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| IN RE: PETITION FOR SPECIAL HEARING | * | BEFORE THE |
| (10807 Tony Drive) | | |
| 8 th Election District | * | OFFICE OF |
| 2 nd Council District | | |
| Montessori Society of | * | ADMINISTRATIVE HEARINGS |
| Central Maryland | | |
| <i>Legal Owner</i> | * | FOR BALTIMORE COUNTY |
| Petitioner | | |
| | * | Case No. 2016-0014-SPH |

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of Montessori Society of Central Maryland (“Montessori”), legal owner. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to approve amendments to Special Exception No. 84-173-X to permit renovation, expansion and adding on to existing buildings on the school campus.

Tamera Balis, employed by Montessori, attended the hearing in support of the request. Jeffrey H. Scherr, Esq. represented the Petitioner. Two neighbors attended the hearing and expressed concerns about certain aspects of the proposal, which will be discussed below. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants or interested citizens in attendance. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR).

The subject property is 6.57 acres and zoned RC 2. The Montessori school was constructed over 40 years ago, and has undergone several expansion projects throughout the years. Petitioner’s counsel described the zoning history for the site, and orders from previous zoning

cases concerning the school were admitted as Petitioner's Exhibit Nos. 3-6. A site plan depicting the proposed improvements was admitted as Petitioner's Exhibit 1.

Charles Phillips (a principal with KCI) provided testimony to explain the proposed changes to the campus, which includes the expansion of two existing buildings and a renovation of a third building. Mr. Phillips also noted that at present no storm water management facilities exist at the site, since the buildings were constructed prior to the regulations which now require such features. He presented a plan (Exhibit 2) which depicts the storm water management devices to be constructed, which he explained will reduce the amount of surface water runoff below current levels.

Kevin Campbell, from KSC Education Consulting, was the next witness in the Petitioner's case. Mr. Campbell testified he is the project coordinator, and has in the last 1 ½ years worked extensively with nearby community groups to address their concerns. He explained that both the Valleys Planning Council and Falls Road Community Association have agreed not to oppose the project, as has the Brooklandwood HOA. Mr. Campbell testified that enrollment at the school will not increase, and he noted that concerns with flooding on Tony Drive (raised by Mary Seldin, who attended the hearing) were "very new" to the school and were not mentioned previously by any of the neighborhood associations or community members.

The neighbors raised two primary concerns with the project: noise during construction and flooding on Tony Drive, which is a private road. Ms. Seldin explained that she has a hearing condition which could be impacted during the construction project. As explained at the hearing, Baltimore County regulates only "domestic noise," which does not include noise produced by machinery, construction and other commercial operations. Balto. County Code §17-3-101 et. seq. The State of Maryland has regulations which establish the maximum allowable noise levels for

“construction activities,” but those are enforced by the Maryland Department of the Environment, not Baltimore County. COMAR §26.02.03.02. Montessori and its contractors will of course be required to adhere to these state regulations.

The remaining issue is the flooding on Tony Drive, which Ms. Seldin believes was caused by previous construction projects at the Montessori school. There is apparently a storm drain installed under the bed of Tony Drive, and it has either become clogged, damaged or its handling capacity has been exceeded. This drain may have been the culprit in previous instance(s) wherein the road was inundated with surface water. Other than Ms. Seldin’s comments, there was no other testimony or evidence presented as to the extent of this problem, its cause(s) or potential cure(s). Without knowing more, I do not believe I am in a position to adequately address this issue. I will include in the order below a requirement that Montessori investigate the matter in an attempt to determine the nature and extent of the problem, along with possible solutions.

THEREFORE, IT IS ORDERED this 28th day of September, **2015** by this Administrative Law Judge, that the Petition for Special Hearing pursuant to B.C.Z.R. § 500.7 to approve amendments to Special Exception No. 84-173-X to permit renovation, expansion and adding on to existing buildings (as shown on the site plan admitted as Petitioner’s Ex. 1), be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. Petitioner shall use good faith efforts to investigate the functionality of the storm drain conduit underneath Tony Drive, as detailed above.

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

JEB:sln

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County