

THE BOARD OF ZONING APPEALS  
OF THE CITY OF ALEXANDRIA  
BZA Case 2011-0012

Findings of Fact and Conclusions of Law

This matter came before the Board of Zoning Appeals (“BZA”) for hearing on October 13, 2011 on appeal by Donnell Fullerton and the Seminary Hill Civic Association from the Director of Planning and Zoning’s (“Director”) determination dated June 16, 2011 (“Determination”).

At the conclusion of the public hearing on the matter, the BZA voted to partially deny the appeal and uphold the Director’s Determination and partially uphold the appeal and deny the Director’s Determination as follows:

**Determination #1:** Section 7-2100 of the Zoning Ordinance applies to allow ACPS’s application for a Special Use Permit to allow structures, in this case light poles, on a public school site to be constructed at 60 feet in height.

The BZA voted to deny the appeal and uphold Determination #1 after making following findings of fact and conclusions of law:

- The addition of athletic field lighting located on school property as a part of a school campus is considered construction, reconstruction or expansion of a public school for purposes of section 7-2100.
- ACPS is the owner of the property and the applicant on the special use permit application and is paying for the installation of the lights out of the ACPS budget.
- The use of the field and lights by other City departments and community organizations does not change the characterization of the facility for school purposes under section 7-2100.
- The Director was reasonable and correct in her Determination.

**Determination #2:** Section 11-416 of the zoning ordinance applies to allow ACPS’s application for a Special Use Permit to include a request for a modification to the front yard setback requirement.

The BZA voted to deny the appeal and uphold Determination #2 after making following findings of fact and conclusions of law:

- A modification of the zoning ordinance requirements under Section 11-416 of the zoning ordinance may be approved as part of a special use permit application, even if a site plan meeting the requirements of section 11-406 is not included as part of the application.

- A special use permit is a legislative, discretionary approval that requires City Council review and approval.
- Allowing modifications under Section 11-416 to be approved by Special Use Permit provides a streamlined process which has the potential for better and more consistent planning decisions than piecemeal applications and decisions that could result from separate SUP and site plan decisions.
- All criteria listed in Section 11-416(A) of the zoning ordinance apply to any consideration and approval of a modification, including when considered as part of a special use permit application.
- The Director was reasonable and correct in her Determination.

**Determination #3:** Section 13-1-3 of the city code is not a zoning restriction enforced by the Department of Planning and Zoning and the restrictions in Section 13-1-3 are not applicable to this case; they apply to light levels in rear and side yards on residential property.

The BZA voted to uphold the appeal and reverse Determination #3 after making the following findings of fact and conclusion:

- The Director withdrew this determination at the BZA hearing on October 13, 2011.
- There has been no determination by the Director that the proposed lights either meet or do not meet the standards of section 13-1-3.
- Section 13-1-3 is not a part of the zoning ordinance.
- This section of the city code will apply as a legal standard for the proposed lighting.
- Section 13-1-3 of the city code cannot be waived or modified by the City Council as part of ACPS' application for lights.
- The Director's Determination was not reasonable or correct.