification request until M-NCPPC's approval of the pending request for revisions to the preliminary plan. [W/S 9/14/2011]. (1) Re-opened the record to include Ms. Martin's letter; (2) Ms. Martin's request will be deferred until the administrative modification request is taken up by BOA. [W/S 12/7/2011].

Board Members

Catherine G. Titus, Chair - ABSENT
David K. Perdue, Vice Chair
Walter S. Booth
Carolyn J. Shawaker
Stanley B. Boyd

Staff

Barbara Jay, Associate County Attorney
Katherine Freeman, Executive Director
Hermene Jones, Administrative Specialist