

IN RE: <b>PETITIONS FOR SPECIAL HEARING</b> *	BEFORE THE
<b>AND VARIANCE</b>	
(100 E. Timonium Road) *	OFFICE OF
8th Election District	
3 <sup>rd</sup> Council District *	ADMINISTRATIVE HEARINGS
The Agape Christian Church, Inc. *	FOR BALTIMORE COUNTY
<i>Legal Owner</i>	
Petitioner *	<b>Case No. 2020-0065-SPHA</b>

\* \* \* \* \*

**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 The Agape Christian Church, Inc., legal owner (“Petitioner”). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations (“BCZR”) requesting a finding (i) that the existing/proposed improvements are planned to comply to the extent possible with applicable Residential Transition Area (“RTA”) buffer requirements and other requirements of § 1B01.1.B.1.(g)(4); (ii) that the building at 100 E. Timonium Road can continue to be used for Church proposes, including child programs, teaching, and offices; and (iii) For such additional relief as the nature of this case may require for approval of the proposed building, parking areas and uses as shown on the plan which accompanied the Petition. Alternatively, relative to the applicable Residential Transition Area (“RTA”) if the requested special hearing RTA finding and/or determination are not granted: A Variance is filed (a) from BCZR § 1B01.1.e. to permit the proposed parking lot for religious worship; (b) from BCZR § 1B01.1B.1.e.(3)&(5) to permit accessory parking in a RTA, with a setback of as little as 13 ft. and landscapes buffer of 10 ft. in lieu of the required 75 ft. and 50 ft. setbacks. For such additional relief as the nature of this case may require for approval of the proposed buildings, uses and conditions as shown on the plan which accompanied this Petition.

A site plan prepared by Richardson Engineering was marked and accepted into evidence as Petitioner's Exhibit 1.

Due to the COVID-19 pandemic, a public WebEx hearing was conducted in lieu of an in-person hearing. Pastor, Chima Ugah, appeared in support of the requests. Ima Ibidapo, Esq. appeared on behalf of the Petitioner and was assisted by Rick Richardson, P.E., from Richardson Engineering, LLC. Numerous community members participated in the hearing. The Petition was advertised and posted as required by the BCZR. Substantive Zoning Advisory Committee ("ZAC") comments were received from the Department of Planning ("DOP"). They did not oppose the requested relief, subject to proposed conditions, which will be incorporated into the Order.

#### Findings of Fact and Conclusions of Law

The property is 1.48 acres and is zoned DR 5.5 and DR 2. The existing Church was built in 1960 and was originally occupied by St. Timothy's Lutheran Church. It was purchased by Agape Christian Church in 2014. Due to an expanding congregation they need additional parking. In response to community concerns, Pastor Ugah testified that the church has no plans to operate a full time school or day care facility. He testified that they will continue to offer free tutoring in the evenings, which is done by local college students. He confirmed that there will be no other expansion of church programs or services. He explained that because of the inadequate number of parking spaces some of his congregants must park on the neighboring streets and this causes dangerous pedestrian conditions, especially for those crossing Timonium Road. Pastor Ugah testified that he and his engineer, Mr. Richardson, have met and conferred with the Yorkshire Haverford Community Association to explain the proposed parking lot expansion.

Mr. Bill Robinson, the President of the Community Association testified that the Agape Church has been a “very, very good neighbor” since moving in. He explained that they allow the Community Association to hold meetings there and that the church sponsors numerous neighborhood programs, including a food bank. He echoed Pastor Ugah’s concerns about pedestrian safety and testified that the Association generally supports the construction of the additional parking lot. He stated that the community’s primary concerns were that there be adequate landscape screening, and that the lighting be as unobtrusive as possible. Other community members testified that there is tremendous traffic congestion in the area due to the proximity of the York Road business corridor. They expressed concern about traffic from this lot further congesting Greenmeadow Drive. The neighbor to the rear of the proposed parking lot expressed concern about the lighting because he goes to bed early and gets up early for his job. Mr. Richardson testified that they intend to install “shoe box” lights that will direct the light away from the adjoining residences, and that the light stanchions will be 12 ft. at the most. Pastor Ugah testified that he is willing to put the lights on a timer so that they are extinguished at 10 p.m. Mr. Richardson testified that they are prepared to conform the landscaping to the standards of the Baltimore County Landscape Manual.

