

**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-2364

**PETITION OF LEVITT & SONS, INC.
[NEW HOLDER: STRATHMORE BEL PRE RECREATION ASSOCIATION]**

RESOLUTION TO TRANSFER AND MODIFY SPECIAL EXCEPTION

(Resolution Adopted December 9, 2009)
(Effective Date of Resolution: March 29, 2010)

The Board of Appeals has received correspondence, dated May 12, 2009, July 14, 2009 and November 23, 2009, from Arthur Meister, Strathmore Bel Pre Recreation Association (SBPRA) Board Member. Mr. Meister requests administrative modification of the special exception to reflect current, as-built conditions and transfer of the special exception to Strathmore Bel Pre Recreation Association. He submits an as-built site plan [Exhibit No. 38a] in support of the request.

The Board of Appeals granted Case No. CBA-2364 to Levitt & Sons, Inc. on May 7, 1968, pursuant to Section 111-37 of the Zoning Ordinance (Chap. 111-37, Mont. Co. Code 1965, as amended) to permit the construction and operation of a community swimming pool and private club. The subject property comprises 6.3 acres, known as Parcel A, Section 4, Strathmore Bel Pre Subdivision, 13920 Bethpage Lane, Silver Spring, Maryland 20906-3105.

The Board of Appeals considered the modification request at its Worksession on December 9, 2010. Rule 12.2 of the Board of Appeals Rules of Procedure [Resolution No. 12-865, October 27, 1992] provides that the transfer of a special exception is a modification under Section 59-G-1.3 of the Zoning Ordinance. Section 59-G-1.3(c)(1) of the Ordinance provides:

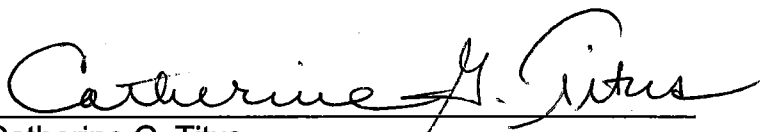
If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the board, without convening a public hearing to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

The Board finds that the changes reflected on the as-built site plan have little or no outward impact. The Board further finds that the transfer of the special exception from one holder to another, to be operated in accordance with the terms and conditions under which it was originally granted or modified by the Board of Appeals, will not intensify the use or substantially change its impact on the immediate neighborhood or on traffic. Therefore, on a motion by David K. Perdue, Vice-Chair, seconded by Carolyn J. Shawaker, with Stanley B. Boyd and Catherine G. Titus, Chair, in agreement and Walter S. Booth necessarily absent:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA=2364 is re-opened to receive Arthur Meister's correspondence of May 12, 2009, July 14, 2009 and November 23, 2009, with attachments; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception, including its transfer to Strathmore Bel Pre Recreation Association 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 29th day of March, 2010.


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.