

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(605 Westminster Pike)	*	OFFICE OF
4 th Election District		
4 th Council District	*	ADMINISTRATIVE HEARINGS
Owings Mills Harvest Church of God, Inc.	*	FOR BALTIMORE COUNTY
<i>Legal Owner</i>		
Petitioner	*	Case No. 2018-0166-SPHA

* * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of Owings Mills Harvest Church of God, Inc., legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to amend the previously approved special exception and site plan granted in Case Nos. 1989-0552-X and 1992-0438-A to allow an 1,860 sq. ft. addition to an existing church/daycare building to be used for additional daycare. A petition for variance seeks to allow an impermeable surface area of 12% in lieu of the permitted 10% for the subject property.

A site plan was marked and accepted into evidence as Petitioner’s Exhibit 1. The property is approximately 9.77 acres in size and zoned RC-4. A church and day care center have operated at the site for many years. The church has had increased demand for child care and proposes to construct an addition to accommodate additional children.

Rev. L. Darrin Pendley and Dave Billingsley appeared in support of the requests. Timothy M. Kotroco, Esq. represented the Petitioner. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. Substantive Zoning Advisory Committee (ZAC)

comments were received from the Department of Planning (“DOP”) and the Department of Environmental Protection and Sustainability (“DEPS”).

SPECIAL HEARING

The special hearing merely seeks to amend prior zoning approvals and plans to reflect the relief granted herein. As such the petition will be granted.

VARIANCE

A variance request involves a two-step process, summarized as follows:

- (1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
- (2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

The property has an irregular shape and is therefore unique. If the Regulations were strictly interpreted Petitioner would experience a practical difficulty because it would be unable to construct the proposed addition. Finally, I find that the variance can be granted in harmony with the spirit and intent of the B.C.Z.R., and in such manner as to grant relief without injury to the public health, safety and general welfare. This is demonstrated by the absence of County and/or community opposition.

THEREFORE, IT IS ORDERED this 20th day of **March, 2018**, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to § 500.7 of the Baltimore County Zoning Regulations (“B.C.Z.R”) to amend the previously approved special exception and site plan granted in Case Nos. 1989-0552-X and 1992-0438-A to allow an 1,860 sq. ft. addition to an existing church/daycare building to be used for additional daycare, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance to allow an impermeable surface area of 12% in lieu of the permitted 10% for the subject property, 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. Prior to issuance of permits Petitioner must submit to Baltimore County a revised site plan showing the relocation of the dumpster to the area shown on the plan and a designated drop-off and pick-up area for children.

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

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln