



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

14741 Governor Oden Bowie Drive
Upper Marlboro, Maryland 20772
TTY: (301) 952-4366
www.mncppc.org/pgco

PGCPB No. 13-109

File No. DDS-613

RESOLUTION

WHEREAS, the Prince George's County Planning Board has reviewed DDS-613, in Loving Hands requesting a departure of 12 feet from the required 22-foot-wide driveway aisle width and a departure from Section 4.7 of the Landscape Manual 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 TCPII-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—DDS-613:** 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 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.

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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.

The applicant had also requested a companion departure (DPLS-373) 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.

- 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 companion 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.

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 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 Design Standards DDS-613:** 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 is requesting a departure of 12 feet from the required 22-foot-wide driveway aisle width that is required for two-way traffic, and a departure from Section 4.7 (Buffering Incompatible Uses) of the Landscape Manual along the eastern and western property lines.

Section 27-239.01(b)(7)(B) of the Zoning Ordinance states that:

For a departure from a standard contained in the Landscape Manual, the Planning Board shall find, in addition to the requirements in paragraph (7)(A), above, that

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there is no feasible proposal for alternative compliance, as defined in the Landscape Manual, which would exhibit equally effective design characteristics.

The alternative compliance application that was recently reviewed for the property (AC-11030) was denied by the Planning Director on March 21, 2013. The following text was derived from the staff report that was prepared by the Alternative Compliance Committee for AC-11030.

The site is subject to the *Prince George's County Landscape Manual* (Landscape Manual) Sections 4.2, 4.3, 4.7, and 4.9. The applicant has filed this request for Alternative Compliance from Section 4.7, Buffering Incompatible Uses, to allow a reduction in the width and planting units of the required bufferyards along the western and eastern property lines.

REQUIRED: 4.7 Buffering Incompatible Uses, along the western property line adjacent to a single-family residence.

Length of bufferyard	209 feet
Building setback	30 feet
Landscape yard	20 feet
Fence or wall	Yes (six-foot-high, sight-tight)
Plant units (80 per 100 l.f.)	105

PROVIDED: 4.7 Buffering Incompatible Uses, along the western property line adjacent to a single-family residence.

Length of bufferyard	209 feet
Building setback	9 feet
Landscape yard	9 feet
Fence or wall	Yes (six-foot-high, sight-tight) 157 feet or 75%
Plant units	0

REQUIRED: 4.7 Buffering Incompatible Uses, along the eastern property line adjacent to a single-family residence.

Length of bufferyard	250 feet
Building setback	30 feet
Landscape yard	20 feet
Fence or wall	No
Plant units (80 per 100 l.f.)	200

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PROVIDED: 4.7 Buffering Incompatible Uses, along the eastern property line adjacent to a single-family residence.

Length of bufferyard	250 feet
Building setback	8 feet
Landscape yard	8 feet
Fence or wall	No
Plant units	0

Justification of Recommendation:

The applicant is requesting Alternative Compliance from Section 4.7, Buffering Incompatible Uses, along the western property line adjacent to a single-family residence, to allow a reduction in the minimum building setback, landscaped yard width, and required plant units. In this area, the applicant is proposing to provide a nine-foot building setback, and a six-foot-high, vinyl, sight-tight fence along 75 percent of the required bufferyard length. No plant units are proposed in the side landscape yard. The remainder of the required landscaped yard is to be paved as it is the driveway. The applicant justifies that the existing fence provides an adequate buffer that is equal to the *Prince George's County Landscape Manual* requirement. While the committee notes that the fence will help reduce the impact of the congregate living facility on the adjoining residential use, it is not justification for the 70 percent reduction in the required building setback width, the 55 percent reduction in landscape yard, and the 100 percent reduction in the required plant units. The Alternative Compliance Committee finds that the proposal along the western property line for Section 4.7, Buffering Incompatible Uses, is not equally effective compared to the normal requirements of the *Prince George's County Landscape Manual*.

