

STAFF REPORT

STAFF COMMUNICATION

DATE: 12/22/2025

TO: Bel Aire City Council
FROM: Paula Downs
RE: SP-25-01- Special Use- Group Home

FOR MEETING OF	1/06/2026
CITY COUNCIL	
INFORMATION ONLY	

SUMMARY:

SP-25-01: SP-25-01 Special Use Case to allow a group-home limited use in one-half of a two-family (duplex) unit at 5353 N. Toben Court, generally located at N. 53rd St. and Toben Road.

Legal Description:

Lots 8, Block 1, Rock Spring 3rd Addition, Bel Aire, Sedgwick County, Kansas.

General Location:

N. 53rd St. and Toben Road

Reasons for Request: Permit group home-limited use in one-half of the two-family (duplex) unit.

Notification: The city placed notification on the City of Bel Aire website as required by the city code on November 20, 2025. The affidavit of publication is in the packet. Notification by certified mail was provided to surrounding property owners on November 20, 2025.

Background:

- The subject property is zoned R-5 and is currently developed with a two-family (duplex) residence. The applicants are proposing to convert one-half of the two-family (duplex) unit to a group home-limited unit for elderly care.
 - The R-5 district permitted, or conditional uses do not allow for group home-limited function but does permit them with the approval of a Special Use request.
 - In October 2025, the applicants' contractor applied for a permit to convert the garage attached to one-half of the two-family (duplex) unit into three additional bedrooms and a half-bathroom. The owner's representative were advised that Special Use approval for this use was required prior to utilizing the space as a group home limited unit.
 - The property owner had purchased materials for the garage conversation prior to learning about the Special Use case requirement.

- The property owner is working through the state licensing process to operate the group home and with the State Fire Marshall as part of the application process. They were unaware of the city requirements.

LEGAL CONSIDERATIONS:

18.5.4- Special Uses of the zoning regulations provides guidelines for matters which may be considered when considering a special use application, known as "findings of fact."

The applicant provided the following statement addressing the findings of fact:

The home is a two-family duplex. The owner will live in one half and operate a group home for the elderly (Residential Board and Care Home) in the other half of the home. The home is existing and there will be no additions to the home. The residents do not drive, therefore the number of cars will be for staff and visitors, and since most of the staff live next door, they'll be parked in the adjacent parking area, therefore overall, the number of vehicles should not exceed 1-2 at a time and would appear no different from other homes on the street. The home will not have signage out front, nor will it need a ramp since the home is on grade, therefore the home will not have any different appearance from other homes nearby and would not stick out.

Special Use Review Process:

The Planning Commission may recommend approval or disapproval of a Special Use. The process for applying for and the hearing procedure is the same as set forth for a Conditional Use as set out in 18.5.3 of the Bel Aire City Code.

General Standards for Consideration:

1. That proposed uses will not be contrary to the public interest
2. That the spirit of the Code is observed.
3. That public safety and welfare is secured.
4. That substantially equal treatment under the law is preserved.

Criteria for Review. The criteria shall be evaluated in terms of how such criteria relate to any specific case being considered and any stipulation as deemed appropriate by the Commission shall be incorporated into approval of a conditional use in association with the following concerns:

1. Access and traffic load and/or flow.
2. Noise, light and odor.
3. Screening.
4. Parking.
5. Services (public utilities)
6. Public health and safety
7. Adequacy of facility and lot size.
8. Signs.
9. Review by fire marshal for designation.

10. Other considerations as appropriate.

The review criteria have generally been addressed through the applicant statement and staff review. Noise, light, odor, and screening are not issues relevant to the group home-limited use approval. The residence will remain as it is with no external changes. Traffic, parking and signs have been addressed in the applicant statement. There is no detrimental effect on public health and safety or services and public utilities. State Fire Marshall will review as part of the state group home license process.

If a protest petition against the Special use is filed in the office of the city clerk within 14 days following the date of the conclusion of the public hearing signed by the owners of record of 20% or more of the total area within the notification area, the order adopting such conditional use shall not be passed except by at least three-fourths vote of all the members of the Governing Body.

18.5.4.G of the city code provides a process to revoke the Special Use permit. Where conditions in the neighborhood or surrounding property have changed to the extent that the Special Use has a documented negative impact upon the property values of homes within the area of notification, the Planning Commission may call for a public hearing in conformance with the standards for public hearings as set forth in the code, to hear and take evidence as to the changed conditions and documented detrimental effects of the Special Use. At the conclusion of the hearing the Commission may recommend to the Governing Body that the Special Use be modified to add conditions that address the identified detrimental elements, or the approval of the permit be revoked.

December 11, 2025- Planning Commission Meeting

The Planning Commission received three written communications regarding the case from Bel Aire residents. Two of the written communications were sent to Planning Commissioner Brian Stuart and Planning Commission Secretary Paula Downs. The third written communication was sent directly to Planning Commission Secretary Paula Downs. The residents live approximately 2.5 miles from the subject property and were not notified by certified mail of the case. Per state statute and city code, city staff notified property owners within 200' of the subject property by certified mail 20 days prior to the public hearing. Communications were received after the agenda packet was published online.

The written communications are provided in the agenda packet and were read verbatim in the meeting minutes during the Planning Commission meeting on December 11, 2025. The citizens who submitted the written communications did not appear at the meeting to speak. Generally, the following concerns were expressed in the communications received:

1. Approval would establish precedence if this case was approved, then others would have to be approved.
2. Type of group home use being different in the future.
3. If the garage is converted for this use and then no longer a group home, would the property owner be required to restore the garage.

