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August 8, 2025



Clerk of the County Council
Wayne K Curry Building, 2nd Floor
1301 McCormick Drive
Largo, Maryland 20774
Email: ClerkoftheCouncil@co.pg.md.us

**Re: Notice of Appeal to District Council of Prince George's County of
SE/VSE 22002/AC-23008 ESC-8215 Springfield L.C. REMAND
Councilmanic District 4**

Dear Clerk of the County Council:

Please be advised that this firm represents the Wingate Homeowners Association, Inc. ("Wingate"). This letter shall serve as Wingate's appeal of the Decision that was rendered by the Prince George's County Zoning Hearing Examiner (hereinafter referred to as the "ZHE") in the above referenced case, SE/VSE 22002/AC-23008 ESC-8215 Springfield L.C. REMAND on July 10, 2025. Wingate is a Person of Record. Wingate is also an aggrieved party who was represented by an attorney during the ZHE hearing pursuant to Section 25-212 of the Maryland Annotated Code Land Use Article.

The Applicant, ESC 8215 Springfield, L.C., requested a Special Exception 22002/AC-23008 for permission to develop a Planned Retirement Community with fifty-seven (57) age-restricted single-family attached dwellings on land which is zoned RR (Rural Residential), and for Alternative Compliance from Section 4.6 and Section 4.10 of the Landscape Manual. The Applicant also seeks a variance from Subtitle 25 of the Prince George's County Code for the removal of four specimen trees. The property is located approximately 390 feet southeast of the intersection of Lake Glen Drive and Springfield Road, at 8215 Springfield Road, Glenn Dale, Maryland (the "Subject Property"). In the original hearing, the Applicant's land surveyor testified that the Subject Property has a land area of 11.834 acres, which does not satisfy the requirements under Section 27-395 of the Zoning Ordinance for a Special Exception for a Planned Retirement Community, which requires the property to have at least 12-contiguous acres. During a hearing on remand of this case, there was no evidence to suggest that the Subject Property would satisfy all the requirements for a Special Exception or a variance under Section 27-230 of the Zoning Ordinance. Therefore, the ZHE incorrectly recommended approval of a variance and a special exception in this case to allow for the construction of 41 units on the Subject Property. In support thereof, Wingate notes the following errors in the ZHE Decision:



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1. Error #1: In Conclusion of Law (4) on Page 51 of the ZHE's Decision, the ZHE states that the majority of the applicable provisions of Section 27-395 of the Zoning Code are satisfied. However, this is incorrect. In Conclusion of Law (6) on Page 53 of the ZHE's decision, the ZHE states that during the original hearing, she opined that the strictures of Sections 27-395 (a)(3) (B) and (C) cannot be satisfied unless a variance to the requirement of having 12 contiguous acres is satisfied. But the District Council and the Zoning Hearing Examiner are precluded from granting a variance for the Subject Property in this case since Section 27-316 of the prior Edition of the Zoning Ordinance expressly notes that any variance granted for a Special Exception is applicable only to the structure or use the variance was granted in conjunction with. Note that the variance that is being requested is for an area variance. This may be the reason why the Applicant chose not to request a variance until after the initial hearing when the ZHE determined that the Subject Property did not consist of at least twelve (12) contiguous acres, and therefore, would not satisfy the requirements under Section 27-395 of the Zoning Code. The Applicant did not request a variance until after they realized that they may not be granted a Special Exception without it. Again, however, the District Council cannot grant an area variance in this case, and since the Subject Property is less than 12 contiguous acres in size, the Subject Property does not satisfy Section 27-395 of the Zoning Code for a Special Exception for a Planned Retirement Community.

2. Error #2: In Conclusion of Law (9) on Page 55 of the ZHE's Decision, the ZHE states that the requested variance would satisfy all provisions of Section 27-230 of the Zoning Code, which is incorrect. Furthermore, the ZHE stated that the issue (regarding a variance) hinges on whether the Applicant has shown that the Subject Property is physically unique and unusual in a manner different from the nature of the surrounding properties, and if so, whether the 12-acre requirement would therefore result in peculiar and unusual practical difficulties to the owner of the Subject Property. However, this is not a full and complete analysis which is required by law when considering a request for a variance. See, Cromwell v. Ward, 102 Md. App. 691,696 (1995); Dan's Mt. Wind Force, LLC v. Allegany County Board of Appeals, 236 Md. App. 483, 491, 182 A. 3d 252, 257 (2018). Section 27-230 of the prior Edition of the Zoning Ordinance provides as follows: (a) A variance may only be granted when the District Council, Zoning Hearing Examiner, Board of Appeals, or the Planning Board as applicable, finds that:

- (1) A specific parcel of land is physically unique and unusual in a manner different from the nature of surrounding properties with respect to exceptional narrowness, shallowness, shape, exceptional topographic conditions, or other extraordinary conditions peculiar to the specific parcel (such as historical significance or environmentally sensitive features);
- (2) The particular uniqueness and peculiarity of the specific property causes a zoning provision to impact disproportionately upon that property, such that strict application of



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the provision will result in peculiar and unusual practical difficulties to the owner of the property;

(3) Such variance is the minimum reasonably necessary to overcome the exceptional physical conditions;

(4) Such variance can be granted without substantial impairment to the intent, purpose and integrity of the general plan or any area master plan, sector plan, or transit district development plan affecting the subject property;

(5) Such variance will not substantially impair the use and enjoyment of adjacent properties; and

(6) Notwithstanding any other provision of this Section, a variance may not be granted if the practical difficulty is self-inflicted by the owner of the property.

