

IN RE: <b>PETITION FOR SPECIAL HEARING</b>	*	BEFORE THE
<b>(7860 Hillsway Avenue)</b>		
9 <sup>th</sup> Election District	*	OFFICE OF
6 <sup>th</sup> Council District		
St. Andrew's Evangelical Lutheran Church	*	ADMINISTRATIVE HEARINGS
<i>Legal Owner</i>		
Petitioner	*	FOR BALTIMORE COUNTY
	*	<b>Case No. 2017-0240-SPH</b>

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**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 St. Andrew's Evangelical Lutheran Church, legal owner ("Petitioner"). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R) to confirm that the existing and approved day care on a 0.9 acre tract may be sold without further zoning hearings, based on the prior approvals and restrictions in Case Nos.: 81-73-XA, 84-232-SPH and 86-432-SPH. In the alternative, Petitioner requests special hearing relief to amend the prior hearing, orders, plans and restrictions as deemed necessary for the sale and confirmation of the site as it currently exists.

Surveyor J. Scott Dallas prepared the site plan and appeared in support of the petition. Jack R. Sturgill, Jr., Esq. represented the Petitioner. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. No substantive Zoning Advisory Committee (ZAC) comments were received from any of the reviewing county agencies.

The subject property is approximately 0.9 acres in size and zoned D.R. 5.5. The property is located at the intersection of Taylor and Hillsway Avenues, and is improved with a one-story brick building. Petitioner also owns the adjacent parcel known as 1201 Taylor Avenue, on which

the church building and parking lot are located. For many years Petitioner leased the subject property to a child day care provider. That use was first approved by special exception in Case No. 81-73-XA. The lease was terminated in 2013 and the site has been vacant since that time.

Petitioner proposes to sell the subject property to a purchaser who would continue operating a child care facility. The special exception for this use was granted in 1981 and has not been abandoned, so the use may continue. The zoning office questioned whether Petitioner was able to convey the 0.9 acre subject parcel separate from the adjacent parcel on which the church building is located. That office requested Petitioner to obtain confirmation, via a special hearing, that it may do so.

The subject property (i.e., 7860 Hillsway Avenue) was conveyed to Petitioner by deed in 1956, which is recorded among the land records at Liber 3021, page 217. Thus, the day care center is located on a "lot of record" (B.C.Z.R. §101.1) and may be conveyed as such. The church is situated on a separate parcel and lot of record as described in a 1960 deed recorded at Liber 3797, page 477. As such, the petition will be granted.

**THEREFORE, IT IS ORDERED this 28<sup>th</sup> day of April, 2017 by this Administrative Law Judge, that the Petition for Special Hearing to confirm that the existing and approved day care on a 0.9 acre tract may be sold as a separate parcel without further zoning hearings, be and is hereby GRANTED.**

The relief granted herein shall be subject to and conditioned upon 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 comply with and adhere to all restrictions as set forth (and modified) in Case Nos. 81-73-XA, 84-232-SPH and 86-432-SPH, including but not limited to granting permission to the owner of the subject property (so long as a day care facility is operated on the premises) to utilize up to 40 parking spaces on the adjacent church property.

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

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Signed  
JOHN E. BEVERUNGEN  
Administrative Law Judge  
for Baltimore County

JEB:sln