

Item 8 - Correspondence

From: [Amy](#)
To: [MCP-Chair](#)
Subject: Re:Jerome Freibaum Lot 4 application subdivision 620210080
Date: Saturday, April 8, 2023 2:38:39 PM

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Please do not approve the application to create two lots for one single family detached dwelling on Elgin Lane. We have allowed too many large homes to take over our neighborhood. Too many trees removed. We have experienced drainage issues since the large homes and tree removal. Sets a bad precedent for future development in the neighborhood.

Amy Munaker
6512 Pyle Road
Bethesda, Md. 20817

Sent from my iPad

From: [Peter Keehn](#)
To: [MCP-Chair](#)
Cc: caweals@gmail.com
Subject: Subdivision Number 620210080 Jerome Freibaum Lot 4
Date: Saturday, April 15, 2023 1:09:58 PM

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Dear Montgomery County Planning Board Chair,

We are the property owners of 6517 Fallwind Ln, Bethesda, MD 20817. We would like to express our opposition to the proposed subdivision of the property at 6535 Elgin Lane (Subdivision Number 620210080, Jerome Freibaum Lot 4).

We have lived on Fallwind Lane for over 25 years and are the original home owners. As a Fallwind Lane homeowner we are members of the Merrimack Park Homeowners Association (HOA). Our opposition to the Freibaum subdivision is best described in the letter sent by our HOA to Mr. Bossi on April 25, 2022 from our HOA president Christopher Weals. We strongly agree with the objections raised in this letter. The addition of a new lot with access onto the west side of Fallwind Lane is not in keeping with the character of our street. There has always been a buffer zone (green space) between the Elgin Lane homes and Fallwind Lane which we have maintained with funds from our HOA dues. Adding another lot to the Fallwind Lane neighborhood without including them in our HOA would be extremely unfair to all of us who have been paying for the upkeep of Fallwind Lane. We would also like to point out that another homeowner at 6521 Elgin Lane petitioned for a driveway onto Fallwind Lane several years ago and was denied by your office thus setting a precedent for keeping the buffer zone between our streets intact.

Sincerely,

Laura Rogers Keehn and Peter Keehn
6517 Fallwind Lane
Bethesda, MD 20817

From: [Christopher Weals](#)
To: [MCP-Chair](#)
Cc: [Andrew Karron](#); [Peter Sklarew](#); [Lawrence Dwight](#); [Bryan and Liesl](#)
Subject: Jerome Freibaum Lot 4 Administrative Subdivision - Application No 620210080
Date: Monday, April 17, 2023 6:59:26 PM
Attachments: [Letter to Board re Application 620210080.pdf](#)

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

On behalf of the Merrimack Park Homeowners' Association, Inc., I am submitting the attached written testimony objecting to the referenced application. Please let me know if you need further information.

Respectfully,
Christopher A. Weals
President, Merrimack Park HOA

caweals@gmail.com
202.255.0961

April 17, 2023

Via Email - mcp-chair@mncppc-mc.org

The Montgomery County Planning Board
2425 Reedie Drive
Wheaton, MD 20902

Re: Written Testimony Objecting To Staff Recommendation To Approve Application No. 620210080 To Subdivide 6535 Elgin Lane, Bethesda, MCPB Item No. 8 for Meeting Scheduled for April 20, 2023

Dear Members of the Planning Board:

On behalf of the Merrimack Park Homeowners' Association, Inc. (HOA), a homeowners' association on Fallwind Lane, we respectfully submit this testimony regarding the above-referenced application. As explained in the HOA's April 25, 2022 letter to the Planning Staff, a copy of which is attached for your reference and incorporated herein, the HOA opposes the application and objects to the Staff's recommendation to the extent it would permit construction of a driveway onto Fallwind Lane.

We have carefully reviewed the Staff's April 10, 2023 recommendation. We appreciate the Staff's careful consideration of the proposed property subdivision. Further, we understand and respect the County's policy of encouraging infill housing to alleviate the housing shortage. And, as homeowners ourselves, we recognize the applicants' interest in maximizing the use and value of their property consistent with applicable zoning and planning requirements.

