

RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE COUNTY
AND VARIANCE		
NE side of Windsor Mill Road, 900 feet	*	BOARD OF APPEALS
From c/l of Windsor Mill Road and		
Mayfield Avenue; 2 nd Election District	*	FOR
4 th Councilmanic District		
(7704 and 7710 Windsor Mill Road)	*	BALTIMORE COUNTY
 Redeemed Christian Church of God	 *	 Case No. 2011-0028-SPHA
Petitioner		
* * * * *	* * * * *	

OPINION AND ORDER

Petitioner Redeemed Christian Church of God is a church with an existing sanctuary and child care center at 7704 and 7710 Windsor Mill Road in the western area of Baltimore County. The property occupies about 9 acres. The church is permitted by right in the D.R. 5.5 (Density Residential) Zone and has been there for about a decade. On November 16, 2007, the church obtained approval, subject to conditions, for a special exception to add a Class B Group Child Care Center within the church building and a potential future education building. Case No. 08-080-XA. See Petitioner’s Exhibit 2. This required several variances to Residential Transition Area (RTA) standards and setback standards. The site plan included landscaping on the east and west boundaries of the site, bordering residential subdivisions which were planned or in the process of development. There were no Protestants, and no appeal of that decision. The child care center is in use, while the new educational building is still to be built in the future.

Now, Petitioner requests approval of an amendment to the approved site plan in order to construct a one-story addition of 12,500 square feet to the existing sanctuary of 17,666 square feet. With the addition, the sanctuary will have approximately 800 seats, and there are 214 parking spaces. The church typically has 2 Sunday morning services, in addition to other activities. The new sanctuary triggers the requirement for another variance, pertaining to the D.R. 5.5 Zone rear yard setback of this non-residential building of 22 feet instead of 30 feet from the property line. BCZR 1B01.2.C.1.a, Table.

The Deputy Zoning Commissioner approved the current petition on October 21, 2010, with conditions which included in Condition 2 the Planning Office recommendations to include a sidewalk, street trees, and spotlights along Windsor Mill Road and wood privacy fence on the eastern boundary line. It also required compliance in Conditions 3 and 4, respectively, with environmental regulations concerning water quality, streams, wetlands, and floodplains, and concerning forest conservation. Petitioner's engineer submitted a letter motion to request reconsideration and removal of the requirement for sidewalk, street trees, spotlights, and fence. The Deputy Zoning Commissioner, without a hearing, entered a final order granting the motion for reconsideration and removing Condition 2.

People's Counsel for Baltimore County filed a timely appeal, and the County Board of Appeals conducted its *de novo* hearing on May 5, 2005. Petitioner was represented by C. William Clark, Esq. Pastor Tola Odutola testified, along with Patrick Richardson, Petitioner's consulting engineer. A large group of parishioners attended the hearing, filling it to capacity and more.

People's Counsel Peter Max Zimmerman represented his office. David Green, the area planner, was in attendance, and the record reflected input from Avery Harden, the County Landscape Planner, and Stephen Weber, Traffic Engineer.

People's Counsel's concerns stemmed from the aggregation and scale of uses and input provided by county staff. The stated concerns were to provide a buffer for the residential area to minimize visual impact and to assure, to the extent reasonably possible, that all parking would be and remain onsite and not overflow either across the road or into the residential area. Prior to the hearing, there were extensive discussions between the attorneys and between Mr. Richardson and county staff. This included a site visit to discuss and review appropriate landscaping. As a result, the parties came to agree on a proposed resolution of the case, subject to County Board of Appeals review that it is reasonable and within the scope of the applicable law.

First of all, to provide a buffer for the new single-family home residential area to the east, the parties agreed on an amended landscape plan, which was approved March 4,

2011 by Mr. Harden and which satisfied Mr. Green. This involved the addition of trees, as detailed, on and near the east boundary of the property. This plan was admitted as Petitioner's Exhibit 6. This improved landscape buffer would serve the purpose for which the Office of Planning had recommended a fence. Under the circumstances, the Planning Office did not continue to ask for the sidewalk, street trees, and spotlights.

Secondly, the parties agreed that it was legitimate to include a condition to assure, to the extent reasonably possible, that parking should remain onsite. Traffic Engineer Weber had expressed this concern, in light of some history of overflow parking across Windsor Mill Road and in light of the likely or potential development of other new churches on Windsor Mill Road. While there was some indication that parking in the residential area would, in any event, be undesirable because congregants would have to traverse Windsor Mill Road on their way to the church, the parties agreed that it was appropriate to include a condition. Mr. Weber submitted an e-mail with language to elaborate on this concern, and for incorporation in the Board's Order. This was admitted as Petitioner's Exhibit 8.

