

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

PGCPB No. 13-110

14741 Governor Oden Bowie Drive
 Upper Marlboro, Maryland 20772
 TTY: (301) 952-4366
www.mncppc.org/pgco
 File No. DPLS-373

RESOLUTION

WHEREAS, the Prince George's County Planning Board has reviewed DPLS-373, In Loving Hands requesting a waiver of three of the required four parking spaces in accordance with Subtitle 27 of the Prince George's County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on September 26, 2013, the Prince George's County Planning Board finds:

- A. **Location and Field Inspection:** The property is located at the terminus of Lucille Court, approximately 210 feet from its intersection with Lucille Drive. The property consists of 20,819 square feet in the Rural Residential (R-R) Zone and is currently improved with a detached single-family dwelling.
- B. **Development Data Summary:**

	EXISTING	APPROVED
Zone(s)	R-R	R-R
Use(s)	Single-Family DU/ Congregate Living Facility with up to 8 Residents	Congregate Living Facility with up to 15 Residents
Acreage	0.48	0.48
Lots	1	1
Parcels	0	0
Square Footage/GFA	7,168	7,168
Variance	Yes (Lot Coverage)	No

- C. **History:**

August 6, 1992—Preliminary Plan of Subdivision 4-92059 and Type I Tree Conservation Plan TCPI-003-92 were approved by the Planning Board for Lots 1 through 11 and Parcel A, Block A, and Lot 1, Block B, Krause's Addition to Bird Lawn (PGCPB Resolution No. 92-221).

October 4, 1994—Final Plat VJ 170@80 was recorded in Prince George's County Land Records for Krause's Addition to Bird Lawn.

September 15, 1994—Type II Tree Conservation Plan TCPH-079-94 was approved for Krause's Addition to Bird Lawn. Five subsequent revisions to the approved Type II tree conservation plan have been approved since that time.

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July 10, 2002—Appeal No. V-79-02 was approved by the Board of Zoning Appeals to permit the new construction of a detached single-family dwelling and driveway that is in excess of the 25 percent maximum amount of lot coverage allowed in the R-R Zone. A variance of 2.5 percent was granted.

July 22, 2002—Building Permit 20431-2002 was approved for the new construction of a detached single-family dwelling and a driveway.

July 18, 2007—Use and Occupancy Permit 27720-2007-00 was approved by the Permit Review Section for a congregate living facility for the elderly and physically-handicapped with up to eight residents.

March 21, 2013—Alternative Compliance AC-11030 was denied by the Planning Director.

June 26, 2013—Natural Resources Inventory Equivalency Letter NRI-066-13 was issued by the Environmental Planning Section.

- D. **Master Plan Recommendation:** The 2002 *Prince George's County Approved General Plan* locates the subject property within the Developing Tier. The vision for Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit-serviceable.

General Plan: Within a memorandum dated May 31, 2012, the Community Planning South Division stated that the subject application is consistent with the 2002 General Plan Development Pattern policies for the Developing Tier by maintaining low- to moderate-density land uses.

Master Plan: Within a memorandum dated May 31, 2012, the Community Planning South Division stated that the subject application conforms to the residential low-density land use recommendation in the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area* (Henson Creek-South Potomac Master Plan and SMA).

The Henson Creek-South Potomac Master Plan and SMA retained the subject property in the R-R Zone.

- E. **Request—DPLS-373:** The applicant had requested a departure to waive five of the six required parking spaces. However, there is an error on the site plan's parking schedule concerning the total number of parking spaces that are required to serve the property. The parking schedule indicates six parking spaces are required to serve the property when only four are required.

Due to the spacial constraints associated with the existing residential driveway, the applicant proposes to provide only the required van-accessible parking space for the physically-handicapped. As a result, the correct departure the applicant should be requesting is the waiver of three of the required four parking spaces.

