

Introduced _____
Public Hearing _____
Council Action _____
Executive Action _____
Effective Date _____

County Council of Howard County, Maryland

2020 Legislative Session

Legislative day # 2

BILL NO. 9– 2020 (ZRA-188)

Introduced by:

The Chairperson at the request of Glenelg Country School

AN ACT amending the Howard County Zoning Regulations pertaining to conditional uses to allow the Hearing Authority to grant variances to certain setbacks for a child day care center that is an accessory use to a private academic school conditional use under specified conditions; and generally relating to Howard County Zoning Regulations.

Introduced and read first time _____, 2020. Ordered posted and hearing scheduled.

By order _____
Diane Jones, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2020.

By order _____
Diane Jones, Administrator

This Bill was read the third time on _____, 2020 and Passed ____, Passed with amendments _____, Failed _____.

By order _____
Diane Jones, Administrator

Sealed with the County Seal and presented to the County Executive for approval this ___ day of _____, 2020 at ___ a.m./p.m.

By order _____
Diane Jones, Administrator

Approved/Vetoed by the County Executive _____, 2020

Calvin Ball, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN SMALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Section 1. Be it enacted** by the County Council of Howard County, Maryland, that the Howard County
2 Zoning Regulations are amended as follows:

3
4 *By Amending Subsections D, F, and N(48) of Section 131.0: - Conditional Uses.*

5
6 **Howard County Zoning Regulations.**

7 **SECTION 131.0: - Conditional Uses.**

8
9 SECTION 131.0: - Conditional Uses.

10 D. Compliance with Specific Requirements for a Conditional Use

- 11 1. A Conditional Use shall comply with the requirements for the specific use given in
12 Section 131.0.N AND 131.0.O. Variances may not be granted to the requirements of
13 Section 131.0.N AND 131.0.O except for modifications or expansions of existing
14 Conditional Uses in accordance with Section 131.0.D.4 below AND EXCEPT AS PROVIDED
15 IN SECTION 131.0.D.5 AND SECTION 131.0.D.6.
- 16 2. Where a minimum lot size is given in Section 131.0.N AND 131.0.O for a Conditional
17 Use, such a requirement shall not be deemed to prohibit the establishment of the
18 Conditional Use on a lot which complies with the minimum area requirement and is also
19 used for other Conditional Uses or uses permitted as a matter of right.
- 20 3. If more than one Conditional Use is located on a lot and the specific requirements of
21 Section 131.0.N OR 131.0.O for the Conditional Uses are in conflict, the more stringent
22 requirements shall apply to all Conditional Uses on the site.
- 23 4. The Hearing Authority may approve variances to the bulk regulations in Section
24 131.0.N, in accordance with the variance provisions of Section 130.0.B. for modifications
25 and expansions of:
- 26 a. Existing Conditional Uses that were approved prior to July 12, 2001; and
27 b. Conditional Uses filed on or before March 5, 2001, and approved after July 12,
28 2001.
- 29 5. THE HEARING AUTHORITY MAY APPROVE VARIANCES TO ANY SETBACKS REQUIRED BY
30 SECTION 131.0.N AND SECTION 131.0.O, IN ACCORDANCE WITH THE VARIANCE PROVISIONS
31 OF SECTION 130.0.B.
- 32 6. ANY SETBACK REQUIRED BY SECTION 131.0.N OR SECTION 131.0.O, OR BY THE

1 UNDERLYING ZONING DISTRICT, SHALL NOT APPLY IF THE PROPERTY FROM WHICH THE
2 SETBACK IS MEASURED IS (A) OWNED BY THE PETITIONER, OR (B) PROPERTY OVER WHICH
3 THE PETITIONER OR ITS PREDECESSOR WAS GRANTED A RECORDED EASEMENT OR SIMILAR
4 RECORDED INSTRUMENT. THE VALIDITY AND LEGALITY OF THE RECORDED EASEMENT OR
5 SIMILAR RECORDED INSTRUMENT SHALL BE PRESUMED, AND THE RIGHTS AND
6 OBLIGATIONS OF THE PARTIES UNDER THE RECORDED EASEMENT OR SIMILAR RECORDED
7 INSTRUMENT ARE NOT RELEVANT TO THE DETERMINATION TO BE MADE UNDER THIS
8 SECTION 131.0.D.6.

9 F. Pre-Submission Community Meeting, Petition and Public Hearing

10 1. A pre-submission community meeting is required prior to the initial submittal of a
11 petition for a Conditional Use subject to the same procedures for such meetings as
12 specified in Section 16.128 of the Subdivision and Land Development Regulations,
13 and the following additional provisions:

14 a. Citizens may request a meeting with a staff member of the Department of
15 Planning and Zoning to review the development proposal after the petition has
16 been formally submitted to the Department.

17 b. The purposes of the pre-submission community meeting are to allow the
18 petitioner to provide information to the community regarding the proposed
19 Conditional Use and to allow community residents to ask questions and
20 discuss any issues they have concerning the proposal.

21 c. If the petitioner does not submit the petition to the Department of Planning
22 and Zoning within 1 year of the pre-submission community meeting, the
23 petitioner shall hold another pre-submission community meeting, subject to
24 the same notification and posting requirements as the first pre-submission
25 community meeting.

26 2. A petition for Conditional Use shall be submitted to the Department of Planning and
27 Zoning and shall include:

28 a. A Conditional Use plan which shows all existing and proposed uses,
29 structures, parking areas, points of ingress and egress, landscaping, and the
30 approximate location of relevant natural features which shall include
31 wetlands, steep slopes, and tree and forest cover.

