



**Town of Easton Board of Zoning Appeals
Decision Summary - Aspire Apartments Hearing**

Tuesday, October 24, 2023 at 6:00 p.m.

Town Hall Chamber 2
14 S. Harrison Street, Easton

Archived video of the meeting is available at:
[Town of Easton Agendas and Minutes](https://www.eastonmd.gov/Agendas-and-Minutes)
[\(eastonmd.gov\)](https://www.eastonmd.gov/)

Attendance:

Board Members:

Peter Cotter, Chairman
Gary Molchan, Vice Chairman
Zakary A. Krebeck

Staff:

Lynn B. Thomas, Town Planner - Long Range
Joseph Mayer, Plan Reviewer
Nicholas Johnson, Town Planner - Current
Sharon Van Emburgh, Town Attorney
Rick Van Emburgh, Town Engineer
Samantha Smith, Administrative Specialist

Absent:

Staff:

Miguel Salinas, Planning and Zoning Director

1. Call to Order — Chairman Cotter called the hearing to order at 6:00 p.m.

2. Application Background —

- a. File No.:** SE-911 / SE 23-06 *and* V-911 / V 23-05
Applicant: Aspire Outdoors LLC
Location: Camac Street, Easton, MD 21601
Tax Map 0026, Grid 0020, Parcel 0186
Zoning: R-10A
Request: The Applicant is requesting a Special Exception pursuant to Section 28-1303.5.B of the Town of Easton Zoning Ordinance, land use (1) 105 in Table 2.1 of Section 28-201 to be utilized as a Multifamily Apartment Complex in the R-10A zoning district.

The Applicant is also requesting a variance pursuant to Section 28-1303.5.C of the Town of Easton Zoning Ordinance, to obtain a Variance from Section

28-1007.1.(1)14(l) which requires a minimum 75' rear yard setback for apartment buildings and parking areas adjacent to a single-family residence or vacant residential lot.

The Applicant is proposing to develop the property at the south end of Camac Street into a six-building apartment complex with twenty-seven units each, totaling 162 units. This hearing is a continuation of the April 18, 2023 Board of Zoning Appeals meeting. The Applicant has since received from the Planning Commission sketch site plan approval with conditions, and a positive recommendation to the Board of Zoning Appeals for the special exception and variance requests that include recommended conditions.

3. Oath to Testify — Chairman Cotter called for all witnesses to declare and affirm under penalty of perjury that he or she solemnly swear to testify truthfully before the Board.

4. Opening Statements —

- a. Applicant Opening Statement** — Mr. Ryan D. Showalter *Esq.* addressed the Board on behalf of Aspire Outdoors LLC with a brief introduction to the purpose of this Special Exception and Variance request. He stated that testimony provided by the Owner and other project consultants, in addition to a recommended approval by the Planning Commission, will support how this application complies with provisions of the Zoning Ordinance, is consistent with the Comprehensive Plan, and how the proposed use conforms to all minimum requirements in the granting of a Special Exception and a Variance from the enhanced setback requirements.
- b. Opposition Opening Statement** — Mr. Mark Gabler *Esq.* was present on behalf of the Hunters Mill Homeowner Association. He stated the HOA has a particular interest regarding the use of Camac Street as an ingress/egress for the project; specifically in relation to the width of Camac Street and a frequent overflow of parking. He also stated that testimony will be provided by a traffic engineer evaluating the average daily trip count (ADT count) along Camac Street with findings that challenge the generated ADT count determined in the traffic impact study (TIS) provided by the Applicant. He further stated that testimony will also be provided to support that the scope of the project can be reduced to not require a Variance from the minimum rear yard setback requirements.

5. Applicant Testimony —

- a. Mr. Showalter called Mr. Derick Daly to testify.** Mr. Derrick Daly of 29760 Standish Street described the unique components of this project with the objective to provide high-density residential housing that is consistent with the Town of

Easton Comprehensive Plan. A portion of the profits from this housing project are to be designated to Polaris Village Ministries under the expansion of Polaris Village Academy, a tuition-free private school to be developed in partnership with the Building African American Minds (BAAM) Center.

The Applicant has now submitted for the Board a sewer capacity / pump station solution, a traffic study for 162 units, and has received sketch site plan approval from the Planning Commission and a positive recommendation to the Board, with conditions, for the Special Exception that include building in phases based on access points. The Planning Commission recommendation for these access points included approval for two (2) buildings to be constructed with access along Camac Street upon construction of the first access point at Hunter's Mill; two (2) additional buildings to be approved and permitted upon the completion of an access point along Gannon Range; and the final two (2) buildings to be approved and permitted upon the construction and operation of a third access point. Mr. Daly addressed a hardship in providing their own entrance and site access, stating that there are 42 acres of forest conservation and nontidal wetlands that would be contingent upon a difficult approval process with the State of Maryland. The Applicant is concurrently working with Gannon Range to create an agreement for an access road along Camac Street. The Board identified a lack of supporting evidence on the available capacity of public schools and other public facilities to accommodate the proposed 162 units.

