

1 **GLENELG COUNTRY DAY SCHOOL,** * **BEFORE THE**
 2 **PETITIONER** * **PLANNING BOARD OF**
 3 **ZRA-188** * **HOWARD COUNTY, MARYLAND**

4 * * * * *

5 **MOTION:** Amend Section 131.0.D to exempt setback requirements from lots in common
 6 ownership and allow the Hearing Authority to grant setback variances for
 7 Conditional Uses; Amend Section 131.0.F.2 to accept easements as written
 8 authorization for a petition; and, Amend Section 131.0.N.48 to include child day care
 9 and nursery schools as an accessory use to *Schools, Colleges, Universities—Private*
 10 *(Academic)*.

11 **ACTION:** *Recommended denial; Vote 5-0.*

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 14 **RECOMMENDATION**

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

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 27 The Planning Board considered the petition and the Department of Planning and Zoning (DPZ)
 28 Technical Staff Report and Recommendation. DPZ recommended approval, with modifications to the
 29 proposed 131.0.D. 6 and 131.0.F.2.f amendments. DPZ supported allowing the Hearing Authority to approve
 30 setback variances according to the variance criteria in Section 130.0.B because it provides flexibility for
 31 properties with practical difficulties and applies the same approach to by-right uses. DPZ further
 32 recommended that the amendment be expanded to include all bulk regulations. DPZ supported exempting
 33 Conditional Use setbacks where adjacent lots are in common ownership and recommended including the
 34 pipestem portion of a pipestem lot. DPZ also recommended modifications to the proposed Section 131.0.F.2
 35 amendment to simplify the language and require the Petitioner to submit written verification attesting to their
 36 permission for Petition and right to carry out the use on the property. Finally, DPZ stated that the proposed

1 amendment to Section 131.0.N.48 is consistent with the department's current interpretation that a child care
2 center or nursery school use is accessory to a Private Academic use.

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

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

23 Board Discussion and Recommendation

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

33 Mr. Coleman motioned to recommend the Council approval DPZ's proposed text for Section

1 131.0.D.1 and 131.0.D.5. Ms. Adler seconded the motion, which failed 1-4 (Engelke, Roberts, Adler,
2 McAliley dissenting)

3 Ms. Adler motioned to recommend the Council deny the Petitioner's proposed amendment to Section
4 131.0.D.6. Ms. Roberts seconded the motion, which passed 5-0.

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

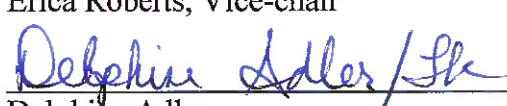
7 Ms. Roberts motioned to recommend the Council deny the Petitioner's proposed amendment to
8 Section 131.0.N.48. Mr. McAliley seconded the motion, which passed 4-1 (Coleman dissenting).

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

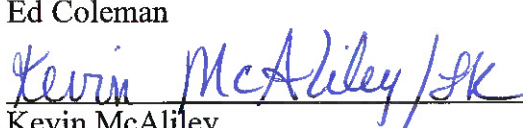
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14 HOWARD COUNTY PLANNING BOARD

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16 
Phillips Engelke, Chair

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Erica Roberts, Vice-chair

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Delphine Adler

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Ed Coleman

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Kevin McAliley

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28 ATTEST:

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30 Valdis Lazdins, Executive Secretary