With that said, we maintain our objection to the proposed Fallwind Lane driveway, which is incompatible with the Merrimack Park subdivision on Fallwind Lane. The approved plan for Merrimack Park specifically provided for the construction of houses on only one side of Fallwind Lane (the east side) and a vegetation buffer on the west side of Fallwind Lane between the street and the Elgin Lane houses. As noted in our April 25, 2022 letter, that requirement was specifically sought by the Elgin Lane homeowners (including the applicants) and the developer was required to undertake substantial additional tree plantings. Since that time, the west side buffer has been maintained (at HOA expense) and all parties have relied on the understanding that the approved one-side development plan would remain in force.

It is incorrect to assert, as the Staff does, that a "review of prior Planning Board approvals associated with the Fallwind Lane neighborhood" shows "no restrictions that would preclude proposed lot 102 to have access to this driveway." Staff Report at 13. The approved Merrimack Park site plan specifically reflects the vegetation buffer and shows no development on the west side of Fallwind Lane. In light of that feature of the approved plan, and the planting provisions, no further, duplicative prohibition was necessary.

Not only is the proposed Fallwind Lane driveway inconsistent with the approved Merrimack Park plan, it would fundamentally alter key terms of the Merrimack Park plan, which reflected a compromise intended to reflect the respective interests of the County, the neighboring homeowners, and the developer and future homeowners. The plan provided for land, including a bike path and woods and other areas, to be held in common by the future Merrimack Park homeowners and maintained by the HOA. The HOA and Fallwind Lane homeowners have provided and paid for such maintenance and will continue to do so in the future. Yet the subdivision proposal contemplates that the new lot will obtain the benefit of access to Fallwind Lane via a driveway contrary to the Merrimack Park plan, while avoiding the burdens borne by all Fallwind Lane homeowners.

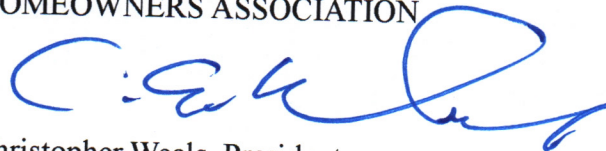
Nor can it be argued that the proposed Fallwind Lane driveway is essential to permit the applicants to subdivide their property and build the additional home. As detailed in our April 25, 2022 letter, we specifically suggested to applicants the possibility of developing the two lots after the fire that destroyed the existing house by building a pipestem driveway from Elgin Lane to serve the proposed two lots. Applicants ignored that suggestion. Instead, they built a new house precluding such a driveway. Having rejected a solution to the access problem, applicants should not be permitted to bootstrap their decision into a basis for approving a driveway contrary to the Merrimack Park plan.

Finally, we note that the proposed sidewalk to be built at the end of the driveway would be inconsistent with the Merrimack Park plan, unsightly and unnecessary. Because of the west side vegetation buffer, the sidewalk would go to and from nowhere. It would encourage walking on the west side vegetation buffer, which would be contrary to the plan and potentially dangerous to the walker and harmful to the vegetation. It is unnecessary given the full sidewalk lining the east side of Fallwind Lane. All it would accomplish is further erosion of the Merrimack Park plan.

For all these reasons, and those set forth in more detail in our April 25, 2022 letter, the HOA opposes approval of the application.

Respectfully submitted,

MERRIMACK PARK
HOMEOWNERS ASSOCIATION



Christopher Weals, President



Andrew Karron, Vice President

From: [Loren](#)
To: [MCP-Chair](#)
Cc: caweals@gmail.com
Subject: Objection to the Freibaum application 620210080
Date: Tuesday, April 18, 2023 8:23:08 AM

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

To the MNCPP board members and chair:

We are writing this letter in opposition to the proposed subdivision of the Jerome Freibaum Lot 4 Administrative Subdivision - Application No 620210080 6535 Elgin Lane, Bethesda, MD.

We fully support the letter written on behalf of the Merrimack Park Homeowners Association, signed by Christopher Weals and Andrew Karron as our representatives.

