

IN THE MATTER OF	:	BEFORE THE
<b>L.I.F.E., INC.</b>	:	HOWARD COUNTY
	:	BOARD OF APPEALS
Petitioner	:	HEARING EXAMINER
	:	BA Case No. 14-025C

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**DECISION AND ORDER**

On October 13, 2014, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the petition of L.I.F.E., Inc. (Petitioner) for approval of a two-family dwelling conditional use in an R-20 (Residential: Single Family) Zoning District, filed pursuant to § 131.0.N.54 of the Howard County Zoning Regulations (the "Zoning Regulations").

The Petitioner certified to compliance with the advertising, notice and posting requirements of the Howard County Code. The Hearing Examiner viewed the subject property as required by the Hearing Examiner Rules of Procedure.

Timothy E. Dixon, Esquire, represented Petitioner. Thomas Noto appeared for Petitioners and testified. Chang Chun Xie appeared for the hearing and testified but not in opposition to the petition.

**Findings of Fact**

Based upon the preponderance of evidence presented at the hearing, the Hearing Examiner finds as follows:

1. Property Identification. The subject property is located in the 2<sup>nd</sup> Election District on the east side of Centennial Lane about 390 feet south of a one-lane entrance behind 3589

Centennial Lane. It is referenced as Tax Map 24, Grid 7, Parcel 295 and has a street address of 3561 Centennial Lane (the Property).

2. Site Description and Permitted Use. The 43,037sf, irregularly shaped Property frontage is wide and the lot narrows toward the rear lot line. It is improved with an L-shaped one-story, single-family detached dwelling and basement set deep into the lot and a wide private drive and parking area in front of the dwelling. The rest of the Property is lawn. The Property is used as a state-licensed group home for up to eight developmentally disabled adults, a permitted use. The residents live on the main floor. The group home operator, L.I.F.E., Inc., employs two or more persons, none of whom resides on the Property. The basement was once set up as an apartment unit for a former resident; this unit is now unoccupied and used for staff training.

3. Vicinal Properties. Adjoining properties are also zoned R-20 and improved with single-family detached dwellings. The neighborhood has the unique characteristic of being accessed via a narrow one-lane drive originating behind a religious facility at 3589 Centennial Lane. This one-lane drive provides access to the Property and several other lots. The Technical Staff Report (TSR) notes the apparent location of the lane within a 20-foot sewer main right-of-way (ROW).

4. Roads. Centennial Lane at the main entrance to 3589 Centennial Lane, has two travel lanes and a center turn lane and approximately 43 feet of paving within an existing 80-foot ROW. There is no current traffic volume data for Centennial Lane. According to Department of Public Works data, the traffic volume on Centennial Lane north of Old

Annapolis Road was 12,405 average daily trips as of 2006. The one-lane drive running south of 3589 Centennial Lane has about 10-15 paving feet.

5. Water and Sewer. The Property is served by public water and sewer.

6. General Plan. PlanHOWARD2030 designates the Property as "Established Community" on the Designated Place Types Map. The Functional Road Classification Map depicts Centennial Lane as a Minor Arterial.

7. The Proposed Conditional Use. Petitioner seeks approval for a two-family dwelling to continue using the basement as a dwelling unit, which as Mr. Noto testified, would allow the continued presence of the range and eating facilities, including the 220-volt power supply. Petitioner will apply for the appropriate state license for this unit.

8. Mr. Noto testified that the group house is licensed by the state Developmental Disabilities Administration. Residents are transported in a van to an adult day care center. There is parking space for 7-8 vehicles. All required safety improvements will be made.

9. Neighbor Chang Chun Xie testified to being concerned about the basement range exploding.

### **Conclusions of Law**

#### **I. General Criteria for Conditional Uses (§ 131.0.B)**

Zoning Regulations §§ 131.0.B.1-3 requires the Hearing Authority to evaluate whether the proposed Conditional Use will be in harmony with the land uses and policies indicated in the Howard County General Plan for the district in which it is located through the application of

three standards: harmony with the General Plan, intensity of use and atypical adverse impacts.

**A. Harmony and Intensity of Use**

**131.0.B.1. The proposed Conditional Use plan will be in harmony with the land uses and policies in the Howard County General Plan which can be related to the proposed use.**

**131.0.B.2. The nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site are such that the overall intensity and scale of the use(s) are appropriate for the site.**

The proposed two-family dwelling comports with PlanHOWARD 2030 Policy 9.4, which encourages the "expansion of housing options to accommodate the County's senior population who prefer to age in place and people with special needs." The residential use is a low intensity and predominately-indoor use. Only a few properties use the one-lane drive accessing the Property, including the group house, which has been operating at the Property more than 10 years. The nature, scale, location, intensity and size of the site in relation to the use is appropriate.

**B. Adverse Impacts**

**131.0.B.3. The proposed use at the proposed location will not have adverse effects on vicinal properties above and beyond those ordinarily associated with such uses. In evaluating the proposed use under this standard, the Hearing Authority shall consider whether or not:**

Unlike ZR §§ 131.0.B.1 and .2, which concern the proposed use's harmony or compatibility with the General Plan and the on-site characteristics of the proposed use, compatibility with the neighborhood is measured under § 131.0.B.3's six, off-site "adverse effect" criteria: (a) physical conditions; (b) structures and landscaping; (c) parking areas and loading, (d) access, (e) impact on environmentally sensitive area; and (f) impact on the

character and significance of historic sites. These six adverse impact tests gauge the off-site effects of the proposed conditional use.