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The applicant, In Loving Hands, has also submitted a companion special exception application (SE-4704) for a congregate living facility in the R-R Zone with up to 15 elderly or physically-handicapped residents.

In conjunction with the applicant's companion special exception request, the property is now subject to the 2010 *Prince George's County Landscape Manual* (Landscape Manual) as well as the parking space requirements and design standards contained in Part 11 of the Zoning Ordinance. As a result, the applicant also submitted a companion departure application (DDS-613) and is requesting a departure of 12 feet from the required 22-foot-wide driveway aisle width and a departure from Section 4.7 (Buffering Incompatible Uses) of the Landscape Manual along the eastern and western property lines.

- F. **Neighborhood and Surrounding Uses:** Within the submitted statement of justification, the applicant describes the property as being situated south of the Capital Beltway (I-95/495), east of Indian Head Highway (MD 210), and just west of Allentown Road.

The property is surrounded by the following uses:

North— A detached single-family dwelling in the R-R Zone

West— A detached single-family dwelling in the R-R Zone

South— Lucille Court (50-foot-wide public right-of-way)

East— A vacant lot in the R-R Zone

- G. **Parking Regulations:** The required parking for a congregate living facility is one parking space for every four residents. The applicant proposes to have 15 residents at the facility. Therefore, the parking requirement for the proposed use is four parking spaces.

The parking schedule on the applicant's site plan further states that two additional parking spaces are required to serve the dwelling. During the pre-acceptance review for the subject application, staff requested that the site plan be revised to show that two parking spaces are required to serve the dwelling. However, during the review of the subject application, the applicant clarified that, should the companion special exception application be approved for the congregate living facility, the applicant would no longer be residing on the premises. Therefore, the two standard parking spaces that are typically required for all detached single-family dwellings would no longer be needed on the property. As a result, a total of four parking spaces are required to serve the proposed use. A condition has been recommended to have the parking schedule on the site plan corrected prior to final disposition of the case to remove the required parking spaces for the dwelling.

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Due to spacial constraints associated with the width of the existing driveway, the applicant proposes only to provide the required van-accessible parking space for the physically-handicapped and has requested a departure to waive the other required parking spaces. The applicant currently operates a congregate living facility with no more than eight residents which is allowed by right in the R-R Zone. In implementing the special exception use to request more than eight residents in the facility, the site would now be subject to the commercial parking lot standards contained in Part 11 of the Zoning Ordinance.

The two parking spaces in the garage will continue to be utilized by the staff of the facility for parking on a daily basis. However, the garage spaces are unable to be counted as provided parking spaces because a vehicle would have to "drive-through" and/or "back-over" the van-accessible handicapped parking space in order to gain access to the two parking spaces inside the garage. Piggyback parking is not allowed for any use other than residential dwelling units. As a result, adequate driveway aisles cannot be provided to serve the two parking spaces inside the garage. A companion departure application (DDS-613) has been requested concerning the minimum required driveway aisle width.

- H. **Prince George's County Landscape Manual Requirements:** The applicant currently operates a congregate living facility with no more than eight residents which is allowed by right in the R-R Zone. A companion special exception is required for a congregate living facility once the number of residents in the facility exceeds eight. In implementing the companion special exception use to request a congregate living facility with up to 15 residents, the site would now be considered a change from a lower to a higher impact use. As a result, the property is now fully subject to the requirements of the 2010 *Prince George's County Landscape Manual*.
- I. **Zone Standards:** Section 27-442 of the Zoning Ordinance includes regulations for development in residential zones, including the R-R Zone. Section 27-442(c) lists the maximum percentage of lot coverage allowed for various uses. For "other allowed uses," such as the proposed congregate living facility in the R-R Zone, 60 percent lot coverage is allowed.

The submitted site plan demonstrates that the existing lot coverage on the site is approximately 31 percent.

