

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
(1320 Providence Road)		
9 th Election District	*	OFFICE OF
3 rd Council District		
Trustees of Providence Meth. Episcopal	*	ADMINISTRATIVE HEARINGS
Church		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2019-0301-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 the Trustees of Providence Meth. Episcopal Church, legal owner (“Petitioner”). The Special Hearing was filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (“BCZR”) for a finding that the Church Hall and Day Care will comply to the extent possible with Residential Transition Area (“RTA”) requirements, pursuant to BCZR Section 1B01.B.1.g.(6). A site plan was marked and admitted as Petitioner’s Exhibit 1.

Aaron Reuner and Ben Gary appeared in support of the petition. Melvin Kudenski, Esq., represented Petitioner. Several neighbors and members of the church attended and expressed support for the request. The Petition was advertised and posted as required by the BCZR. No substantive Zoning Advisory Committee (ZAC) comments were received from any County agencies.

The subject property is 3.48 acres in size and is zoned DR 3.5. The Providence Methodist Church- - which has been in existence for 150 years - - is located on this property. In addition to the church there is a dwelling on the property which was for many years used as a parsonage. Membership at the church has declined and a parsonage is no longer required. As such, the church

proposes to subdivide the property into two lots: one with the church building and the other with the parsonage. Mr. Reuner is under contract to purchase the parsonage from the church, and after completing certain improvements and renovations his family will use the building as a single-family dwelling.

The Office of Zoning Review determined that upon subdivision of the property the RTA regulations would be applicable to the church. I believe there is some question as to whether those regulations apply in the first instance, since they refer to a “new church or other building for religious worship.” BCZR §1B01.B.1(g). In any event, the existing church building complies with the 50' and 75' RTA buffer and setback, but the 100' RTA boundary bisects the building.

As such Petitioners seek a finding they comply to the extent possible with RTA use requirements. In the above circumstances I believe it is obvious the church has satisfied this requirement. No “proposed improvements are planned” to the church and the existing structures have been in their present location for many years. *Id.* As such, by definition I believe Petitioners have complied to the extent possible with the RTA regulations. Indeed, further compliance would require them to raze and relocate the church, which is clearly not required. *Ware v. People's Counsel*, 223 Md. App. 669 (2015).

Mr. Gary stated at the hearing that the Bureau of DPR indicated a landscape plan might be required for this project. But that agency stated in a ZAC memorandum dated May 14, 2019 it had no comment regarding the zoning request. Moreover, members of the church stated the property has an abundance of mature vegetation, and thus I do not believe Petitioner should be required to provide a landscape plan in this case, especially since no new dwellings or structures are proposed.

THEREFORE, IT IS ORDERED this 21st day of **June, 2019** by this Administrative Law Judge, that the Petition for Special Hearing seeking a determination that the church hall and day care will comply to the extent possible with RTA use requirements be and is hereby GRANTED.

The relief granted herein shall be subject to the following:

1. Petitioners may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioners are hereby made aware that proceeding at this time is at their 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, Petitioners would be required to return the subject property to its original condition.

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

Signed
JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln