

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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

www.montgomerycountymd.gov/content/council/boa/board.asp

Case No. S-2604

PETITION OF MARY RHIM/THE WINCHESTER SCHOOL

OPINION OF THE BOARD

(Opinion Adopted September 21, 2005)

(Effective Date of Opinion: October 19, 2005)

Case No. S-2604 is an application for a special exception, pursuant to Section 59-G-2.19 of the Montgomery County Code to construct and operate a private educational institution. The Hearing Examiner for Montgomery County held a public hearing on the application on June 3, 2005, closed the record in the case on August 1, 2005, and on September 8, 2005, issued a Report and Recommendation for denial of the special exception.

The subject property is Lots 171,172 and 173, located at 17320 Georgia Avenue, Silver Spring, Maryland, 20832; in the R-200 Zone.

Decision of the Board: **Special Exception Denied.**

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on Wednesday, September 21, 2005. The Board also had before it requests for Oral Argument on the Hearing Examiner's Report and Recommendation from Jody S. Kline, Esquire, on behalf of Mary Rhim and the Winchester School, from James Emmett Black, and from Glenda Ann Krump. After careful consideration, and a review of the record in the case, Board members Mayer and Barron concur with the Hearing Examiner's findings that the overall scope and size of the special exception are out of character with the existing residential neighborhood, and that the proposed special exception is not in conformance with the Olney Master Plan, which discourages special exceptions in the area between Norbeck Road and the Olney Town Center.

On a motion by Louise L. Mayer, seconded by Donna L. Barron, with Allison Ishihara Fultz and Wendell M. Holloway in agreement and Angelo M. Caputo in opposition, the Board finds that the Hearing Examiner's record is

thorough and complete, and that none of the requests for oral argument presents issues or concerns which could not have been presented during the public hearing on the application, and that therefore, the requests for oral argument are **denied**.

Board member Louise L. Mayer moved to adopt the Hearing Examiner's Report and Recommendation and deny the special exception. Board member Donna L. Barron seconded the motion and Allison Ishihara Fultz, Chair, Angelo M. Caputo and Wendell M. Holloway voted in opposition.

Board member Angelo M. Caputo moved to grant the special exception. Wendell M. Holloway seconded the motion, with Allison Ishihara Fultz, Chair in agreement and Louise L. Mayer and Donna L. Barron in opposition.

Section 59-A-4.62(b) of the Montgomery County Code requires the affirmative vote of four members of the Board of Appeals to grant a special exception, and states "If the necessary number of affirmative votes is not achieved for any reason, the special exception is denied."

The Board finds, lacking the requisite four votes in favor of the special exception, that it is **denied**.

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 19th day of October, 2005.

Katherine Freeman
Executive Director

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.