- i. **Cross Examination** — Chairman Cotter opened up cross examination for Mr. Daly's testimony. There was none.
- b. **Mr. Showalter called Mr. Paul Rogers to testify.** Mr. Paul Rogers of 106 North Harrison Street described his role as an architect with Rauch Inc. in facilitating the design and Project Site Development for Aspire Apartments; and how those design features comply with the Zoning Ordinance. The 33 acre Northeast portion of the property is zoned R-10A, which allows a maximum density of five (5) dwelling units per acre for multi-family units. The current proposed density is 2.62 dwelling units per acre, and meets the maximum 35 foot height requirement of the R-10A Zoning District. The Board further discussed the Supplemental Standards for rear yard requirements in which the Variance is requested from the required 75 feet, and the degree of encroachment to where the stormwater management facilities are located. Mr. Rogers clarified that the design of the stormwater location was for the purpose of maintaining a connection to Gannon Range property and to attain the maximum number of available parking spaces. The Board and Applicant discussed the establishment of a public access agreement, and went into further detail regarding the 7,000 square foot pump station easement and adequacy of other public facilities. The Board held follow up discussion regarding the peculiar nature of the Variance request, the impact on the character of the area and surrounding neighborhood, and any adverse effects on the health, safety and welfare of those surrounding residences. Mr. Rogers testified that the density as permitted by the base zoning is not achievable through

the peculiar geometry of the site, and the interpretation of what is considered a rear yard or side yard created hardship and a particular necessity for this Variance request.

- i. **Cross Examination** — Chairman Cotter opened up cross examination for Mr. Rogers' testimony. Mr. Gabler challenged the hardship of adhering to the rear yard setback requirements of the Zoning Ordinance. Mr. Rogers responded that considering the unique configuration and environmental areas of the property, the Applicant would not be able to achieve the maximum possible density of 5 units per acre. Mr. Gabler also challenged the possibility of overflow parking, particularly into Hunters Mill. Mr. Rogers responded that the Applicant has provided an adequate number of parking spaces in accordance with the Ordinance.

Public Comment:

Akshay Dhawan
Larry Smith

- c. **Mr. Showalter called Mr. Brian Fitzgerald to testify.** Mr. Brian Fitzgerald of Centreville described his role as a Civil Engineer on this project. Mr. Fitzgerald went into detail regarding the Stormwater Management approach to this project in an attempt to maintain the existing drainage patterns. Mr. Fitzgerald testified that the site is capable of accommodating Stormwater Management, citing that the Applicant has since received conceptual stormwater approval from the Town. Mr. Fitzgerald provided testimony to the unusual environmental constraints that affect direct access to Matthewstown Road for this project, and the viability of utilizing Camac Street as an alternative alignment to avoid or minimize environmental impacts. Mr. Fitzgerald also provided testimony that the proposed 24' width of the drive aisle is consistent with the Town's residential sub-collector street width requirements. An internal study was done to evaluate the turning radius to determine maneuverability in the parking lot.

- i. **Cross Examination** — Chairman Cotter opened up cross examination for Mr. Fitzgerald's testimony. Mr. Gabler questioned Mr. Fitzgerald regarding any potential wetland study or feasibility analysis conducted to support their findings. Mr. Fitzgerald stated that an internal wetland delineation study of the property supported that there were no other reasonable or viable alternatives other than the existing Camac Street to avoid environmental impact.

Public Comment:

Mark Walter

- d. **Mr. Showalter called Ms. Betty Tustin to testify.** Ms. Betty Tustin testified to her role as senior project manager for the Traffic Group, and summarized the findings of the Traffic Impact Study (TIS) and Average Daily Trip (ADT)

evaluation completed for this project. The TIS evaluation was completed in 2022 (revised January 6, 2023) and was conducted as a comprehensive study to evaluate the potential impact on eight (8) intersections, including intersections selected by the Town and State Highway Administration (SHA); and considered all pending and ongoing development projects within the surrounding area. The SHA approved the study, with a recommendation to lengthen the left turn lane at Matthewstown Road. The ADT count was determined to be 5.4 daily trips per apartment dwelling, totaling 875 daily vehicle trips. Citing the Town's standards, the Traffic Group concluded that the surrounding roadways- including Hunters Mill and Gannon Range have sufficient capacity to accommodate the total number of vehicle trips. Ms. Tustin spoke to the alternative findings of the traffic study evaluated by the Opposition, and concluded that those findings included average daily trips for homes along Captain Adamowski Street and a difference in interpretation of the Town Subdivision Regulations. The Board deliberated over the ADT calculation and strategies to delineate traffic through different access points.

Cross Examination — Chairman Cotter opened up cross examination for Ms. Tustin's testimony. There was none.

Public Comment:

Mark Walter

Larry Smith

There were no further witnesses for the Applicant.

6. **Recess** — Chairman Cotter called for a brief recess at 8:37 p.m. The meeting was called to Order at 8:45 p.m.