- J. **Required Findings—Departure from Parking and Loading Standards DPLS-373:** Section 27-588(b)(7)(A) of the Zoning Ordinance provides that, in order for the Planning Board to grant a departure from parking and loading standards (DPLS), it shall make the following findings:

Section 27-588. Departure from the number of parking and loading spaces required.

(b)(7) Required Findings

- (A) **In order for the Planning Board to grant the departure, it shall make the following findings:**

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- (i) **The purposes of this Part (Section 27-550) will be served by the applicant's request;**

Section 27-550. Purposes

- (a) **The purposes of this Part are:**

- (1) **To require (in connection with each building constructed and each new use established) off-street automobile parking lots and loading areas sufficient to serve the parking and loading needs of all persons associated with the buildings and uses;**
- (2) **To aid in relieving traffic congestion on streets by reducing the use of public streets for parking and loading and reducing the number of access points;**
- (3) **To protect the residential character of residential areas; and**
- (4) **To provide parking and loading areas which are convenient and increase the amenities in the Regional District.**

In this case, the applicant proposes a congregate living facility with up to 15 residents in the R-R Zone. The use requires one parking space for every four residents and, therefore, requires a total of four parking spaces. This facility is located in a residential neighborhood and the applicant is concerned that, if all of the required parking were to be constructed in the front yard area of the single-family dwelling, it would certainly have a negative effect on the character of the neighborhood. The applicant's request is in compliance with the purposes of this part in seeking to protect the residential character of residential areas.

- (ii) **The departure is the minimum necessary, given the specific circumstances of the request;**

Due to spacial constraints associated with the width of the existing driveway, the applicant proposes only to provide the required van-accessible parking space for the physically-handicapped. The two parking spaces in the garage will continue to be utilized by the staff for parking on a daily basis. However, the garage spaces are unable to be counted as provided parking spaces because a vehicle would have to "drive-through" and/or "back-over" the van-accessible handicapped parking space in order to gain access to the two parking spaces inside the garage. Piggyback parking is not allowed for any use other than residential dwelling units.

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With piggyback parking not being permitted in this instance, the driveway's existing configuration could only accommodate one parking space, which in this case, has to be the van-accessible parking space for the physically-handicapped as required per ADA Standards (Americans with Disabilities Act). As a result, the departure is the minimum necessary given the specific circumstances of the request.

- (iii) **The departure is necessary in order to alleviate circumstances which are special to the subject use, given its nature at this location, or alleviate circumstances which are prevalent in older areas of the County which were predominantly developed prior to November 29, 1949;**

A congregate living facility such as this one provides a supportive environment of care to elderly residents who are unable to live independently and require assistance with daily living activities such as bathing, dressing, toileting, eating, and the management of medications. All of the residents of this facility are approximately 75 years of age or older and they do not drive. The facility has a shuttle bus that is used to bring the residents to and from medical appointments and recreational events.

The applicant's statement of justification states that there is usually no more than two staff members at the facility at all times, and the two parking spaces in the garage are adequate to serve the staff's parking needs. The driveway is very long and has always been more than capable of providing adequate parking for any visitors. Lucille Court only serves two dwellings, with one of them being the subject property. The driveway and garage parking will provide sufficient off-street parking for the facility without negatively impacting the county right-of-way. With the facility being located in a quiet neighborhood, the applicant strives to maintain the property in a fashion that blends with the surrounding neighbors and community and is, therefore, seeking the departure in an effort to not turn the front yard area into a commercial parking lot. As a result, the departure is necessary to alleviate circumstances which are special to the subject use, given its nature at this location.

- (iv) **All methods for calculating the number of spaces required (Division 2, Subdivision 3, and Division 3, Subdivision 3, of this Part) have either been used or found to be impractical; and**

In this case, there is only one method for calculating the number of spaces required which is based on the total number of residents that are proposed at the facility.

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(v) Parking and loading needs of adjacent residential areas will not be infringed upon if the departure is granted.

