

**MUNICIPALITY OF ANCHORAGE
ZONING BOARD OF EXAMINERS AND APPEALS
RESOLUTION NO. 2014-008**

A RESOLUTION APPROVING AN APPEAL AND REVERSING THE DECISION OF THE ADMINISTRATIVE OFFICIAL THAT GRANTED A REASONABLE ACCOMMODATION (VARIANCE) FOR OCCUPANCY LIMITS TO ALLOW AN EIGHT-PERSON ASSISTED LIVING FACILITY IN THE R-1ASL (SINGLE-FAMILY RESIDENTIAL) DISTRICT WITH SPECIAL LIMITATIONS, FOR THE SAHALEE PHASE 3 SUBDIVISION, BLOCK 2, LOT 41.

(Case 2014-0058; Parcel ID No. 015-016-09)

WHEREAS, a request was received from Jack DeMoss for a reasonable accommodation (variance) to increase the number of residents in an assisted living facility from five persons to eight persons, on December 26, 2013 (Case 2014-018). The property is located in the Sahalee Phase 3 Subdivision, Block 2, Lot 41; and

WHEREAS, the assembly adopted a new version of Title 21 with an effective date of January 1, 2014. For a period of one year, starting on January 1, 2014 an applicant can select to be reviewed under the "old code" or the "new code" requirements. In this case, the applicant selected the "old code"; and

WHEREAS, the Department reviewed the request and approved the eight-person assisted living facility on February 21, 2014; and

WHEREAS, an appeal of the decision was received from Valerie Waldrop on March 13, 2014. The appeal was submitted pursuant to Anchorage Municipal Code (AMC) 21.15.013; and

WHEREAS, the standards set forth under Anchorage Municipal Code 21.15.013E.1. through E.9. are applicable to this appeal; and

WHEREAS, public hearing notices were posted, published, and mailed, and a public hearing was held on June 12, 2014.

NOW, THEREFORE, BE IT RESOLVED, by the Anchorage Zoning Board of Examiners and Appeals that:

- A. The Board makes the following findings of fact:
1. Standard 1 is partially met. The outside of the property is not proposed to be changed and the applicant has a need to request for a reasonable accommodation. However, the impact to traffic patterns and on-street parking was not submitted by the applicant in order to provide back-up data for the Department to assess whether the standard is met.
 2. Standard 2 is not met. Both the Department and Mr. DeMoss submitted information about the potential for an economic hardship to the intended

occupants. However, not enough information was submitted that indicated housing is in short supply for elderly individuals in assisted living. Information in regard to the housing stock, assisted living stock and the demand for the housing was not submitted.

3. Standard 3 is met. The provider has made efforts to implement accident prevention and safety measures.
4. Standard 4 is not met. The residential character of the neighborhood is impacted by the commercial aspects of the operation. Significant testimony was heard in regard to the effect of the commercial nature of the facility and the impact to the residents and the enjoyment of the neighborhood.
5. Standard 5 is not met. Adequate evidence was not submitted by the applicant that indicates that a five-person assisted living facility is financially unfeasible. The facility has been in operation for two months and there is no tax information or profit and loss information by a Certified Public Accountant to review.
6. Standard 6 is not met. The location of the facility at the end of a lengthy road and a cul-de-sac with only one ingress and egress provides for an impact to the neighborhood and traffic volumes.
7. Standard 7 is met. The facility is staffed 24-hours per day. The development of the subdivision occurred in 1999. There are street lights, sidewalks and trails. There is no anticipation that the use will increase the risk to health, safety and quality of life for neighboring residents.
8. Standard 8 is met. There is no indication that there will be an administrative or economic burden to the municipality if the variance is granted.
9. Standard 9 is not met. There were overwhelming negative comments received related to the approval of the variance that were not taken into consideration by the Department.

B. The Board grants the appeal and reverses the decision of the Department.

PASSED AND APPROVED by the Anchorage Zoning Board of Examiners and Appeals on the 12th day of June, 2014.

ADOPTED by the Anchorage Zoning Board of Examiners and Appeals this 14th day of August, 2014. This is the final decision of the Board. Any party aggrieved by this decision may file an appeal to Superior Court pursuant to Anchorage Municipal

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Code 21.30.180 and Anchorage Municipal Code of Regulations 21.12.340 within 30 days.

acting for Jerry, Jr. m
Jerry T. Weaver, Jr.
Secretary

Dean Karcz
Dean Karcz
Chair

(Case 2014-0058; Parcel ID No. 015-016-09)

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