

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
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(240) 777-6600

Case No. S-717-B

PETITION OF OUR HOUSE, INC.

OPINION OF THE BOARD

(Opinion Adopted December 9, 2009)
(Effective Date of Opinion: January 7, 2010)

Case No. S-717-B seeks modification of an existing special exception for a domiciliary care home to permit:

- 1) the construction of a new two-story dormitory building;
- 2) an increase in the number of residents (beds) from 16 to 24, with flexibility to increase to 32;
- 3) an increase in the number of staff on site from 11 to 13 at any one time, with flexibility to increase the number of on-site staff to 16; and
- 4) provision of a parking area on the property consisting of 34 parking spaces.

The subject property contains 40 acres known as P600, Located at 19715 Zion Road, Brookeville, MD 20833 in the RDT Zone.

The Hearing Examiner for Montgomery County held a hearing on the modification request on October 2, 2009, closed the record on October 12, 2009 and on November 9, 2009, issued a Report and Recommendation for approval of the modification.

Decision of the Board

Special Exception Modification **Granted**
Subject to Conditions Enumerated Below.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on December 9, 2009. After careful consideration and review of the record in the case, voted to delete proposed Condition No. 6 in the Hearing Examiner's Report and Recommendation and to revise proposed Condition No. 5, and with those changes, to adopt the Report and Recommendation 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

identified in the Hearing Examiner's Report and Recommendation and in the Opinion of the Board.

2. All terms and conditions of the approved special exception shall remain in full force and effect, except as modified by the Board as a result of this Modification Petition.
3. The maximum allowable number of residents (beds) must not exceed 32. If the number of residents (beds) exceeds 24, then Petitioner must submit a document to Technical Staff indicating its intention to increase the number of residents (beds), and must comply with any applicable Policy Area Mobility Review (PAMR) trip mitigation requirements, as determined by Technical Staff.
4. The maximum number of employees on-site at any one time must not exceed 16. If the maximum number of employees on-site at any one time exceeds 13, then Petitioner must submit a document to Technical Staff indicating its intention to increase the number of on-site employees, and must comply with any applicable Policy Area Mobility Review (PAMR) trip mitigation requirements, as determined by Technical Staff.
5. Any determination by Maryland National Capital Park and Planning Commission Technical staff regarding compliance or non-compliance with PAMR requirements must be filed with the Board of Appeals.
6. Except in emergencies, deliveries of food and medical supplies are limited to Monday through Friday, 8:30 a.m. to 5:00 p.m. and Saturday, 9:00 a.m. to 4:00 p.m., and trash pick-up is to be limited Monday through Friday, 9:00 a.m. to 5:00 p.m. and Saturday, 9:00 a.m. to 4:00 p.m.
7. 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 Carolyn J. Shawaker, with Stanley B. Boyd and Catherine G. Titus, Chair, in agreement, and Walter S. Booth 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.

Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 7th day of January, 2010.

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.