The property is located in the cul-de-sac area of Lucille Court. Lucille Court, as a whole, only serves two dwellings, with one of them being the subject property, and an undeveloped lot exists on the east side of the property. The dwelling that abuts the subject property to the west has a double-car garage and a double-wide concrete driveway that appears to be more than adequate to serve that property. Due to the pie-shaped lot configuration of the subject property and the 80-foot-wide front building restriction line that is shown on the approved final plat of subdivision for the property, the existing dwelling had to be set back approximately 141 feet from Lucille Court when it was initially constructed.

For clarity purposes, the 80-foot building restriction line is not located 80 feet from the limits of the Lucille Court right-of-way, but rather located in the area where the lot finally opens up enough to provide the minimum lot width of 80 feet at the front building line. In this case, due to the pie-shaped configuration of the property, the 80-foot front building line is set back, on an average of, approximately 130 feet from the Lucille Court right-of-way. The building restriction line ultimately dictated how far the dwelling had to be set back on the subject property, and further dictated that a very long driveway would be needed to serve the dwelling. The lot is only 20,819 square feet in size. As a result, the applicant had to obtain approval of a variance request in July 2002 from the Board of Zoning Appeals (V-79-02) for exceeding the maximum lot coverage requirement of 25 percent in the R-R Zone by 2.5 percent just to construct the large dwelling on the property and the long, mostly single-width, concrete driveway.

With the submission of the companion special exception application for a congregate living facility, the maximum lot coverage requirement changes from 25 percent of the net lot area (as required for a detached single-family dwelling) to 60 percent of the net lot area (as required for other allowed uses). As a result, lot coverage is no longer an issue with the proposed use and no new lot coverage is being proposed at this time. However, the very small size of this property could not accommodate the construction of a new commercial parking lot in the front yard without drastically altering the residential character of the neighborhood, and possibly not without requiring some additional clearing of woodland.

Within their August 3, 2012 memorandum, the Transportation Planning Section stated that the size of the facility does not appear to trigger the need for additional studies of traffic impacts and would typically be determined to be de minimus. The adequacy of transportation facilities is not an issue in the review of this use. The review of special exception applications is strictly within the required findings of health, safety, and welfare. Although the Transportation Planning

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Section did not feel that the departure was well justified in the applicant's initial justification statement, they ultimately concluded that the proposal for expanded uses on the site, in consideration that the net trip generation is relatively small, would not pose unanticipated safety issues on adjacent roadways.

In consideration that the anticipated number of peak hour trips in and out of the facility would be de minimus, and that the construction of a new parking compound in the front yard would change the residential character of the property, a departure of three parking spaces is justified. As a result, the parking and loading needs of adjacent residential areas will not be infringed upon if the departure is granted.

(B) In making its findings, the Planning Board shall give consideration to the following:

- (i) The parking and loading conditions within the general vicinity of the subject property, including numbers and locations of available on- and off-street spaces within five hundred (500) feet of the subject property;**

The area within 500 feet of the subject property is characterized by other detached single-family dwellings in the R-R Zone, all of which have their own off-street parking facilities. There is no indication of a shortage in parking spaces within the general vicinity of this facility. There are no off-street parking spaces that are available to the applicant within 500 feet of the property. However, only two properties, including the subject property, currently have vehicular access to Lucille Court. Therefore, Lucille Court could accommodate some temporary on-street parking should any overflow conditions occur on the subject property.

- (ii) The recommendations of an Area Master Plan, or County or local revitalization plan, regarding the subject property and its general vicinity;**

The Henson Creek-South Potomac Master Plan and SMA recommends a residential low-density land use for the subject property. Neither the proposed use (a congregational living facility in the R-R Zone) nor the DPLS request would have a detrimental impact on the plan's recommendation.

- (iii) The recommendations of a municipality (within which the property lies) regarding the departure; and**

The subject property is not located within a municipality. There are no comments or recommendations submitted by a municipality.

