

COUNTY BOARD OF APPEALS
For
MONTGOMERY COUNTY

Case No. 2643

PETITION OF AUDUBON NATURALIST SOCIETY OF
THE CENTRAL ATLANTIC STATES, INC.
(Hearing held August 21, 1969)

OPINION OF THE BOARD

This proceeding is on the petition of the Audubon Naturalist Society of the Central Atlantic States, Inc., for a Special Exception filed pursuant to Sections 111-37. m-1. and 111-37. z-3. of the Zoning Ordinance (Chap. 111, Mont. Co. Code 1965, as amended) for an eleemosynary and philanthropic institution and a scientific society headquarters. The subject property consists of 40.4892 acres in the "Clean Drinking" Subdivision, at 8940 Jones Mill Road, Chevy Chase, Maryland, in an R-90 Zone.

According to the testimony and evidence of record, the subject property has been willed to the Audubon Society of the District of Columbia, Inc., for the purposes of maintaining a scientific headquarters and a bird sanctuary. The Audubon Society is a private non-profit Society, and has been in continuous existence for more than one year, and the Society is not local in its activities and its membership, and no articles of commerce will be sold on the premises.

The subject estate consists of approximately 40 acres, is improved with a 30-room mansion house, green house and small sheds. The grounds are heavily wooded and screened and the property borders Rock Creek Park. It is contemplated to have nature trails throughout the property, and with a few alterations, use the mansion for office space, meeting rooms and children's library. The basement will be used for storage and the servants' quarters will be rented for residential purposes.

Meetings of the Society will be held in the evenings and/or on Saturday mornings. There will be programs for younger children (elementary school age) after school and on Saturday mornings.

It is anticipated that there will be summer programs for children. The program would be held from 9:30 A.M. to 2:30 P.M., five days a week. Transportation will be provided for the program and no more than 35 students would be expected to attend.

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It is anticipated that there will be four (4) adult staff members on the premises on a daily schedule from 9:00 A.M. to 5:00 P.M., five days a week. It is expected that there will be adult and teenage group programs held several times a month. The attendance is not expected to exceed 50 persons at any one time; however, the facility is adequate for larger groups. There are 25 parking spaces now available and there is space for as many as 100 cars should the need occur. There will be a person for traffic control for cars exiting onto Jones Mill Road. There is a major access and exit on Brierly Road which will be kept open and used only for emergencies. Two signs are proposed.

There was testimony by a land planner and surveyor that in order that there be a clear and unobstructed view of traffic in both directions at the Jones Mill Road entrance, he had recommended that plantings be removed, or moved back, and some grading be done.

Based on the testimony and evidence of record, and as limited by conditions which follow, the Board finds that the proposed use will not constitute a nuisance because of noise, traffic, number of people or type of physical activity, and the property to be used complies with the area, frontage, lot coverage, and setback requirements of the Ordinance; the Scientific Society has had a continuous existence for at least one year; the Society is not local in its activities and its membership; no articles of commerce will be sold on the premises; the parking requirements will be met; and the property to be used conforms to the requirements that it be on a public road with adequate facilities for ingress and egress of vehicular traffic.

In addition, the Board finds that the proposed use will not affect adversely the General Plan for the physical development of the District as embodied in the Ordinance and in any Master Plan or portion thereof adopted by the Commission; and the proposed use will not: (a) adversely affect the health and safety of residents or workers in the area; (b) overburden existing public services and public improvements; and (c) be detrimental to the use or development of adjacent properties or the general neighborhood; nor change the character of the general neighborhood in which the use is proposed.

Accordingly, the requested Special Exception is granted, to be implemented in the manner set forth by testimony and exhibits of record, subject to the following conditions:

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1. Before an occupancy permit is granted, the petitioner shall furnish to the Board of Appeals and shall obtain its approval of a grading and landscape plan for the entrance on Jones Mill Road.
2. Any sign, or signs, used shall comply with the Montgomery County Sign Ordinance.

The Board adopted the following Resolution:

"Be it Resolved by the County Board of Appeals for Montgomery County, Maryland, that the opinion stated above be adopted as the Resolution required by law as its decision on the above-entitled petition."

The foregoing Resolution was proposed by Mrs. Helen H. Burkart and concurred in by Messrs. Joseph E. O'Brien, Jr., Chairman, Bernard D. Gladhill and Ralph F. Berlow. Mr. Kenneth E. denOuter was necessarily absent from the hearing in this case and did not participate in this decision.

I do hereby certify that the foregoing Minutes were officially entered upon the Minute Book of the County Board of Appeals this 2nd day of September, 1969.