In addition, we would like to comment on the safety issue of the proposed driveway on Fallwind. For those of you unfamiliar with our street, picture the driveway to this new proposed house right at the back of a blind curve on a hill, so the driveway will be invisible to the driver accelerating to get up the hill, and the driver pulling out of this new driveway will also be unable to see oncoming vehicles. This is an accident waiting to happen. In addition, there are many pedestrians on Fallwind because it is a less travelled cul de sac with a walking path to a larger neighborhood. Walkers coming around the curve cannot see the driveway, and as the only driveway on that side of the road, walkers will not expect vehicles pulling out. They expect to be walking safely far away from cars. This would be a new driveway on a side of the street that has not had any driveways in the 27 years we've lived here.

For us, this is the most persuasive argument against permitting this new driveway. We believe that safety is paramount, and this plan is unsafe for vehicles and for pedestrians. Please decline this permit.

Thank you for your consideration.

Loren Amdursky and Edward Nelson
6525 Fallwind Lane
Bethesda, MD

From: [Bossi, Adam](#)
To: [Jody Kline](#); [Michael Norton](#)
Cc: [MCP-Chair](#); [Vaia, Emily](#)
Subject: Item 8 - 4/20/23 Jerome Freibaum Lot 4 620210080 - additional public comments received
Date: Tuesday, April 18, 2023 11:57:56 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Hi Jody, Emily, Mike, Melissa/Catherine,

Keeping everyone in the loop – please see below for additional comments below regarding Jerome Freibaum Lot 4, Item 8 on Thursday’s Planning Board agenda.

Adam



Adam Bossi
Planner III, DownCounty Planning Division
Montgomery County Planning Department
2425 Reedie Drive, Wheaton, MD 20902
adam.bossi@montgomeryplanning.org
o: 301 495 4529

WE'VE MOVED!

THE NEW PARK AND PLANNING HEADQUARTERS IS NOW LOCATED AT
2425 REEDIE DRIVE, WHEATON, MD 20902



From: carolconnorcohen@gmail.com <carolconnorcohen@gmail.com>
Sent: Tuesday, April 18, 2023 11:35 AM
To: Bossi, Adam <Adam.Bossi@montgomeryplanning.org>
Cc: 'Jeff Cohen' <jeffreybcohen@verizon.net>
Subject: 6535 Elgin Lane Admin. Subdivision 620210080

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Dear Adam,

For the reasons stated in our opposition sent by email on April 20, 2022, together with the reasons stated in the oppositions submitted by the Merrimack Park Homeowners’ Association (on April 25, 2022) and by our neighbor, William Reed (on April 24, 2022), we continue to object to the referenced application.

We plan to attend the hearing this week, but will not be asking to testify.

Thank you,

Carol Connor Cohen
Jeff Cohen
6809 Pyle Road
Bethesda, MD 20817

From: [Sklarew, Peter A. \(TAX\)](#)
To: [MCP-Chair](#)
Cc: [Bossi, Adam](#); [Cris Weals](#); [Andrew Karron](#); [Christina Sklarew](#)
Subject: Sklarew objection to SD 620210080 (Item 8 on Agenda for 4/20/2023)
Date: Tuesday, April 18, 2023 12:09:46 PM
Attachments: [sklarew objections to SD 620210080.pdf](#)

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Attached please find our objection to the subdivision application of Jerome Freibaum (SD No. 620210080) that is Item 8 on the Agenda for the 4/20/2023 hearing. We plan to attend the hearing and will separately sign up to testify. If you have any questions, please call 301-299-2032 and leave a call-back number if we do not answer. Or reply to this email and please copy sklarewc@gmail.com.