4. That future homeowners would not have a garage, and the value of the residence would be lower than surrounding properties.
5. With no garage, parking would be on the street creating potential traffic congestion.
6. This use does not enhance the reputation, livability and property values in the city.
7. This use will result in problems for Code Enforcement and the Police Department.
8. The residents could not thrive in the group home living environment at this property.

Gary Goodson owner of a duplex in the neighborhood attended the meeting and provided concerns about the group home use. Mr. Goodson does not live in the property. He stated that those living and renting in the neighborhood expect that the property to stay as a residence. Mr. Goodson was concerned about other types of group homes that this property could be converted to. He is familiar with group home use where he lives. He has seen an increase in traffic to the group home for services to be provided to the residents. He is concerned about traffic patterns and parking.

The Planning Commission discussed the concerns expressed by citizens and information provided by the applicant's representative. The Planning Commission did not believe that the concerns expressed about traffic, parking and use would rise to the level that would prevent them from approving the case. There was a lot of discussion about what would happen if the group home was used for something other than elderly care, such as a half-way house, recently incarcerated individuals, etc. The City Attorney stated that an applicant does not need to go into detail about what type of group home they are requesting and that the Commission cannot take that into consideration for approving or disapproving the case. Commission could request, for example, a parking plan as a condition of the approval. However, there was a lot of discussion about the number of cars that could potentially be at the residence and how it may not look different if a family was living there vs. a group home use. An example was discussed that what if the home had two parents and five teenagers- that would be seven cars which would require them to park on the street. This scenario would also affect traffic patterns.

The Commission reviewed the criteria for review and the findings of fact and based on the evidence presented, approved the case with the condition that the Special Use permit be restricted to the current property owner and it is not transferable as allowed per code.

The case was approved by the Planning Commission 6-0.

Findings of Fact:

1. Character of Neighborhood:

The surrounding neighborhood is comprised of two-family (duplex) residences.

2. Zoning and uses of properties nearby:

North: R-5 - Single Family Homes (north of 53rd St.)

East: R-5 - Two-Family (Duplex)

South: R-5 - Two-Family (Duplex)

West: R-5 - Two-Family (Duplex)

3. Suitability of the subject property for the uses to which it has been restricted

The property is currently zoned R-5 "Garden and patio homes, townhouses and condominiums" multi-family district which is **not** intended to be applied to a single structure. The R-5 district permitted, and conditional uses do not allow for a group home-limited use.

While the subject property is suitable for the residential uses permitted by the R-5 district, the applicant's request to utilize one-half of the two-family (duplex) unit as a group home-limited requires the requested Special Use.

Land use and current zoning district in affect for the property is suitable for the Special Use request.

4. Extent to which removal of the restrictions will detrimentally affect nearby property:

The group-home limited use is not expected to detrimentally affect nearby property.

5. Length of time the subject property has remained vacant as zoned:

The two-family (duplex) residence is currently occupied by the applicants. Home was built in 2021. This finding is not necessarily relevant to the subject request.

6. Relative gain to the public health, safety, and welfare as compared to the loss in value or the hardship imposed upon the applicant:

The proposed group home-limited use does not pose a threat to adjacent residential properties.

The two-family (duplex) exterior is residential in character and consistent with other residential structures in the neighborhood.

The applicant has spent time and effort to submit an application to obtain their state license to operate the group home in one-half of their residence. They plan to convert the garage to three additional bedrooms and a half bath. These modifications will net six bedrooms to house six residents. If the Special Use is disapproved, the applicant will be unable to operate the group home. The applicant has already invested in materials for the garage conversion pending the special use case. A building permit has not been issued until the special use has been completed.

Disapproval of the case will create a hardship for the applicant.

7. Conformance of the requested change to the city's comprehensive plan:

Related to Housing, Bel Aire's value statement is to be a destination of choice for people at all stages of life. The group home-limited provides a housing option in Bel Aire.

The request is not in conflict with the comprehensive plan.

The future land use map identifies this area as a Traditional Neighborhood place type that consists predominately of residential dwellings to include the single-family, two-family, accessory dwelling unit, small multi-family structures and the occasional townhouse. The property falls within that described place type.

Appropriate land uses and zoning districts within the place type include Garden and Patio Homes, Townhouses, and Condominiums (R-5). The property is compatible with the traditional neighborhood place type.

8. Impact of the proposed development on community facilities:

The subject property will have no negative impact on community facilities, public infrastructure or utilities.

There are not expected to be any additional or substantial impacts to community facilities by permitting the group home- limited use at the subject property.

9. Opposition or support of neighborhood residents (one factor to be considered and by itself is not sufficient reason to approve or deny a request):

As of this writing, staff was contacted by one surrounding property owner, Roxana Zidarita, who resides at 5321 N. Toben Ct (property owner abutting the back yard of subject property). Property owner inquired as to why they received a notification letter and staff explained the case is requesting the ability to operate a group-home limited business on one-side of the two-family (duplex) unit with the owner residing on the other side. Staff stated that the case includes a public hearing for nearby property owners to present concerns. Mr. Zidarita stated that she has concerns about the group home and she was encouraged to attend the public hearing and state her concerns.

Staff received no other phone calls or written communication from any other notified property owners.

The Planning Commission will need to consider any testimony provided during the public hearing.

10. Recommendations of Professional Planning Staff

Key findings of fact elements: 1, 4, 6, and 8.

Staff recommends **APPROVAL** of the application pending the outcome of Planning Commission review and public hearing.

Based on the preceding factors and the information available at the time the report was prepared, professional planning staff recommends that the Special Use application for a group home-limited use be approved with the following condition:

1. Special Use permit is restricted to the current property owner and is not transferable.