The applicant is also requesting Alternative Compliance from Section 4.7, Buffering Incompatible Uses, along the eastern property line adjacent to a vacant single-family residential lot, to allow a reduction in the minimum building setback, landscaped yard width, and required plant units. In this area, the application indicates an eight-foot-wide building setback. The applicant argues that the existing mature tree on the adjoining lot provides an adequate buffer that is equal to the *Prince George's County Landscape Manual* requirement. The adjacent lot is vacant and will most likely be built upon in the future. The existing vegetation may not remain if the lot is built upon. The 73 percent reduction in the required building setback width, the 60 percent reduction in landscape yard, and the 100 percent reduction in the required plant units does not justify the granting of alternative compliance. Landscaping on adjacent lots is only permitted to be counted towards a bufferyard if it is shown on an approved landscape plan. The Alternative Compliance Committee finds that the proposal for Section 4.7, Buffering Incompatible Uses, is not equally effective compared to the normal requirements of *Prince George's County Landscape Manual*.

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Recommendation:

The Alternative Compliance Committee recommends DENIAL of Alternative Compliance for Section 4.7 and recommends that the applicant apply for a Departure from Design Standards to seek relief from the *Prince George's County Landscape Manual*.

Based on the recommendation from the Alternative Compliance Committee, the applicant has applied for the subject departure from design standards (DDS) to seek relief from the Landscape Manual.

Section 27-239.01(b)(7) of the Zoning Ordinance sets forth the required findings for a DDS:

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

(i) The purposes of this Subtitle will be equally well or better served by the applicant's proposal;

The purposes of the Zoning Ordinance, as set forth in Section 27-102 will be equally well or better served by granting the requested departures. These purposes include protecting and promoting health, safety, and welfare, guiding orderly growth, promoting the most beneficial relationship between land uses and buildings, encouraging economic development, and lessening the danger of traffic on the streets.

As a part of the companion special exception process, the applicant has clearly demonstrated that there is a need for the proposed congregate living facility. Although the applicant has operated this facility with eight residents since the approval of Use and Occupancy Permit 27720-2007-00 on July 18, 2007, in order to increase the number of residents beyond eight, the approval of a special exception application is required. In conjunction with the applicant's companion special exception request, the property is now subject to the 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 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.

The size of the property is only 20,819 square feet in size, and due to the pie-shaped lot configuration of the lot 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. As a result, a very long driveway (currently 1,780 square feet) was also needed to serve the dwelling. Further, a tree save area encumbers 16.74 percent of the lot along the rear of the property as shown on the companion Type 2 Tree Conservation Plan, TCP2-079-94/06. With the irregular-shaped lot, the location of the building restriction line, and the

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designated tree save area shown along the back of the property, the building envelope on the property was very small to begin with.

The applicant's developer, Krause Homes, 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. The dwelling has a first floor building footprint of 4,084 square feet, and is 7,668 square feet in total. The structure is set back just nine feet from the property line on the west side, and eight feet from the property line on the east side. As a result, the applicant has no ability to comply with the planting and building setback requirements within Section 4.7 of the Landscape Manual.

The existing driveway is ten feet in length at its smallest point. As a result, the applicant is requesting a departure of 12 feet from the 22-foot-wide minimum driveway aisle width for two-way traffic. Congregate living facilities, such as this one, are permitted in the R-R Zone with an approved special exception because they provide the elderly and physically-handicapped with the same residential setting as a typical dwelling would. Therefore, there is a legislative presumption that the use can be carried out in harmony with the purposes of this Subtitle with no adverse impacts on health, safety, and welfare.

In this case, the applicant proposes no increase in gross floor area and no new structures are being proposed on the property. With the approval of the requested departures, the visual appearance of this property will continue to be nothing more than that of a typical detached single-family dwelling. As long as that appearance is maintained, there would be no reason to further buffer the use from the adjacent residential properties. As a result, the purposes of the Zoning Ordinance will be equally well or better served by granting the requested departure.

