

DAVID MARC, et al	:	BEFORE THE
Appellants	:	HOWARD COUNTY
v.	:	BOARD OF APPEALS
HOWARD COUNTY DEPARTMENT OF	:	HEARING EXAMINER
PLANNING AND ZONING	:	BA Case No. 825D
IN SDP-24-024		
Appellee		

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DECISION AND ORDER

On June 16, 2026, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, conducted a hearing on the administrative appeal of David Marc, et al (Appellants). Appellants are appealing the Department of Planning and Zoning's August 14, 2025, letter approving Maryland International School's request for a Design Manual waiver from Design Manual Volume III, Section 1.3.6, Table 1-2 (sic) for SDP-24-024. The Subject Property is located at 6135 Old Washington Road, Elkridge, Ellicott City, Maryland. The appeal is filed pursuant to §130.0.B.4 of the Howard County Zoning Regulations (HCZR).

The Appellants certified to compliance with the notice and posting requirements of the Howard County Code. The Hearing Examiner viewed the property as required by the Hearing Examiner Rules of Procedure. Ms. Alex Votaw, Esq appeared on behalf of Appellants David Marc, et al. Mr. Christopher DeCarlo, Esq. appeared on behalf of the Property Owner Maryland International School (School). No one appeared on behalf of the Appellee Department of Planning and Zoning. The factual record developed in the Hearing Examiners hearings in BA-823D and BA-826D are incorporated into the record in the instant appeal.

Appellants presented the following Exhibits:

1. Location map of Appellants and School property
2. July 9, 2025, letter to DPZ requesting a waiver from Design Manual Volume III, Section 1.3.6, Table 1-2, August 14, 2025, letter approving the waiver, and accompanying documents
3. Town Center Connector, Design Manual
4. Neighborhood Connector, Design Manual
5. Photos of north-and south-bound lanes at the subject property
6. Table 1-13 Howard County Street types for New Construction

School presented the following Exhibits:

1. Design Manual page highlighted
2. February 22, 2022 letter discussing the adoption of revisions to Design Manual, Volume III
3. HCZR Section 16.119

BACKGROUND

The approximately 8.96 acre property is located on the south side of Old Washington Road, southeast of Rt 1 (Washington Blvd), northwest of MD 295 (Baltimore Washington Parkway) east of Md 100 and west of I-895 and I-195. The Subject Property lies in Council District 1, and is located at Tax Map 38, Grid 9, Parcel/Lots 820 and 830, on 8.96 acres of land, in the R-12 (Residential: Single) zoning district, also identified as 6135 Old Washington Road, Elkridge, Maryland.

A Conditional Use for a School on the subject property was approved June 23, 2023. On July 9, 2025, the School applied for a Design Manual waiver from Design Manual Volume III, Section 1.3.6, Table 1-2 (sic) for SDP-24-024. The Department of Planning and Zoning (DPZ), which is authorized to assign street classifications, has determined Old Washington Road to be a Neighborhood Street with Parking. This classification requires a 10.5' wide travel lane in addition to 8' wide parallel parking.

The waiver request states:

"The current road section consists of two 13'+/- travel lanes in addition to two 8' +/- wide parallel parking areas. The existing sidewalk width varies from 5' to 10' and is located adjacent to curb in the parallel parking areas and is offset by 10' (buffer zone) in the other areas. The design manual stipulates a 10.5' lane with 8' parallel parking with a 5' sidewalk.

Although the existing Old Washington road section is very similar to the section presented in Design Manual III, it does deviate slightly. Additionally, we have been instructed to stripe the existing parking spaces for emergency vehicles only (no parking).

Therefore, we are requesting approval of the existing road section which fulfills the intent of the Complete Streets Design Manual.”

By letter dated August 14, 2025 DPZ notified the School “I am writing in reference to your submission letter dated July 9, 2025, requesting a waiver to Design Manual, Volume III, Section 1.3.C, Table 1-13, Howard County Street Types for New Construction. This Division (Development Engineering Division), along with the Division of Land Development and the Department of Public Works approve the request contingent upon the following frontage improvements:...”

It is from this approval of a waiver to the Design Manual that the instant appeal is noted.