Inherent in the assessment of a proposed conditional use under these criteria is the recognition that virtually every human activity has the potential for adverse impact. The assessment therefore accepts some level of such impact in light of the beneficial purposes the zoning body has determined to be inherent in the use. Thus, the question in the matter before the Hearing Examiner is not whether the proposed use would have adverse effects in an R-20 district. The proper question is whether there are facts and circumstances showing the particular uses proposed at the particular location would have any adverse effects above and beyond those inherently associated with such a special exception [conditional] use irrespective of its location within the zones. *People's Counsel for Baltimore County v. Loyola College in Maryland*, 406 Md. 54, 956 A.2d 166 (2008); *Schultz v. Pritts*, 291 Md. 1, 432 A.2d 1319 (1981); *Mossburg v. Montgomery County*, 107 Md. App. 1, 666 A.2d 1253 (1995).

For the reasons stated below, and as conditioned, Petitioner has met its burden of presenting sufficient evidence under ZR § 131.0.B.3 to establish the proposed uses will not have adverse effects on vicinal properties beyond those ordinarily associated with a two-family dwelling in the R-20 zoning district.

**a. The impact of adverse effects such as, but not limited to, noise, dust, fumes, odors, intensity of lighting, vibrations, hazards or other physical conditions will be greater at the proposed site than it would generally be elsewhere in the same zoning district or other similar zoning districts.**

There is no evidence of any atypical impact from noise, fumes, odors, vibrations or similar hazards.

**b. The location, nature and height of structures, walls or fences, and the nature and extent of the existing and/or proposed landscaping on the site are such that the use will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than it would generally elsewhere in the same zoning district or other similar zoning districts.**

No wall, fences or new structures are proposed. The exterior physical appearance of the use will not change. The use will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than it would generally elsewhere in the same zoning district or other similar zoning districts.

**c. The number of parking spaces will be appropriate to serve the particular use. Parking areas, loading areas, driveways and refuse areas will be appropriately located and buffered or screened from public roads and residential uses to minimize adverse impacts on adjacent properties.**

A group house with up to eight full-time residents is a single-family use requiring two parking spaces. Staff does not reside at the Property but they do drive there and there appears to be adequate parking for several vehicles. Existing landscaping buffers the parking area and driveway. No loading or refuse areas are proposed.

**d. The ingress and egress drives will provide safe access with adequate sight distance, based on actual conditions, and with adequate acceleration and deceleration lanes where appropriate. For proposed Conditional Use sites which have driveway access that is shared with other residential properties, the proposed Conditional Use will not adversely impact the convenience or safety of shared use of the driveway.**

The proposed Conditional Use will access Centennial Lane through the religious facility access and the one-lane drive. There is no evidence of unsafe access. Because the use will be

low intensity, there is no anticipated atypical adverse impact on the safety or convenience as it concerns the shared use of the one-lane drive.

**e. The proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere.**

There are no known, off-site, environmentally sensitive areas in the vicinity. The nearest known sensitive area is a stream and wetlands to the north in Font Hill Park.

**f. The proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere.**

The closest historic site is Brick House Farm (HO 139), which lies more than 870 feet to the west (the area west of Centennial Lane), the character and significance of which will not be atypically diminished.

## **II. Specific Criteria for Two-Family Dwellings (§ 131.0.N.54)**

Section 131.0.N.54 generally permits two-family dwellings in the R-20 zoning district provided as follows.

**a. Any new structures or additions will be designed to be compatible in scale and character with the surrounding residential neighborhood. Compatibility of character may be in architectural style, materials or details. Compatibility shall be demonstrated by architectural elevations or renderings submitted with the petition.**

No new structure or addition is proposed and the existing structure is compatible in scale and character with the surrounding neighborhood.

**b. Two-family dwellings: in the RC and RR Districts, on properties that are not ALPP purchased or dedicated easement properties, and in the R-ED, R-20 or R-12 Districts, provided that the two-family dwelling is on an individual lot, with only one two-family dwelling permitted on one lot, and the lot is an existing recorded lot at the time of the Conditional Use application. The minimum lot size shall be at least 16,000 square-feet for two-family dwelling structures in the R-ED and R-12 Districts.**

The proposed Two-family dwelling will be sited on an individual lot recorded at the time of application, with only one two-family dwelling on the lot. The Property is 43,037sf in area.



**ORDER**


Based upon the foregoing, it is this **27<sup>th</sup> day of October 2014**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That the petition of L.I.F.E., Inc. for approval of a two-family dwelling conditional use in an R-20 (Residential: Single Family) Zoning District is **GRANTED**.

**Provided, however, that;**

1. The Conditional use shall be conducted in conformance with and shall apply only to the Conditional Use for an a Two-Family dwelling as described in the petition and as depicted on the Conditional Use Plan and not to any other uses, activities, or structures on the Property, as qualified by these conditions.
2. Petitioner shall obtain all necessary permits for the use.
3. Petitioner shall comply with all state and local laws and regulations.

**HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER**

  
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Michele L. LeFaivre

**Date Mailed:** 10-28-14

**Notice:** A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 calendar days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.