

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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

(240) 777-6600

Case No. S-2877

PETITION OF MOUNT JEZREEL BAPTIST CHURCH

OPINION OF THE BOARD

(Worksession Date: November 18, 2015)
(Effective Date of Opinion: December 14, 2015)

Case No. S-2877 is an application by Mt. Jezreel Baptist Church, under Section 59-G-2.35 of the 2004 Montgomery County Zoning Ordinance, for a special exception for housing and related facilities for senior adults. The subject property is located at 420 E. University Boulevard, Silver Spring, Maryland, 20901 in the R-60 Zone.

The Hearing Examiner for Montgomery County held a hearing on the application on August 17, 2015, closed the record in the case on October 20, 2015, and on November 5, 2015, issued a Report and Recommendation for approval of the special exception.

Decision of the Board: Special Exception Granted.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on November 18, 2015. After careful consideration and review of the record in the case, the Board makes a slight revision to Condition No. 11 below, adopts the Report and Recommendation and grants the special exception, subject to the following conditions:

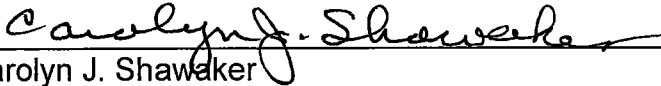
1. The Petitioner shall be bound by all of their testimony and exhibits of record, and by the testimony of their witnesses and representations of counsel identified in the Hearing Examiner's report and in this opinion.
2. All development on the property must comply with the approved site plan (Exhibits 51(c) through (e)), Landscape Plan (Exhibits 51(f) and (g)) and Lighting Plan (Exhibit 51(h)).
3. The facility is limited to a total of 75 units (56 one-bedroom units and 19 two-bedroom units) and 103 residents.

4. The maximum number of employees is four with no more than three on-site at any one time.
5. Trash pick-up must occur after 9:00 a.m. on weekdays.
6. The facility must provide a shuttle service to transport residents to medical services, shopping areas, recreational and other community services frequently desired by senior adults.
7. Minimum unit sizes must comply with the relevant standards of Chapter 26, titled "Housing Standards," of the Montgomery County Code, as amended.
8. The Petitioner must obtain approval of a preliminary plan of subdivision under Chapter 50 of the Montgomery County Code.
9. At the time of Preliminary Plan, the Petitioner must submit a noise study to measure potential noise impacts to the site. Noise emanating from the property must comply with the requirements of Chapter 31B of the Montgomery County Code.
10. At the time of Preliminary Plan, the Petitioner must show a Public Access Easement measuring at least 20 feet in width over the entire length of the existing driveway to provide access from the subject property to University Boulevard.
11. Residents must be limited to adults 62 years of age or older or the spouse of an adult 62 years of age or older, with incomes meeting the requirements of §2.35(a) of the 2004 Zoning Ordinance. Age restrictions must at all times comply with at least one type of exemption for housing for older persons from the familial status requirements of the federal "Fair Housing Act," Title VIII of the Civil Rights Act of 1968, and subsequent amendments thereto.
12. The Final Forest Conservation Plan must incorporate the revisions to the retaining wall shown in Exhibit 51(i).
13. Prior to demolition or any land disturbing activities occurring onsite, the Petitioner must receive approval from the M-NCPPC Office of the General Council for a Certificate of Compliance for an off-site forest mitigation bank for an equivalent credit of 0.57 acres or as determined by the Final Forest Conservation Plan.
14. Petitioner must obtain and maintain all appropriate licensing from Montgomery County and the State of Maryland for continuing operation of an age-restricted, rental housing facility for independent seniors.
15. Petitioner must construct, staff and operate this senior housing facility in accordance with all federal, state and local requirements.

16. 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.

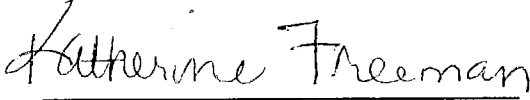
On a motion by Stanley B. Boyd, seconded by John H. Pentecost, Vice-Chair, with Edwin S. Rosado and Carolyn J. Shawaker, Chair, in agreement, and Bruce A. Goldensohn necessarily absent, the Board adopted the following Resolution:

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.



Carolyn J. Shawaker
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
This 14th day of December, 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.