As a basis for the instant appeal, Appellant argues that DPZ approved a different Design Manual Waiver than the one requested by the School. The School requested “a waiver from Design Manual Volume III, Section 1.3.6, Table 1-2” for proposed improvements to Old Washington Road which the School alleges “has been determined to be a Neighborhood Street.” Meanwhile DPZ approved a “waiver to Design Manual, Volume III, Section 1.3.C, Table 1-13.” The School’s letter of justification does not address Volume III, Section 1.3.C, Table 1-13 and thus the School failed to present DPZ with sufficient evidence to support DPZ’s approval.

Moreover, even though the School requested a Design Manual Waiver from Section 1.3.6, Table 1-2, the School attached Table 1-7 to its request. Thus, DPZ did not have sufficient information to even understand what waiver the School was requesting.

Additionally, DPZ failed to articulate what criteria it evaluated when it approved the Design Manual Waiver. HCZR Section 16.104(a) provides that the “Department of

Planning and Zoning may grant waivers of the requirements of this subtitle.” Section 16.104 is in Subtitle 1 of Title 16 and sets forth specific findings DPZ must make in order to approve a waiver to the requirements of Subtitle 1. One such requirement is that “Streets, roads and highways within Howard County shall be located, designed and constructed in accordance with the Howard County Design Manual.” HCZR §16.119. Accordingly, Design Manual Waivers must be approved in accordance with the process and criteria set forth in HCZR Section 16.104. As previously stated, DPZ failed to evaluate the criteria set forth under Section 16.104(a). DPZ failed to adequately articulate its evaluation of all of the required criteria under §16.116(c) including the requirement that the proposed disturbance is necessary for “reasonable development of the property” and that “there is no other reasonable alternative.” HCZR §16.116(c)(1). HCZR Section 16.116(c)(2) clarifies that reasonable development does not guarantee maximum possible development and that “achieving the maximum possible density is not sufficient justification alone to allow disturbance.”.

STANDARD OF REVIEW

The right to appeal an administrative decision is wholly statutory. *Howard County v. JJM, Inc.*, 301 Md. 256, 261, 482 A.2d 908, 910 (1984) (citing *Maryland Bd. V. Armacost*, 286 Md. 353, 354-55, 407 A.2d 1148, 1150 (1979); *Criminal Injuries Comp. Bd. V. Gould*, 273 Md. 486, 500, 331 A.2d 55, 64 (19751); *Urbana Civic Ass’n v. Urbana Mobile Vill., Inc.*, 260 Md. 458, 461, 272 A.2d 628, 630 (1971).

Pursuant to Howard County Code §16.105, appeals to the Board of Appeals of decisions made pursuant to the Director of Planning and Zoning’s administrative decision-

making authority shall be heard in accordance with the Board of Appeal's Rules of Procedures. Subtitle 2.-Rules of Procedure of the Board of Appeals, Section 2.210 provides that administrative appeals such as the instant appeal the burden of proof is on the appellant to show that the action taken by the Administrative Agency was clearly erroneous, and/or arbitrary and capricious, and/or contrary to law. Per Howard County Code § 16.302(a) (jurisdiction of Hearing Examiner), when a matter is authorized to be heard and decided by the Board of Appeals, the matter will first be heard and decided by a Hearing Examiner. Hearing Examiner Rule of Procedure 10.2(c) assigns the burden of proof in an appeal from an administrative agency decision of showing by substantial evidence that the action taken by the administrative agency was clearly erroneous, arbitrary and capricious, or contrary to law.

APPLICABLE LAW

The instant administrative appeal is from the Maryland International School's request for a waiver to Design Manual, Volume III.

HCZR §16.104 requires the following criteria for alternative compliance:

(a) Authority to Grant.

(1) So that substantial justice may be done and the public interest secured, the Department of Planning and Zoning may grant waivers of the requirements of this subtitle, except as prohibited in subsection (d), in situations where the Department finds that unreasonable hardship or practical difficulties may result from strict compliance with this subtitle and for requests to waive or alter the requirements in article II and article III of this subtitle all of the following criteria are met:

(i) Strict conformance with the requirements will deprive the applicant of rights commonly enjoyed by others in similar areas;

(ii) The uniqueness of the property or topographical conditions would result in practical difficulty, other than economic, or unreasonable hardship from strict adherence to the regulations;

(iii) The variance will not confer on the applicant a special privilege that would be denied to other applicants; and

(iv) The modification is not detrimental to the public health, safety or welfare or injurious to other properties.

Section 16.119 provides in pertinent part:

Sec. 16.119. - Highways, streets, and roads.

Streets, roads and highways within Howard County shall be located, designed and constructed in accordance with the Howard County Design Manual.

CONCLUSIONS OF LAW

Appellants reliance on §16.104 is misplaced. Section 16.104(a)(1) “**Department of Planning and Zoning may grant waivers of the requirements of this subtitle**”. “**This subtitle**” is SUBTITLE 1. - SUBDIVISION AND LAND DEVELOPMENT REGULATIONS of Title 16, HCZR. There are 5 volumes of the Design Manual, none of which fall under Subtitle 1 of Title 16- Planning, Zoning and Subdivision and Land Development Regulations of the HCZR.

“ On February 7, 2022 the Howard County Council, in its Legislative Session, approved Council Resolution No.17-2022 (CR17-2022) adopting revisions to Volume III of the Howard County Design Manual. This revision to the Design Manual modified Volume III to include Complete Streets concepts and best practices. Specific changes to Volume III of the Design Manual include the following: 1. Content changes to reflect Howard County’s Complete Streets Policy to ensure that Howard County roads are designed to accommodate “residents of all ages and abilities who travel by foot, bicycle, public transportation or automobile.” 2. Renaming of the Howard County Design

Manual Volume III to be "Complete Streets and Bridges" 3. Repealing of the Current Howard County Design Manual Volume III (Roads and Bridges)"

Design Manual, Volume III was not adopted by Bill but by Resolution. It is not subject to the waiver criteria established in §16.104.

Appellants reliance on §16.119 is also misplaced. The waiver being sought is from the Design Manual, not from §16.119. With the approved waiver from the Design Manual, SDP 24-024 is in compliance with §16.119.

Mr. Vogel admitted that the July 9, 2025 letter requesting a waiver from Design Manual Volume III contains a typographical error. The cited Table is 1-2 and should have been 1-7. That this is a mere typographical error is supported by the attachment of Table 1-7 to the July 9, 2025 letter. Mr. Vogel testified that 1-7, Neighborhood Street 2 with parking, the classification assigned to Old Washington Road by DPZ, meets all of the design features. Appellants argue that there are more appropriate classifications but that is not within their purview. The assignment of street classifications is solely within the authority of DPZ.

The Design Manual waiver request is to allow Old Washington Road, along the subject property, to remain its existing width of 13" +/- and not be required to reduce it to a less safe width of 10.5". The existence of historic properties along Old Washington Road make any changes to the existing road width problematic.

Hearing Examiner Rule of Procedure 10.2(c) assigns the burden of proof in an appeal from an administrative agency decision of showing by substantial evidence that the action taken by the administrative agency was clearly erroneous, arbitrary and capricious, or contrary to law. Appellants have failed to meet its burden of proof of

showing by substantial evidence that DPZs approval of a waiver from Design Manual Volume III, Section 1.3.6, Table 1-13, for SDP-24-024 is clearly erroneous, arbitrary and capricious, or contrary to law.

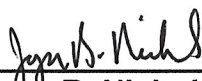
ORDER

Based upon the foregoing, it is this 22nd day of June, 2026, by the Howard County Board of Appeals Hearing Examiner, **ORDERED:**

That Appellant's appeal of the August 14, 2025 letter from DPZ approving a Design Manual waiver from Design Manual Volume III, Section 1.3.6, Table 1-13, for SDP-24-024, for the Property located in Council District 1, at Tax Map 38, Grid 9, Parcel/Lots 820 and 830, on 8.96 acres of land in the R-12 (Residential: Single) zoning district, also identified as 6135 Old Washington Road, Elkridge, Maryland, be and is hereby **DENIED**.

HOWARD COUNTY BOARD OF APPEALS

HEARING EXAMINER



Joyce B. Nichols

Notice: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.