Sollie H. Kyte
Clerk to the Board

NOTE: Please see Section 111-32. c. of the Ordinance regarding the 12-months' period within which the right granted by the Board must be exercised.

This opinion mailed to all persons who received notice of the hearing.

COUNTY BOARD OF APPEALS
FOR
MONTGOMERY COUNTY

COUNTY OFFICE BUILDING
ROCKVILLE, MARYLAND 20850

Case No. 2643

Telephone
Area Code 301
279-1226

PETITION OF AUDUBON NATURALIST SOCIETY
OF THE CENTRAL ATLANTIC STATES, INC.

RESOLUTION TO AMEND SPECIAL EXCEPTION
(Resolution adopted April 15, 1982)

The Board of Appeals has received letters dated March 31, 1982 and April 2, 1982 from Barry M. Fitzpatrick, Attorney for Special Exception holder, requesting an amendment to Case No. 2643 to permit the operation of a bookshop on the premises. The letters state in part that:

"A review of your file will indicate that one of the conditions of the Special Exception was to forbid the sale of articles in commerce upon the premises. For many years, we believe both before and after the granting of the Special Exception referenced above, the Society has maintained a small bookshop on the 'Woodend' premises. The bookshop is, by no means, the primary purpose for the operation of the premises and its activities are purely corollary to the use of the premises as the Society's headquarters and as a nature center. Typically, sales at the bookshop are generated from persons who are already upon the premises for Society-sponsored or Society-related activities. The emphasis on stock in the bookshop is, of course, oriented towards the purposes and functions of the Society.

"The operation of the bookshop is, again, incidental and, we believe, nearly insignificant given the size of the 'Woodend' tract and the public uses and purposes to which it is almost constantly devoted. . .

". . .Accordingly, the purpose of this letter is to request that the Board of Appeals entertain the idea of amending the Special Exception to permit the continued operation of the bookshop pursuant to its administrative authority. . ."

Based on the information contained in Mr. Fitzpatrick's letters, and upon review of the record in this case, the Board finds the request to amend the special exception can be granted without substantially changing the nature, character or intensity of the existing use, and will not change the effect on the neighborhood. Therefore, pursuant to the authority granted the Board in Section 59-G-1.3 (c)(1) of the Zoning Ordinance,

Case No. 2643

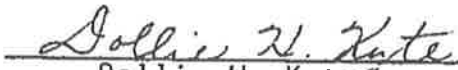
- 2 -

BE IT RESOLVED by the County Board of Appeals for Montgomery County, Maryland, that the aforementioned letters shall become Exhibit No. 15 in the record; and BE IT FURTHER RESOLVED that the Opinion of the Board in Case No. 2643 shall be, and hereby is amended in the following manner:

The Petitioner's testimony in the second paragraph of the Board's Opinion issued September 2, 1969, shall be amended to delete the following statement: ". . . no articles of commerce will be sold on the premises. . ." and the operation of the bookshop may continue to sell books and related articles of commerce by the Audubon Naturalist Society.

The foregoing Resolution was proposed by Joseph E. O'Brien, Jr., Chairman, and concurred in by Doris Lipschitz, Wallace I. Babcock, Rita A. Morgan and Harry M. Leet.

Entered in the Minute Book of the County Board of Appeals for Montgomery County, Maryland, this 28th day of April 1982.


Dollie H. Kyte
Clerk of the Board

Note: Any party may, within 15 days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing and shall specify the reasons for the request. . .

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Telephone
Area Code 301
217-6600

Case No. CBA-2643

PETITION OF AUDUBON NATURALIST SOCIETY OF
THE CENTRAL ATLANTIC STATES, INC.

RESOLUTION TO MODIFY SPECIAL EXCEPTION
(Resolution adopted March 14, 1990)

The Board is in receipt of correspondence dated March 5, 1990, from Neal Fitzpatrick, Acting Executive Director, which states, in part:

"The Audubon Naturalist Society of the Central Atlantic States, Inc. respectfully requests a minor modification to the Special Exception ... issued in 1969.

"The Audubon Naturalist Society would like to construct a storage shed at the north end of our parking lot 14' from the fence marking the boundary with our neighbors to the north. The structure will measure 14' x 20' and will be 12 1/2' in height. There is an existing hedge of shrubbery which will screen the structure from our neighbors. ..."

Based on the foregoing, the Board finds that the requested modification can be granted without changing the nature, character or intensity of the use of the property, nor changing the effect on the immediate neighborhood. Therefore,

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that Case No. CBA-2643, shall be and hereby is re-opened to receive Mr. Fitzpatrick's letter; Site Plan; Aerial Photograph; and Plans and a colored rendering of the proposed shed; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland, that petitioner may construct a storage shed in the location shown on the site plan and in accordance with the plans submitted for the record; and

BE IT FURTHER RESOLVED that all terms and conditions of the original special exception and any modifications thereto, shall remain in full force and effect.

