

2009-01

NOTICE OF APPEAL

Anne Arundel County Board of Appeals

Decision Information

Decision Rendered By: I&P ☐ P&Z ☐ AHO ☒ A.C. ☐ H.D. ☐ Other ☐
 County Agency Case #: 2008-0294-V; 2008-0295-V Date of Decision: 01/15/2009

Appellant Information (Appealing Party)

Name: See Attachment A

Address:

Phone # (Home):

Phone # (Work):

Attorney's Name (if applicable): See Attachment A

Attorney's Address:

Attorney's Phone #:

Attorney's Fax #:

Applicant Information (Party Originally Applying for County Approval)

Name: Chesapeake Terrace/National Waste Managers, Inc.

Address of Property (if applicable): S.W. side of Patuxent Rd., W. of Bragers Rd.

Mailing Address: c/o Susanne Koster Henley, 47 West Street, Annapolis, MD 21401-2420

Phone # (Home):

Phone # (Work):

Attorney's Name (if applicable): Susanne Koster Henley, Esq.

Attorney's Address: 47 West Street, Annapolis, MD 21401-2420

Attorney's Phone #: (410) 280-0530

Attorney's Fax #: (410) 280-2029

Reason for Appeal

Please provide a brief statement as to reasons for this appeal below: (you may attach more paper if necessary)
 See Attachment B

**A copy of the County Agency's Decision must be submitted at the same time as this form.*

*** FOR OFFICE USE ONLY ***

Date Received: 2/12/09 Case #: BA1009V Check #: 4624 Initials: RL
 Copies Given to: BA1109V Check Amt.: \$500
 Applicant: ✓ Atty. Appellant: ✓ Atty. Law Office: D. Self I&P: _____
 P&Z: ✓ bhm/fury Personnel: _____ A.C. _____
 Dept. of Health: _____ AHO: ✓ Other: _____

ATTACHMENT A

List of Appellants:

Allan Cecil, 1547 Grays Ford Rd., Odenton, MD 21113
Melvin and Minion Contee, 1245 Collins Ave., Odenton, MD 21113
Mr. Elliott, 2948 Conway Avenue, Odenton, MD 21113
Ulis R. and Carmelina Fleming, 980 Patuxent Rd., Odenton, MD 21113
J.C. Fleming, 980 Patuxent Rd., Odenton, MD 21113
Cathy and Robert Fleshman, 1280 Meyer Station Rd., Odenton, MD 21113
Angela & Clarke Howard, 2811 5th Ave., Odenton, MD 21113
Diana and Gregory Lane, 976 Patuxent Rd., Odenton, MD 21113
Buzz and Sally Meyer, 1553 Meyer Station Rd., Odenton, MD 21113
Robert and Barbara Meyer, 1576 Meyer Station Rd., Odenton, MD 21113
Sue Meyers, 1543 Meyer Station Rd., Odenton, MD 21113
Stacy and Michael Murphy, 977 Patuxent Rd., Woodwardville, MD 21113
Robert Queen, 2975 Conway Rd., Odenton, MD 21113
Bessie Queen, 2975 Conway Rd., Odenton, MD 21113
Ann Marie Thomas, 1357 Meyer Station Rd., Odenton, MD 21113
Leon Truesdale, 1221 Collins Rd., Odenton, MD 21113
Bonita and Philip Truesdale, 1221 Collins Ave., Odenton, MD 21113
Jennifer and Peter Veres, 2743 Conway Rd., Odenton, MD 21113

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Attachment B

Reason for Appeal:

The Temporary Administrative Hearing Office erred in granting the Applicant's third petition for a variance to extend time to implement previously approved special exceptions for a rubble landfill and sand and gravel operation by two years, and to extend time by two years to complete the improvements allowed by the previously approved variances. The Applicant has already been granted two extensions identical to the one at issue here.

The Temporary Hearing Officer erred in granting the extension of time because the Applicant failed to meet its burden of proving that it met the standards set forth in §3-1-207 of the Anne Arundel Code. The extensions fail to provide substantial justice as required by §3-1-207(a). Specifically, there have been no practical difficulties or unnecessary hardships which require a third variance to extend the time to comply with the terms of the special exception and previously granted variances. No exceptional circumstances exist to justify the requested variance relief as required by §3-1-207(a)(2). Furthermore, the Applicant failed to prove the factors required for the Board to grant a variance set forth in §3-1-207(c). Since the approval of the original special exception and variances, there have been material changes to the surrounding neighborhood. The two-year extension at issue here, when compounded with the previous extensions, will now alter the essential character of the neighborhood and the district in which the properties are located. The two-year extension will also impair the appropriate use or development of adjacent properties. Based on the changes in to the neighborhood, a variance granting another two-year extension will be detrimental to public welfare.

Neither the facts nor the law warranted the granting of the two-year extensions. Furthermore, the Applicant does not have a fee simple right-of-way to the proposed rubblefill. Finally, the original analysis under *Schultz v. Pritts*, 291 Md. 1 (1980), is no longer applicable to the existing conditions. Due to the changed character of the neighborhood, a new special exception analysis should be conducted pursuant to *Schultz v. Pritts* and the more recently decided, *People's Counsel for Baltimore County v. Loyola College in Maryland*, 406 Md. 54 (2008).

Appellants reserve the right to raise additional issues in the appeal.