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(iv) Public parking facilities which are proposed in the County's Capital Improvement Program within the general vicinity of the property.

There are no public parking facilities proposed for this area.

(C) In making its findings, the Planning Board may give consideration to the following:

(i) Public transportation available in the area;

This congregate living facility provides elderly care services for residents ranging in age from 65 to 90. There is a bus stop about a quarter of a mile away, but this distance is too far for the elderly residents to walk. Some of the residents have metro access that they use where the van will come directly to the facility. This service is provided by a subcontracting company for Metro. However, the majority of the time, the facility provides transportation services through the use of their own shuttle bus which adequately meets the needs of the residents.

(ii) Any alternative design solutions to off-street facilities which might yield additional spaces;

The applicant seeks a waiver of three of the required four parking spaces and proposes to provide the required van-accessible parking space for the physically-handicapped. The double garage is available for parking and will be utilized by the staff for parking. None of the residents at the facility drive due to their age, and the facility's shuttle bus is available to take residents to medical appointments and recreational events as needed. The applicant further believes that the existing long driveway, in its existing configuration, is more than adequate to accommodate any visitors without negatively impacting the county right-of-way.

In a memorandum dated July 2, 2012, the Department of Public Works and Transportation (DPW&T) stated that they do not support the parking departure (which at that time was requested for a total of five parking spaces) because it would impact the operation of the roadway, and they do not support the requested departure of 12 feet from the required 22-foot-wide driveway aisle (for no specific reasons stated).

DPW&T further stated that a 30-foot-wide commercial driveway entrance should be installed along with street lights, street trees, and traffic plans. DPW&T further ended the memo by stating that they have no objections to the special exception request for the proposed expansion of the congregate living facility, however, they do not support the companion departure requests, DPLS-373 and DDS-613.

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In generating their comments, DPW&T did not review any traffic studies, nor were they aware of the anticipated number of peak hour trips associated with adding a total of seven more residents to this congregate living facility. By not supporting the departures in any form, they are essentially requesting that a commercial parking lot be installed in the front yard of this property. Further, in requesting the new installation of a 30-foot-wide commercial driveway entrance, (as would typically be required for a gas station, shopping mall, or other commercial or industrial use), DPW&T has no consideration in maintaining the residential character of the neighborhood, or what impact that type of commercial construction could have on the adjacent residential properties. Requiring the applicant to install a commercial parking lot that meets all zoning requirements and a new 30-foot-wide commercial driveway entrance is unwarranted for a use that is anticipated to have a de minimus impact on AM and PM peak hour traffic.

The applicant would prefer to not add any parking to the site other than a van-accessible parking space for the physically-handicapped. They believe that the existing driveway, which is over 130 feet in length, has always been more than adequate to serve their parking needs, and will continue to be adequate with the addition of seven more residents. However, in response to DPW&T's comments, the applicant submitted an exhibit (PowerPoint Slide 15 of 21) in an effort to show the Planning Board what a possible expansion of the existing driveway would look like if six parking spaces were added, including the required van-accessible parking space for the physically-handicapped.

The issue with the applicant's exhibit is that the required 22-foot-wide driveway aisle is still not provided for any of the parking spaces. Only a 12-foot-wide driveway aisle is being provided on the plan. Only four parking spaces are required for the use and six spaces are shown on the plan. Further, like any parking expansion on this site, turn-around capability appears to be compromised. Staff also prepared an exhibit (PowerPoint Slide 16 of 21) for the Planning Board's review showing a possible expansion of the parking compound to provide the full required 22-foot-wide driveway aisle width, the four required parking spaces, including the required van-accessible parking space for the physically-handicapped, and a 30-foot-wide commercial driveway entrance. However, constructing the parking lot in the front yard of this dwelling will negatively impact the residential character of the neighborhood, and even with the required 22-foot-wide driveway aisle width being fully provided, turn-around capability would still appear to be compromised. Currently, the applicant's home looks like all of the other homes in the neighborhood from the outside and the applicant would be unable to maintain that setting if a commercial parking lot had to be constructed in the front yard.