The ZHE found that the public roadway (Springfield Road) is a prescriptive easement which has taken a portion of the Subject Property making it slightly less than 12 acres in size. However, the ZHE did not take into consideration that there are also five additional easements on the Subject Property to WSSC which also limit the Applicant's ability to develop the Subject Property.

In Conclusion of Law (9) on Page 55 of the ZHE's Decision, the ZHE also stated that she believes the existence of the small public road easement is sufficiently unique or unusual in that there is no explanation of how it was taken from the owner of the property as indicated in a letter from DPIE. However, it is obvious that the road exists to provide access to and from the Subject Property and all of the other properties located on Springfield Road. Still, the ZHE determined the Subject Property to be unique even though she found that there are five (5) other neighboring or surrounding properties that have been similarly affected by the road easement with one property close to the Subject Property and none as large. However, all five of the other properties were found to be within the defined neighborhood and are surrounding properties. To support her decision, the ZHE incorrectly relies upon an unreported opinion in Herr v. Bd. of Mun.&Zoning Appeals, 2019 Md. App. LEXIS 436 (2019), with authority because the Court held that it was not erroneous for the Board to have found the property "unique" even though it was not singular within the neighborhood. But the ZHE cannot cite to this unreported opinion as precedent or having persuasive authority.

The ZHE noted that there are five other properties which are affected by the easement, and therefore the Subject Property is not unique. The public roadway is something that is shared by several surrounding properties in the neighborhood. Therefore, the prescriptive easement does not make the Subject Property unique and unusual from surrounding properties. "Unless there is a finding that the property is unique, unusual, or different, the process stops here



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and the variance is denied without any consideration of practical difficulty or unreasonable hardship.” Cromwell at 695-696.

In addition, the ZHE determined that the Subject Property is disproportionately impacted because it consists of less than 12 contiguous acres which is a requirement for a Special Exception for a Planned Retirement Community. However, the ZHE is incorrect because the strict application of the Special Exception requirements will not result in peculiar and unusual practical difficulties to the owner of the Subject Property. Without a Special Exception, the Applicant and owner of the Subject Property are not prevented from developing the Subject Property under the general Rural Residential Zoning. Therefore, the Applicant will still have reasonable and significant use of the Subject Property. Although the property owner and Applicant do not qualify for a Special Exception for a Planned Retirement Community on the Subject Property, the owner and Applicant may still be able to develop the Subject Property for uses which are permitted under the Rural Residential Zoning. There is no evidence to suggest that a denial of the variance requested by the Applicant would deprive the property owner of all beneficial use of the Subject Property.

The ZHE found that a variance would be the minimum necessary to overcome a physical condition on the Subject Property. However, that is incorrect. In Conclusion of Law (11) on Pages 55-56 of the ZHE’s Decision, the ZHE expressed concerns that the proposed development impairs the 2022 Master Plan and 2014 General Plan recommendations of Residential Low land use defined as a density of 3.5 dwelling units per acre, since it is less than the 4.75 dwelling units per acre that the Applicant has requested. Therefore, in addition to granting a variance, the ZHE found that it would also be necessary to adhere to the the maximum density recommended in the General and Master Plans which would allow much less than the 57 units that was requested. Contrary to the ZHE’s determinations, a variance would cause a substantial impairment to the intent, purpose and integrity of the General and Master Plan as stated by the ZHE and herein.

In addition, the ZHE did not consider how a variance would substantially impair the use and enjoyment of adjacent properties. Because the entire neighborhood is comprised of lots which are zoned Rural Residential, all other lots are low density made up of 1 acre or more. So, the high-density nature of a Planned Retirement Community would impair the use and enjoyment of adjacent properties. For example, a new development, Glenn Dale Estates by Mid-Atlantic Builders, is currently under construction on property which is immediately adjacent to the Subject Property on Springfield Road. The adjacent property under development consists of lots which exceed 2-acres in size and complement the low-density residential character of the neighborhood because it complies with the Rural Residential Zoning. In addition, the 256 residential lots in Wingate, which is directly across the road from the Subject Property, are all zoned Residential Estate where the lots are between 1 and 2 acres or more. None of the lots in



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the neighborhood are comprised of 57 attached homes or a high-density community like what is planned as a part of the Applicant's proposed development.

In Conclusion of Law (9) on Page 55 of the ZHE's Decision, the ZHE incorrectly determined that there is no evidence in the record that the practical difficulty from the easement was self-inflicted by the owner of the property. However, the public road easement was self-inflicted because the owner of the Subject Property needs access which the public road easement provides, and the property owner never objected to the road easement since the road was first developed several decades ago.

For the foregoing reasons, the ZHE erred in recommending approval of the Special Exception and variance for the Subject Property.

Sincerely,

Sean E. Suhar
Attorney for
Wingate Homeowners Association, Inc.

Cc: Stan Brown, Esq.,
People's Zoning Counsel, Prince George's County

Client

REQUEST FOR ORAL ARGUMENT

Wingate Homeowners Association, Inc., A Person of Record, is hereby requesting an Oral Argument in the above referenced matter, Appeal to District Council of Prince George's County, SE/VSE 22002/AC-23008 ESC-8215 Springfield L.C. REMAND.

Respectfully submitted,

Sean E. Suhar
Attorney for
Wingate Homeowners Association, Inc.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of August 2025, I did cause a copy of the foregoing Notice of Appeal and Request for Oral Argument to be served upon all Persons of Record by regular mail.

Sean E. Suhar
Attorney for
Wingate Homeowners Association, Inc.