

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
(240) 777-6600

**Case No. S-2536**

**PETITION OF MANOR HOUSE AT SLIGO CREEK, INC.**

OPINION OF THE BOARD

(Hearing Date: November 4, 2002)

(Effective Date of Opinion: February 20, 2003)

Case No. S-2536 is an application for a special exception pursuant to Section 59-G-2.37 (Nursing Home or Domiciliary Care Home) of the Zoning Ordinance to permit the operation of an assisted living facility with a maximum of twenty-five (25) residents. The facility is currently operating as the Adventist Healthcare Group Home. The petitioner proposes to: (1) operate with a maximum of seven full-time and three part-time employees and (2) transport residents by van to and from employment sites and off-site program activities no more than six times daily.

The Board of Appeals received a Report and Recommendation in the above captioned case, dated November 22, 2002, from the Hearing Examiner for Montgomery County. The Hearing Examiner finds that the special exception application satisfies all of the general and specific standards for the use except the minimum lot size requirement in Section 59-G-2.37(c)(2). The Hearing Examiner also recommends that the application for a variance from the minimum lot size requirement be denied, and therefore that the special exception be denied. The Board also received a letter, dated December 2, 2002, from Robert G. Brewer, Jr., Esquire, requesting a general continuance of the matter "to permit Manor House time to obtain the necessary minimum lot area, thereby avoiding a request for a variance entirely." In a Resolution dated January 28, 2003, the Board granted the request for a general continuance until April 30, 2003. Subsequently, the Board received a letter dated January 24, 2003 from Robert G. Brewer, Jr., Esquire. Mr. Brewer's letter requests to withdraw the variance request in Case No. A-5792, and encloses a lease agreement, executed January 6, 2003, between Manor House, the Petitioner and Potomac Conference of Seventh-day Adventists, for .78 acres of land, which is the amount of land necessary to satisfy the minimum lot area requirement for the special exception.

Decision of the Board: Special Exception **granted** subject to Conditions enumerated below.

The subject property is Parcel A, Block F, Rolling Terrace Subdivision, located at 8301 Barron Street, Silver Spring, Maryland, in the R-60 Zone.

At its Worksession on February 5, 2003, the Board of Appeals considered the Report and Recommendation of the Hearing Examiner together with Mr. Brewer's letter of January 24, 2003. The Board finds that the record in the case should be re-opened to receive Mr. Brewer's letter and the lease agreement between Manor House and Potomac Conference of Seventh-day Adventists. The Board further finds that the lease agreement allows the Petitioner to satisfy the minimum lot area requirement for the use, and resolves the only issue upon which the Hearing Examiner recommended denial of the special exception. Therefore the Board voted to dismiss Case No. A-5792, to adopt the findings and conclusions of the Report and Recommendation, as modified by inclusion of the lease agreement, and to grant the special exception subject to the following conditions:

1. Petitioner shall be bound by its testimony and exhibits of record, the testimony of its witnesses and representations of its attorney, to the extent that such evidence and representations are identified in the Hearing Examiner's Report and Recommendation and in the opinion of the Board.
2. The Petitioner shall accept no more than 25 residents at the subject site.
3. The subject facility shall have no more than 19 employees.
4. The following shall be completed within three months of the granting of the special exception: (1) installation of an opaque dumpster enclosure, and (2) repairs to the gutters and downspouts recommended by MNCPPC Technical Staff.
5. Replanting of the eroded area in the vicinity of the repaired gutters shall take place at the appropriate season of the year, as determined by Technical Staff, but no later than six months after the granting of the special exception.
6. The special exception holder must continue the lease agreement in order to satisfy the 2-acre minimum lot size requirement in Section 59-G-2.37(c)(2).

On a motion by Allison Ishihara Fultz, seconded by Louise L. Mayer, with Angelo M. Caputo and Donald H. Spence, Jr., Chairman in agreement, and Donna L. Barron necessarily absent, 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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Donald H. Spence, Jr.  
Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 20<sup>th</sup> day of February, 2003.

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Katherine Freeman  
Executive Secretary to the Board

**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.