Thank you,

Peter and Christina Sklarew

6521 Fallwind Lane
Bethesda, MD 20817

April 17, 2023

Chair, Montgomery County Planning Board
2425 Reddie Drive
Wheaton, MD 20902
via email to: mcp-chair@mncppc-mc-org

**Objection/Comments to Administrative Subdivision No. 620210080
Jerome Freibaum Lot 4 (Item 8 on Agenda for 4/20/2023)**

Dear Members of the Planning Board:

We object to the above-referenced subdivision scheduled to be heard as item 8 on the Agenda for the 4/20/2023 hearing for all of the reasons contained in the April 17, 2023 objection filed by on behalf of the Merrimack Part Homeowners Association [“MPHOA”], incorporating MPHOA’s previous submission dated April 25, 2022 [“4/25/2022 MPHOA Objections”], and for additional reasons included herein. We respectfully submit that the planning board staff has misunderstood the primary thrust of the 4/25/2022 MPHOA Objections and failed to address some of the concerns entirely. Please note that we also request, for reasons indicated below, that the Chair leave the record open for a possible post-hearing submission by the Montgomery County Housing Opportunities Commission [“HOC”] that owns the low-income townhouses and is a member of the MPHOA, and which objected in 2018 to a permit application for an Elgin Lane owner to put a driveway on Fallwind Lane.

We specifically object to the following passage in the Staff report (p.16), which fails to account for the original site plan, its evolution, what was represented to purchasers on our street, and the 30-year history of the development since:

The block design is existing and appropriate for the proposed development and use. The proposed Administrative Subdivision is limited to the splitting of one existing residential lot into two residential lots. Each lot includes frontage along public rights-of-way. This proposal does not change the existing, established block design and is consistent with the existing residential uses in the neighborhood.

While “block design” perhaps refers to the physical location and width of the street, this statement misses the point because the subdivision materially alters the overarching “design” of the Merrimack Park development. Preliminarily, nine of the thirteen current owners of single family dwellings on Fallwind Lane are the original purchasers from the developer who “sold” us our homes on the express premise that there would be no more homes on Fallwind Lane and no driveways on the west side the street. Likely the same expectation was given to the Montgomery County Housing Opportunities Commission [“HOC”] that owns the low-income townhouses that are part of the MPHOC. While we understand that a “mistake” by the developer could not bind the Planning Board, we submit that the developer’s understanding was a correct interpretation of the site plan and the history of the site plan’s evolution and of his negotiations with the county over the approval of the overall development.

Some of the site plan history is set forth in the 4/25/2022 MPHOA Objection that is an exhibit to the agenda item.¹ This includes that there was substantial opposition to the development by Elgin Lane lot owners, after which the developer was required to add a massive amount of trees and shrubs along the west side of the street (and offer fencing to those Elgin owners who requested it). The west side of Fallwind Lane was planned to be a buffer zone, with the land constituting the county's right of way to be undeveloped along the entire street. The developer told us the MPHOA was responsible for that buffer zone when board control was turned over to the purchasers and indeed we have used dues to pay to maintain it for 26 years, including raking and mulching and planting perennials. Mr. Freibaum was an active member of the group that insisted on the creation of the buffer zone and the planting of additional trees.

The developer's interpretation that was communicated to purchasers of Fallwind homes and relied upon by them is particularly supported by the fact that the County, as part of approving the development, required the developer to establish a homeowners association that would include the Montgomery County Housing Opportunities Commission ("HOC") as the owner of the 12 townhouses, with the MPHOA to be responsible for various common areas and their maintenance. For example, a gross unfairness would result if only one resident (or two) on the street did not have to pay for what is likely to eventually be a very costly replacement of the paved bicycle path through the woods at the end of the cul-de-sac. MPHOA responsibilities also include maintaining the landscaping at the front end of the street on the east side along the sidewalk all the way to Pyle Road. While climate change has made substantial snowfalls less frequent, for 26 years the MPHOA had paid for private plowing in more serious storms because the county plows take a long time to access our street.

At a minimum, if the Planning Board approves the Freibaum subdivision (which, as noted below, will lead to at least one more Elgin lot-owner demanding "equal treatment" notwithstanding arguable differences), then the County should accept a deed to the common areas with the bicycle path and assume the expense of its inevitable resurfacing rather than impose that arbitrarily on all but one or two Fallwind homeowners.²

¹ The 4/25/2022 MPHOA Objection and its exhibits included with the exhibits to the agenda item include the approved site plan (#8-92016) and various documents related to that plan prepared or received by the county before its approval. They also includes correspondence and emails related to the denial of a permit sought by the owner of 6521 Elgin to build a driveway to Fallwind. Finally the 4/25/2022 MPHOA Objection included documents reflecting Mr. Freibaum's prior attempted end run around the subdivision process by his initially successful application to just put a driveway on Fallwind as part of a "restore and repair" application without informing the Department of Permitting Services of the opposition he was well aware of and without even putting a notice sign on Fallwind Lane. That permit was granted and then rescinded after the MPHOA complained.

