

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
<b>(10206 Liberty Road)</b>		
2nd Election District	*	OFFICE OF ADMINISTRATIVE
4 <sup>th</sup> Council District		
Christ Dominion Church of God	*	HEARINGS FOR
International		
	*	BALTIMORE COUNTY
Legal Owner/Petitioner		
	*	<b>CASE NO. 2020-0251-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (OAH) as a Petition for Variance filed by Christ Dominion Church of God International (the “Petitioner”) for property located at 10206 Liberty Road, Randallstown (the “Property”). The Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) §1A04.3.B.2.B to permit: (1) 30 ft. side and rear setbacks in lieu of 50 ft. for the entire Property; (2) a 28.37 ft. (right) side yard setback on (northeast side) for the existing building corner which would encroach into the requested 30 ft. setback; (3) 0 ft. setbacks on all sides in lieu of a 50 ft. for the existing rear building to be used as a fellowship; and (4) building separation of 30 ft. in lieu of 80 ft. between the proposed church and proposed fellowship building.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. Pastor Mike Olawale appeared on behalf of the Petitioner along with Mostata Izadi, PE from Advanced Engineering Consultants who prepared and sealed a site plan to accompany the Petition (the ‘Site Plan’). (Pet. Ex. 6). Ike Okoye of Ford & Associates, the architect for the proposed renovations, also appeared. Thomas M. Meachum, Esquire represented the Petitioner. There were no protestants or interested citizens who appeared.

Zoning Advisory Committee (“ZAC”) comments were received from the Department of Environmental Protection and Sustainability (“DEPS”) which did not oppose the requested relief but listed a series of environmental conditions which will need to be met by the Petitioner. The Department of Planning (“DOP”) did not oppose the requested relief.

The case proceeded by way of modified proffer from Mr. Meachum, Mr. Izadi and Mr. Okoye. The Property is approximately 1.97 +/- acres and is split zoned (business-roadside) BR, (resource-conservation) RC 5. It is located outside of the Urban, Rural Demarcation Line (URDL) and is served by private water and sewer. The main building addressed as 10206 Liberty Rd. was constructed in 1947 (the “main building”). It is one-story, rectangular structure made of concrete/cinder block measuring 5,200 sf. Prior to the purchase of the Property by the Church in 2019 (Pet. Ex. 5), it was historically used as an auto repair shop. (Pet. Ex. 1, 2, 4). Paved parking lots surround the building.

As shown on the Site Plan, the majority of the Property is zoned RC5. However, the main building and parking lots are contained within the BR portion. (Dev. Ex. 6). Behind the main building is a second building measuring 3,000 +/- sf and had been used as a garage (the “garage”). The garage sits entirely within the RC5 zone but at an angle, such that it touches the Property line on the southeast corner. On the west side of garage is another paved parking lot.

The proposal here is to use the main building for a 150-seat church which is permitted by right in the RC5 zone and to use the garage for a fellowship building/accessory use. There is adequate parking (43 spaces provided) for both the church and fellowship building (1 space for every 4 seats = 38 spaces required). (Dev. Ex. 1, 2, 4 and 6). There will be minimal additional paving at the entrance along Liberty Rd. (Dev. Ex. 6). There is one access point on Liberty Rd. for vehicles to enter and follow one-way directional arrows flowing to the parking lots.

As confirmed on the Site Plan, although the Property is box-shaped, it sits slightly at an angle (*i.e.* a parallelogram). The dimensions are unlike any of the properties in the area because the other properties resemble rectangles and trapeziums. While the Property is relatively flat, there is a gentle slope on the south western portion toward Liberty Rd. Additionally, the zoning lines were imposed upon this Property after the main building was constructed and the RC5 and BR zones require different setbacks which neither the main building nor the garage meet. Both Mr. Meachum and Mr. Izadi advocated that these factors make the Property unique.

With regard to practical difficulty, the testimony was that the proposal is to repurpose and renovate the existing main building and the garage which were constructed close to the eastern Property line, rather than in the center of the Property. There will not be any additions to the building footprints. Mr. Oyoke drafted the architectural elevations which show the extent of the proposed improvements. (Dev. Ex. 3). If the Property were required to meet the building setbacks, the Petitioner would be forced to move both buildings.

### **DECISION**

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).

As described above, the Property is unique due to its size, shape and gentle downward slope on the southwestern corner. Additionally, I find that the location of the main building and garage within the Property boundaries are peculiar because those buildings were constructed close to the eastern Property line, rather than in the center of the Property. It appears that the main

building was constructed so as to be located within the commercial (BR) zone. Yet, even within the BR zone, the main building was not constructed in the center of the BR zoned land. Accordingly, for all these reasons, I find that the Property is unique.

I also find that, due to this uniqueness, the Petitioners would suffer a practical difficulty and unreasonable hardship if the Property had to meet the RC5 (50 ft) zoning setbacks because the Petitioner would be required to move the buildings. I find that the requested variance relief can be granted within the spirit and intent of the BCZR, particularly in light of the fact that it meets the 30 ft. setbacks for the BR zone in all places, other than northeast corner of the building (1.5 +/- ft). The variances may also be granted without harming the public health, safety, or welfare, as shown by the lack of opposition in this case. The Petitioners are repurposing and renovating the buildings which will improve and therefore benefit the community.

THEREFORE, IT IS ORDERED, this **8<sup>th</sup> day of February 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance from the BCZR §1A04.3.B.2.B is hereby GRANTED as follows:

- (1) 30 ft. side and rear setbacks in lieu of 50 ft. for the entire Property;
- (2) a 28.37 ft. (right) side yard setback on (northeast side) for the existing building corner which would encroach into the requested 30 ft. setback;
- (3) 0 ft. setbacks in lieu of a 50 ft. for all sides of the existing rear building to be used as a fellowship; and
- (4) building separation of 30 ft. in lieu of 80 ft. between the proposed church and proposed fellowship building.

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.

2. Petitioners must comply with the DOP and DEPS ZAC comments, copies of which are attached hereto and make a part thereof.

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Signed \_\_\_\_\_  
MAUREEN E. MURPHY  
Administrative Law Judge  
for Baltimore County

MEM/dlm