

<b>IN RE: PETITION FOR VARIANCE</b>	*	BEFORE THE
<b>(502-504 Fairview Avenue)</b>		
12th Election District	*	OFFICE OF ADMINISTRATIVE
7th Council District		
Gallery Church of Baltimore, Inc.	*	HEARINGS OF
Legal Owner/Petitioner	*	BALTIMORE COUNTY
	*	<b>CASE NO. 2021-0007-A</b>

\* \* \* \* \*

**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) as a Petition for Variance filed by Gallery Church of Baltimore, Inc., for property located at 502-504 Fairview Avenue. The Petitioner is requesting variance relief from the Baltimore County Zoning Regulations (“BCZR”) § 1B01.2.C.1.b to permit a front yard setback for an existing residence of 21 ft. in lieu of the required 25 ft. (504 Fairview Ave.), § 1B01.2.C.1.b to permit a side building to building setback for an existing residence of 17 ft. in lieu of the otherwise required 20 ft. (setback between 504 Fairview Avenue and 506 Fairview Avenue). From BCZR § 409.6.A.1 to permit 0 parking spaces in lieu of the otherwise required 2 spaces to support an existing dwelling (504 Fairview Avenue). From BCZR § 1B01.1.B.e (3) to allow a 0 ft. Residential Transition Area (“RTA”) buffer in lieu of the otherwise required 50 ft. From BCZR § 1B01.1.B.e (5) to allow the 0 ft. setback for the existing building and parking lot in lieu of the required 75 ft. From BCZR § 1B01.1.B.e.(5) to allow the 0 ft. buffer for the existing building and parking lot in lieu of the otherwise required 50 ft. From BCZR § 1B01.2.C.1.a to permit the existing building's front yard setback of 15 ft. in lieu of the otherwise required 40 ft. From BCZR § 1B01.2.C.1.a. to permit an interior side yard setback of 17 ft. in lieu of the otherwise required 20 ft. (setbacks between lots 2 and 3). From BCZR § 1B01.2.C.1.a to permit an interior side yard setback of 12 ft. in lieu of the

otherwise required 20 ft. (setback between lots 1 and 2).

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.

Substantive Zoning Advisory Committee (“ZAC”) comments were received from the Department of Planning (“DOP”). They did not oppose the requested relief.

Dan Neumeister, the Director of Business Operations for The Gallery Church of Baltimore, Inc., appeared at the hearing. Jennifer Busse, Esquire represented the Petitioner in this matter. Matthew Bishop, the engineer who prepared and sealed the site plan also appeared. He was accepted as an expert in engineering and in the BCZR. The site plan was marked and accepted into evidence as Petitioners’ Exhibit 1. There were no opposing parties or interested citizens.

Ms. Busse and Mr. Bishop explained the following: The subject property is comprised of three parcels but has five separate tax accounts. It is approximately 1.36 acres and is zoned DR 5.5; there is an existing church and parsonage. Ms. Busse explained that for financial reasons the Gallery Church desires to sell the parsonage as a residence, and that this triggers most of the variance relief requested. Mr. Bishop explained that the property is unique in several respects. It is made up of several parcels and is irregularly shaped. The existing structures and parking lots have non-conforming setbacks. He further explained that if the variance relief is not granted then the church would be unable to sell the parsonage. With regard to the parking variance, Mr. Bishop explained that many residences on the street do not have off-street parking but that there is plentiful on street parking, which is permitted. The required number of parking spaces are being provided for the church.

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 explained above, the site is unique for a variety of reasons. As also explained, Petitioner would experience practical difficulty and hardship if the variance relief is not granted because they would be unable to sell the parsonage. I find that the variance relief can be granted within the spirit and intent of the BCZR, and without harming the public health, safety or welfare. The DOP noted that the existing structures are compatible with the neighborhood and that no new development is proposed. I find that whoever purchases the parsonage for use as a residence will be aware of the existing setbacks and the fact that they do not conform to the RTA regulations.

THEREFORE, IT IS ORDERED, this **22nd** day of **March 2021**, by the Administrative Law Judge for Baltimore County, that the Petition for Variance pursuant to From the Baltimore County Zoning Regulations (“BCZR”) § 1B01.2.C.1.b to permit a front yard setback for an existing residence of 21 ft. in lieu of the required 25 ft. (504 Fairview Ave.), § 1B01.2.C.1.b to permit a side building to building setback for an existing residence of 17 ft. in lieu of the otherwise required 20 ft. (setback between 504 Fairview Avenue and 506 Fairview Avenue). From BCZR § 409.6.A.1 to permit 0 parking spaces in lieu of the otherwise required 2 spaces to support an existing dwelling (504 Fairview Avenue). From BCZR § 1B01.1.B.e (3) to allow a 0 ft. Residential Transition Area (“RTA”) buffer in lieu of the otherwise required 50 ft. From BCZR § 1B01.1.B.e.(5) to allow the 0 ft. setback for the existing building and parking lot in lieu of the required 75 ft. From BCZR § 1B01.1.B.e.(5) to allow the 0 ft. buffer for the existing building and parking lot in lieu of the otherwise required 50 ft. From BCZR § 1B01.2.C.1.a to permit the existing building's front yard setback of 15 ft. in lieu of the otherwise required 40 ft. From BCZR

§ 1B01.2.C.1.a. to permit an interior side yard setback of 17 ft. in lieu of the otherwise required 20 ft. (setbacks between lots 2 and 3). From BCZR § 1B01.2.C.1.a to permit an interior side yard setback of 12 ft. in lieu of the otherwise required 20 ft. (setback between lots 1 and 2) is hereby GRANTED.

The relief granted herein shall be subject to the following:

- 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.

Signed \_\_\_\_\_  
PAUL M. MAYHEW  
Managing Administrative Law Judge  
for Baltimore County

PMM/dlm