Although the departure request for three parking spaces is supported, both exhibits showing a possible expansion of the parking compound are provided for

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the Planning Board's review. As a result, any alternative design solutions to off-street facilities which might yield additional spaces have been provided for the Planning Board's review purposes.

- (iii) The specific nature of the use (including hours of operation if it is a business) and the nature and hours of operation of other (business) uses within five hundred (500) feet of the subject property;**

There are no business uses that are located within 500 feet of the subject property. The specific nature of this use is a congregate living facility that provides a supportive environment of care to elderly residents who are unable to live independently and require assistance with activities of daily living including management of medications, bathing, dressing, toileting, and eating. The applicant also provides sleeping facilities, preparation of meals, laundry services, housekeeping, transportation services to and from regular social and medical appointments, 24-hour supervision and observation, and non-clinical counseling to the elderly residents. The residents are all over 75 years of age and do not drive.

- (iv) In the R-30, R-30C, R-18, R-18C, R-10A, R-10, and R-H Zones, where development of multifamily dwellings is proposed, whether the applicant proposes and demonstrates that the percentage of dwelling units accessible to the physically handicapped and aged will be increased over the minimum number of units required by Subtitle 4 of the Prince George's County Code.**

The subject property is located in the R-R Zone. The above finding is not applicable to the subject application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED the above-noted application, subject to the following conditions:

- I. Prior to final disposition of the case, the following revisions shall be made to the site plan:
 - a. Provide a general note on the site plan concerning the square footage of the residents' bedrooms in order to demonstrate compliance with Section 27-344(a)(3) of the Zoning Ordinance.
 - b. Remove General Note 20 concerning Alternative Compliance Pre-Application ACP-11030. This information is no longer relevant to the application since AC-11030 was denied by the Planning Director on March 21, 2013.
 - c. Revise the parking schedule to remove the two required parking spaces for the dwelling.

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- d. Revise General Note 5 to include the gross floor area of the garage.
 - e. Show the limits of the existing tree line along the eastern property line, so that it is consistent with the Type II tree conservation plan.
2. Prior to final disposition of the case, the following revisions shall be made to the landscape plan:
- a. Remove the freestanding sign.
 - b. Revise the landscape schedules for Section 4.7 as follows:
 - (1) Designate the proposed use as a "Low-Impact" use, and the impact of the adjoining properties as "One-Family Detached."
 - (2) Remove the reference to alternative compliance and replace it with "DDS-613."
 - (3) Remove "Side A" and "Side B" and replace with "Eastern Property Line" and "Western Property Line."
 - (4) Add the required number of plant units to each schedule.
 - (5) Correct the Section 4.7 schedule for the rear property line to indicate that the minimum required width of the landscaped yard is 20 feet (not ten feet).
 - (6) Update the revision box after all of the required changes have been made to the plan.
3. Prior to approval of a use and occupancy permit, the fee-in-lieu required to mitigate prior clearing, as shown on revised TCPII-079-94-06, shall be paid to the county Woodland Conservation Fund.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council for Prince George's County, Maryland within thirty (30) days of the final notice of the Planning Board's decision.

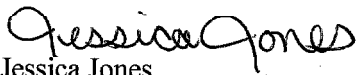
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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Shoaff, with Commissioners Washington, Shoaff, Germaldo, Bailey and Hewlett voting in favor of the motion at its regular meeting held on Thursday, September 26, 2013, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 17th day of October 2013.

Patricia Colihan Barney
Executive Director

By 
Jessica Jones
Planning Board Administrator

PCB:JJ:JF:arj

APPROVED AS TO LEGAL SUFFICIENCY


M-NCPPC Legal Department

Date 10/4/13