

**Tax Map/Block/Parcel
No. 45-3-668**

**Building Permit/Zoning
Certificate No. 05-2833**

Case 5128

**OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND**

APPLICANT: Ms. Michiko Waminal
1305 Uniontown Road
Westminster, MD 21158

ATTORNEY: Isaac Menasche

REQUEST: A conditional use for an assisted living (approximately 16 unit facility).

LOCATION: The site is located at 80 Bell Road, Westminster, on property zoned "R-20,000 & A" Residential and Agricultural Districts in Election District 7.

BASIS: Code of Public Local Laws and Ordinances, Chapter 223-79 C, and 223-186 A (2)

HEARING HELD: September 29, 2005

FINDINGS AND CONCLUSION

On September 29, 2005, the Board of Zoning Appeals (hereinafter referred to as "the Board") convened to hear a request for a conditional use for an assisted living (approximately 16 unit facility). The Board made the following findings and conclusion:

Ms. Michiko Waminal currently operates an Assisted Living Facility (hereinafter referred to as "ALF") at 1305 Uniontown Road, and would like to open another ALF at 80 Bell Road, Westminster, Maryland. The proposed location for the new ALF is on a lot 37+ acres in size, with an existing single family home and a barn on the property. The parcel is located in both the Agricultural and R-20,000 Zoning Districts, with the front of the parcel in the R-20,000 zone and the rear in the Agricultural zone.

The Applicant's brother, Melson Muneses, is the developer of the proposed ALF. He testified that the ALF would have 16 beds and his vision is to make the facility more like a home and not an institution. A preliminary drawing was submitted which showed a single story building with a basement. The basement will be completely finished and the main floor will

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consist of 16 rooms, each with bathrooms, a dining room, a great room and a residence room, which is similar to a library. Mr. Muneses stated the proposed building will be built with materials similar to other homes in the area. Mr. Muneses indicated that his sister, Myrma Restifcar, who lives at the existing dwelling on the parcel, would operate the facility. He estimated that the age of the residents would be between 75 and 90 years of age, and most, if not all, of the residents would not be keeping vehicles at the location.

Mr. Muneses indicated that there would not be daily deliveries to the ALF. He also stated that the rear of the parcel will remain agricultural and continue to be maintained by the farmer who currently maintains the area. There are no plans to renovate the existing barn, which is currently being used by the referenced farmer. Mr. Muneses anticipated that the traffic generated by the proposed ALF would be similar to that of a normal house.

Ms. Waminal, the Applicant and property owner, who lives and works at an ALF similar to the proposed ALF, also testified. Ms. Waminal described her operation of an ALF, located on Uniontown Road, which houses 14 residents. She indicated that there is 24 hour supervision, and the residents are assisted with daily living activities, i.e., bathing, laundry, housekeeping, etc., and medical management, which includes administering medications and contacting physicians and family members for any medical issues. The staff at the Uniontown ALF consists of 8 employees, 4 part-time and 4 full-time. Ms. Waminal believes the traffic at the existing location would be similar to traffic generated at the proposed facility. An informal traffic count for the week of August 16 to August 22, 2005 was submitted, and indicated that between 8 and 22 total trips were made on a daily basis. All licensing agencies make periodic visits to her current operation, and would be required to make the same visits to the new ALF.

Ms. Myrma Restifcar, a registered nurse who currently lives in the existing home on the parcel, testified that she would run the proposed ALF, and it will consist of 9 to 10 employees.

Mr. Peter Podolak, a surveyor and civil engineer, testified on behalf of the Applicant about the zoning plat he prepared for the proposed ALF. The proposed site would be located in the R-20,000 portion of the parcel. Mr. Podolak stated that the lot is serviced by both private well and septic, and the Health Department would have to approve the septic system, which is set forth on the preliminary plan. He indicated that the proposed facility will be accessed by shifting an existing gravel driveway. Shifting the driveway is required in order to obtain the required sight distance for a driveway on Bell Road. The proposed building would be approximately 8,350 square feet.

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Mr. Podolak discussed traffic studies, which were based on facilities much larger in size than the proposed facility, in an effort to gauge the potential traffic impact the proposed use would have on the neighborhood. He also compared the number of trips to that of a single family home with 4 occupants, which averages 10 trips per day. Mr. Podolak indicated that the previous owners of the parcel had begun the process to subdivide the property, and only 6 lots had perced. Without extending public water and sewer, the lot yield would not increase, and only 1 or 2 additional lots could be created.

There was some concern about placing the ALF on the same lot as the existing dwelling. Neil Ridgely, Carroll County Zoning Administrator, made a statement that the parcel may need to be subdivided because there is already an existing principal use on the parcel. Counsel for the applicant stated there is no way to subdivide the parcel to have the existing dwelling and the proposed ALF on separate lots. Additionally, counsel indicated that it is permissible to have both a principal permitted and conditional use on the same lot.

The Board determined that there would be no adverse impacts and agreed with the applicant that a conditional use could be placed on the same lot of the existing dwelling, and the proposed use meets the Shultz v. Pritts test, in that there would be no greater impact at this location than anywhere else in the zone. While there was significant amount of audience participation, the Board did not observe any outright opposition to the proposed use. Any other concerns, for example landscaping, storm water management, and septic systems, will be addressed by the County's site plan process

Based upon all of the above, the Board could find no adverse impacts, and concluded that it is permissible to have both a conditional use and a principally permitted use on the same lot. The Board's approval is conditional upon the applicant submitting a full site plan and obtaining Planning Commission approval.

Oct 19, 2005

Date

David H. Roush

David H. Roush, Chairman