



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

3430 Courthouse Drive

Ellicott City, Maryland 21043

410-313-2350

Voice/Relay

Valdis Lazdins, Director

FAX 410-313-3467

November 5, 2018

TECHNICAL STAFF REPORT

Hearing Examiner hearing of November 19, 2018

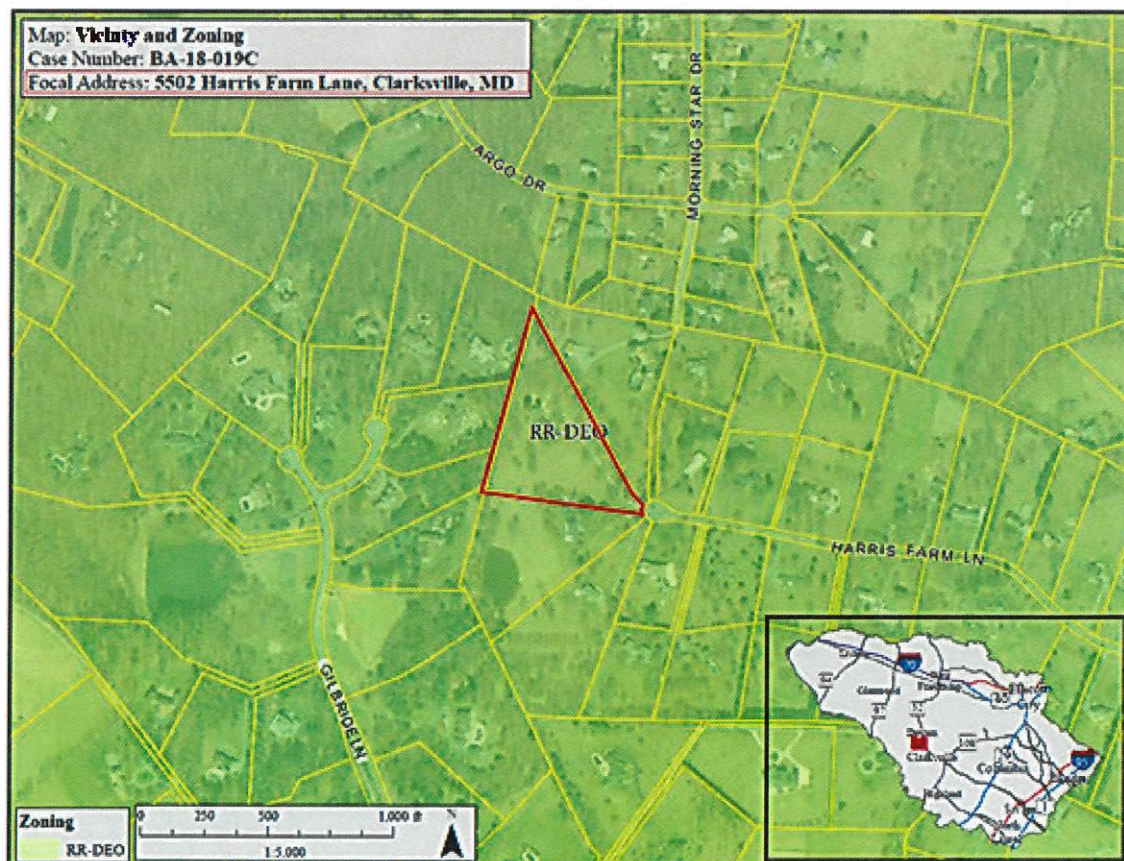
Case No./Petitioner: BA-18-019C&V – CGFD Investment Group, LLC

Request: Conditional Use for a Nursing Home/Residential Care Facility (Section 131.0.N.38.). Variance to reduce the 30-foot use setback from lot line to zero feet for a driveway (Section 105.0.E.5.).

Location: Fifth Election District
Terminus of Harris Farm Lane, approximately 2,745 feet west of Ten Oaks Road
Tax Map 28, Grid 20, Parcel 208, Lot PO11; 5502 Harris Farm Lane (the "Property").

