

BEFORE THE BOARD OF APPEALS FOR PRINCE GEORGE'S COUNTY, MARYLAND
Sitting as the Board of Zoning Appeals

Petitioner: Guardian Fund II – Centrepointe, LLC

Appeal No.: V-70-18

Subject Property: Lot 2, Corporate Center Subdivision, being 855 Brightseat Road, Landover,
Prince George's County, Maryland

Counsel for Petitioners: Andre Gingles, Esq., Gingles LLC

Witnesses: William Carbaugh, Guardian Realty

Tikita Williams, Foundation School, Principal

Kelli Kunert, Foundation School, Director of Development

Heard and Decided: July 25, 2018

Board Members Present and Voting: Bobbie S. Mack, Chairperson

Albert C. Scott, Vice Chairman

Anastasia T. Johnson, Member

RESOLUTION

This appeal is brought before the Board of Appeals, sitting as the Board of Zoning Appeals for the Maryland-Washington Regional District in Prince George's County, Maryland (the "Board"), requesting a variance from the strict application of the provisions of Subtitle 27 of the Prince George's County Code (the "Zoning Ordinance").

In this appeal, a proceeding pursuant to Section 27-229 of the Zoning Ordinance, Petitioner requests that the Board approve a variance from Section 27-475.06.01(a)(1)(A) of the Zoning Ordinance, which prescribes that private schools shall provide an outdoor playground or activity area containing at least one hundred (100) square feet of usable space per student, unless the private school is for special education students and adequacy of less usable space per student is demonstrated, requiring a minimum of twenty-five (25) square feet per student. Petitioner proposes to obtain a detailed site plan for a special education facility, providing an indoor activity area only (no outdoor amenities). A variance of 1,500 square feet playground area is requested.

Evidence Presented

The following testimony and record evidence were considered by the Board:

1. The property was subdivided in 1985, contains 668,753 square feet (15.35 acres), is zoned I-3 (Planned Industrial/Employment Park) and is improved with commercial office / private school. Exhibits (Exhs.) 3, 5, 10, 11 and 12 (A) thru (F).

2. Petitioner would like to obtain a detailed site plan for a special education facility with an indoor activity area. As there will be no outdoor playground or activity area provided, a variance of 1,500 square feet playground area was requested. Exhs. 2, 3, 4, 12 (A) thru (F) and 13.

3. Petitioner explained that as the school will have a student body consisting solely of autistic students, and the noise emanating from the proximity of the highway, an indoor activity area is deemed to be more appropriate. It was also explained that a smaller, enclosed area provides for safer environment for these students and allows for closer supervision. Exhs. 2, 3, 4 and 13.

4. Attorney Andre Gingles stated that the Foundation School has served students with emotional disabilities for well over a quarter century. The school operates in both Montgomery and Prince George's Counties. Petitioner is requesting a variance of from the requirement to provide an "outdoor playground or

activity area" for the school, which will serve 60 special education autistic students. Lot 2 is approximately 15.35 acres and is situated in the southwest portion of the larger property. The property is adjacent to I-495 to the east and the proximity of the arterial highway mandated a significant setback from the right-of-way. This resulted in the narrowing of the building footprints and the placement of parking to the sides of the buildings in order to place parking proximate to building entrances. The area of the parking might be a location for an "outdoor playground" if such were deemed to be appropriate. Exhs. 2, 3, 4 and 6 (A) thru (E).

5. He further stated Petitioner's desire is to leave space within the existing building for the Foundation School for a special education school. It has been the Foundation School's experience that recreational activity for students with autism must be done with significant supervision. As such, a large outdoor activity area is not necessary because such students are engaged infrequently in recreational or non-lesson activities. Indoor areas work much better as a result of the amount of supervision needed. Mandating the outdoor play would place undue hardship upon both Petitioner and the Foundation School requiring Petitioner to lease space that is not needed. Exhs. 2, 3, 4 and 6 (A) thru (E).

6. Tikita Williams explained there is no state law that requires the outdoor play area. The autism wing of the school was constructed two years ago. She stated that this location consists of grades K-4th, and is growing to 5th grade. At this time there are only 15 students in the program due to the lack of room. She further stated that Prince George's County has asked the school to serve more students, and with the new facility the school will be able to accommodate up to 60 students. Exhs. 2, 3, 4 and 6 (A) thru (E).

Applicable Code Section and Authority

Section 27-230 of the Zoning Ordinance authorizes the Board to grant variances when, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of specific parcels of property, the strict application of the Zoning Ordinance would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, provided such relief can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan.

Findings of the Board

After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variance complies with the applicable standards set forth in Section 27-230, more specifically:

Due to the Foundation School serving autistic students, concern for the safety and wellbeing of those students, and the character of the neighborhood, granting the relief requested would not substantially impair the intent, purpose and integrity of the General Plan or Master Plan, and denying the request would result in a peculiar and unusual practical difficulty upon the owner of the property.

BE IT THEREFORE RESOLVED, unanimously, that a variance of 1,500 square feet playground area in order to obtain a detailed site plan for a special education facility, providing an indoor activity area only (no outdoor amenities) on the property located at Lot 2, Corporate Center Subdivision, being 855 Brightseat Road, Landover, Prince George's County, Maryland, be and is hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 2 and approved elevation plan, Exhibit 4.

BOARD OF ZONING APPEALS

By: (ORIGINAL SIGNED)

Bobbie S. Mack, Chairperson

NOTICE

Within thirty (30) days from the date of this decision, any person, firm, corporation, or governmental agency who was a party to the Board's proceedings and is aggrieved by its decision may file an appeal to the Circuit Court of Prince George's County.

Further, Section 27-233(a) of the Prince George's County Code states:

A decision of the Board, permitting the erection of a building or structure, shall not be valid for more than two (2) years, unless a building permit for the erection is obtained within this period and the construction is started and proceeds to completion in accordance with the terms of the decision and the permit.