7. **Opposition Testimony** —

- a. **Mr. Gabler called Mr. Troy Bestol to testify.** Mr. Troy Bestol, a professional Engineer with Traffic Planning and Design Inc. submitted his resume for the record and testified to his findings on the ADT evaluation completed by the Applicant. Mr. Bestol agreed with the Applicant's calculation of 875 daily vehicle trips, but stated that it would have been appropriate to consider the number of daily trips along Camac Street in that calculation. In making their calculation, Traffic Planning and Design Inc. considered the generated ADT count for Hunters Mill residents along Camac Street in addition to the generated ADT count for the proposed Aspire properties. Mr. Bestol further elaborated to say that based on the layout of the Aspire property, the additional traffic is likely to utilize Camac Street as a main point of access with a total of 833 average daily trips - exceeding the maximum 500 ADT threshold determined by the Town's Subdivision Regulations. Mr. Bestol went into further detail regarding his conclusions on the

interconnection from Hunters Mill to the proposed development; stating that more than the calculated 1.23 parking spaces per unit are likely to be utilized, compelling an overflow of on street parking along Camac Street. He concluded that in its current configuration, Camac Street is not suitable for a significant amount of on-street parking.

- i. **Cross Examination** — Chairman Cotter opened up cross examination for Ms. Bestol's testimony. There was none.

Public Comment:

Mark Walter
Larry Smith
Akshay Dhawan

- b. **Mr. Gabler called Mr. John Franczak to testify.** Mr. John Franscak of 29756 Captain Adamouski Street and Vice President of the Hunters Mill Homeowners Association Board testified on behalf of the HOA and their concern regarding the use of Camac Street as ingress and egress in this proposal. The Hunters Mill HOA believe that the Town's Comprehensive Plan should be enforced without the allowance of a Special Exception and a Variance for this project. Mr. Franscak stated his opinion that the scope of the project can be reduced in order to comply with the setback requirements. Mr. Franczak testified with firsthand knowledge that Camac Street is used as the primary entrance point for Hunters Mill, and commented on the safety concerns with the concurrent installation of a playground at the end of Camac Street. Mr. Franczak submitted various viewpoint photos of a bus turnaround along Camac Street as evidence for the record, and further discussed the HOA's concern regarding the amount of proposed parking for the project, and how an overflow of parking would impact the Hunters Mill development.

- i. **Cross Examination** — Chairman Cotter opened up cross examination for Mr. Franczak's testimony. There was none.

There were no further witnesses for the Opposition.

8. Public Comment — Chairman Cotter opened for public comment.

a. Public Comment:

Dennis Freeman, 8687 Camac Street
Mark Walter, 29849 Standish Street
Akshay Dhawan, 8658 Camac Street
Kesha Haithe, 8671 Camac Street
David Milligan, 8672 Camac Street
Larry Smith, 8501 Swann Haven Road
Kendrick Daly, 111 Parris Lane

Dana Bowser, 300 Dixon Street
Deeya Mitra, 8658 Camac Street

9. Closing Testimony —

- a. Applicant Closing Statement** — Mr. Showalter concluded with a reiteration of the Planning Commission’s favorable recommendation which included a three phase buildout approach; and that the sketch site plan and parking plan as submitted by the Applicant were found to be adequate. Mr. Showalter asked the Board to consider approving these Special Exception and Variance requests on the first buildout phase along Camac Street, and to consider tabling a Decision on the second and third phases at this time.
- b. Opposition Closing Statement** — Mr. Gabler concluded with a reiteration that the Applicant has not provided evidence supporting a hardship for the Variance; and that the Hunters Mill HOA would consider a condition of approval for buildout of the first access point as acceptable if the Applicant was willing to reconfigure the proposed second and third phase buildout.

10. Board Deliberation —

a. Variance Request *V-911 / V 23-05*

Chairman Cotter moved to approve the Variance request as submitted. Vice Chairperson Molchan seconded the motion.

<u>Vote</u>	<u>3 - 0</u>
FOR:	3 - Cotter, Molchan, Krebeck
AGAINST:	0
ABSTAIN:	0
ABSENT:	0

- 11. Recess** — Vice Chairman Molchan moved for a brief recess to consult with legal counsel in a closed session, pursuant to Section 3-305(b)(7) of the General Provisions Article of the Maryland Annotated Code. Chairman Cotter seconded the motion. The motion for recess was voted for unanimously at 10:07 p.m. The meeting was called to Order at 10:15 p.m.

12. Board Deliberation —

a. Special Exception Request *SE-911 / SE 23-06*

Chairman Cotter moved to deny the Special Exception request as submitted. Vice Chairperson Molchan seconded the motion.

Vote	<u>3 - 0</u>
FOR:	3 - Cotter, Molchan, Krebeck
AGAINST:	0
ABSTAIN:	0
ABSENT:	0

13. Adjournment — Chairman Cotter motioned to adjourn. Vice Chairman Molchan seconded. The meeting was adjourned at 10:35 p.m.