

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
www.montgomerycountymd.gov/content/council/boa/index.asp

(240) 777-6600

Case No. S-2875

PETITION OF FAIK AND LAUREN TUGBERK

OPINION OF THE BOARD

(Opinion Adopted January 7, 2015)

(Effective Date of Opinion: January 30, 2015)

Case No. S-2875 is an application for a special exception under Section 59-G-2.38 of the Zoning Ordinance (Mont. Co. Code, 2004), to permit a professional office. The Hearing Examiner for Montgomery County held a hearing on the application on October 24, 2014, and on December 17, 2014, issued a Report and Recommendation for approval of the special exception.

The subject property is Lot 1, Stephen's Addition to Alta Vista Subdivision, located at 9400 Old Georgetown Road, Bethesda, Maryland, 20814 in the R-60 Zone.

Decision of the Board: Special Exception Granted.

The Board of Appeals considered the Report and Recommendation at its Worksession on January 7, 2015. After careful consideration and review of the record, the Board adopted the Report and Recommendation and grants the special exception, subject to the following conditions:

1. Petitioner shall be bound by all of its testimony and exhibits of record, and by the testimony of its witnesses and representations of counsel identified in the Hearing Examiner's report and in the Board's opinion.
2. Petitioner must comply with the terms of its revised Site Plan (Exhibit 21(b)), Landscape Plan (Exhibit 36), Signage Plan (Exhibit 39).
3. Trash and recycling pick-up shall occur on Old Georgetown Road.

4. All employees must park in the front parking area nearest Old Georgetown Road or in one space in the carport shown on the Site Plan (Exhibit 21(b)).
5. A sign permit must be obtained for the proposed sign shown on the Signage Plan (Exhibit 39), and a copy of the permit for the approved sign must be submitted to the Board of Appeals before the sign is installed. 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.
6. The special exception use is limited to 2,200 square feet of non-residential professional office space as shown on the floor plans Exhibits 5(a) and (b), and 33.
7. The special exception use is limited to the hours of 9:00 AM – 6:00 PM, Monday – Friday, with a maximum of eleven employees.
8. Prior to issuance of use and occupancy permit for the non-residential professional office, the applicant must extinguish the existing special exception (CBA 1749) on the subject site with the Board of Appeals.
9. Pursuant to Zoning Ordinance §59-E-4.5, a waiver is hereby granted from the setback requirements of Zoning Ordinance §59-E-2.83 for the parking area to the extent necessary to allow parking as depicted in the Site Plan (Exhibit 21(b)).
10. The plantings shown on the submitted landscape plans must be installed by the applicant within the first spring planting season after approval of special exception (S-2875) by the Hearing Examiner.
11. 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.

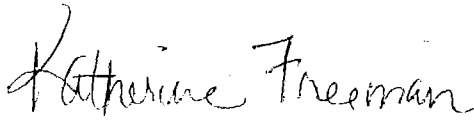
On a motion by Stanley B. Boyd, seconded by John H. Pentecost, with Carolyn J. Shawaker, Vice-Chair, and David K. Perdue, Chair, in agreement, and Edwin S. Rosado necessarily absent, the Board adopted the following Resolution:

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.



David K. Perdue
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
This day 30th of January, 2015.



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.

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