



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB No. 10-158
Variance Request Plan No. 12003092A
Sandy Spring Friends School
Date of Hearing: November 4, 2010

JAN 13 2011

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 22A, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review forest conservation plan applications; and

WHEREAS, on September 17, 2010, Sandy Spring Friends School, Inc, ("Applicant"), filed an application for approval of a variance request on 140.5 acres of land known as Sandy Spring Friends School, located on the east side of Norwood Road, 3200 feet north of Ednor Road, Sandy Spring, Maryland; in the Sandy Spring/Ashton master plan area ("Property" or "Subject Property");,; and

WHEREAS, Applicant's Variance Request was designated 12003092A, Sandy Spring Friends School ("Variance Request" or "Application"); and

WHEREAS, Staff issued a memorandum to the Planning Board, dated October 21, 2010, setting forth its analysis, and recommendation for approval, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Planning Board staff ("Staff") and the staff of other governmental agencies, on November 4, 2010, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

WHEREAS, on November 4, 2010, the Planning Board approved the Variance Request, on motion of Commissioner Dreyfuss and seconded by Commissioner Wells-Harley with a vote of 4-0; Commissioners, Carrier, Dreyfuss, Presley, and Wells-Harley voting in favor; Commissioner Alfandre being absent.

NOW, THEREFORE, BE IT RESOLVED THAT, pursuant to the relevant provisions of Montgomery County Code Chapter 22A, the Planning Board approved Variance Request Plan No.12003092A on 140.5 acres of land known as Sandy Spring Friends

Approved as to
Legal Sufficiency:

Christina Souer 12/21/10

8787 Georgia Avenue, N.C. Legal Department Chairman's Office: 301.495.4605 Fax: 301.495.1320

www.MCParkandPlanning.org E-Mail: mcp-chairman@mncppc.org

School, located on the east side of Norwood Road, 3200 feet north of Ednor Road, Sandy Spring, Maryland; in the Sandy Spring/Ashton master plan area.

BE IT FURTHER RESOLVED that, having given full consideration to the recommendations and findings of its Staff, which the Board hereby adopts and incorporates by reference (except as modified herein) and upon consideration of the entire record, the Montgomery County Planning Board FINDS, with the conditions of approval, that:

The Application satisfies all the applicable requirements of the Forest Conservation Law, Montgomery County Code, Chapter 22A.

Forest Conservation Variance Request

Section 5-1607(c) of the Natural Resources Article, MD Ann. Code, identifies certain individual trees as high priority for retention and protection. Any impact to trees, including removal or any disturbance within a tree's critical root zone (CRZ), requires a variance. The law requires no impact to all trees that measure 30" diameter at breast height (DBH) or greater; any tree designated as the county champion tree; trees with a DBH 75% or greater than the diameter of the current State champion for that species; rare, threatened and endangered species; and trees part of a historic site or associated structure.

In accordance with Montgomery County Code, Section 22A-21(c) the Planning Board referred a copy of the variance request to the County Arborist in the Montgomery County Department of Environmental Protection and other appropriate officials or agencies for a written recommendation prior to acting on the request. The County Arborist responded on September 28, 2010 in a written statement indicating that she was electing not to review the variance request for the project.

The Planning Board finds, based on the following justifications, that the Applicant has met all criteria required to grant the variance.

The Planning Board finds as follows:

- a. *The variance will not confer on the Applicant a special privilege that would be denied to other applicants;*

Granting the variance will not confer a special privilege as disturbance of the specimen trees noted above are the minimum necessary in order to dredge the existing pond on school property and to remove the dredged material, as illustrated on the Forest Conservation Plan. The specimen tree impacts for this Property are for access to and

dredging of the pond and to move the dredged material to an existing stockpile area on the site. Access to and from the pond are along an existing gravel road and grass path. There are also impacts associated with removal of an unstable wood pier on the side of the pond.

These activities are reasonable and would be allowed for any applicant in a similar situation. It should be noted that the M-NCPPC Montgomery County Department of Parks occasionally dredges existing ponds on parkland. The reasons for dredging are not always to increase or enhance the stormwater functions of a particular pond. Parks will dredge ponds for purposes of aquatic habitat benefits, recreational value, or aesthetic benefits. For example, Parks is proposing to dredge a pond to deepen it for the purpose of providing fish habitat, at the request of residents. Parks also did a small dredging project at Pine Lake at Wheaton Regional Park to create fish habitat, including a fish nursery area.

The school uses its pond for its science classes. The use of a pond for educational purposes is not an unusual practice. The Applicant has indicated that there are algal blooms in the pond that are due to the sediments accumulating in the pond. Such excess algal growth can be detrimental to other pond life, as well as to students who want to explore the pond. Over the last four years, the school has noted a decline in the pond's fish population, which has forced the school to go offsite for the fishing program for its students. The Applicant wants to retain its pond to provide a healthy natural habitat for fish and other pond animals and plants.

b. The variance is not based on conditions or circumstances which are the result of the actions by the Applicant;

According to school representatives, the onsite pond existed when the school took ownership of the Property in 1961. The pond is not a designated stormwater management facility. However, it has collected sediment over the years from upstream stormwater runoff and a stream that flows into the pond. The school has never dredged the pond. Over time, a wet pond, by receiving stormwater runoff from the surrounding land or streamflows, will typically accumulate sediments. Such sediments need to be removed periodically in order to retain a pond habitat, as opposed to allowing the pond to transform into a wetland habitat.

The accumulation of sediments in the pond is not necessarily due to actions of the Applicant. Sediment accumulation in a pond occurs through natural conditions, but can be accelerated through man-made actions or activities upstream of the pond. The Board cannot make a determination as to how much of the sediment accumulation of this pond is due to natural conditions and how much is due to past construction and other activities on the site by the school. Therefore, the Board cannot conclude that the need to dredge the pond to maintain its habitat is due to actions by the Applicant.

c. The variance is not based on a condition relating to land or building use, either permitted or non-conforming, on a neighboring property.

The requested variance is a result of the proposed project to dredge an existing onsite pond and to stockpile the dredged material on the school Property. It is not a result of land or building use on a neighboring property.

d. The variance will not violate State water quality standards or cause measurable degradation in water quality.

The requested variance will not violate State water quality standards or cause measurable degradation in water quality. The specimen trees being disturbed will not be removed. A sediment and erosion control plan for the proposed work has been approved by Montgomery County Department of Permitting Services.

Therefore, the Planning Board grants the variance and finds that the Application satisfies all applicable requirements of the Forest Conservation Law.

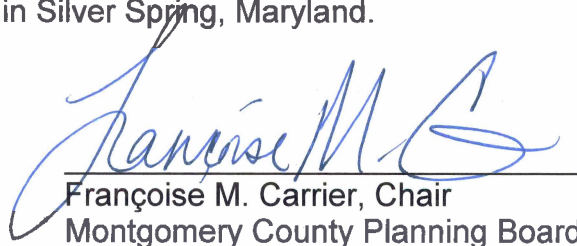
BE IT FURTHER RESOLVED, that the date of this Resolution is JAN 13 2011 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Dreyfuss, seconded by Vice Chair Wells-Harley, with Chair Carrier, Vice Chair Wells-Harley, and Commissioners Alfandre, Dreyfuss, and Presley present and voting in favor of the motion, at its regular meeting held on Thursday, January 6, 2011, in Silver Spring, Maryland.



Françoise M. Carrier, Chair
Montgomery County Planning Board