² On PDF pages 29-30 of the composite of attachments to the hearing agenda, a footnote recites that there was some opposition at the time of the development, including by the HOC, to imposing the maintenance costs "on a very small homeowner's association" and that a motion to have the Parks Department own and maintain the woods and bike path failed. The only excuse for the narrowly focused cost imposition is that those with homes on Fallwind Lane benefit disproportionately and that excuse is lost if one homeowner on the same street is exempted from the cost sharing.

Speaking of bicycles, the bicycle path puts more cycle traffic on Fallwind Lane (as the attachments to the hearing agenda reveal was expected) and, regardless of the bike path, the combination of the curve and the hill at the site of the proposed Freibaum driveway means that any cyclist entering Fallwind must hug the far right side of the street because cars coming out of Fallwind frequently cut the curve, making cycling up the hill around a right-hand curve dangerous. That will be magnified by having driveway right after that curve with the added risk of a car exiting that new home. This we understand is also a concern of the HOC whose tenants have children that may be cycling or otherwise playing in the street at that location.

In that regard, the staff report characterizes opposition from some homeowners and our association (p.10), but fails to mention that the HOC itself has previously expressly opposed opening any driveways on the other side of Fallwind. This occurred in 2018 when the lot at 6521 Elgin wanted to open a driveway out the back yard. After the MPH OA filed a complaint, HOC follows up with its own formal complaint that was given No. 200060859 and then followed up with a call to Division of Land Development. The same HOC representative voiced support for the 4/25/2022 MPH OA Objection to the now-proposed subdivision at a homeowners association meeting and separately in emails to MPH OA board members at the time that objection letter was drafted. Unfortunately, that representative is currently out and will return after the Planning Board hearing. That is why we request that the Chair leave the record open for a couple of weeks at least to give the HOC the opportunity to comment on the subdivision application should it choose to do so when the official assigned to the Merrimack Park HOC units returns.

Another indication that the west side of Fallwind was not expected to have driveways is the lack of a sidewalk on that side. This is highlighted by the plan on shown on page 9 of the Staff's report requiring a sidewalk for just 73 feet – like a “bridge to nowhere.” No one is going to walk on a 73-foot patch of sidewalk in front of one home with two dead ends. If anything, it suggests you are open to having the rest of that side of the street be developed and allow all Elgin owners to add back-entrance driveways (as the owner of 6521 Elgin sought a permit to do in 2018 that was denied), provided they build sidewalks too. And a sidewalk up the entire street would drastically reduce trees and other vegetation and change the entire character of that side of the street.

The Planning Board staff's recommendation misconstrues the thrust of the MPH OA's 4/25/2022 letter as focused on trees to be cut down, or on privacy, and proposes some setback and planting requirements. While we appreciate the effort to accommodate our concerns, this simply misses the real point. The concerns also involve precedent. On page 12, the Staff report observes that “With Lot 102, this Proposal creates the only property with frontage and a driveway on the west side of the roadway.” Then after mentioning the rather unimportant need to remove some existing vegetation, the report states: “The Staff reviewed the prior Planning Board approvals associated with the Fallwind Lane neighborhood and found no restrictions that would preclude proposed Lot 102 to have driveway access to this roadway.” But if the overall site plan is read that way, then it is equally true of every Elgin Lane lot with frontage on Fallwind Lane. Yet in 2018, the county denied a permit to the owner of 6521 Elgin to open a driveway on Fallwind as part of his plan for a different footprint for the home to be built after tearing down an older one.

