

**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)

(240) 777-6600

**Case No. S-2761**

**PETITION OF ROBERT PACANO  
D/B/A WOODSTONE GROUP, LLC**

OPINION OF THE BOARD

(Opinion Adopted September 10, 2014)  
(Effective Date of Opinion: October 22, 2014)

Case No. S-2761 is an application by Robert Pacano for a special exception under Section 59-G-2.30.00 of the Zoning Ordinance to continue operating an established landscaping business.

The subject property is a 4.5 acre site located on Parcel 233, at 28621 Ridge Road, Mt. Airy, Maryland, 21771-4438, in the RDT Zone.

The Hearing Examiner for Montgomery County held a hearing on the application on June 27, 2014, closed the record in the case on July 7, 2014, and on July 25, 2014, issued a Report and Recommendation for approval of the special exception, subject to conditions.

Decision of the Board:                      **Special Exception Granted**

After careful consideration and review of the record in the case, the Board adopts the Hearing Examiner's 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 representations of counsel to the extent that such evidence and testimony are identified in the Hearing Examiner's report and in this Opinion.

2. The maximum number of employees on the site, including the Petitioner and his wife who are operating out of the office, must be limited to eight (8).
3. Hours of operation for the landscape contractor business are limited to 7:00 a.m. through 7:00 p.m. Monday through Friday, and 8:00 a.m. through 5:00 p.m. on Saturdays.
4. The Petitioner must remove approximately 8,300 square feet of impervious surfaces as specified on the Impervious Area Exhibit dated April 8, 2014.
5. The Petitioner must limit impervious surfaces to no more than 8.7 percent.
6. The use must comply with the conditions of the approved Final Forest Conservation Plan.<sup>1</sup>
7. The landscape contractor business must not have more than five trucks and three trailers.
8. The existing single-family detached structure must be used only as an office for the landscape contractor business. It must not be used as a residence.
9. Eight parking spaces shall be located in the gravel area on the north side of the barn and four parallel parking spaces shall be located in the gravel area along the edge of the pond west of the barn. The existing two driveway parking spaces in front of the single-family detached structure must not be modified for additional parking.
10. Vehicles servicing the landscape contractor business may use only the parking spaces at the rear portion of the Property. Trucks, trailers, or other equipment associated with the operation must not use the two driveway parking spaces in front of the existing single-family detached structure.
11. There must be no sign identifying the property as a landscape contractor on the Property. Existing wall sign on the side of the small barn must be removed.
12. No wholesale or retail horticultural nursery, or mulch/compost manufacturing operation, shall be conducted on the Property.
13. Plants, mulch and topsoil are to be stored on site in bags on the designated area on the east side of the barn. There shall be no storage of chemicals, pesticides, manures or debris on site.

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<sup>1</sup> The Hearing Examiner noted that the Planning Board voted to approve the Final Forest Conservation Plan and Tree Variance on June 12, 2014, as indicated in Exhibit 47.

14. Landscaping and lighting on the site must be in accordance to the Landscape & Lighting plans submitted to M-NCPPC Development Review Division on May 19, 2014.
15. No debris from customers' homes or properties may be stored on site.
16. The Petitioner must submit a copy of the approved and executed amended Consent Agreement with the Department of Permitting Services (with no substantive change from draft in Exhibit 40(a)) into the record of this application within 30 days of the effective date of the Board of Appeals decision.
17. Petitioner must comply with the provisions of the Final Amended Statement Of Operations (Exhibit 46(a)), except that if there is any conflict with these conditions, these conditions will prevail.
18. 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 Carolyn J. Shawaker, seconded by Stanley B. Boyd, with John H. Pentecost, David K. Perdue, then Vice-Chair, and Catherine G. Titus, then 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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David K. Perdue  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
This 22<sup>nd</sup> day of October, 2014.



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Katherine Freeman  
Executive Director

**NOTE:**

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.

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.