

IN RE: PETITION FOR VARIANCE

NE corner of Sollers Point Road
and Main Street
12th Election District
2nd Councilmanic District
(103 Sollers Point Road)

Willard E. Johnson
Petitioner

* BEFORE THE
* DEPUTY ZONING
* COMMISSIONER
* FOR BALTIMORE COUNTY
* **CASE NO. 2010-0312-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, Union Baptist Church, Inc., through Willard E. Johnson, Pastor. Petitioner is requesting Variance relief from Sections 232.1 and 409.6.A.4 of the Baltimore County Zoning Regulations (“B.C.Z.R.”) to permit front yard setbacks of 1 foot 5 inches, 2 feet 6 inches and 8 feet 5 inches from front and side street property lines in lieu of the required 10 feet, and 37 feet 6 inches and 23 feet 4 inches from street centerline in lieu of the required 40 feet, and 0 parking spaces in lieu of the required 156 spaces. 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 was Willard E. Johnson, Pastor of Petitioner Union Baptist Church, and Janean McCalla-Dunston and Kathleen Sherrill, both with SP Arch, Inc., the architecture and planning firm that has worked with Petitioner on the redevelopment of the subject property. Also appearing as an interested citizen was Deborah Johnson. There were no Protestants or other interested persons in attendance at the hearing.

Testimony and evidence offered revealed that the subject property is an irregular-shaped parcel, consisting in total of approximately 0.44 acre or 19,355 square feet, more or less, zoned

B.L.-A.S. and located in the Dundalk/Turners Station area of Baltimore County, at the northeast intersection of Sollers Point Road and Main Street.¹ Sollers Point Road runs adjacent to the northwest border of the property and Main Street runs adjacent to the southeast border of the property. The subject property consists of three separate parcels, 103 Sollers Point Road, 105 Sollers Point Road and 105 S. Main Street, all owned by Petitioner and collectively referred to as the property of the Union Baptist Church. The Real Property Data Search printouts for all three parcels are contained within the case file.

As background for the requested relief, Pastor Johnson gave a brief history of the Turners Station community, the Union Baptist Church and the existing improvements on the subject property. He explained that the Union Baptist Church relocated from its former location in Sparrows Point to its present location at 105 S. Main Street in 1972.² The Church's present location was formerly known as Anthony's Theatre, which was the movie theatre serving the Turners Station community for many years.³ Pastor Johnson added that Union Baptist Church has existed for approximately 116 years, experiencing its ups and downs, and presently had a congregation of approximately 25-40 people. According to the site plan, the primary structure on 105 S. Main Street contains 13,770 square feet. The adjoining lots of 103 and 105 Sollers Point Road were purchased from Ronald Kelly in 2002.⁴ These lots are currently improved with an existing building containing approximately 4,747 square feet, which Pastor Johnson indicated was formerly used for a commercial operation. The subject property is bordered to the northeast by an alley and a residential neighborhood zoned D.R.5.5 and to the southeast by a Chinese food

¹ Baltimore County owns a small strip of land (0.03 acre) that would be released back into the possession of the Petitioner pending zoning approval.

² 105 S. Main Street was acquired from Dr. Joseph H. Thomas, who owned and ran Anthony's Theatre.

³ The historic African American community of Turners Station came about around the late 1880's with the beginning of the Bethlehem Steel Mill and the shipyard on Sparrows Point. For more detailed information on the history of Turners Station, see <http://www.louisdiggs.com/meadows/station.html>.

⁴ The Deed for Petitioner's purchase of 103 and 105 Sollers Point Road is recorded as Liber-Folio 15920-43.

restaurant known as the property of Lok Yuk Yin. Photographs of the improvements on the subject property were marked and accepted into evidence as Petitioner's Exhibit 2.

The Church proposes to construct a second story on the existing building at 103 Sollers Point Road, as well as an addition to the building, resulting in a building containing approximately 16,056 square feet. The purpose of these improvements is to create the Turners Station Family Discovery Center, Inc. Pastor Johnson indicated that this entity would be a non-profit organization focused on aiding and assisting families who have been affected by substance abuse and addiction.⁵ In order to make the non-profit economically self-sufficient, the ground floor of 103 Sollers Point Road would be leased for commercial/retail use. Pastor Johnson stated that the types of businesses the Church was considering as a lessee are a pharmacy, dry cleaners or bank -- businesses that would provide much needed services to the community. He also indicated that the proposed improvements are designed taking into account the conclusions of the Turners Station charrette. However, in order to perpetuate the charrette plan, Petitioner needs variance relief from the setback and parking requirements of Sections 232.1 and 409.6.A.4 of the B.C.Z.R.

