

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
W side of Bloomsbury Avenue; 1,350	*	OFFICE OF
feet S of Frederick Road		
1 st Election District	*	ADMINISTRATIVE HEARINGS
1 st Councilmanic District		
(205 Bloomsbury Avenue)	*	FOR BALTIMORE COUNTY
General German Orphan Association,	*	
aka The Children's Home		
<i>Petitioner</i>	*	Case No. 2012-0067-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for consideration of Petitions for Special Hearing and Variance filed by the General German Orphan Association, aka The Children's Home, the legal property owner. The Special Hearing was filed¹ pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) as follows:

- 1) Affirm the continuation of the Community Care Center Special Exception use under B.C.Z.R. Section 502.5.A; and
- 2) Amend the Special Exception and approved site plan in Case No. 05-065-SPHA to permit the following:
 - a) Retain Buildings F, G, and H (shown as "to be demolished" on the site plan in Case No. 05-065-SPHA);
 - b) Revision to Building K (has been constructed larger than as shown on the site plan in Case No. 05-065-SPHA(16,250 square feet versus 16,000 square feet));
 - c) Revision to Building L (now shown as 4,300 square feet of senior dormitory as opposed to 6,000 square feet maintenance building on the site plan in Case No. 05-065 SPHA);

¹ The Petitions for Special Hearing and Variance were amended at the hearing and were marked as Exhibit 6.

- d) Revision to Building N (minor change in footprint from that shown on the site plan in Case No. 05-065-SPHA);
- e) Revision to Building P (footprint change and reduction in square footage (4,300 square feet in lieu of 6,000 square feet)) as shown on the site plan in Case No. 05-65-SPHA; and
- f) Minor revision to the entry drive and portion of the roadway to accommodate retaining Buildings F and G;
- g) Reduction in the number of proposed parking spaces from 107 spaces to 102 (note: 98 parking spaces required); and
- h) Addition of Building Q as proposed 2,750 square feet Maintenance Building.

In addition, the Petitioner is requesting Variance relief as follows:

1) to permit variances from Section 1B01.2.C.1.a to permit non-residential principal building to building setbacks in the DR 3.5 zone as shown on the site plan as follows:

- a) For Building G to Building P, a variance setback of 37 feet provided in lieu of the 40 feet required (20 feet side yard Building G plus 20 feet side yard Building P); and
- b) From Building P to Building H, a variance setback of 28 feet provided in lieu of the 40 feet required (20 feet side yard Building P plus 20 feet side yard Building H); and
- c) Other good and sufficient reasons as will be presented at the hearing for the requested relief enumerated above.

The subject property and requested relief are more fully described on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 2.

Appearing at the public hearing in support of the requested relief was Andre Cooper, with the General German Orphan Association, aka The Children's Home, the property owner, and Adam D. Baker, Esquire and Dino C. Lafiandra, Esquire appeared as Counsel for the Petitioner.

Fred Thompson and Laurie Dickeson, experts retained by Petitioner, also attended the hearing. There were no Protestants or other persons present, and the file does not contain any letters of protest or opposition from neighboring owners.

Testimony and evidence revealed that the subject property has been operated for many years as a charitable institution providing shelter and counseling for at risk youth. The subject property comprises over 40 contiguous acres in the heart of Catonsville, which is certainly remarkable and unique in such a densely developed area.

The Petitioner called Fred Thompson, a professional engineer, as its first witness. Mr. Thompson opined that the proposed variance and special hearing relief would cause no negative impacts to surrounding neighbors. He explained that the goal was to cluster the residential cottages and other buildings on the campus, to create an intimate atmosphere and to allow for the preservation of the untouched green spaces on the property.

The CEO of the Children's Home, Andre Cooper, was the next witness. Mr. Cooper explained the various programs offered at the center, and said the population was between the ages of 13-21. At present, there are 46 children at the center, although capacity exists for 69 children. Mr. Cooper testified that the majority of the children are referred to the center from local Department of Social Services agencies, and that the average length of stay is one year. Mr. Cooper also explained that the proposed maintenance building (identified as Building Q on Exhibit 3) would help to streamline the operations at the center's physical plant, and would also allow vendors and deliveries to be made to this structure, at the entrance to the campus, so that trucks and other vehicles would not need to traverse the grounds during the day, as is the current practice.

