

IN RE: PETITIONS FOR SPECIAL HEARING	*	BEFORE THE
AND VARIANCE		
(8607 Liberty Road)	*	OFFICE OF
2nd Election District		
4 th Council District	*	ADMINISTRATIVE HEARINGS
God With Us, LLC		
<i>Legal Owner</i>	*	FOR BALTIMORE COUNTY
Petitioner	*	Case No. 2020-0270-SPHA
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OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of Petitions for Special Hearing and Variance filed on behalf of God With Us, LLC, legal owner (“Petitioner”). The Special Hearing pursuant to permit existing business parking in a residential zone (DR 16), and to amend Case Nos. 1969-0200-A and 1986-0074-A. A Petition for a Variance to permit 25 parking spaces in lieu of the required 42 parking spaces per Baltimore County Zoning Regulations (“BCZR”) § 409.6.A.2. The 25 parking spaces will be utilized (retail and office) at different days and times than the remaining 10 parking spaces (church).

Due to COVID-19 pandemic, a public WebEx hearing was conducted virtually in lieu of an in-person hearing. The Petition was properly advertised and posted. An Amended Petition was admitted as Petitioner’s Exhibit 1. An Amended site plan was marked and accepted into evidence as Petitioners’ Exhibit 2.

Emoka Nwodim, the Pastor of God With Us, LLC, appeared in support of the Petition. Chidi Onukwugha, Esquire represented the Petitioner. Bruce E. Doak of Bruce E. Doak Consulting, LLC also appeared and presented the amended site plan. There were no protestants or interested citizens. Zoning Advisory Committee (“ZAC”) comments were received from the Department of Environmental Protection and Sustainability Development (“DEPS”) and from

the Department of Planning (“DOP”). Department of Planning opposed the relief requested in the original petition.

The property is approximately .477 acres and is primarily zoned BR, with a small anomalous portion of the parcel zoned DR 16. Mr. Doak testified that he worked with DOP to modify the site plan in order to provide 10 additional parking space. As a result, the amended petition seeks a variance of 35 parking spaces (rather than 25 as had been originally requested) in lieu of the required 42. Mr. Doak further explained that the amended site plan provides for a proper dumpster enclosure. He explained that the parking lot, as configured on the amended site plan, will be more than adequate to serve the proposed uses. Specifically, the church will only use the third floor space for services on Sunday. During the week the 35 spaces will more than accommodate the pharmacy on the first floor and the office space on the second floor. He explained that 90% of the pharmacy’s business is delivery to nursing homes and private residences. He further explained that the portion of the lot that is zoned DR 16 has been used for commercial parking since it was authorized in Case No. 1969-0200-A. Finally, Mr. Doak explained that the setback variances granted in that case, and in Case No. 1986-0074-A are no longer needed since they were related to a building addition that never occurred, and to the canopy that will be removed under the amended site plan in this case.

Based on this record evidence I find that the special hearing relief can be granted within the spirit and intent of the BCZR and without causing harm to the public health, safety, or welfare. As explained above, the portion of this parcel zoned DR 16 is anomalous in this location since all the surrounding parcels are zoned BR. Further this portion of the lot has been used for commercial parking for decades and is the best use of this square footage.

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).

The property has already been found to be unique in the previous variance cases discussed above. The petitioner will experience practical difficulty and hardship if the variance relief is not granted because they will not be able to construct the planned improvements. I find that the variances can be granted within the spirit and intent of the BCZR and without causing harm to the public health, safety, or welfare. Specifically, I find that given the unique mix of uses on the property that there is more than adequate parking provided. Further, the variance from BCZR § 238.2 is a formality since there is already a 0' side setback since the subject building shares a common wall with the adjoining commercial structure. I further find that the proposed addition to the building is a beneficial upgrade to the property and to the surrounding businesses.

THEREFORE, IT IS ORDERED this 1st day of **March, 2021**, by this Administrative Law Judge, that the Petition for Special Hearing seeking relief to permit existing business parking in a residential zone (DR 16), and to amend Case Nos. 1969-0200-A and 1986-0074-A is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance from BCZR § 409.6.A.2 to permit 35 parking spaces in lieu of the required 42 parking spaces is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance from BCZR § 238.2 to permit a side yard setback of 0 feet in lieu of the required 30 feet 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.

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

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

PMM/dlm