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

The existing dwelling's setback from the eastern and western property lines is ultimately dictating the width of any landscaped bufferyard and building setback that could be provided to fulfill the requirements of Section 4.7 of the Landscape Manual. A congregate living facility is considered a low-impact use for the purposes of Section 4.7. When the use abuts a single-family dwelling, a minimum building setback of 30 feet is required, 20 feet of which must be landscaped.

The length of the required landscaped bufferyard on the west side is 209 feet and 105 plant units are required. The length of the required landscaped bufferyard on the east side is 250 feet and 200 plant units are required. The structure is set back just nine feet from the property line on the west side and eight feet from the property line on the east side. As a result, the applicant has no ability to comply with the planting and building

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setback requirements within Section 4.7. A six-foot-high vinyl fence is located along a majority of the western property line where the property abuts a detached single-family dwelling, and the property to the east is heavily wooded and currently undeveloped.

Along the rear property line (the northern property line), 46 plant units are required and 80 plants units are provided. This area is a designated tree save area as shown on the companion Type 2 Tree Conservation Plan, TCP2-079-94/06. The full required landscaped bufferyard and building setback are provided in this area along with almost double the plant units required by Section 4.7. The site is also in full compliance with Section 4.2 (Requirements for Landscape Strips along Streets) and Section 4.9 (Sustainable Landscaping Requirements) of the Landscape Manual.

There is little opportunity to provide any plantings along the eastern and western sides of the dwelling where the departure is requested. A six-foot-high vinyl fence exists along a majority of the western property line and along all of the northern property line. A walkway exists around the eastern side of the dwelling adjacent to the undeveloped wooded lot which appears to possibly be for ADA access. One of the purposes of the Landscape Manual is to shield incompatible uses from each other. With approval of the requested departures, the visual appearance of this property will continue to be nothing more than that of a typical detached single-family dwelling. As a result, there would be no reason to further buffer the use from the adjacent residential properties.

The departure of 21 feet on the west side and 22 feet on the east side from the required 30-foot building setback, and a departure of 20 feet on both the west and east sides from the 20-foot-wide landscaped yard requirement is the minimum necessary. Further, a departure of 105 plant units on the west side and 200 plant units on the east side is the minimum necessary, given the specific circumstances of the request.

The existing driveway is ten feet wide at its smallest point. Therefore, the applicant is requesting a departure of 12 feet from the 22-foot-wide minimum driveway aisle width required for two-way traffic. The requested departure is the minimum necessary in order to maintain the driveway in its existing configuration.

(iii) The departure is necessary in order to alleviate circumstances which are unique to the site or prevalent in areas of the County developed prior to November 29, 1949;

The location on the dwelling and the irregular shape of the lot prevent the applicant from fully complying with the requirements of Section 4.7 of the Landscape Manual.

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 be compromised. Currently, the applicant's home looks like all the other homes in the

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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. 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 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 the 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.

The applicant states 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. The construction of a commercial parking lot could negatively impact the residential character of the neighborhood. As a result, the departure is necessary in order to alleviate circumstances which are unique to the site.

(iv) The departure will not impair the visual, functional, or environmental quality or integrity of the site or of the surrounding neighborhood.

The applicant seeks relief from the strict requirements of the Landscape Manual because it is not possible to comply with the building setback and landscaped yard requirements within Section 4.7 along the eastern and western property lines of the subject property, due to the location of the existing dwelling. The applicant has requested a departure of 12 feet from the 22-foot-wide minimum driveway aisle width requirement, as well as the companion parking departure, so that a commercial parking lot would not have to be constructed in the front yard area of the subject property. With approval of the requested departure, the existing dwelling will continue to look like every other dwelling in the neighborhood, therefore, helping to preserve the residential character of the neighborhood. As a result, the departure will not impair the visual, functional, or environmental quality or integrity of the site or the surrounding neighborhood.

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:

1. Prior to final disposition of the case, the following revisions shall be made to the site plan:

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- 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.
 - 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, Geraldo, 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