Even if the Board would distinguish the Freibaum lot based on its size, the lot next door on its south side is similar and its owner would undoubtedly claim a right to equal treatment.³ And a Fallwind driveway from that lot will be right across from the townhouses. Once there are two such driveways, it will be harder to say “no” to any other Elgin lot-owner who wants a driveway on Fallwind. Indeed, a third lot south of the one on the south side of the Freibaum lot may also be large enough for two homes, particularly if the one now on Elgin is torn down and re-sited. At a minimum, it presently has plenty of room left to build a smaller “in-laws” dwelling with access to Fallwind even without subdividing. With the Staff report saying, it “found no restrictions that would preclude” driveways on the west side of Fallwind, what is to stop the two adjacent lot-owners and particularly the first one whose lot is just as large as Mr. Freibaum’s? Again, the overall development plan was for no driveways on the west side of Fallwind.

Apart from precedent it is totally unfair to require some but not all Fallwind Lane residents to contribute to the upkeep of the “common areas” that the County mandated at the time of the development in the 1990s. This should not be misconstrued as a suggestion that everything is fine if the new lot is required to be annexed by the MPHOA. The main point here is that driveways on that side of the street were simply never in the cards and the County is changing the site plan in derogation of the reliance of all of the other owners on the street. But if you do approve the subdivision, it should certainly be conditioned on the new lot being annexed into the MPHOA and requiring the owner to “catch up” with the MPHOA’s significant reserves and cash on hand that benefits the entire street.

In closing, we also wish to note after the fiasco in which Mr. Freibaum tried to do an end-run around the subdivision process and get a permit for a driveway first without notice to Fallwind residents, which had to be rescinded, and after the MPHOA’s more complete 4/25/2022 letter opposing the subdivision application, the Staff apparently repeatedly discussed with Mr. Freibaum ways for him to address problems with his application and then finalized its recommendation to the Board without giving the MPHOA an opportunity to point out flaws in the report. To be sure, there was no legal requirement for the staff to consult with the MPHOA, but it is therefore understandable that the staff developed an inaccurate picture of the situation and concluded that the subdivision will not change the character of Fallwind Lane. It certainly will change the character, and it will also exclude just one resident from having to contribute to upkeep of the common areas that will benefit him as much as any other owner on the street.

The application should be denied.

Respectfully submitted,
/s/ Peter & Christina Sklarew
6521 Fallwind Lane (301-229-2032)

³ Regarding the loss of value to Mr. Friebaum, he was told before he recently rebuilt the home that burned down that he should apply to subdivide the lot using a pipestem driveway and that would remove opposition. His land was clearly large enough to build two homes with the first set back slightly further to accommodate a pipe-stem driveway. He insisted that doing so would interfere with the pool that was in his back yard but, in the end, he removed the pool anyway and built the replacement home to the minimum side set-backs, thus making it impossible for him to give access to the proposed subdivided back-lot from Elgin Lane. Given that, the Board should not feel sorry for him being unable to have a driveway to service the back half of this land.

From: [Andrew Karron](#)
To: [MCP-Chair](#)
Cc: [Christopher Weals/Hancock](#); [Peter Sklarew](#); [Lawrence Dwight](#); [Bryan and Liesl](#)
Subject: Written Testimony Objecting To Staff Recommendation To Approve Application No. 620210080 To Subdivide 6535 Elgin Lane, Bethesda, MCPB Item No. 8 for Meeting Scheduled for April 20, 2023
Date: Tuesday, April 18, 2023 5:33:37 PM

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

As original and current Merrimack Park homeowners, we object to the Planning staff's recommendation for approval of the proposed subdivision application with a driveway on Fallwind Lane. We join in the Merrimack Park Homeowners Association's objection and in those of our various Fallwind Lane neighbors. We write to emphasize three points that should be dispositive.