The subject property consists of 40.4892 acres, "Clean Drinking" Subdivision, located at 8940 Jones Mill Road, Chevy Chase, Maryland, in the R-90 Zone.

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Telephone
Area Code 301
217-6600

Case No. CBA-2643

PETITION OF AUDUBON NATURALIST SOCIETY OF
THE CENTRAL ATLANTIC STATES, INC.

RESOLUTION TO MODIFY SPECIAL EXCEPTION
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Based on the foregoing, the Board finds that the requested modification can be granted without changing the nature, character or intensity of the use of the property, nor changing the effect on the immediate neighborhood. Therefore,

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that Case No. CBA-2643, shall be and hereby is re-opened to receive Mr. Fitzpatrick's letter; Site Plan; Aerial Photograph; and Plans and a colored rendering of the proposed shed; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland, that petitioner may construct a storage shed in the location shown on the site plan and in accordance with the plans submitted for the record; and

BE IT FURTHER RESOLVED that all terms and conditions of the original special exception and any modifications thereto, shall remain in full force and effect.

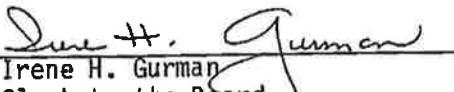
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The foregoing Resolution was proposed by Helen R. Strang, and concurred in by Howard Jenkins, Jr., William Green, K. Lindsay Raufaste and Judith Heimann, Chairman.

Entered in the Minute Book of
the County Board of Appeals for
Montgomery County, Maryland,
this 31st day of May, 1990.


Irene H. Gurman
Clerk to the Board

NOTE

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision.

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

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Area Code 301
217-6600

Case No. CBA-2643

PETITION OF AUDUBON NATURALIST SOCIETY OF THE CENTRAL ATLANTIC STATES, INC.

RESOLUTION TO MODIFY SPECIAL EXCEPTION

(Resolution adopted July 20, 1994

(Effective date of Resolution, October 18, 1994)

The Board is in receipt of correspondence dated July 5, 1994, from Ken Nicholls, Executive Director of the Audubon Naturalist Society, which states, in part:

"Last fall, the Audubon Naturalist Society erected a sign at our main entrance on Jones Mill Road. ... The Sign Review Board granted a variance for our sign pending approval from the Montgomery County Historic Preservation Commission. Thus, the Audubon Naturalist Society filed an application for a historic area work permit ... which was granted on May 2, 1994, by the Historic Preservation Commission.

"Subsequently, we were told that since we have a special exception for this property, we must also receive approval from the Montgomery County Board of Appeals. The Audubon Naturalist Society of the Central Atlantic States, Inc. is respectfully requesting modification of our special exception to permit us to retain the entrance sign.

"Enclosed is a copy of the approval from the Montgomery County Sign Review Board, a copy of the Historic Area Work Permit Application to the Historic Preservation Commission and the Commission's approval, two original photographs of the sign, and a copy of the historic approval from the Department of Environmental Protection. We do have plans to landscape the area immediately adjacent to the sign as soon as final approval is received. ..."

The Board, after careful consideration of the correspondence and a review of the record in the above-referenced case, finds that the request to permit the sign at the main facility entrance can be granted without the necessity of a public hearing. The Board further finds that the request will have no effect on traffic and on the immediate neighborhood.

THEREFORE, in accordance with the provisions of Section 59-G-3.1(c)(1) of the Zoning Ordinance, BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that Case No. CBA-2643, Petition of Audubon Naturalist Society of the Central Atlantic States, Inc., shall be and hereby is re-opened to receive the following exhibits: copy of approval from the Montgomery County Sign Review Board; copy of the Historic Area Work Permit Application to the Historic Preservation Commission and the Commission's approval; two original photographs of the sign; and a copy of the historic approval from the Department of Environmental Protection; and

Case No. CBA-2643

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BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland, that petitioner may retain the sign erected at the main entrance to the facility; and

BE IT FURTHER RESOLVED that, except as modified herein, all terms and conditions of the original special exception and any modifications thereto, remain in full force and effect.

The subject property contains 40.4892 acres, "Clean Drinking" Subdivision, located at 8940 Jones Mill Road, Chevy Chase, Maryland, in the R-90 Zone.

The foregoing Resolution was proposed by Helen Strang and concurred in by William Green, Allison Bryant, K. Lindsay Raufaste and Judith Heimann, Chairman.

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland,
this 18th day of October, 1994.


