

RESOLUTION NO.: 36 -2007  
INTRODUCED BY: Gambatese

**A RESOLUTION GRANTING A HEIGHT VARIANCE FOR A SENIOR LIVING FACILITY AT 4 MERIT DRIVE.**

WHEREAS, Capital Senior Living for property located at 4 Merit Drive in the City of Richmond Heights filed an application with the ZBA (Case No. 739) requesting three variances from certain Zoning Code requirements to construct a senior living facility; and

WHEREAS, the Zoning Board of Appeals (ZBA) at its August 2, 2006 meeting rendered a tie vote on a motion to deny a height variance for the facility which resulted in no decision being made by the ZBA and also at said meeting, the ZBA approved a density variance but also made no decision by way of another tie vote on a minimum floor area variance requested for the project; and

WHEREAS, thereafter the applicant appeared before the Planning and Zoning Committee of Council on more than one occasion, as well as before the Council Committee-of-the-Whole, after which the applicant determined that it would revise the plan that was before the ZBA for the three variances and reduce its request for variances to a single variance -- that variance being to exceed the 30 foot or two-story height limit for buildings in the RS Senior Housing District in order to build a three-story facility with an overall building height of 42 feet in certain areas of the building, pursuant to the plan presented to the Committee-of-the-Whole on April 24, 2007; and

WHEREAS, the Planning and Zoning Committee of this Council did not make a recommendation to the Council with respect to this variance, but the Council Committee-of-the-Whole has recommended the granting of the height variance set forth above, pursuant to the authority of Section 1185.08(b)(5).

NOW, THEREFORE, Be It Resolved by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1: This Council hereby grants a variance from the requirements of Section 1144.03(c) which limits building height so as not to exceed 30 feet or two stories in order that the proposed senior living facility building at 4 Merit Drive will be permitted to be three stories in height and up to 42 feet in height in certain areas of the building as set forth on the plans submitted to this Council and dated April \_\_\_\_\_, 2007. This variance is granted with the condition that prior to any building permit being issued for the development, a deed restriction be placed upon the property to restrict the occupancy of the residential facilities to persons age 62 or older, other than employees of the residential facilities that live on the property, if any, which

restriction language shall be approved by the City's Director of Law and operate to the benefit of the City of Richmond Heights.

Section 2: This Council adopts the following conclusions of fact in support of its decision to grant the variance in Section 1 above:

a. The property in question will not yield a reasonable return without the variance, but there can be some beneficial use of the property without the variance. The applicant demonstrated that its margin of profit from the development will be slight, if any, without a third story to the building to increase the number of living units which can be located on this property of approximately 6.129 acres.

b. The variance is not substantial because the third story has been arranged to be at the northeast portion of the building and set back from the Merit Drive and Richmond Road frontages of the property and the plan does not include a third story over a significant portion of the building.

c. The essential character of the neighborhood would not be substantially altered and the adjoining properties would not suffer interference with their proper future development and property rights as a result of the variance because the subject property has properties zoned as I-1 Office Industrial located to its south and to its east, as well as an I-2 Industrial zoning designation on property further to the east of the subject property; there is a large parcel with an Office Service zoning designation at the end of Merit Drive in close proximity to the subject property which includes a nursing home facility; the property to the north of the subject property is zoned RS Senior Housing; the City's Service Department garage area and a commercial parcel are located further north of the subject property; directly across the street from the subject property is a large property zoned R-1 Single-Family Residential but which is owned by the City of Richmond Heights and contains only one single family home; to the northwest of the subject property the zoning designation is B-1 Neighborhood Business; and the I-1 Office Industrial District to the south and to the east of the subject property would permit a building height of 45 feet or four stories.

d. The variance would not adversely affect the delivery of government services, provided that the recommendations and requirements of the Chief of Fire have been met for the construction of the subject building.

e. The property in question has unique circumstances and conditions, such as the type of adjoining development and the zoning designations on adjoining and nearby properties, that do not apply to other property within the RS Senior Residential District in the City.

f. The applicant's predicament feasibly cannot be resolved through some method other than a variance.

g. The purpose, intent, and objectives of the Zoning Code and the Master Plan of the City would be observed and substantial justice done by granting the variance because of the applicant's limitation of the third story to permit only residents who are able to live

independently, the zoning designations on surrounding properties, the extensive landscape planting plan and mounding required for this development to soften the effect of the third story, and the applicant's revision of the building design to place the third story areas of the building in the northeasterly portion of the site.

Section 3: The Clerk of Council is hereby instructed to mail a copy of this Resolution to the applicant by certified U.S. Mail, Return Receipt Requested.

Section 4: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

PASSED:\_\_\_\_\_

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Daniel J. Ursu, Mayor

APPROVED:\_\_\_\_\_

ATTEST:\_\_\_\_\_

Betsy Traben  
Clerk of Council

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David H. Roche  
President of Council