32 b. Information regarding noise, dust, fumes, odors, lighting levels, vibrations,

1 non-sewage solid waste, hazards or other physical conditions resulting from
2 the use which may adversely impact vicinal properties.

3 c. A statement that indicates:

4 (1) Whether the property is served by public or private water and sewage
5 disposal;

6 (2) That additional information can be obtained from the Howard County
7 Health Department; and

8 (3) The current address of the Howard County Health Department.

9 d. Supporting documentation, such as traffic studies, market studies, and noise
10 studies, may be required by the Department of Planning and Zoning at its
11 discretion or by these Regulations.

12 e. For expansion or modification of an existing Conditional Use, the
13 Department of Planning and Zoning may require information regarding
14 compliance with previous requirements and conditions.

15 F. WRITTEN AUTHORIZATION FROM THE PROPERTY'S OWNER (IF OTHER THAN THE
16 PETITIONER), WHICH AUTHORIZATION MAY BE IN THE FORM OF A RECORDED
17 EASEMENT OR SIMILAR RECORDED INSTRUMENT. THE VALIDITY AND LEGALITY
18 OF THE RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT SHALL BE
19 PRESUMED, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THE
20 RECORDED EASEMENT OR SIMILAR RECORDED INSTRUMENT ARE NOT RELEVANT
21 TO THE DETERMINATION TO BE MADE UNDER THIS SECTION 131.0.F.2.F.

22 [[f.]] G. After a petition for a Conditional Use has been determined to be
23 officially accepted by the Department of Planning and Zoning and a hearing
24 date has been scheduled, the petition materials shall not be revised or replaced
25 prior to the hearing. The technical staff report shall be based upon the
26 materials in the petition at the time of acceptance. Supplemental materials
27 may only be presented in testimony to the Hearing Authority.

28 3. Department of Planning and Zoning's Findings and Recommendations.

29 a. The Department of Planning and Zoning shall transmit its findings and
30 recommendations concerning a Conditional Use petition to the Hearing
31 Authority at least 7 days prior to the public hearing on a petition, provided,
32 however, the Hearing Authority may reduce or waive this requirement in

1 advance.

2 b. At any time any individual may submit a question to the staff of the
3 Department of Planning and Zoning and related agencies concerning the
4 findings and recommendations of the Department or related agencies. If a
5 written response is requested, the question should be submitted in writing to
6 the Department or Agency.

7 4. During the hearing either party may direct a question concerning the findings and
8 recommendations of the Department of Planning and Zoning or related agencies to
9 the Hearing Authority, and the Hearing Authority shall determine whether staff of the
10 Department or related agencies shall respond and the form of the response.

11 5. A response by the Department of Planning and Zoning and related agencies to a
12 question concerning the Technical Staff Report may be considered by the Hearing
13 Authority only if the response is in writing.

14 6. The Hearing Authority shall hold at least one public hearing on the petition in
15 accordance with Section 2.203 of the Howard County Code, and shall approve,
16 disapprove or approve with conditions, the proposed development or use. Each decision
17 by the Hearing Authority shall be in writing and shall state the reasons for the decision.

18 N. Conditional Uses and Permissible Zoning Districts

19 48. Schools, Colleges, Universities—Private (Academic)

20 A Conditional Use may be granted in the RC and RR Districts, on properties that are not
21 ALPP purchased or dedicated easement properties, and in the R-20, R-ED, R-12, R-
22 SC, R-SA-8, R-H-ED, R-A-15, R-APT, R-MH, or R-VH Districts for private
23 academic schools, colleges and universities, ~~[[not including nursery schools]]~~
24 WHICH MAY INCLUDE CHILD DAY CARE CENTERS AND NURSERY SCHOOLS AS AN
25 ACCESSORY USE, provided that:

26 a. The maximum density permitted is 60 pupils per acre for lots less than three
27 acres, and 100 pupils per acre for lots three acres or greater.

28 b. In addition to meeting the minimum area requirements above, schools with
29 residence accommodations shall provide an additional 500 square feet of lot area per
30 site resident. Residents shall include students, staff members, caretakers and their
31 families who reside on the site.

32 c. A private school may be erected to a greater height than permitted in the

1 respective district, provided that no structure is more than three stories in height and
2 the front, side and rear setbacks shall be increased two feet for each foot by which
3 such structure exceeds the height limitation.

4 d. Sufficient off-street school bus loading areas shall be provided if bus service is
5 provided for students.

6 e. Outdoor uses will be located and designed to shield residential property from
7 noise or nuisance. Play areas, athletic fields and similar uses shall be buffered from
8 residential properties by fencing, landscaping, adequate distance or other appropriate
9 means.

10 f. Buildings, parking areas and outdoor activity areas will be at least 50 feet from
11 adjoining residentially-zoned properties other than a public road right-of-way.

12 g. At least 20% of the area within the building envelope will be green space, not
13 used for buildings, parking area or driveways. The building envelope is formed by the
14 required structure setbacks from property lines and public street rights-of-way.

15 h. The site has frontage on and direct access to a collector or arterial road
16 designated in the General Plan, except that expansions of a Conditional Use that was
17 approved prior to July 12, 2001 are permitted.

18 i. The minimum lot size in the RC and RR Districts for a new private academic
19 facility is three acres. The minimum lot size in the R-20, R-ED, R-12, R-SC, R-SA-8,
20 R-H-ED, R-A-15, R-APT, R-MH, or R-VH Districts for a new private academic
21 facility is one acre. An existing private academic facility is not required to comply
22 with this criteria.

23
24 ***Section 2. Be it further enacted by the County Council of Howard County, Maryland, that this Act shall***
25 *become effective 61 days after its enactment.*