1. The approved Merrimack Park Plan, which was developed with extensive neighborhood input and discussion, reflected a carefully crafted compromise that has consistently been honored and enforced for 30 years. At the existing neighborhood's request, it provided for maintenance of existing vegetation and the planting of many additional trees on the west side of the new Fallwind Lane to screen it from view of the Elgin Lane homeowners. The approved plan provided for no new houses or driveways on the west side of Fallwind Lane, giving Elgin homeowners the green screening they sought and the purchasing Fallwind Lane homeowners a quieter street that provided them with a green screen of the neighboring Elgin lane houses. The compromise also provided that Fallwind Lane residents would have to join the Merrimack Park HOA, which would bear the financial burden of maintaining, among other things, designated common areas (the woods and bike path) and working with the Montgomery County Housing Opportunity Commission to ensure maintenance of the HOC townhomes at the end of the street and the success of that pioneering affordable housing program. We have done so for 30 years.
2. In light of this undisputed (and indisputable) history, there is no basis for saying that building a driveway for a new house on the west side of Fallwind Lane does not conflict with the approved plan. It plainly does conflict with the plan as drawn, interpreted, understood, and enforced for 30 years. That should be dispositive.
3. Even if the Planning Board might be authorized or willing to consider an exception to the Merrimack Park plan, or a modification of the plan, the undisputed facts here show that this is not the case in which to do that. A Fallwind Lane driveway was **not** an essential prerequisite to subdividing the Freibaum Elgin Lane property. HOA members expressly made this point to the Freibaums when they discussed their proposal with us. They nonetheless chose to site the new house built after the existing house burned down to preclude an Elgin Lane driveway that could serve a house on the subdivided lot. That was their choice to make, but it is not a basis to impose the consequences on the Fallwind Lane Merrimack Park HOA owners. Moreover, the the Freibaum permit application seeking to "restore and/or repair" a driveway, which listed not only the Elgin address driveway but also a driveway on Fallwind Lane **that had never previously existed**, which they knew the neighborhood opposed, and which required emergency modification

of the permit by the County to exclude the new driveway, at the very least raises questions of bad faith in connection with the subdivision approval process. The Planning Board should discourage such conduct, not reward it.

In short, the existing plan, 30 years of unbroken history, and the equities all warrant denial of the application as presented.

Respectfully submitted,

Andrew Karron
Janet Storella
karronat@gmail.com
6515 Fallwind Lane
Bethesda, MD 20817
301-237-6221

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Andrew Karron
karronat@gmail.com

From: [Bryan and Liesl DeFranco](#)
To: [MCP-Chair](#)
Cc: caweals@gmail.com
Subject: Re: Objection to the Freibaum application 620210080 (Item 8 on Agenda 4/20/2023)
Date: Tuesday, April 18, 2023 10:24:27 PM

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

To the MNCPP board members and chair:

We are writing this letter in opposition to the proposed subdivision of the Jerome Freibaum Lot 4 Administrative Subdivision - Application No 620210080 6535 Elgin Lane, Bethesda, MD (Item 8 on Agenda for 4/20/2023).

We fully support the letter written on behalf of the Merrimack Park Homeowners Association, signed by Christopher Weals and Andrew Karron as our representatives.

In addition, we would like to emphasize the most important issues to us as homeowners:

Safety: The proposed driveway will be located at the top of a hill on the blindside of an almost 90 degree curve and will be almost directly across from the three driveways that serve one of the subsidized townhouses. Those townhouses are often rented to families with children who play ball and ride bikes in the driveways and on the street. Imagine accelerating up that hill and having to swerve because someone is coming out of the proposed driveway and potentially swerving into an area where children often play.

Contradiction with the design of the neighborhood: the county designed our neighborhood to have a buffer between Fallwind Lane and the backs of the houses on Elgin. Thirty years ago the houses on Elgin, with the Freibaum family intricately involved, insisted on the buffer. But now for the interests of one Elgin home, Mr Freibaum wants the design changed.

Manipulation: Mr Freibaum knew of our objections and proceeded to build one

house on his lot to exit onto Elgin essentially landlocking the other part of his lot. He had the option to position two houses on that lot and use a pipestem driveway so both could exit onto Elgin. He's trying to manipulate the decision because he's left himself no other alternative.

Precedent: Another house on Elgin requested driveway access to Fallwind and the county rejected it.

HOA dues: with all these objections, and others stated by our HOA board and other neighbors, should the driveway still be approved, why should a house that opens onto Fallwind receive the benefits of our HOA - buffer maintenance, leaf removal, snow removal, insurance, etc - as well as the 30 years of maintenance that's already been invested into this area - for no cost? They shouldn't. A home that enters onto Fallwind should be required to become a member of the Merrimack Park HOA, incur the expense to rewrite the bylaws (to reflect the additional house), be required to pay into the reserves that we have all contributed to, and pay their annual dues.

