

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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(240) 777-6600

Case No. S-2815

**PETITION OF DR. VEENA J. ALFRED AND
ALFREDHOUSE ELDERCARE, INC.**

OPINION OF THE BOARD

(Opinion Adopted March 28, 2012)

(Effective Date of Opinion: April 20, 2012)

Case No. S-2815 is an application, under Section 59-G-2.37 of the Zoning Ordinance, for a special exception to build and operate a domiciliary care home. The Hearing Examiner for Montgomery County held a hearing on the application on January 27, 2012, closed the record in the case on February 13, 2012, and on March 15, 2012, issued a Report and Recommendation for approval of the special exception.

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

The subject property is Parcel 927, Magruders Hazard Subdivision, located at 6020 Needwood Road, Derwood, Maryland, 20855 in the RE-1 Zone.

The Board of Appeals considered the Report and Recommendation at its Worksession on March 28, 2012. After careful consideration and review, the Board adopts the Report and Recommendation and grants the special exception subject to the following conditions:

1. The Petitioner shall be bound by all of its testimony and exhibits of record, and by the testimony of its witnesses and the representations of its counsel identified in the Hearing Examiner's report and in this opinion.
 2. The maximum allowable number of residents (beds) must not exceed thirty-nine (39) beds (34 in the new facility and 5 in the existing group home facility);

3. The maximum number of employees on-site at any one time must not exceed twelve (12), including the existing group home;
4. Except in emergencies, deliveries of food and medical supplies are limited to Monday through Friday, 8:30 a.m. to 5:00 p.m. and Saturday, 9:00 a.m. to 4:00 p.m., and trash pick-up is limited Monday through Friday, 9:00 a.m. to 5:00 p.m. and Saturday, 9:00 a.m. to 4:00 p.m.;
5. The Applicant must obtain approval of a Preliminary Plan of Subdivision per Chapter 50 of the Montgomery County Code; if changes to the site plan or other plans filed in this case are required at subdivision, Petitioner must file a copy of the revised site and related plans with the Board of Appeals.
6. All lighting for the site shall comply with the Petitioner's Lighting Plan (Exhibits 4(a) and (b)).
7. Petitioner must obtain a permit for the proposed monument sign, and a copy of the permit for the approved sign must be submitted to the Board of Appeals before the sign is posted. If required by the Department of Permitting Services, Petitioner must obtain a sign variance for the proposed sign or amend the design of the proposed sign to have it conform to all applicable regulations. If the design is amended, a diagram showing the amended design must be filed with the Board.
8. The proposed development must comply with the conditions of the Preliminary Forest Conservation Plan (Exhibit 23(c)), until approval of the Final Forest Conservation Plan by the Planning Board, after which time Petitioner must comply with the terms of the Final Forest Conservation Plan.
9. The back-up generator for the proposed facility must contain a critical load silencer and enclosure sufficient to bring noise levels to County Code standards.
10. The Petitioner must possess, not later than the issuance date of the use and occupancy certificate, valid State of Maryland and County licenses, certificates, and/or registrations that may be required for a domiciliary care home which provides assisted living to the elderly.
11. Petitioner must maintain 17 parking spaces called for in its Site Plan (Exhibit 42(a)), and may not expand or reduce the parking facility without express permission from the Board through modification of this special exception.

12. Prior to Preliminary Plan approval, the roadway improvements along Needwood Road including construction of a shared use path must be determined. If the roadway improvements are required on the subject property, the Petitioner must request a modification of this special exception for these improvements.
13. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits, necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

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

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 20th day of April, 2012.

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.

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.