

IN RE: PETITION FOR SPECIAL EXCEPTION*	BEFORE THE
(60 Mellor Avenue)	
1st Election District	*
1 st Council District	
Lighthouse, Inc.	*
<i>Legal Owner</i>	
	*
	FOR BALTIMORE COUNTY
Petitioner	*
	Case No. 2020-0071-X
* * * * *	* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of a Petition for Special Exception filed on behalf of Lighthouse, Inc., legal owner (“Petitioner”). The special exception petition was filed pursuant to § 203.3B of the Baltimore County Zoning Regulations (“BCZR”) is for Class “B” Office Building to externally enlarge the herein described property, an existing Class A office building zoned residential-office (R-O).

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. A site plan was marked and accepted into evidence as Petitioners’ Exhibit 1.

A ZAC comment was received from the Department of Plan (“DOP”) dated April 1, 2020, which did not oppose the requested relief.

Andrea LeWinter, Brian Dietz, Surveyor, Drew Carberry, Executive Director of the Lighthouse and Ron Johnston, Architect, appeared on behalf of the Petitioner. Andrea LeWinter, Esq. represented the Petitioner.

FINDINGS OF FACT

The site is approximately 11,616 sq. feet and zoned RO (residential office). Mr. Carberry testified that the Lighthouse is a non-profit that offers psychological counselling primarily for

children and their families. They were founded in 1972 and have operated at this location in Catonsville since 1986. He explained that they have planned for this expansion for several years and that it is needed to accommodate their growing clientele. Counsel addressed all of the factors in BCZR § 502.1 with Mr. Carberry, who testified that the use blends well with the surrounding residential and commercial neighborhood. He also testified that the 7 parking space at the site have been more than adequate to handle their parking needs, and that there is ample on-street public parking in the immediate vicinity. Mr. Carberry further testified that he personally prepared and distributed fifty flyers to the surrounding neighbors explaining the proposed expansion, and that he spoke with about half of them. He testified that no one voiced any opposition. Sarah Leasure, a neighbor who lives on Mellor Avenue testified in support of the Lighthouse and confirmed that they are a good neighbor and that this use is entirely compatible with the neighborhood. Finally, the architect, Mr. Johnston, testified that the design and construction will be compatible with that of the existing structure and with the surrounding neighborhood.

Special Exception

Under Maryland law, a special exception use enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), where the court of appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use.

Based on the exhibits and testimony detailed above, I find that the special exception relief should be granted. Specifically, I find that the proposed expansion conforms with all the factors of BCZR § 502.1, and that it can be granted without causing harm to the public health, safety, or welfare. Indeed, I find that this relief will allow the Lighthouse to continue to provide their vital services to the community.

THEREFORE, IT IS ORDERED this 29th day of **September, 2020**, by this Administrative Law Judge, that the Petition for Special Exception seeking relief from § 203.3B of the Baltimore County Zoning Regulations (“BCZR”) to externally enlarge the subject existing Class A office building thereby converting it to a Class “B” Office Building in an RO zone, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

- 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.
- Petitioners must comply with the DOP ZAC comment, a copy of which is attached hereto and make a part thereof.

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

Signed
PAUL M. MAYHEW
Managing Administrative Law Judge
for Baltimore County

PMM:dlm