

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
240-777-6600

Case No. S-687-E

PETITION OF THE BULLIS SCHOOL, INC.

OPINION OF THE BOARD
(Hearing Held June 6, 2001)
(Effective Date of Opinion: November 2, 2001)

Case Number S-687-E requests a modification to an existing special exception for a private educational facility granted pursuant to Section 59-G-2.19 of the Montgomery County Zoning Ordinance. The proposed modification involves: (1) a three (3) year extension of the implementation period for the master site plan of the Bullis School; and (2) an extension for continued use of two modular classrooms, currently installed on the school's campus and shown on the master plan, through September 1, 2002.

The Board held a hearing on June 6, 2001. Daniel P. Litteral, Esquire represented the Petitioner. He called Richard K. Jung, President and Headmaster of the Bullis School, and Todd S. McCreight, Business Officer for the Bullis School, as witnesses.

DECISION OF THE BOARD: Modification for one-year extension for implementation of the master plan **Granted**. Modification for continued use of two modular classrooms through September 1, 2002, **Granted**. Modification **Denied** as to a three-year extension for implementation period for the master site plan.

EVIDENCE PRESENTED

1. The subject property is 77 acres known as Lots N317 and F244, located at 10601 Falls Road, Potomac.

2. The original special exception, Case Number CBA-1344, to the permit operation of the Bullis School at its current campus, was granted on January 2, 1963.
3. On May 9, 1979, in Case Number S-687, the Petitioner was granted a modification to permit a revision to the site plan and an extension of time to implement the special exception. The time of implementation for the special exception was extended for five years.
4. On August 24, 1989, in Case Number S-687-A, the Board granted a modification to the special exception to permit approval of a revised master site plan. The time for implementation of the special exception was extended for five years.
5. On June 8, 1994, in Case Number 687-A, the Board granted a modification to the special exception to permit construction of bathrooms and shower facilities and certain other modifications to the master plan.
6. On August 22, 1997, in Case Number 687-C, the Board granted a modification to the special exception to permit the temporary installation for two modular classrooms for a period not to exceed three years.
7. On October 19, 2000, in Case Number 687-D, the Board granted a modification to allow relocation and construction of the Arts Center; relocation of existing tennis courts to the eastern edge of the access road directly opposite the existing tennis courts and tennis bubble, the deletion of a proposed cross campus road, and the completion of the loop road extending from the western access point of Falls Road to connect with the existing road south of the academic facilities and immediately north of the Arts Center.
8. On January 12, 2001, in Case Number 687-D, the Board denied a request for administrative modification seeking a three-year extension on the implementation of the master plan and a two year extension on continued use of modular classrooms.
9. On January 29, 2001, Petitioner filed a petition for a proposed modification, Case No. S-687-E, the case now before the Board.
10. Richard K. Jung testified as to the current status of the implementation of the School's master plan. [Exhibit 6]. He testified that all structures and other improvements had been completed with the exception of one faculty residence and one practice field. Dr. Jung further testified that in the last four years the School had completed the Head of School Residence, the Marriott Family Library, and the extension of the campus ring road. He testified that the Arts Center was currently under construction at a projected cost of approximately twelve million dollars. He indicated

that the School had been simply unable to finance and complete planning for the remaining two items within the time specified.

11. Dr. Jung also reviewed the need to retain the two modular classrooms, previously approved by the Board, and identified on the master plan [Exhibit 6]. He indicated that the School required continued use of the modular classrooms for curricular purposes and until similar spaces would be ready upon the completion of the Arts Center. He reiterated that the School intends to remove the modular units during the summer of 2002, but no later than September 1, 2002.

12. Todd S. McCreight, the School's Business Officer, testified as to the landscape plan [Exhibit 8], which was a condition of approval in Case 687-D. He testified that he had developed the plan and modified it in response to requirements from the Maryland National Capital Park and Planning Commission. He further identified and offered photographs of the landscaping now in use with respect to the modular classrooms [Exhibit 11].

13. Daniel P. Litteral, the School's counsel, referred the Board to the Maryland National Capital Park and Planning Commission staff recommendation of May 30, 2001 [Exhibit 16]. Mr. Litteral stated that the Petitioner adopts as part of its presentation, the text contained therein for compliance with the specific statutory standards applicable to the Petitioner as specified in Montgomery County Code, Section 59-G-1.2, (Standards for Evaluation - Inherent and Non-Inherent Adverse Affects) Section 59-G-1.21 (General Conditions), and Section 59-G-2.19(Specific Conditions, Educational Institution, Private).

FINDINGS OF THE BOARD

1. The Board adopts and incorporates by reference the report by the Maryland National Capital Park and Planning Commission staff [Exhibit No. 16] and concurs with the report's findings regarding compliance of the proposed modification with the standards in Sections 59-G-1.2, 59-G-1.21 and 59-G-2.19 of the Montgomery County Zoning Ordinance.

2. Section 59-A-4.53 of the Zoning Ordinance provides in pertinent part:

The board may extend the time limit for a variance or special exception if the evidence of record establishes that drawing of architectural plans, preparation of the land, or other factors involved in the particular use will delay the start of construction or the establishment of the use beyond the

period of validity. For a special exception, each extension must not exceed 12 months...

The Board finds that the Bullis School's request for additional time to implement its master plan, and for continued use of two modular classrooms falls within the requirements of Section 59-A-4.53. The Board further finds that its authority under Section 59-A-4.53 is limited to granting 12-month extensions. The Board believes, based upon the current record and given Bullis School's efforts to implement the master plan to date, and its clear communication with the Board, that should further extensions of time to implement be needed, they can be handled administratively. Therefore,

The Board **grants** an extension of time to implement the master plan until November 2, 2002; and **grants** the request for continued use of the modular classrooms approved by the Board in Case Number 687-C through September 1, 2002; subject to the following conditions:

1. Petitioner shall be bound by all of its testimony and exhibits of record and the testimony of its witnesses, to the extent that such testimony and representations are identified in the Board's opinion granting the modification.
2. All terms and conditions of the Special Exception, together with any modifications thereto approved by the Board of Appeals, remain in full force and effect.
3. Approval by technical staff of MNCPPC of a final landscape plan detailing existing conditions.

On a motion by Louise L. Mayer, seconded by Angelo M. Caputo, with Donna L. Barron and Donald H. Spence, Jr., Chairman in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the Opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled case.

Board member Mindy Pittell Hurwitz was necessarily absent and did not participate in the Resolution.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 2nd day of November, 2001.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date that the Opinion is mailed and entered in the Opinion book (See section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.

