

IN THE MATTER OF

: BEFORE THE

Angel's Touch, Inc.

: HOWARD COUNTY

Petitioner

: BOARD OF APPEALS

: HEARING EXAMINER

: BA Case No. 17-037C&V

DECISION AND ORDER

On May 20, 2024, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, considered a request from Mr. Sang Oh, Esq. on behalf of Petitioner Angel's Touch, Inc., dated May 2, 2024, in Board of Appeals Case No. BA 17-037C&V, for a third extension of the time period in which to obtain building permits and complete construction of a Nursing Home and Residential Care Facility (specifically a 16-bed assisted living facility).

On May 1, 2018, Michele L. LeFaivre, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the Petition of Angel's Touch, Inc. (Petitioner) for a Nursing Home and Residential Care Facility (16-bed assisted living facility) Conditional Use and related variance in the RC (Rural Conservation) DEO (Density Exchange Option) Zoning District,

filed pursuant to §131.0.B.2.a and §130.0.B.5. of the Howard County Zoning Regulations (HCZR). On May 30, 2018, a Decision and Order was issued finally disposing of the Petition and granting the Petition for a Nursing Home and Residential Care Facility Conditional Use and related variance (to reduce the 30-foot use lot line setback to 3.5 for a driveway) subject to Conditions.

On July 8, 2020, Katherine L. Taylor, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, considered a request from Mr. Mark Wah on behalf of Petitioner Angel's Touch, Inc., dated May 30, 2020, in Board of Appeals Case No. BA 17-037C&V for an extension of the time period in which to obtain building permits and complete construction of a Nursing Home and Residential Care Facility (specifically a 16-bed assisted living facility) and issued a Decision and Order granting the extension request and ordering that the two- year time period for obtaining necessary building permits be extended until May 30, 2022, and that the three-year time period for completion of substantial construction be extended until May 30, 2023.

On May 11, 2022, Joyce B. Nichols, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, considered a second request from Petitioner Angel's Touch, Inc., in Board of Appeals Case No. BA 17-037C&V for an extension of the time period in which to obtain building permits and complete construction of a Nursing Home and Residential Care Facility (specifically a 16-bed assisted living facility) and issued a Decision and Order

granting the extension request and ordering that the two- year time period for obtaining necessary building permits be extended until May 30, 2024, and that the three-year time period for completion of substantial construction be extended until May 30, 2025.

REQUEST FOR EXTENSION

By letter dated May 2, 2024, Petitioner Angel's Touch, Inc. has requested a third extension of time within which to obtain a building permit pursuant to the approval of BA 17-037C&V. Section 131.0.1.3.a of the HCZR provides that unless a building permit is obtained for an approved Conditional Use within 2 years of the approval date, and that substantial construction in accordance with that permit has been completed within 3 years from the Conditional Use approval date, approval of the conditional use shall become null and void.

Since the issuance of the Decision and Order for the second two-year extension on May 11, 2022:

- o Angel's Touch, Inc. has diligently pursued the obtaining of a building permit with its civil engineer, Mr. Robert Vogel, including the preparation, submission, and approval from the Department of Planning and Zoning of an Environmental Concept Plan (ECP) (submitted August 22, 2022 and approved June 5, 2023) and a Site Development Plan (SDP) (submitted April 10, 2024 and not yet approved).

- o The design process for the SDP began in January 2022 but its submission was delayed by the inability to finalize the ECP due to differing opinions amongst the sanitation staff at the Howard County Health Department as to the locations of a stake out for the sceptic tank and sceptic field.
- o These disagreements and its eventual resolution, none of which are attributable to Petitioner, resulted in a delay between August 2, 2023 and March 15, 2024.
- o The necessity for the instant third two-year extension arises from delays caused by the requirements under Md. Code Ann. Envir. §9-204 and the Health Officer and Health Department Staff executing the duties of the Secretary of the Maryland Department of the Environment to ensure compliance with adopted State regulations.
- o Angel's Tough, Inc, expects to complete its septic installation in three to four months and obtain its building permits within six months.

All of these facts have contributed to support a finding that the Petitioner has diligently pursued the establishment of the use in accordance with the approved Conditional Use Plan, that the third extension request was timely filed, and that despite proper notice no adjacent property owners have responded or requested to be heard on the request, all in accordance with §131.0.1.3.c.(4)

ORDER

Based upon the foregoing, it is this 20th day of May, 2024, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That the Request of Angel's Touch, Inc. for a third extension of 2 years in which Angel's Touch, Inc. must obtain necessary building permits and complete substantial construction for the Nursing Home and Residential Care Facility Conditional Use, at Tax Map 15, Grid 10, Parcel 237, Lot 1, also identified as 12900 Frederick Road, West Friendship, in the RC (Rural Conservation) DEO (Density Exchange Option) Zoning District, approved May 30, 2018 (BA 17-037C&V), with extensions of time within which to obtain necessary building permits and completion of substantial construction approved July 8, 2020 and May 11, 2022, be and is hereby **GRANTED**;

Provided, however, that:

1. The two-year time period for obtaining necessary building permits as required by §131.0.1.3.a. of the Howard County Zoning Regulations shall be and hereby is EXTENDED for an additional two (2) years until May 30, 2026; and

2. The three-year time period for completion of substantial construction as required by §131.0.1.3.a. of the Howard County Zoning Regulations shall be and hereby is EXTENDED for an additional two (2) years until May 30, 2027.

HOWARD COUNTY BOARD OF APPEALS
HEARING EXAMINER

Joyce B. Nichols
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