Area of Property: 5.01 acres

Zoning: RR-DEO (Rural Residential-Density Exchange Option Overlay)



I. CONDITIONAL USE AND VARIANCE PROPOSAL

The Petitioner proposes to expand the existing eight bed, assisted living facility, located within the existing 3,948-square foot single-family detached dwelling, to 16 beds. The facility will operate 24-hours a day, seven days a week, with two employee shifts. The Petition states that a maximum of two employees will be on-site between 8:00 a.m. to 8:00 p.m. and one employee between 8:00 p.m. to 8:00 a.m. Vehicular trips to the site will be restricted to staff and visitors.

Variance

The Petitioner requests a variance to reduce the 30-foot use setback from lot lines to zero feet for the existing driveway.

II. BACKGROUND INFORMATION**A. Site Description**

The 5.01-acre property is triangular-shaped and consists of an eight bed assisted living facility within the existing single-family detached dwelling. The primary structure was constructed in 1987. The low point of the property is approximately 540 feet in elevation, at the south property line. The site rises to the north to an elevation of approximately 560 feet.

B. Vicinal Properties

Direction	Zoning	Land Use
North	RR-DEO	Single-Family Detached Dwelling
South	RR-DEO	Single-Family Detached Dwelling
West	RR-DEO	Single-Family Detached Dwellings
East	RR-DEO	Single-Family Detached Dwelling

C. Roads

Harris Farm Lane varies from 22 to 24 feet of pavement within a 50-foot right-of-way. There is no posted speed limit.

The estimated sight distance from the existing driveway entrance is over 400 feet to the east. However, precise sight distance measurements may only be determined through a detailed sight distance analysis.

Traffic volume data is not available for Harris Farm Lane.

D. Water and Sewer Service

The Property is not in the Metropolitan District or the Planned Service Area for Water and Sewer.

The Property is served by private water and septic facilities. The well is located southwest of the house and the septic area is in the northeastern area of the lot.

E. General Plan

The Property is designated Low Density on the Designated Place Types Map of PlanHoward 2030.

Harris Farm Lane is a local road.

F. Agency Comments

Agency comments are attached.

III. ZONING HISTORY

A. Case No.: BA-92-022E

Petitioner: Linda C. Pachoca

Request: Special Exception for a group care facility for 15 residents

Action: Granted, August 4, 1992

B. Case No.: BA-18-006C

Petitioner: Timothy Dawson

Request: Conditional Use for a 16-bed Nursing Home/Residential Care Facility

Action: Withdrawn

IV. EVALUATION AND CONCLUSIONS

A. Evaluation of petition according to Section 131.0.B. of the Zoning Regulations (general criteria for Conditional Uses):

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.*

While Howard County General Plan policies are not directly related to Conditional Use requests for Nursing Homes/Residential Care Facilities, the development is in harmony with the following policy that encourages housing options for residents at varying life stages:

Policy 9.4

“Expand housing options to accommodate the County’s senior population who prefer to age in place and people with special needs.”

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 Property was approved for a group care facility for 15 residents in 1992 and is currently used as an 8-bed assisted living facility. The proposed 16-bed facility is a low-intensity residential/institutional use that will be located within the existing residence. The 5.1-acre lot exceeds the one-acre minimum lot size requirement and is well buffered from adjacent homes. Only 12% of the building envelope will be used for buildings,

parking areas, and driveways, which is below the 20% maximum allowed. The property meets all setbacks, except for the encroachment of the existing driveway in the side setback. A variance is requested to reduce the use setback to allow this encroachment.

Harris Farm Lane is a local road. Nursing Homes and Residential Care Facilities are not required to have frontage on or access to a collector or arterial street. Vehicle trips to the facility will be limited to staff and visitors. Therefore, a local road is an appropriate classification for the type and the number of vehicle trips associated with the proposed use.

The nature and intensity of the use, the size of the Property in relation to the use, and the location of the site with respect to streets that provide access are such that the overall intensity and scale of the use are appropriate.

3. *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 district.*

The proposed use is residential housing for seniors and will occur within the existing residence. This use is not likely to generate any adverse effects such as noise, dust, fumes, odors, vibrations, increased lighting, hazards or other physical conditions that would be greater at the subject site than generally elsewhere.

4. *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.*

The proposed use will occur in the existing residence, which complies with all setback/height requirements in the RR Zoning District. The existing building is in the center of the Property and is screened from adjacent properties by existing mature trees and landscaping. The closest dwelling to the facility is over 250 feet away. Therefore, the use will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than generally elsewhere.