Mr. Richardson testified to unique environmental constraints and conditions of the property which, together with its relatively narrow configuration, caused practical difficulty and warranted the additional variance. These echoed his views expressed and accepted in the November 16, 2007 decision in Case 08-080-XA. He submitted and described the amended landscape plan and its review with Mr. Harden. He also acknowledged the legitimacy of the concern that parking must be onsite. Area Planner David Green expressed his satisfaction with the amended landscape plan's function as a buffer, in place of a fence, and emphasized his respect for Mr. Harden's judgment.

The parties and attorneys concurred and were satisfied with Mr. Weber's proposed language for the condition to address the parking concerns. They also agreed that the uncontested environmental conditions in the Deputy Zoning Commissioner's October 21, 2010 Order should be restated in the current order.

The parties submitted photographs, including land-based views and Google Earth aerial photos of the site and neighborhood. Petitioner's Exhibit 3A-D and People's

Counsel's Exhibits 1-3. These showed existing conditions and the proximity of the residential areas along Windsor Mill Road. These showed the geography.

Under the particular circumstances of this case, the County Board of Appeals was able to proceed to public deliberation. The Board expressed unanimous agreement that Petitioner had made a sufficient record to meet the applicable variance criteria under BCZR Section 307.1, subject to the aforesaid conditions relating to landscaping and onsite parking as well as the environmental conditions. The approval, subject to the stated conditions, would accommodate reasonably the growth of the church, provide a measure of landscape buffer protection for neighboring residential areas and other properties, include a condition to address the offsite parking issue, and include environmental requirements. The Board instructed counsel to prepare an appropriate order to reflect the unanimous decision, with specific reference to the amended landscape plan and the agreed parking language recommended by Mr. Weber.

Pursuant to our instruction, counsel prepared a proposed opinion and order. The Board has reviewed it and is satisfied that it reflects and is consistent with the Board's unanimous decision. Therefore, the Board enters the following Order.

ORDER

It is, this 9th day of June, 2011, **Ordered**, by the **County Board of Appeals for Baltimore County**, that the **Petition for Special Hearing** to amend the site plan approved in Case 08-080-XA and to provide a one-story addition to the church sanctuary, as described therein, and the **Petition for Variance** for a rear yard setback for the non-residential principal building sanctuary of 22 feet instead of 30 feet, be, and they hereby are, **GRANTED**, subject to the following conditions,

1. Petitioner shall provide new and/or modified landscaping in accordance with the Amended Landscape Plan prepared by Patrick Richardson, P.E. and approved by Avery Harden, County Landscape Planner on March 4, 2011, admitted in evidence as Petitioner's Exhibit 6.

2. Petitioner shall comply with the requirement that parking be onsite, as stated in the following language:

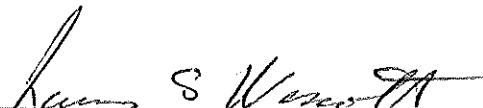
“The church leadership shall take all reasonable measures to insure that all church parishioners, staff and guests, while attending all services and/or functions on the church property, park their vehicles on the subject church property. The church recognizes the need to keep any parking demands generated by their property from overflowing onto adjacent and nearby properties and/or streets and will cooperate with the County and adjoining property owners and homeowners’ associations in implementing any measures necessary to prevent such activity.”

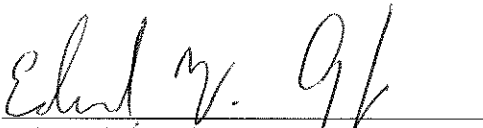
3. Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

4. Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

Any petition for judicial review of this Order shall be filed within 30 days of its entry.

COUNTY BOARD OF APPEALS FOR
BALTIMORE COUNTY

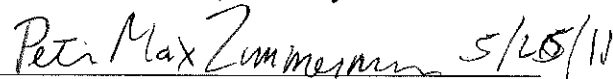

Lawrence Wescott, Chairman


Edward F. Crizer, Panel Member


Wendy Zerwitz, Panel Member

Approved:


C. William Clark, Attorney for Petitioner

 5/25/11
Peter Max Zimmerman,
People’s Counsel for Baltimore County