The final witness was Laurie Dickeson, a licensed architect whose CV was admitted as Exhibit 5. Ms. Dickeson, who has over 25 years experience, testified that she was engaged to assess and study the Petitioner's entire site and operations. Ms. Dickeson indicated her goal was to make things work together and harmoniously, and for that reason she decided to cluster the proposed residential cottages (shown in pink on Exhibit 2, Buildings P & L) among the existing cottages, identified as Buildings F, G & H on Exhibit 2. Ms. Dickeson testified this also allowed Petitioner to preserve open space and wetlands on this large and unique site.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. The comments indicate no opposition from any Baltimore County agency or other recommendations concerning the requested relief.

After due consideration of the testimony and evidence presented, I am persuaded to grant the special hearing and variance relief.

As to the special hearing, there was no evidence presented that the operation of the center creates a negative impact upon the surrounding community. Indeed, the center has been operational for over 100 years and fulfills a vital need in the community, and I therefore will affirm the continuation of the present use under B.C.Z.R. §502. The other facets of the special hearing request seek to revise the 2005 master plan for the center, to reflect existing conditions and other modest changes in the ultimate plan for the site. The only significant change to the 2005 plan is the addition of a 2,750 square foot Maintenance Building, and as noted above, this will allow the center to streamline certain operations and will also reduce vehicular traffic through the campus. The building is to be strategically located at the entrance to the center, and will not be harmful or detrimental to the existing residences on the west side of Bloomsbury Ave.

As to the variance request, I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. As noted, the subject property is quite unique, in that it is a 40 plus acre parcel in the middle of a congested urban area. In addition, the variance relief pertains only to “internal” building-to-building setbacks which would have no discernable impact upon adjoining neighbors.

I further find that strict compliance with the B.C.Z.R. would result in practical difficulty or unreasonable hardship. Finally, I find the variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property and public hearing held, and after considering the testimony and evidence offered, I find that Petitioner’s special hearing and variance requests should be granted.

THEREFORE, IT IS ORDERED by the Administrative Law Judge for Baltimore County this 15 day of November, 2011 that the Petition for Special Hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) seeking the following relief:

- 1) Affirm the continuation of the Community Care Center Special Exception use under B.C.Z.R. Section 502.5.A; and
- 2) Amend the Special Exception and approved site plan in Case No. 05-065-SPHA to permit the following:
 - a) Retain Buildings F, G, and H (shown as "to be demolished" on the site plan in Case No. 05-065-SPHA);
 - b) Revision to Building K (has been constructed larger than as shown on the site plan in Case No. 05-065-SPHA(16,250 square feet versus 16,000 square feet));

- c) Revision to Building L (now shown as 4,300 square feet of senior dormitory as opposed to 6,000 square feet maintenance building on the site plan in Case No. 05-065 SPHA);
- d) Revision to Building N (minor change in footprint from that shown on the site plan in Case No. 05-065-SPHA);
- e) Revision to Building P (footprint change and reduction in square footage (4,300 square feet in lieu of 6,000 square feet) as shown on the site plan in Case No. 05-65-SPHA);
- f) Minor revision to the entry drive and portion of the roadway to accommodate retaining Buildings F and G;
- g) Reduction in the number of proposed parking spaces from 107 spaces to 102 (note: 98 parking spaces required); and
- h) Addition of Building Q as proposed 2,750 square feet Maintenance Building

be and is hereby GRANTED;

IT IS FURTHER ORDERED that Petitioner's Variance request as follows:

1) to permit variances from Section 1B01.2.C.1.a to permit non-residential principal building to building setbacks in the DR 3.5 zone as shown on the site plan as follows:

- a) For Building G to Building P, a variance setback of 37 feet provided in lieu of the 40 feet required (20 feet side yard Building G plus 20 feet side yard Building P); and
- b) From Building P to Building H, a variance setback of 28 feet provided in lieu of the 40 feet required (20 feet side yard Building P plus 20 feet side yard Building H);

be and is hereby GRANTED.

The relief granted herein is subject to the following condition:

1. Petitioner is advised that it may apply for any required building permits and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until the 30-day appeal period from the date of this Order has expired. If for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sma