Thank you for your consideration.

Liesl and Bryan DeFranco
6501 Fallwind Lane
Bethesda MD 20817

From: [Andy Gavil](#)
To: [MCP-Chair](#)
Cc: [Christopher Alan Weals](#); [Andrew Karron](#)
Subject: Letter of Objection: Application No. 620210080 (Item 8 for Meeting Scheduled for April 20, 2023)
Date: Tuesday, April 18, 2023 10:10:02 PM
Attachments: [Gavil-Veis Letter to Board re Application 620210080 \(04-18-23\)\(Signed\).pdf](#)

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

To the Members of the Planning Board -

We hope you will carefully consider the concerns expressed in our attached letter regarding the referenced Application.

Judith H. Veis
Andrew I. Gavil
6509 Fallwind Ln
Bethesda, MD 20817

Judith H. Veis
Andrew I. Gavil
6509 Fallwind Lane
Bethesda, MD 20817

April 17, 2022

Via Email: mcp-chair@mncppc-mc.org

The Montgomery County Planning Board
2525 Reddie Drive
Wheaton, MD 20902

Re: Objection to Staff Recommendation To Approve Application No. 620210080 To Subdivide 6535 Elgin Lane, Bethesda, MCPB Item No. 8 for Meeting Scheduled for April 20, 2023

Dear Members of the Planning Board:

We are original owners of 6509 Fallwind Lane and have been members of the Merrimack Park Homeowner's Association (MPHOA) since acquiring our home in 1997. We write to support and endorse the Written Testimony of our MPHOA leadership submitted on April 17, 2023 and join in its opposition to Application No. 620210080. We also write to highlight a particular concern that was entirely overlooked in the recent Staff Report.

As a community, all Fallwind Lane homeowners – and our partners at the Housing Opportunities Commission (HOC) – share responsibility for the maintenance and upkeep of all common areas. By design and mandate, all homeowners and the HOC are *required* to be members of the MPHOA. That partnership has served its intended purpose. MPHOA has actively supported the affordable housing goals of the HOC. As a member of the MPHOA, HOC is notified of all HOA meetings and frequently attends. These requirements were imposed by the County as conditions of the original Merrimack Park development plan and are largely responsible for its success. Moreover, when painting and repairs were needed for the townhomes and HOC was not in a position to fund it when needed, MPHOA advanced the necessary funds, managed the process, and made generous arrangements for the HOC to reimburse the MPHOA for its financial obligations. In short, as was the hope of the original plan, this has been a successful partnership.

Yet, as our MPHOA leaders correctly noted in their April 25, 2022 to Mr. Bossi, *the Applicant has steadfastly refused to share in that responsibility by conditioning the development of his property on MPHOA membership.* Instead, the Applicant now seeks to fully benefit from the success of our decades-long community effort to maintain Fallwind Lane by sub-dividing and selling that portion of his property that once bordered on undeveloped forest, but not to share in our commitment to the continuing maintenance of our community – even though the HOC townhomes lie directly across the street from the proposed development. And, remarkably, in the 20 pages of its Report, Staff fails to mention either the MPHOA or the HOC.

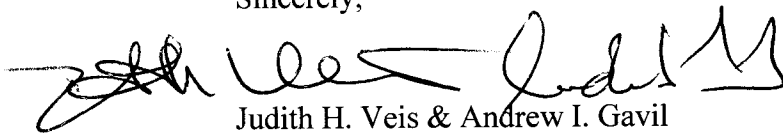
Via Email: mcp-chair@mncppc-mc.org

The Montgomery County Planning Board
2525 Reddie Drive
Wheaton, MD 20902
Page 2

We therefore join the MPHOA in opposing Application No. 620210080. If the Board is inclined to approve that application, however, it must condition that approval on membership in the MPHOA. Allowing that omission to go unaddressed would be wholly inconsistent with the original development plan, as well as the needs of the community going forward.

Thank you for your consideration.

Sincerely,



Judith H. Veis & Andrew I. Gavil