5. *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.*

Pursuant to section 133.0 of the Zoning Regulations, one parking space is required per two beds; therefore, eight spaces are required. The Conditional Use Plan depicts 13 spaces. The parking lot, driveways, loading areas, and refuse areas are screened from adjacent properties and public roads by existing mature trees and landscaping.

6. *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 existing access point is located at the terminus of Harris Farm Lane, a local residential road. Sight distance to the east exceeds 400 feet. Therefore, the existing access point on Harris Farm Lane appears to provide safe access and adequate sight distance.

The proposed Conditional Use will not share driveway access.

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

There are no environmentally sensitive areas in the vicinity. The Petitioner is not proposing any new construction or additions. Therefore, the proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere.

8. *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 Hedgerow (HO-171), which is approximately 2,000 feet southwest of the site. Therefore, the proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere.

B. Evaluation of petition according to Section 131.0.N.38 (Specific Criteria for Nursing Homes and Residential Care Facilities):

1. *The facility shall have 16 or fewer beds.*

The facility will have 16 beds.

2. *The minimum lot size for a new facility is one acre. An existing facility does not have to comply with this criterion.*

The Property is 5.1 acres.

3. *The design of new structures or additions to existing structures will be compatible in scale and character with residential development in the vicinity, as demonstrated by architectural elevations or renderings that shall be submitted with the petition.*

The Petitioner is not proposing any additions or new construction.

4. *Buildings, parking areas and outdoor activity areas will be at least 50 feet from adjoining residentially-zoned properties other than public road right-of-ways.*

All buildings, parking areas, and outdoor activity areas are located at least 50 feet from adjoining residentially-zoned properties.

5. *At least 20% of the area within the building envelope shall not be used for buildings, parking areas or driveways. The building envelope is formed by the required structure and use setbacks of the Zoning Regulations for the zoning district and the Subdivision and Land Development Regulations.*

The plan indicates that the building envelope area is 131,013 square feet and 12.1% is used for buildings, parking areas, and driveways.

- C. Evaluation of petition according to Section 130.0.B.2.a. of the Zoning Regulations (general criteria for evaluating variances):

1. *That there are unique physical conditions, including irregularity, narrowness or shallowness of lot or shape, exceptional topography, or other existing features peculiar to the particular lot; and that as a result of such unique physical conditions, practical difficulties or unnecessary hardships arise in complying strictly with the bulk provisions of these regulations.*

The existing driveway will provide access to the assisted living facility. The triangular-shape of the lot and narrow frontage on Harris Farm Lane results in a portion of the driveway encroaching into the 30-foot use setback. These unique physical conditions result in practical difficulties for the existing driveway to comply with the 30-foot use setback.

2. *That the variance, if granted, will not alter the essential character of the neighborhood or district in which the lot is located; will not substantially impair the appropriate use or development of the adjacent property; and will not be detrimental to the public welfare.*

According to the State Department of Assessments and Taxation, the house was constructed in 1987 and the driveway has existed since that time. The Petitioner is not proposing to change the existing driveway; therefore, the proposed variance will not alter the essential character of the neighborhood or district in which the lot is located, substantially impair the appropriate use development of adjacent property, or be detrimental to the public welfare.

3. *That such practical difficulties or hardships have not been created by the owner provided, however, that where all other required findings are made, the purchase of a lot subject to the restrictions sought to be varied shall not itself constitute a self-created hardship.*

The practical difficulties resulting from the lot shape were created when the lot was established, which was prior to construction of the home in 1987. The Petitioner purchased the Property in 2016 and did not create the practical difficulties.

4. *That within the intent and purpose of these regulations, the variance, if granted, is the minimum variance necessary to afford relief.*

The variance, if granted, will allow continued use of the existing driveway, which is not currently subject to use setbacks, since the Property contains a single family detached dwelling. Therefore, the 30-foot variance is the minimum necessary to afford relief within the intent and purpose of the Zoning Regulations.


V. RECOMMENDATION

For the reasons stated above, the Department of Planning and Zoning recommends that the requests for a Conditional Use for a 16-bed Nursing Home/Residential Care Facility and variance to reduce the 30-foot use setback from lot lines to zero feet for a driveway be **GRANTED**.

Report Drafted By:


Anthony Obuekwue, Planner II
11-5-18
Date

Approved by:


Valdis Lazdins, Director
11-5-18
Date

NOTE: The file on this case is available for review at the Public Service Counter in the Department of Planning and Zoning.