In support of the requested relief, Pastor Johnson, with additional input from Ms. McCalla-Dunston and Ms. Sherrill, stated that the variances are necessary to comply with the overall plan of the charrette. Specifically, the plan is to revive the Turners Station community by creating a more walkable, pedestrian friendly business area. Pastor Johnson stated that bringing building facades up to the property line is consistent with this plan. With regard to parking, Pastor Johnson indicated that there is ample parking availability on Main Street and that parking for the Church has never been an issue. He explained that the proposed development in this

⁵ For more information on Turner Station Family Discovery Center, Inc. see their Website at: <http://tsdiscoveryfamily.com/index2.html>.

matter attempts to spur economic and social progress in Turners Station, including creating sidewalks and pedestrian friendly walkways around the subject property, lessening the need for vehicular traffic and parking. Further, Ms. McCalla-Dunston and Ms. Sherrill noted that the variance requests are driven by the subject property's unique configuration, location on an intersection with several right of way constraints, and compliance with the plan set forth by the Turners Station charrette. Pastor Johnson also supported the request for relief by offering to submit into evidence a plethora of letters in support of Petitioner's proposed development, thereby evidencing the overwhelming approval of the surrounding Turners Station community. The outpouring of support was well noted by the undersigned and for the sake of brevity, the numerous letters were not entered into evidence.

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 May 21, 2010 and indicate that the proposed project was offered and accepted by the community during the recently concluded Turners Station charrette. These comments noted that the intent of the plan is to provide locally available services to parishioners and community residents as part of an overall design and plan for a walkable community. The charrette plan also calls for removal of a portion of the wall at the end of Sollers Point Road that separates Main Street from Broening Highway and the placement of a traffic light there to improve connectivity and circulation for through traffic and reduce traffic congestion in residential streets of the Turners Station community and increase the safety for pedestrians and cyclists. The development of this B.L.-A.S. site in the proposed way will assist the redevelopment of the area consistent with the charrette plan. The Planning Office supports the requests with recommendations that that elevations of the Main Street, Sollers Point Road and alleys be submitted for review, walls of the

alley side of the development should be of similar finish to the street sides, and the 10 foot section of the alley should be converted to a sidewalk.

Considering all of 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. Specifically, the irregular lot configuration of the subject property (with five sides) and its historical significance, the location of the subject property at the intersection of Main Street and Sollers Point Road as well as abutting an alleyway, and compliance with the intent and plan of the Turners Station charrette, combine to render the subject property unique in a zoning sense. Further, I find that strict compliance with the Zoning Regulations would create a practical difficulty and unreasonable hardship that would result in a denial of a reasonable and beneficial use of the property. *See, Belvoir Farms v. North* 355 Md. 259 (1999). I also find the variance requests can be granted in strict harmony with the spirit and intent of Section 307.1 of the B.C.Z.R., as interpreted in *Cromwell v. Ward*, 102 Md.App. 691 (1995), and in such a 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 requests should be granted.

THEREFORE, IT IS ORDERED this 20th day of July, 2010 by this Deputy Zoning Commissioner, that Petitioner's request for Variance relief from Sections 232.1 and 409.6.A.4 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to permit front yard setbacks of 1 foot 5 inches, 2 feet 6 inches and 8 feet 5 inches from front and side street property lines in lieu of the required 10 feet, and 37 feet 6 inches and 23 feet 4 inches from street centerline in lieu of the

required 40 feet, and 0 parking spaces in lieu of the required 156 spaces be and are 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. Elevations of Main Street, Sollers Point Road and the adjacent alley shall be submitted to the Office of Planning for review.
3. The walls of the alley side of the proposed redevelopment shall be of similar finish to the street sides because there are residential houses immediately on the other side of the alleys. Several front the 20 foot wide portion of the alley.
4. The 10 foot section of the alley shall be converted to sidewalk with sufficient ground between the walk and the building to provide some screening vegetation to further soften the impact of the two-story wall on the adjacent residential buildings.

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