

CORRECTED RESOLUTION – EFFECTIVE DATE

BOARD OF APPEALS
for
MONTGOMERY COUNTY

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

Case Nos. S-2033 and S-2103

PETITION OF LATIN-AMERICAN CULTURAL HERITAGE FOUNDATION, LTD.

RESOLUTION TO REVOKE SPECIAL EXCEPTION

(Resolution Adopted September 26, 2001)
(Effective Date of Resolution: January 9, **2002**)

EVIDENCE BEFORE THE BOARD

1. The subject property is Lot 2, Pearson's Addition to Linden Subdivision, located at 8951 Brookeville Road, Silver Spring, Maryland, in the I-1 Zone.
2. On February 8, 1995, in Case No. S-2033, the Board of Appeals granted a special exception to the Latin American Cultural Heritage Foundation, Ltd. to permit a service organization pursuant to Section 59-G-2.24 of the Montgomery County Zoning Ordinance.
3. On February 8, 1995, in Case No. S-2103, the Board of Appeals granted a special exception to the Latin American Cultural Heritage Foundation, Ltd. to permit a parking facility located more than 500 feet walking distance from the entrance of the proposed service organization in accordance with Section 59-G-2.40 of the Montgomery County Zoning Ordinance.
4. The Board of Appeals received a memorandum dated November 21, 2000, from Stanley N. Garber, Zoning Investigator, Department of Permitting Services, which details a number of violations of the terms and conditions of the special exception revealed in Mr. Garber's inspection of the use. Mr. Garber's memorandum also describes the Notice of Violation which he issued to the special exception holder on October 31, 2000, and goes on to request that the Board hold a Show Cause Hearing to resolve the violations of the special exception. [Exhibit No. 40].

5. The Board of Appeals also received a letter dated November 29, 2000, from Mr. Danny Perez, Treasurer of the Latin American Cultural Heritage Foundation, notifying the Board of the death of Dr. Israel Lopez, who was the President of the Latin American Cultural Heritage Foundation, and requesting additional time to address the issues raised in the Notice of Violation.

Case No. S-2033

Page 2.

6. Pursuant to Section 59-G-1.3(e) of the Montgomery County Zoning Ordinance, the Board of Appeals scheduled a Show Cause Hearing for May 1, 2001, and the special exception holder failed to receive notice of the hearing. The Board then rescheduled the Show Cause Hearing for Wednesday, September 26, 2001 and re-issued notices of the hearing. The notice of the hearing included the information that "failure [of the special exception holder and the property owner] to attend and participate in the hearing may result in issuance of an order revoking the special exception." The case record reflects receipt of this Notice by Mr. Danny Perez. [Exhibit No. 48].
7. The special exception holder did not appear at the hearing.

FINDINGS OF THE BOARD

1. Based upon Stanley N. Garber's memorandum of November 21, 2000 and upon the Notice of Violation issued to the Latin American Cultural Heritage Foundation on October 31, 2000, [Exhibit No. 40], the Board finds that the special exception holder is in violation of the terms and conditions of the special exceptions.
2. The Board convened a public hearing for the special exception holder to appear and show cause why the special exception should not be revoked. Section 59-G-1.3(e)(3) provides in pertinent part that "failure [of the special exception holder and the property owner] to attend and participate in the hearing may result in issuance of an order revoking the special exception."
3. Based upon the special exception holder's failure to either correct the violations of the terms and conditions of the special exceptions or to appear at the show cause hearing on September 26, 2001, the Board finds that the special exceptions must be revoked. Therefore,

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that Case No. S-2033 and S-2103, Petitions of the Latin American Cultural Heritage Foundation are **revoked**.

On a motion by Donna L. Barron, seconded by Louise L. Mayer, with Angelo M. Caputo, Mindy Pittell Hurwitz and Donald H. Spence, Jr., Chairman in agreement, the Board adopted the foregoing Resolution.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

Case No. S-2033

Page 3.

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 9th day of January, 2002.

Katherine Freeman
Executive Secretary to the Board

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 (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.

