GLENELG COUNTRY DAY SCHOOL,  
*  
PETITIONER  
*  
ZRA-188  
*  
BEFORE THE  
PLANNING BOARD OF  
HOWARD COUNTY, MARYLAND  
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MOTION: Amend Section 131.0.D to exempt setback requirements from lots in common ownership and allow the Hearing Authority to grant setback variances for Conditional Uses; Amend Section 131.0.F.2 to accept easements as written authorization for a petition; and, Amend Section 131.0.N.48 to include child day care and nursery schools as an accessory use to Schools, Colleges, Universities—Private (Academic).

ACTION: Recommended denial; Vote 5-0.

On June 6, 2019, the Planning Board of Howard County, Maryland, considered the petition of Glenelg Country Day School (Petitioner) to amend three sections of the Howard County Zoning Regulations (Sections 131.0.D, 131.0.F.2, and 131.0.N.48). The proposed Section 131.0.D amendment would allow the Hearing Examiner to reduce setbacks in the specific criteria for Conditional Uses through a variance process and exempt Conditional Uses from all setback requirements where adjacent lots are in common ownership or held in an easement, or similar instrument. The Section 131.0.F.2 amendment proposed to codify the requirement for owner authorization to apply for a Conditional Use and allow for such authorization to be in the form of an easement or similar recorded instrument – the validity and legality of which is presumed. The Section 131.0.N.48 amendment would add child day care centers and nursery schools as an accessory use within the Schools, Colleges, Universities—Private (Academic) Conditional Use category.

The Planning Board considered the petition and the Department of Planning and Zoning (DPZ) Technical Staff Report and Recommendation. DPZ recommended approval, with modifications to the proposed 131.0.D.6 and 131.0.F.2.f amendments. DPZ supported allowing the Hearing Authority to approve setback variances according to the variance criteria in Section 130.0.B because it provides flexibility for properties with practical difficulties and applies the same approach to by-right uses. DPZ further recommended that the amendment be expanded to include all bulk regulations. DPZ supported exempting Conditional Use setbacks where adjacent lots are in common ownership and recommended including the pipestem portion of a pipestem lot. DPZ also recommended modifications to the proposed Section 131.0.F.2 amendment to simplify the language and require the Petitioner to submit written verification attesting to their permission for Petition and right to carry out the use on the property. Finally, DPZ stated that the proposed
amendment to Section 131.0.N.48 is consistent with the department’s current interpretation that a child care
center or nursery school use is accessory to a Private Academic use.

Mr. Sang Oh represented the Petitioner. Mr. Oh testified that varying bulk regulations has been done
previously and that the Petitioner supported DPZ’s alternative to exempt setbacks from pipestems since the
Petitioner’s approach was somewhat cumbersome. However, Mr. Oh expressed concern with DPZ’s modified
text change to Section 131.0.F.2 that stated the validly and legality of authorization to apply for a Conditional
Use shall be presumed. Mr. Oh explained that determining appropriate authorization to apply is a legal
determination by the courts. Therefore, rather than presuming authorization is valid, it should be restated to
clarify it is not relevant to the decision.

Approximately 15 members of the public testified in opposition the proposed amendment, with others
registering opposition and agreeing with the speakers. Andrea LeWinter testified on behalf of the Glenelg
Manor Estates Community Association (GMECA) and conveyed concerns with countywide impacts of the
proposed ZRA beyond adjacent property owners, specifically the proposed amendments to exempt pipestem
setbacks and allow variances to Conditional Use setback. She also commented on changes to common
ownership rules. Opponents generally expressed concerns with exempting setbacks to a pipestem, citing their
multiple uses and adverse impacts associated with locating uses or buildings close to them. Opponents also
expressed concerns that ZRA, applied countywide, was inconsistent with PlanHoward 2030 and equated an
easement interest to land ownership. Opponents testified that easement holders should be permitted to apply
for a Conditional Use without the fee simple owner’s signature and that the current practice of requiring the
owners signature should remain. Two members of the public were opposed to allowing a child care center as
an accessory use citing concerns with traffic and safety and the need to comply with Conditional Use
requirements.

Board Discussion and Recommendation

Prior to the work session, Board members asked DPZ staff to clarify the process to determine whether
a child care center constitutes an accessory use. Per the Board’s request, DPZ staff also clarified that the
proposal seeks to allow the Hearing Examiner to reduce Conditional Use setbacks, regardless of ownership,
and the proposed setback exemption applies to Conditional Uses where the Petitioner owns the adjacent
property or has an easement interest. In work session, Board members expressed concerns that the proposed
amendments are designed to address issues with one property, however, they will apply countywide and could
result in unintended consequences. Also, they stated a preference for continuing to require property owner
signatures on Conditional Use Petitions. One Board member supported providing some flexibility to allow the
Hearing Examiner to vary setbacks. The Board made the following motions on each proposed amendment:

Mr. Coleman motioned to recommend the Council approval DPZ’s proposed text for Section
Ms. Adler motioned to recommend the Council deny the Petitioner’s proposed amendment to Section 131.0.D.6. Ms. Roberts seconded the motion, which passed 5-0.

Ms. Adler motioned to recommend the Council deny the Petitioner’s proposed amendments to Section 131.0.F.2.f. Mr. McAliley seconded the motion, which passed 5-0.

Ms. Roberts motioned to recommend the Council deny the Petitioner’s proposed amendment to Section 131.0.N.48. Mr. McAliley seconded the motion, which passed 4-1 (Coleman dissenting).

For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 11th day of July 2019, recommends that ZRA-188, as described above, be Denied.

PHILLIPS ENGELKE, Chair

ERICA ROBERTS, Vice-Chair

DELPHINE ADLER

ED COLEMAN

KEVIN MCALEILEY

ATTEST:

VALDIS LAZDINS, Executive Secretary