

IN RE: PETITION FOR VARIANCE	*	BEFORE THE
S side of Sweet Air Road; at SE intersection		
of Sweet Air Road and Fox Manor Lane	*	DEPUTY ZONING
10 th Election District		
3 rd Councilmanic District	*	COMMISSIONER
(3911 Sweet Air Road)		
	*	FOR BALTIMORE COUNTY
St. John's Evang. Lutheran Church		
<i>Petitioner</i>	*	CASE NO. 2010-0029-A

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Variance filed by the legal owner of the subject property, St. John's Evangelical Lutheran Church. Petitioner is requesting Variance relief from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a setback of 45 in lieu of the required 50 feet from a lot line other than a street lot line. The subject property and requested relief are more fully depicted on the site plan which was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the variance request were Gerald E. Peterson and Reverend David R. Asplin, Trustees, on behalf of Petitioner St. John's Evangelical Lutheran Church. Mark J. Daneker, Esquire represented Petitioner. Also appearing in support of the requested relief was Rick Richardson with Richardson Engineering, Inc., the professional engineer who prepared the site plan. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence offered revealed that the subject property is irregular in shape and contains approximately 6.80 acres, more or less, zoned R.C.5. The property is located on the south side of Sweet Air Road near its intersection with Fox Manor Lane in the Phoenix/Jacksonville area of northern Baltimore County. The property is situated approximately one-half mile east of the intersection known as "Four Corners," which is the convergence of Paper Mill

Road and Sweet Air Road running east-west, and Jarrettsville Pike running north-south. As shown on the site plan and the aerial photograph that was marked and accepted into evidence as Petitioner's Exhibit 2, the property is improved with several existing church buildings including a one-story church containing 3,567 square feet, a two-story church containing 9,054 square feet, and a one-story parsonage containing 1,005 square feet. The subject site also contains a cemetery and an athletic field and associated parking lots.

As is also shown on the site plan, at this juncture, Petitioner desires to construct two relatively small two-story additions to each side of the main two-story church building. For the addition that is to be located near the eastern property line, Petitioner is in need of variance relief from the side yard setback line requirement. In support of the variance request, Mr. Richardson, Petitioner's engineer, discussed several features of the property. The property consists of four parcels, namely Parcels 4 (no site area given on SDAT data search), 86 (3.17 acres), 87 (2.29 acres), and 88 (0.03 acre). Presently, the entrance to the property is via a cutout at the easternmost side of the property fronting Sweet Air Road. This drive aisle enters the property and allows vehicles to proceed to the center of the property to a parking area, or continue towards the rear of the property to another parking area. The proposed addition that is the subject of the variance would be located between this drive aisle and the existing two-story church building. In addition, the church sanctuary was constructed in 1963, indicating the church has been at the location for many years, before most the surrounding residential development. The two-story fellowship hall, which is a multi-purpose building, was constructed in 1988 to meet the growing needs of the congregation and surrounding community. Mr. Richardson also pointed out that the proposed addition and the resulting 5 foot encroachment into the 50 foot setback would have no negative impact on the adjacent residential properties. This is primarily due to the fact that the addition will

be made part of the architecture of the church, but also because there is a mature tree line along the property line that would produce adequate screening where necessary.

The Zoning Advisory Committee (ZAC) comments were received and are made part of the record of this case. Comments were received from the Office of Planning dated August 18, 2009 which indicates that they do not oppose the variance request provided that the architecture of the proposed additions is compatible with the existing church buildings. Screening shall be enhanced along the eastern property boundary to provide a buffer for the homes that will be closest and therefore the most effected by one of the proposed two-story additions.

Considering all the testimony and evidence presented, I am persuaded to grant the requested variance relief. I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request. The irregular shape of the property and the location of the present improvements drive the need for the variance in this instance. Petitioner has attempted to minimize the impact of the proposed additions and has balanced the need to construct them where indicated on the site plan, with the potential impact on the surrounding community, thus resulting in only a 5 foot intrusion into the 50 foot setback. Further, I conclude that Petitioner would suffer practical difficulty and undue hardship if the variance were to be denied.

Finally, I find that the variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by Petitioner, I find that Petitioner's variance request should be granted.

THEREFORE, IT IS ORDERED this 29th day of October, 2009 by this Deputy Zoning Commissioner, that Petitioner's Variance relief request from Section 1A04.3.B.2.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a setback of 45 in lieu of the required 50 feet from a lot line other than a street lot line be and is hereby **GRANTED**.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, Petitioner would be required to return, and be responsible for returning, said property to its original condition.
2. The architecture of the proposed additions shall be compatible with the existing church buildings.
3. Screening shall be enhanced along the eastern property boundary to provide a buffer for the homes that will be closest and therefore the most effected by one of the proposed two-story additions.

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

____SIGNED____
THOMAS H. BOSTWICK
Deputy Zoning Commissioner
for Baltimore County

THB:pz