Tedi S. Osias
Executive Secretary to the Board

NOTE: Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision.

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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

CASE NO. CBA-2643

**PETITION OF THE AUDUBON NATURALIST SOCIETY OF
THE CENTRAL ATLANTIC STATES**

RESOLUTION TO GRANT ADMINISTRATIVE MODIFICATION

(Resolution Adopted January 23, 2001)

(Effective Date of Resolution: September 21, 2001)

The Board of Appeals received a letter from Michael S. Nelson, Executive Director, Audubon Naturalist Society of the Central Atlantic States. Mr. Nelson's January 17, 2001 letter requests an administrative modification of the above-captioned special exception to perform Improvements internal to the Society's facilities.

The subject property consists of 40.4892 acres, "Clean Drinking" Subdivision, located at 8940 Jones Mill Road, Chevy Chase, Maryland in the R-90 Zone.

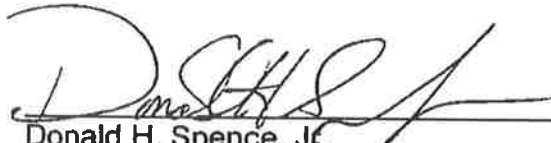
BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the record in Case No. CBA-2643, PETITION OF THE AUDUBON NATURALIST SOCIETY OF THE CENTRAL ATLANTIC STATES is re-opened to receive Michael Nelson's January 17, 2001 letter; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the Board of Appeals Worksession minutes for January 23, 2001, here attached, are adopted as the Resolution required by law as the Board's decision on the above-entitled case.

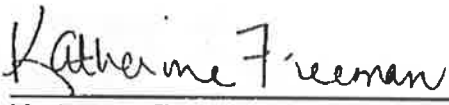
On a motion by Angelo M. Caputo, seconded by Mindy Pittell Hurwitz, with Donna L. Barron and Donald H. Spence, Jr., Chairman in agreement, the Board adopted the foregoing Resolution. Board member Louise L. Mayer was necessarily absent and did not participate in the Resolution.

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

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 21st day of September, 2001.


Katherine Freeman
Executive Secretary to the Board

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision.

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 Procedures.

**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. CBA-2643

PETITION OF AUDUBON NATURALIST SOCIETY

RESOLUTION TO MODIFY SPECIAL EXCEPTION

(Resolution Adopted May 31, 2006)

(Effective Date of Resolution: June 29, 2006)

The Board of Appeals has received correspondence, dated April 28, 2006, and May 22, 2006, from Neal Fitzpatrick, Executive Director of the Audubon Naturalist Society (ANS). Mr. Fitzpatrick requests administrative modification of the special exception to allow the establishment of a morning preschool program for fifteen 3½ year-olds in the Teale Learning Center at ANS's Woodend Nature Sanctuary in Chevy Chase. Mr. Fitzpatrick informs the Board that parents of the prospective students in the program have begun to organize carpools, and that the expectation is that seven cars will provide the transportation to get the children to and from the program.

The Board of Appeals granted Case No. CBA-2643 to the Audubon Naturalist Society of the Central Atlantic States, Inc., on September 2, 1969, to permit an eleemosynary and philanthropic institution, and a scientific society headquarters. The Board has granted minor modifications to the special exception effective April 28, 1982, to permit a bookshop; May 31, 1990 to permit a storage shed; October 18, 1994, to permit an entrance sign; and September 21, 2001 to permit various internal improvements at Woodend.

The subject property consists of 40.4892 acres, "Clean Drinking" Subdivision, located at 8940 Jones Mill Road, Chevy Chase, Maryland in the R-90 Zone.

The Board of Appeals considered Mr. Fitzpatrick's letters at its Worksessions on May 17, 2006 and May 31, 2006. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance provides, pertaining to modification of special exceptions:

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the Board, without convening a public hearing to consider the proposed change, may modify the term or condition.

The Board finds that with a total of 15 students, half of whom are expected to carpool, the preschool will not substantially change the nature, character or intensity of the special exception and that the anticipated number of automobile trips will not substantially change its effect on traffic or on the immediate neighborhood. Therefore, on a motion by Caryn L. Hines, seconded by Donna L. Barron, with Angelo M. Caputo, Wendell M. Holloway and Allison Ishihara Fultz, Chair in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-2643 is re-opened to receive Neal Fitzpatrick's letters of April 28, 2006 and May 22, 2006, with attachments, as Exhibit Nos. 17 and 18(a)-(b); and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception, to permit a morning preschool program for 15 children is granted; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.



Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Case No. CBA-2643

Page 3.

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 29th day of June, 2006.



Katherine Freeman
Executive Director

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision and conduct a public hearing to consider the action taken.

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.

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
www.montgomerycountymd.gov/content/council/boa/index.asp**

(240) 777-6600

Case No. CBA-2643

PETITION OF AUDUBON NATURALIST SOCIETY

RESOLUTION TO MODIFY SPECIAL EXCEPTION

(Resolution Adopted October 1, 2008)

(Effective Date of Resolution: March 26, 2009)

The Board of Appeals has received a letter, dated August 11, 2008, from Neal Fitzpatrick, Executive Director of the Audubon Naturalist Society (ANS). Mr. Fitzpatrick requests administrative modification of the special exception to allow conversion of "an old green house adjacent to our parking lot into a space that could accommodate a group of 16 campers a week for the nine week duration of our summer camp program," which will permit expansion of ANS's existing summer camp program. Mr. Fitzpatrick also states that "ANS urges camp families to organize their travel to our sanctuary in carpools." He encloses a site plan that shows the location of the green house.

The Board of Appeals granted Case No. CBA-2643 to the Audubon Naturalist Society of the Central Atlantic States, Inc., on September 2, 1969, to permit an eleemosynary and philanthropic institution, and a scientific society headquarters. The Board has granted minor modifications to the special exception effective April 28, 1982, to permit a bookshop; May 31, 1990 to permit a storage shed; October 18, 1994, to permit an entrance sign; September 21, 2001 and June 29, 2006, to permit various internal improvements at Woodend.

The subject property consists of 40.4892 acres, "Clean Drinking" Subdivision, located at 8940 Jones Mill Road, Chevy Chase, Maryland in the R-90 Zone

The Board of Appeals considered Mr. Fitzpatrick's request at its Worksession on October 1, 2008. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance provides, pertaining to modification of special exceptions:

Case No. CBA-2643

Page 2.

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the Board, without convening a public hearing to consider the proposed change, may modify the term or condition.

The Board finds that the physical changes to the site will have no discernible outward impact and will not substantially change the nature, character or intensity of the use, or its effect on traffic or on the immediate neighborhood. The Board notes that expansion of the summer camp program may somewhat increase the effect of the special exception on traffic, but finds that with the condition below, this effect will not be substantial. Therefore, on a motion by Catherine G. Titus, Vice-Chair, seconded by David K. Perdue, with Wendell M. Holloway and Allison Ishihara Fultz, Chair, in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-2643, Petition of Audubon Naturalist Society, is re-opened to receive Neal Fitzpatrick's letter dated August 11, 2008, with attachments, as Exhibit No. 20; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception is granted; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that travel to and from the sanctuary shall not exceed 30 trips in either the morning or evening peak travel time; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.


Catherine G. Titus
Chair, Montgomery County Board of Appeals

Case No. CBA-2643

Page 3.

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 26th day of March, 2009.



Katherine Freeman
Executive Director

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision and conduct a public hearing to consider the action taken.

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. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
www.montgomerycountymd.gov/content/council/boa/index.asp

(240) 777-6600

Case No. CBA-2643

PETITION OF AUDUBON NATURALIST SOCIETY

RESOLUTION TO MODIFY SPECIAL EXCEPTION

(Resolution Adopted January 5, 2011)

Effective Date of Resolution: April 28, 2011)

The Board of Appeals has received correspondence, dated September 23, 2010 and December 10, 2010, from Neal Fitzpatrick, Executive Director of Audubon Naturalist Society (ANS). Mr. Fitzpatrick requests administrative modification of the special exception to allow installation of a pre-fabricated pavilion and to have two additional groups of 16 campers during ANS's nine-week summer camp season. Mr. Fitzpatrick also anticipates a modest increase in Spring and Fall birthday programs. He encloses photographs, a site plan and a list adjoining and confronting property owners, as well as traffic counts and intersection data from the Maryland National Capital Park and Planning Commission (MNCPPC) about Jones Mill Road and Jones Bridge Road.

In response to Board questions, Mr. Fitzpatrick provided this additional information about the modification:

- 128 campers are expected to attend the 2011 camp session;
- the estimated total number of car trips is 256, not accounting for siblings' daily carpooling and time periods when campers stay overnight and do not 'commute' daily;
- the dimensions for the one-story pavilion will be 1250 square feet (estimated 25' by 50');
- the nearest adjacent home to the new pavilion will be 335 feet
- the distance from the new pavilion to Jones Mill Road is 285 feet;
- programs associated with the new structure will not involve long-term parking and will utilize existing parking at Woodend Nature Sanctuary;
- Mr. Fitzpatrick discusses the traffic data from the Maryland National Capital Park and Planning Commission and analysis of the anticipated impact of the traffic associated with the modification request.

The Board of Appeals considered the modification request at its Worksession on January 5, 2011. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance provides, pertaining to modification of special exceptions:

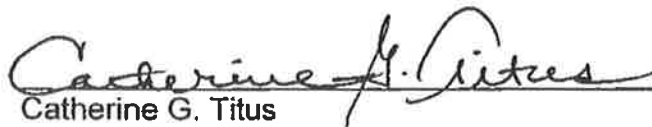
If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the Board, without convening a public hearing to consider the proposed change, may modify the term or condition.

The Board finds that the impact of the proposed modification and the small amount of traffic associated with it will not substantially change the nature, character or intensity of the use or its effect on traffic or on the immediate neighborhood. Therefore, on a motion by David K. Perdue, Vice-Chair, seconded by Walter S. Booth, with Stanley B. Boyd and Catherine G. Titus, Chair, in agreement and Carolyn J. Shawaker necessarily absent:

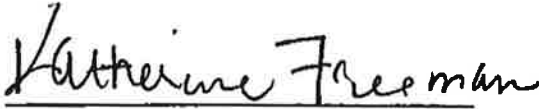
BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-2643, Petition of Audubon Naturalist Society, is re-opened to receive Neal Fitzpatrick's correspondence dated September 23, 2010 and December 10, 2010, with attachments; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception is granted; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.


Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 28th day of April, 2011.

A handwritten signature in cursive script that reads "Katherine Freeman". The signature is written in dark ink and is positioned above the printed name and title.

Katherine Freeman
Executive Director

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision and conduct a public hearing to consider the action taken.

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. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.



DEPARTMENT OF PERMITTING SERVICES

Marc Elrich
County Executive

Hadi Mansouri
Acting Director

January 8, 2020

Mr. Greg Hoffman
Center for Watershed Protection
3290 N. Ridge Road, Suite 290
Ellicott City, MD 21043

Re: **REVISED COMBINED STORMWATER
MANAGEMENT CONCEPT/SITE
DEVELOPMENT STORMWATER
MANAGEMENT PLAN** for
Woodend Sanctuary
Preliminary Plan #: N/A
SM File #: 284682
Tract Size/Zone: 40.48/R-90
Total Concept Area: 4.55ac
Lots/Block: N/A
Parcel(s): P 774
Watershed: Lower Rock Creek

Dear Mr. Hoffman:

Based on a review by the Department of Permitting Services Review Staff, the **revised** stormwater management concept for the above-mentioned site is **acceptable**. The stormwater management concept proposes to meet required stormwater management goals via the use of a bioswale and micro bioretention.

The following items will need to be addressed during the detailed sediment control/stormwater management plan stage:

1. A detailed review of the stormwater management computations will occur at the time of detailed plan review.
2. An engineered sediment control plan must be submitted for this development.
3. All filtration media for manufactured best management practices, whether for new development or redevelopment, must consist of MDE approved material.
4. The limits for the proposed stream improvements are not required to be included when determining the overall ESD volume requirements.
5. The inflow methods proposed for ESD # 2 and ESD # 3 will be evaluated during the detailed plan submission.
6. The future phase II parking lot previously shown with this concept submission has been removed. Any future development of that area will require a revised or completely new concept.



255 Rockville Pike, 2nd Floor, Rockville, Maryland 20850 | 240-777-0311
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Mr. Greg Hoffman
January 8, 2020
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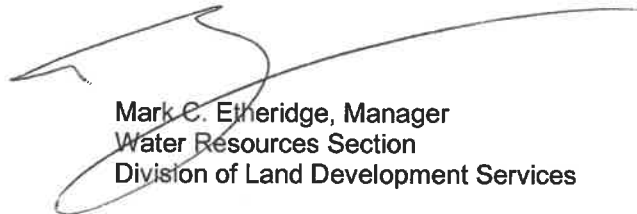
7. The proposed permeable pavement in the parking lot of the existing brick mansion is considered an environmental benefit and will not require additional stormwater management treatment volume. The proposed permeable pavement area will not have to be constructed to DPS or MDE standards. The stormwater management treatment for that area will be in the proposed bioswale as approved on the original concept submission.
8. This approval supersedes the approval letter dated August 22, 2019.

This list may not be all-inclusive and may change based on available information at the time.

This letter must appear on the sediment control/stormwater management plan at its initial submittal. The concept approval is based on all stormwater management structures being located outside of the Public Utility Easement, the Public Improvement Easement, and the Public Right of Way unless specifically approved on the concept plan. Any divergence from the information provided to this office; or additional information received during the development process; or a change in an applicable Executive Regulation may constitute grounds to rescind or amend any approval actions taken, and to reevaluate the site for additional or amended stormwater management requirements. If there are subsequent additions or modifications to the development, a separate concept request shall be required.

If you have any questions regarding these actions, please feel free to contact Thomas Weadon at 240-777-6309.

Sincerely,



Mark C. Etheridge, Manager
Water Resources Section
Division of Land Development Services

MCE: TEW

cc: N. Braunstein
SM File # 284682

ESD: Required/Provided 2226 cf / 2352 cf
PE: Target/Achieved: 1"/1.2"
STRUCTURAL: N/A
WAIVED: N/A



DEPARTMENT OF TRANSPORTATION

Marc Elrich
County Executive

Christopher R. Conklin
Director

January 22, 2021

Ms. Katherine Mencarini, Planner Coordinator
DownCounty Planning Division
The Maryland-National Capital
Park & Planning Commission
2425 Reedie Drive, 13th floor,
Wheaton, MD 20902

RE: 890 Jones Mill Road
Audubon Naturalist Society
Traffic Impact Study Review

Dear Ms. Mencarini:

We have completed our review of the revised Local Area Transportation Review and Transportation Policy Area Review (TIS) report December 16, 2020, prepared by Symmetra Design. Total development evaluated by the analysis includes:

- An after-school program for up to 20 students;
- A 24,845 square foot Natural Play Space in the current wooded area; and
- A gravel surface parking lot to accommodate up to 16 vehicles.

General Comment:

The study has been conducted in accordance with the Maryland national Capital Park and Planning Commission (MNCPPC) Local Area Transportation Review (LATR) Guidelines – Fall 2017. Based on the TIS report, we offer the following comments:

Adequacy Determination

The study indicates that the proposed development generates more than 50-peak hour person vehicular trips; therefore, the motor vehicle system adequacy test is required. The pedestrian, bicycle and transit adequacy tests are not required since the development generates less than 50-peak hour trips.

Motor Vehicle System Adequacy

1. There are no proposed changes to the existing two vehicular access points, one from Jones Mill

Office of the Director

101 Monroe Street 10th Floor · Rockville Maryland 20850 · 240-777-7170 · 240-777-7178 FAX

www.montgomerycountymd.gov

Located one block west of the Rockville Metro Station

Ms. Katherine Mencarini
8940 Jones Mill Road
TIS
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Road and the other from Brierly Road.

2. The consultant studied five intersections on Wednesday, October 2, 2019 and Wednesday, October 23, 2019 (pre-covid-19). Due to Purple Line construction, the northbound approach of Jones Mill Road has been reduced from two lanes (one through and one left) to one lane (a thru-left). This configuration was included in the traffic analysis for existing conditions. Once construction is completed, it is anticipated that Jones Mill Road will return to its original two-lane configuration.
3. The LATR test for the Bethesda/Chevy Chase policy area uses the Critical lane Volume (CLV) Congestion standard of 1600 and Highway Capacity Manual (HCM) with an average vehicle delay standard of 80 seconds per vehicle. Since the subject site is in the Orange Policy Area, HCM analysis is required.
4. We agree with the consultant's conclusion that all the study intersections would continue to operate well within the HCM delay standard of 80 seconds/vehicle. The Jones Mill Road at Jones Bridge Road is projected to get better when the Purple Line construction is completed, and both lanes are reopened.

Pedestrian and Bicycle Impact Statement

1. The consultant provided an evaluation of the pedestrian, bicycle and transit infrastructure for the studied intersections and roads. The report evaluated crosswalks, pedestrian crossing timing at each signalized intersection, location of sidewalks, pedestrian signal heads, streetlight information, accessible ramps and bus stops indicating their adequacy.

SUMMARY

1. We **agree** with the findings of the LATR have been accepted.

Thank you for the opportunity to review this report. If you have any questions or comments regarding this letter, please contact me for this project, at rebecca.torma@montgomerycountymd.gov or at (240) 777-2118.

Sincerely,

Rebecca Torma

Rebecca Torma
Manager, Development Review

Ms. Katherine Mencarini
8940 Jones Mill Road
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Development Review Team
Office of Transportation Policy

[SharePoint/transportation/directors office/development review/Rebecca/developments/Audubon.docx](#)

cc: SharePoint\Correspondence FY-21

cc-e: Mark Terry

MCDOT DTEO



April 26, 2021

Mr. Tsaiquan Gatling

The Maryland-National Capital Park and Planning Commission
Environmental Planning Division
8787 Georgia Avenue
Silver Spring, MD 20910

Subject: Variance Request

Project: Forest Conservation Plan Audubon Naturalist Society Woodend Sanctuary Project # SC2020007

Dear Mr. Gatling

On behalf of the Audubon Naturalist Society (ANS) we are submitting this variance request in accordance with Section 22A-21(b) of the Montgomery County Forest Conservation Law, for the above referenced Parking lot. On the historic property 3 large trees will be potentially impacted by the project. Protection measures will be put in place to protect 3 trees and therefore a variance is only being requested in case removal is deemed necessary by the forest conservation inspector and/or certified arborist at the time of construction.

A. Background

The Applicant is planning to file an application for Sediment and Erosion Control permit for the construction of a small parking lot to allow access to a new foot trail, this project will provide access to the trail which being built to accommodate visitors with disabilities. The property, known as the Woodend Sanctuary (the "property") is in the North Chevy Chase neighborhood approximately 0.25 miles south of I-495. The project provides safe access to the wheelchair accessible trail which is open to the public.

The ANS project is partially located on a historic site. The parcel on the west side of Jones Mill Road contains the Woodend Mansion designed by John Russell Pope and built in 1927 which has a historic designation.

There are three forest stands on the site, as delineated in the approved FCP (SC2020007). Forest Stand 1 is located along the southern edge of the property. Forest Stand 2 is located in the northwest corner along Brierly Rd. Forest Stand 3 is located on the east side of Jones Mill Road and extends to the Rock Creek Trail. This project is occurring in a field and has no impact on the Forest Stands.

B. Tree-by-tree Analysis Removals

The Applicant has located the project to avoid forest and non-forest tree impacts, as such there are no planned forest tree removals.

C. Tree-by-tree Analysis- Disturbed/Retained

Impacts are all to non-forest trees due to the impact of grading on their critical root zones, however those impacts are minimal and being mitigated using tree protection measures

Tree LG -211

Tree LG-211 is a 25" DBH black walnut (*Juglans nigra*) in good condition with 29% CRZ impact due to grading for the parking lot. Tree roots should be pruned at the edge of the proposed parking lot prior to construction. The tree is located outside the LOD however tree protection planking should be installed prior construction to prevent any damage to the trunk during construction activities.

Tree LG-210

Tree LG-210 is a 26" DBH yellow poplar (*Liriodendron tulipifera*) in good condition with 3% CRZ impacts due to minor grading in LOD. The tree is located outside the LOD.

Tree SP-207

Tree SP-207 is a 34" DBH black walnut (*Juglans nigra*) in good condition it with 27% CRZ impacts due to grading in the LOD. The tree is located outside the LOD but root pruning should be conducted along a portion of the access drive lane impacting approximately 13% of the CRZ. The remaining impacts to the CRZ are associated with minor cut or fill.

D. Requirements for the Granting of a Variance

The requirements for the granting of variance are below, followed by the applicant presentation of how those requirements are met.

1.) Describe the special conditions peculiar to the property which would cause the unwarranted hardship.

The project objective is to develop a permeable pavement parking lot close to the natural trail daycare. The project limits of disturbance (LOD) were designed to avoid impacts to trees as much as possible while still providing sufficient access for construction. While there are no removals and impacts could not be completely avoided because of the need to excavate for the permeable paver parking lot system.

2.) Describe how enforcement of this chapter will deprive the landowner of rights commonly enjoyed by others in similar areas.

Woodend sanctuary is open to the public year-round. To make the property more accessible to visitors with the Audubon Naturalist Society is currently constructing a nature trail that is designed to be usable by visitors with physical handicaps. This parking lot will allow individuals safe, direct access to the trail and does not require the removal of any trees.

3.) Verify that State water quality standards will not be violated and that a measurable degradation in water quality will not occur as a result of granting the variance.

The variance will not violate state water quality standards or cause measurable degradation in water quality as there are no planned tree removals. The project includes the use of permeable pavers to reduce stormwater impacts and substantial additional tree and shrub planting. The proposed project will have an approved sediment and erosion control plan and will not violate any state water quality standards.

4.) Provide any other information appropriate to support the request.

The applicant is minimizing tree impacts by utilizing an existing meadow area. Critical root zone impacts were calculated according to desktop data. Tree protection fencing and tree planking will be installed where necessary, as shown on the Forest Conservation Plan. Root pruning will occur under the supervision of the certified arborist.

Please contact me at 410.461.8323 or bts@cwpp.org, if any additional information is required.

Respectfully,
Center for Watershed Protection, Inc.

A handwritten signature in black ink, appearing to read "Bryan T. Seipp". The signature is fluid and cursive, with the first name "Bryan" being more prominent.

Bryan T. Seipp
Maryland Licensed Professional Forester (Lic. #670)