

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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Rockville, Maryland 20850

[www.montgomerycountymd.gov/content/council/boa/index.asp](http://www.montgomerycountymd.gov/content/council/boa/index.asp)

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**CASE NO: S-2819**

**PETITION OF OLNEY ASSISTED LIVING PARTNERS, LLC**

OPINION OF THE BOARD

(Opinion Adopted January 11, 2012)

(Effective Date of Opinion: January 26, 2012)

Case No. S-2819 is an application for a special exception, pursuant to Section 59-G-2.27 of the Zoning Ordinance, to build and operate an assisted living facility. The subject property is Parcel P707, located in the 17000 block of Georgia Avenue, Olney, Maryland 20830, in the R-200 Zone.

The Hearing Examiner for Montgomery County held a public hearing on the application on December 2, 2011, closed the record in the case on December 19, 2011, and on December 28, 2011, 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 Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on January 11, 2012. 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 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 assisted living facility must be limited to a maximum of 64 beds. The facility will operate 24 hours a day, 7 days a week, but the total number of employees on the site shall not exceed 17 at any one time.
3. Petitioner must make any payments required at subdivision to satisfy the mitigation requirements of Policy Area Mobility Review (PAMR).
4. The lighting for the site is permitted at the levels specified in the amended lighting plan (Exhibit 17(g)), and the Board specifically permits the exceedances indicated in the photometric study in the northeast corner of the site for safety reasons, in accordance with Zoning Ordinance §59-G-1.23(h).
5. Since the proposed use will require subdivision, in accordance with Zoning Ordinance §59-G-1.21(a)(9)(A), approval of this special exception is conditioned upon approval of a preliminary plan of subdivision by the Planning Board. 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. Petitioner must ensure that noise from its generators, air-conditioning and other equipment does not exceed County standards. Petitioner must comply with all applicable sections of the County Noise Ordinance (Chapter 31B of the County Code).
7. Garbage dumpster pick-ups must comply with time of day restrictions specified in Chapter 48-solid waste regulations - which specify that no pick-ups may occur between 9:00 PM and 8:00 AM on any weekday, or between 9:00 PM and 9:00 AM on Sundays and federal holidays.
8. 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.
9. The proposed development must comply with the conditions of the Preliminary Forest Conservation Plan (Exhibit 17(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.
10. Petitioner must maintain 30 parking spaces called for in its Site Plan (Exhibit 17(a)), and may not expand or reduce the parking facility without express permission from the Board through modification of this special exception.
11. A sign permit must be obtained 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 with all applicable regulations. If the design is amended, a diagram showing the amended design must be filed with the Board.

12. Petitioner must obtain a permanent easement agreement for the use of the shared driveway currently located on the adjoining church property, and the easement agreement must be recorded when Petitioner completes its purchase of the subject property from the church, following approval of the Preliminary Plan of Subdivision. A copy of the easement agreement must be filed with the Board of Appeals.

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, 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.

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Catherine G. Titus  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 26<sup>th</sup> day of January, 2012.

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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.