

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(1600 Whitehead Ct.)		
1 st Election District	*	OFFICE OF
4 th Council District		
Morning Star Baptist Church of	*	ADMINISTRATIVE HEARINGS
Baltimore County		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Petitioner		
	*	Case No. 2015-0286-SPH

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of a Petition for Special Hearing filed on behalf of Morning Star Baptist Church of Baltimore County (the “Church”), legal owner. The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”): (1) “to approve the use of an existing 31,439 square foot building for a community building to be used for youth/senior center with meeting, classroom, family life and counseling services, child daycare uses, and a fellowship/catering facility as a principal use”; and (2) to abandon a previously-granted special exception (Case No. 1979-0138-X) for a service garage.

Emerson L. Dorsey, Esq. represented the Petitioner. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. There were no Protestants or interested citizens in attendance. Substantive Zoning Advisory Committee (ZAC) comments were received from the Department of Planning (DOP) and the Bureau of Development Plans Review (DPR). The DPR noted that landscape and lighting plans were required, while the DOP expressed concern with parking at the site. The DOP also questioned whether a catering facility as a principal use was permitted in the M.L.-I.M. zone.

The subject property is 4.5 acres and zoned M.L.-I.M. and B.M. The site is improved with a large (31,439 sq.ft.) building constructed in 1971, which was previously used as a service garage for Fox Chevrolet. The Church proposes to operate in the structure a “community building” in which it would offer a variety of services as noted above. The Church also owns a contiguous parcel (known as 1512 Woodlawn Drive) on which it plans to construct a new sanctuary for its growing membership. The site plan reflects that there will be pedestrian and vehicular access between the parcels, and counsel noted that the community building will in large part function as an adjunct to the church/sanctuary.

The zoning office suggested Petitioner file a petition for special hearing as it was not clear whether the proposed uses would be permitted in the M.L. zone. The principal use would be a “community building,” which is defined as a “building used for recreational, social, educational or cultural activities which is open to the public or a designated part of the public and is operated by a public or noncommercial organization.” B.C.Z.R. §450.3. The Church (a noncommercial organization) will provide child day care, counseling, family life instruction and other services in the building. As such, I believe the use is properly characterized as a “community building.”

Section 253 of the B.C.Z.R., which contains the use regulations for the M.L. zone, is silent as to whether a community building is permitted in the zone by right or special exception. Even so, another section of the Regulations provides that a “community building” is a permitted use in the B.L. zone. B.C.Z.R. §270. While the drafters of the Regulations (in footnote 18 to B.C.Z.R. §270) noted an “apparent[] conflict” between B.C.Z.R. §§253 & 270, the County Council has chosen not to address this issue, which was first identified nearly thirty years ago in the 1987 Regulations when the drafters noted that Section 270 “conflicts in some degree with Section 253.” B.C.Z.R. (1987 ed.) §270, footnote 17.

In these circumstances, I believe the Church is entitled to the benefit of the doubt with respect to this issue. The zoning file does not contain any letters of opposition from the community, and the DOP noted that the Southwest Baltimore County Revitalization Strategy recommends adaptive reuse of “antiquated” industrial buildings. The community building and proposed sanctuary on the adjacent parcel will function as a campus of sorts, and I believe it is an appropriate use in the M.L. zone.

The sole remaining issue concerns the “catering facility as a principal use,” as sought in the zoning Petition. As explained at the hearing, I agree with the DOP that this use is not permitted in the M.L. zone as a principal use. In addition, the principal use of the property will be the “community building,” and it would be improper for two principal uses to be identified in a single building on a parcel.

In reality, as noted by counsel at the hearing, the Church is not in fact seeking to operate a catering facility on the property. The Regulations define a “catering hall” as “a facility or part of a facility used regularly for serving beverages and food to groups which reserve the facility for banquets or gatherings before the day of the event. A catering hall is not a standard restaurant.” B.C.Z.R. §101.1. The Church does not propose to use the community building to cater political fundraisers or other events attended by the community at large. Instead, counsel stated that the banquet facilities would be used only for church functions (i.e., weddings, funerals) and by church members and their families. Counsel stated that the banquet facilities would generate less than 50% of the revenue and/or activity at the site, and that the day care, youth/senior center, classroom and counseling services would be the primary uses in the building. In these circumstances, I believe the banquet facility constitutes an appropriate accessory use of the property.

THEREFORE, IT IS ORDERED this 5th day of August, **2015** by this Administrative Law Judge, that the Petition for Special Hearing pursuant to B.C.Z.R. § 500.7: (1) to approve the use of an existing 31,439 sq. ft. building for a “community building” to be used for youth/senior center with meeting, classroom, family life, counseling services and child daycare uses, and a banquet facility/hall as an accessory use in the community building; and (2) to abandon a previously-granted special exception (Case No. 1979-0138-X) for a service garage, be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. 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.
2. Petitioner must submit for approval by Baltimore County landscape and lighting plans for the site.
3. The banquet facility accessory use permitted on the property shall be used only in connection with Church functions and activities or by Church members and their families.
4. The banquet facility shall not be in operation during Church services on Sundays.

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

JEB:sln

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County