To

Department of Planning and Zoning
Howard County, Maryland
Recommendations/Comments

Date: September 11, 2018

Planning Board _____ Hearing Examiner 11/19/18 _____
Board of Appeals _____ Zoning Board _____

Petition No. BA-18-019C&V Map No. _____ Block _____ Parcel _____ Lot _____

Petitioner: _____ CGFD Investment Group _____

Petitioner's Address: _____

Address of Property: _____ SEE PETITION _____

Return Comments by 10/15/18 to Public Service and Zoning Administration

Owner: (if other than applicant) _____

Owner's Address: _____

Petition: _____ SEE APPLICATION _____

To: _____ MD Department of Education – Office of Child Care
3300 N. Ridge Road, Ste. 190, EC, MD 21043 (Louis Valenti)
_____ X Bureau of Environmental Health
_____ X Development Engineering Division
_____ X Department of Inspections, Licenses and Permits
_____ X Department of Recreation and Parks
_____ X Department of Fire and Rescue Services
_____ State Highway Administration
_____ Sgt. Karen Shinham, Howard County Police Dept.
_____ James Irvin, Department of Public Works
_____ X Office on Aging, Terri Hansen (senior assisted living)
_____ Police Dept., Animal Control, Deborah Baracco, (kennels)
_____ X Susan Fitzpatrick, Health Dept. (Nursing & Res. Care)
_____ Land Development - (Religious Facility & Age-Restricted
Adult Housing)
_____ Housing and Community Development
_____ Resource Conservation Division – Beth Burgess
_____ Route 1 Cases – DCCP – Kristen O'Connor
_____ Telecommunication Towers – (Comm. Dept.)
_____ Division of Transportation – Dave Cookson

COMMENTS:

DEPARTMENT OF INSPECTIONS, LICENSES AND PERMITS

DATE: October 15, 2018

TO: Department of Planning and Zoning
Division of Land Development

FROM: Department of Inspections, Licenses and Permits
Plan Review Division

RE: DPZ File No. BA 18-019C&V

Name of Plan CGFD Investment Group



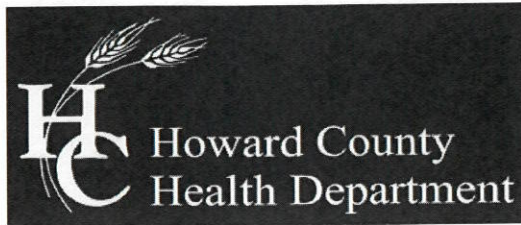
Approved, subject to the following advisory comments:

1. The petitioner shall be advised that a building permit is required for the proposed 'change-in-use'. It is recommended that the petitioner and their design consultant arrange a preliminary meeting with the Plan Review Division of the Department of Inspections, Licenses and Permits to discuss any major code requirements that may pertain to the proposed use. Such meeting should occur prior to permit application so that delays during the permit process can be avoided. Please contact the Plan Review Division at (410) 313-2436 for information.
2. The Owner shall be advised that the change of use in this facility will require the existing sprinkler system to be upgraded to comply with NFPA-13R requirements.

James. D. Hobson

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Bureau of Environmental Health

8930 Stanford Boulevard, Columbia, MD 21045

Main: 410-313-2640 | Fax: 410-313-2648

TDD 410-313-2323 | Toll Free 1-866-313-6300

www.hchealth.org

Facebook: www.facebook.com/hocohealth

Twitter: HowardCoHealthDep

Maura J. Rossman, M.D., Health Officer

MEMORANDUM

TO: Geoff Goins
Division of Zoning Administration and Public Service

FROM: Jeff Williams
Program Supervisor, Well & Septic Program
Bureau of Environmental Health

RE: **BA-18-019 C&V**

DATE: October 15, 2018



The Health Department has reviewed the above referenced petition and has the following comments.

1. The existing sewage disposal system is sized to accommodate 1225 gallons per day wastewater design flow. The proposed use would generate 1600 gallons per day design flow. The existing system must be upgraded or replaced to accommodate the expansion.
2. The existing system is 28 to 30 years old and must be evaluated by the Health Department to determine whether it is still functioning properly prior to Health Department approval of an expansion.
3. Prior to Health Department approval of an expansion, the owners must submit a plan showing how three sewage disposal systems (existing or new plus two future replacements) can fit in the existing sewage disposal area. If they cannot, the disposal area must be increased, which may include additional perc testing.