Mr. Richardson and Ms. Ibidapo explained that they would like to construct a “drop off” lane so that persons with disabilities can be dropped off at the front door of the church, which they stated is the only handicap accessible entrance. This lane would also connect the new parking lot with the existing lot on the east side of the church. Eric Rockel testified against the proposed connecting lane and pointed out that the Landscape Manual requires a 15 foot landscape strip between paved surfaces and public right of ways, which the site plan in this case

does not provide. The DOP also opposes the connecting lane on the grounds that it would have a “detrimental aesthetic impact on the neighborhood.”

### Special Hearing Requests

The Petition requests two separate special hearing requests. The first is “a finding that the existing/proposed improvements are planned to comply to the extent possible with applicable RTA and buffer requirements and other requirements of BCZR § 1B01.1.B.1.(g)(4).” Due to the long, shallow site the RTA setbacks and buffers are impossible to meet in this case. Therefore, if the Petitioner was seeking to construct a *new* church I would agree that the site plan generally meets the RTA requirements “*to the extent possible.*” However, this exception is restricted to *new* churches under BCZR § 1B01.1.B.1.(g)(6), and I do not believe the exception applies to *existing* churches, which are covered by BCZR § 1B01.1.B.1.(g)(4), which does not contain the same “to the extent possible” language. However, as explained below, I will grant the variance relief which was requested in the alternative.

Regarding the second Special Hearing request, based on the testimony of Pastor Ugah, I find that the Church should be permitted to continue to conduct all its current programs and services. His testimony was that no full time school or day care will be operated there.

### Variance Relief

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 subject property is long and shallow and irregularly shaped. It also slopes substantially

from the front to the rear. It is therefore unique. The Church would suffer practical difficulty and hardship if the variance requests were denied because these dimensions and grade differences prevent the construction of a parking lot without the requested variances.

Based on the record evidence 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 and welfare. I understand that this area is plagued by traffic congestion but I do not believe that the addition of the proposed parking lot will increase traffic. The congregants will come to the church whether the lot is built or not. The difference is that with the lot they will no longer be using parking spaces in the neighborhood, and will no longer be endangered as pedestrians crossing these busy streets. I am also sympathetic to the neighbors' concerns about landscape screening and light pollution and those concerns will be addressed in the conditions of this Order.

Finally, I agree with the DOP, and with the concerns raised by Mr. Rockel and others about the proposed "drop off" lane. I understand that this would be a convenience for some of the Church congregants but according to the site plan there are several handicap parking spaces in close proximity to the main Church entrance. I find that the proposed connecting lane would be detrimental to the aesthetics of the neighborhood. I also find that it would potentially result in more traffic exiting onto Greenmeadow Road, a residential street which is already inundated with traffic.

THEREFORE, IT IS ORDERED this 4<sup>th</sup> day of **September, 2020**, by this Administrative Law Judge, that the Petition for Special Hearing pursuant to § 500.7 of the BCZR for approval of (i) the site plan based on its conformance to the extent possible with BCZR § 1B01.1.B.1.(g)(4), be and hereby is DENIED; (ii) the continued use of the building at 100 E.

Timonium Road for Church proposed including child programs, teaching, and offices be and hereby is GRANTED;

IT IS FURTHER ORDERED that the variances: (a) from BCZR § 1B01.1.e. to permit the proposed parking lot for religious worship; and, (b) from BCZR § 1B01.1B.1.e.(3)&(5) to permit accessory parking in a RTA, with a setback of as little as 13 ft. and landscape buffers of 10 ft. in lieu of the 75 ft. and 50 ft. required respectively be and hereby are GRANTED.

The relief granted herein shall be subject to the following:

- Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its 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, Petitioner would be required to return the subject property to its original condition.
- Prior to issuance of permits Petitioner must comply with ZAC comment submitted by DOP, a copy of which is attached hereto and made a part hereof.
- The landscaping will conform to the Baltimore County Landscape Manual.
- The lighting stanchions shall be no higher than 12 feet and “shoe box” lights shall be installed. Further, the lights shall be placed on a timer so that they are extinguished at 10 p.m., except for special church services.
- There shall be no full time school or day care on the premises.
- The connecting “drop off” lane depicted on the site plan shall not be constructed.

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

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

PMM: dlm