

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(11152 Falls Road)		
3 rd Election District	*	OFFICE OF
2 nd Councilmanic District		
Boys School of St. Paul's Parish	*	ADMINISTRATIVE HEARINGS
Petitioner		
	*	FOR BALTIMORE COUNTY
	*	Case No. 2014-0024-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed by Christopher D. Mudd, Esquire on behalf of the legal owner, Boys School of St. Paul's Parish. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to approve an amendment to the Special Exception and accompanying site plan approved in Case No. 04-553-X and amended in Case No. 08-345-SPHA to allow for the construction of an 8,000 sq. ft. maintenance building on Tract A.

Appearing at the public hearing in support of the requests was Chris Fallon, Troy Slevin, Francis Smyth and Michael Pieranunzi. Christopher D. Mudd, Esquire appeared and represented the Petitioner. The file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. Several members of the community attended the hearing to learn more details about the proposal, and their names are included within the case file.

Zoning Advisory Committee (ZAC) comments were received from the Department of Environmental Protection and Sustainability (DEPS), the Department of Planning (DOP) and Bureau of Development Plans Review (DPR). DEPS indicated that the Petitioner must comply with the Forest Conservation Regulations and DPR noted that a landscape plan must be

submitted and approved prior to the issuance of a building permit. The DOP indicated that it supports the Petitioner's request.

This case involves the St. Paul's School, which provides facilities for both boys and girls. The school is well regarded and occupies a 125 acre campus (zoned RC2) in the Greenspring Valley area. The school has a lengthy and detailed 30 year zoning history, the highlights of which are detailed on the site plan. Exhibit 1.

A recitation of that history would really serve no purpose, given that the current proposal can be put in appropriate context with an understanding of a few key points. This case concerns "Tract A," which is a seven acre parcel at the south end of the campus that by prior Order has been incorporated into the special exception area for the school. At the time Tract A was added to the campus, the following note was included on the site plan:

With regard to "Tract A", there are no plans to utilize this property other than for the current residential and maintenance/storage use. Should any future use be considered for the area north of the existing buildings, a petition for special hearing must be filed.

The petition for Special Hearing was filed in accordance with this note, and the School seeks to construct a maintenance building on Tract A. The proposed building is a permitted use under the RC2 regulations, and no variance relief is requested.

The hearing in this case was conducted in an informal fashion. The School's CFO, Chris Fallon, stated that the current maintenance building on campus, which houses equipment, office space and approximately 20 employees, is about 6,000 square feet. Mr. Fallon stated the school has "outgrown" that facility. School Board Vice President Francis Smyth noted the existing maintenance building is located in the heart of the campus, where it presents safety concerns with the movement of trucks and equipment that often need to navigate around parents dropping their kids off for school.

As such, the School proposes to construct a new 8,000 square foot building on the southern portion of the campus adjoining Greenspring Valley Road. This parcel (Tract A) is improved with several structures (dwellings) listed on the County's final landmarks list. The School at present also uses this area for storage of the equipment and materials used by the maintenance staff. The proposed building would be situated north of the historic structures, and would not be visible from Greenspring Valley Road. Exhibits 6A-6C. The building would be 27' high, as reflected in a green lined note on the site plan.

Teresa Moore, on behalf of the Valley's Planning Council ("VPC"), identified certain concerns raised by her membership. Although the VPC has not taken a formal position on the case, the following were identified as concerns:

1. Change in building envelope
2. Changes proposed in historic setting
3. Size of proposed building and need for office facilities
4. Extension of public water and sewer to site

Each of these issues is discussed below.

Building Envelope

The building envelope concept was identified in prior zoning cases involving the School, and the VPC is concerned that the proposed building would not be within that envelope. Of course, the building envelope has been amended in the past through the special hearing procedure, which if necessary could also be done in this case. See Order in 93-110-SPHA, Exhibit 7. Having reviewed that prior case, I do not believe it would be wise to disturb or amend the building envelope shown on the plans approved previously.

As an initial matter, Tract A was acquired by the School after the designation of the envelope, and I do not believe that this after-acquired property is subject to that covenant. Bernui v. Tantallon Control, 62 Md. App. 9, 16-17 (1985). Apart from this legal issue, I do not

believe the maintenance building is connected with the core functions of the school (as is the chapel, for example) and Tract A is physically separated from the “main” portion of the campus. I am not in any way questioning the validity or enforceability of the building envelope identified on previous plans. But at the same time, I do not believe the School should be hamstrung and required to construct improvements like the proposed maintenance building within the “envelope,” or to seek enlargement of same. As noted above, there are good reasons to construct this building (which plays a “behind-the-scenes” supporting role on campus) at a satellite location.

Thus, I am not inclined to amend or alter in any way the building envelope area shown on earlier plans. I simply believe that the School should be entitled to construct this building to support the infrastructure and grounds of the campus. A different analysis would apply if the structure proposed was designed for use by students or their guests, in which case the “envelope” and the community’s concerns with the unchecked growth of the School could be animated.

Historic Structures

As noted in DOP’s ZAC comment, several structures (used as dwellings by school faculty/staff) on Tract A are on the County’s Final Landmark List. But the Petitioner does not intend to alter or in any way make changes to those structures. In these circumstances, review and approval by the Landmarks Preservation Commission is not required. Baltimore County Code (B.C.C.) §32-7-401 et. seq.

Size of Proposed Building

The proposed building would be 8,000 square feet, which is 2,000 square feet larger than the present maintenance building. In addition, Mr. Fallon noted that approximately 3,000 square foot of space in the current building is used for office/conference facilities. In my opinion, an

8,000 square foot building will in no way overcrowd Tract A (which is 7 acres), and is a reasonable size to accommodate the staff and equipment necessary to service both the boys and girls schools. The building will be attractive and designed by an architect (Exhibits 3A & 3B) and will not be visible in any event from the adjoining roadway.

Extension of Public Sewer

Counsel for Petitioner indicated that the School has made application to have the public sewer (which now serves the historic structures) extended to serve the proposed maintenance building. As I explained at the hearing this is a legislative procedure which requires approval by the County Council and State of Maryland. This office is not involved in the process.

Pursuant to the advertisement, posting of the property, and the public hearing, and after considering the arguments of the parties, I find that Petitioner's Special Hearing request should be granted.

THEREFORE, IT IS ORDERED this 1st day of October 2013, by this Administrative Law Judge, that Petitioner's request for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R."), to approve an amendment to the Special Exception and accompanying site plan approved in Case No. 04-553-X and amended in Case No. 08-345-SPHA to allow for the construction of an 8,000 sq. ft. maintenance building on Tract A, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for appropriate permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioners 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/sln