

**Tax Map/Block/Parcel
No. 52-1-292**

Case 5467

**OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND**

APPLICANT: D&D, LLC
c/o Donald Patton
10 Venture Way
Sykesville, Maryland 21784

ATTORNEY: Clark R. Shaffer

REQUEST: Conditional use for a retirement home (Sophie's Choice – 20 dwelling units) and a variance from the 50 ft. required front yard setback along Washington Road to 39 ft.; a variance from the required 50 ft. front yard setback along Hook Road to 20 ft. (+/-); and a variance from the required 40 ft. side yard setback to 36 ft. (+/-).

LOCATION: The site is located at 1017 Washington Road, Westminster, MD, on property zoned "R-10,000" Residential District in Election District 7.

BASIS: Code of Public Local Laws and Ordinances, Section 223-79 C, 223-86 A and 223-82

HEARING HELD: February 24, 2009

FINDINGS AND CONCLUSION

On February 24, 2009, the Board of Zoning Appeals (the Board) convened to hear a conditional use request for a retirement home (Sophie's Choice – 20 dwelling units) and a variance from the 50 ft. required front yard setback along Washington Road to 39 ft.; a variance from the required 50 ft. front yard setback along Hook Road to 20 ft. (+/-); and a variance from the required 40 ft. side yard setback to 36 ft. (+/-). Based on the testimony and evidence presented, the Board made the following findings and conclusion.

The subject property is 1.68 acres of land zoned R-10,000 located at the northeast corner of Hook Road and Maryland Route 32 in Westminster. It is currently improved with a house and outbuilding, which will be razed if Board approval is obtained for the proposed use. The property will be served by public water and sewer service.

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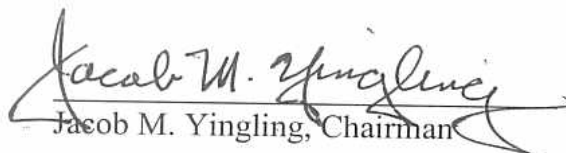
The proposed use is a 20-unit retirement home. The concept plan showing design and density was approved by the Planning Commission on December 16, 2008, in accordance with Carroll County Public Local Laws and Ordinances 223 § 86(A). Previously, a plan for the project that would not have required any variances was not accepted by the Planning Commission. The Planning Commission directed that the plan be reworked so that the proposed retirement community would be relocated on the site to an area much closer to Route 32, resulting in the need for variances. The new plan has more of a streetscape/village character than the prior plan, which made it acceptable to the Planning Commission.

The 2-story building will have 20 units of roughly 1,050 square feet each. The surrounding area is mixed use, with a high school, agricultural uses, apartments, residences and offices nearby. In addition, the proposed development is close to medical centers and hospitals. Traffic generated by the residents, staff and visitors at the facility will be minimal, and the only entrance to the community will be via Hook Road.

The Board found that there was no evidence of any noise, dust, fumes, gases or diminution in property values from the proposed use. Traffic from 20 units will be negligible, and trips will typically occur during "non-peak" hours. The Board concurred with the Planning Commission that the new plan with the revised building location would be more attractive and the Board found the proposal to be consistent with and an asset to the community. The proposal will also fill a need for senior housing in the County and will not tax the government infrastructure and roads as much as several single family houses. Any adverse effects from this use would be no greater here than elsewhere in the R-10,000 zone. Accordingly, the conditional use was granted.

Turning to the variance requests, the Board notes that the senior housing plan before it incorporated the recommendations of the Planning Commission. A previous plan for the development would not have required the variances. The variances will allow for a more appropriate design. Absent the variances, an entrance to the property from Hook Road would also be problematic, leaving no good alternative. The property is also larger than the typical R-10,000 zoned lot, and as a corner property it has two front yards. Based on the above, the Board found due to these unique features and circumstances, a strict application of the front and side yard setbacks would result in practical difficulty and undue hardship, and that the Applicant was not the cause of the hardship. Indeed, the Applicant's original plan did not require any variances. As a result, the requested variances were granted.

3/18/09
Date


Jacob M. Yingling, Chairman