To

Department of Planning and Zoning
Howard County, Maryland
Recommendations/Comments

Date: September 11, 2018

Hearing Examiner 11/19/18
Planning Board _____ Board of Appeals _____ Zoning Board _____

Petition No. BA-18-019C&V Map No. _____ Block _____ Parcel _____ Lot _____

Petitioner: CGFD Investment Group

Petitioner's Address: _____

Address of Property: SEE PETITION

Return Comments by 10/15/18 to Public Service and Zoning Administration

Owner: (if other than applicant) _____

Owner's Address: _____

Petition: SEE APPLICATION

To: _____ MD Department of Education – Office of Child Care
3300 N. Ridge Road, Ste. 190, EC, MD 21043 (Louis Valenti)
_____ Bureau of Environmental Health
_____ Development Engineering Division
_____ Department of Inspections, Licenses and Permits
_____ Department of Recreation and Parks
_____ X Department of Fire and Rescue Services
_____ State Highway Administration
_____ Sgt. Karen Shinham, Howard County Police Dept.
_____ James Irvin, Department of Public Works
_____ Office on Aging, Terri Hansen (senior assisted living)
_____ Police Dept., Animal Control, Deborah Baracco, (kennels)
_____ Susan Fitzpatrick, Health Dept. (Nursing & Res. Care)
_____ Land Development - (Religious Facility & Age-Restricted
Adult Housing)
_____ Housing and Community Development
_____ Resource Conservation Division – Beth Burgess
_____ Route 1 Cases – DCCP – Kristen O'Connor
_____ Telecommunication Towers – (Comm. Dept.)
_____ Division of Transportation – Dave Cookson



COMMENTS:

ADVISORY: ENSURING FACILITY IS PROTECTED
WITH AN AUTOMATIC SPRINKLER SYSTEM.

[Signature]
SIGNATURE

To

Department of Planning and Zoning
Howard County, Maryland
Recommendations/Comments

Date: September 11, 2018

Hearing Examiner 11/19/18
Planning Board _____ Board of Appeals _____ Zoning Board _____

Petition No. BA-18-019C&V Map No. _____ Block _____ Parcel _____ Lot _____

Petitioner: CGFD Investment Group

Petitioner's Address: _____

Address of Property: SEE PETITION

Return Comments by 10/15/18 to Public Service and Zoning Administration

Owner: (if other than applicant) _____

Owner's Address: _____

Petition: SEE APPLICATION

To: _____ MD Department of Education – Office of Child Care
_____ 3300 N. Ridge Road, Ste. 190, EC, MD 21043 (Louis Valenti)
_____ Bureau of Environmental Health
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_____ **X** Department of Recreation and Parks
_____ Department of Fire and Rescue Services
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_____ Sgt. Karen Shinham, Howard County Police Dept.
_____ James Irvin, Department of Public Works
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Adult Housing)
_____ Housing and Community Development
_____ Resource Conservation Division – Beth Burgess
_____ Route 1 Cases – DCCP – Kristen O'Connor
_____ Telecommunication Towers – (Comm. Dept.)
_____ Division of Transportation – Dave Cookson



COMMENTS:

NO COMMENTS.

Paul Walsh
SIGNATURE

Howard County

Department of Planning and Zoning

Subject: Board of Appeals Case No: BA-18-019C&V
Applicant: CGFD Investment Group
Petition: A conditional use for a residential assisted living facility and a variance to reduce the use setback from a lot line from 30' to zero for a driveway.

To: Division of Public Service and Zoning Administration
Department of Planning and Zoning

From: Development Engineering Division
Department of Planning and Zoning

Date: September 12, 2018



The Development Engineering Division has reviewed the above referenced petition and has no objection.

Based on an examination of the petition, we offer the following comments:

1. The request appears to have no adverse engineering impact on the adjacent properties.
2. All improvements must comply with current Howard County design criteria including APFO requirements and stormwater management.

If you have any questions concerning this matter, please contact me at extension 2350.


Chad Edmondson, P.E.
Chief

CE/pmt

cc: James M. Irvin, Director, Department of Public Works
Philip M. Thompson, Engineer, Development Engineering Division
Tom Butler, Chief, Bureau of Engineering, Department of Public Works
Reading File