

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Rockville, Maryland 20850

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(240) 777-6600

Case No. S-2801

PETITION OF AMERICAN CAREGIVERS, INC.

OPINION OF THE BOARD

(Opinion Adopted June 15, 2011)
(Effective Date of Opinion: July 15, 2011)

Case No. S-2801 is an application by American Caregivers, Inc., under Section 59-G-2.13 of the Zoning Ordinance, for a special exception to permit a Daycare Facility for Persons with Disabilities. The subject property is Lot P7, Block 9, Calverton Subdivision, located at 3060 Fairland Road, Silver Spring, MD 20904, in the R-90 Zone.

The Hearing Examiner for Montgomery County held a hearing on the application on April 18, 2011, closed the record in the case on April 27, 2011, and on May 16, 2011 issued a Report and Recommendation for approval of the special exception. Proposed Condition No. 7 in the Report and Recommendation states:

Prior to a decision by the Board of Appeals, the Applicant shall submit to the Board [a] revised landscape plan that has been approved by Technical Staff showing additional screening of the driveway and parking pad area with specific details of proposed plantings.

On May 31, 2011 the Board received a Revised Landscape Plan for the special exception, under cover of an email from Technical Staff that approves the revisions [Exhibit Nos. 25, 25a].

Decision of the Board: Special Exception **Granted** Subject to
The Conditions Enumerated Below.

The Board of Appeals considered the Report and Recommendation at its Worksession on June 15, 2011. After careful consideration and review of the record in the case, the Board adopts the Report and Recommendation and grants the special exception, subject to the following conditions:

1. The Applicant is bound by all submitted statements and materials pertaining to the proposed operations.
2. The hours of operation will be limited to Monday through Friday from 9:00 a.m. to 6:00 p.m. and Saturday and Sunday from 10:00 a.m. to 4:00 p.m.
3. Weekday van arrival time will be between the hours of 2:00 p.m. and 3:00 p.m. and weekday van departure time will be between 5:00 p.m. and 6:00 p.m.
4. Weekend van arrival time will be between the hours of 10:00 a.m. and 11:00 a.m. and weekend van departure time will be between 3:30 p.m. and 4:00 p.m.
5. The Applicant may have no more than 10 disabled persons cared for on-site at any time.
6. The Applicant may have no more than two non-resident employees providing care for disabled individuals on-site.

On a motion by Stanley B. Boyd, seconded by Carolyn J. Shawaker, with Walter S. Booth, David K. Perdue, Vice-Chair, and Catherine G. Titus, Chair, in agreement the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.

Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 15th day of July, 2011.

Katherine Freeman
Executive Director

NOTE:

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.