

IN RE: PETITION FOR SPECIAL HEARING	*	BEFORE THE
W/Side of Wesley Avenue, 31' from the		
c/line of Shipley Road	*	OFFICE OF ADMINISTRATIVE
1 st Election District		
1 st Council District	*	HEARINGS FOR
(164 Wesley Avenue)		
	*	BALTIMORE COUNTY
Spirit and Truth Worship Center, Inc.		
<i>Petitioner</i>	*	CASE NO. 2011-0362-SPH
* * * * *		

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings for Baltimore County for consideration of a Petition for Special Hearing filed by Pastor and President Roy L. Pope on behalf of the legal owner of the property, Spirit & Truth Worship Center, Inc. The Petitioner is requesting Special Hearing relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) for removal of the prior Special Exception for a Class B Group Childcare Center previously approved under Cases 92-140-SPHA, 1969-0059-SPHA and 1953-2603-SPHA, and to approve the existing site for a proposed church use with all previous relief as granted under Case No. 92-140-SPHA. The subject property and requested relief is more fully depicted on the site plan that was marked and accepted into evidence as Petitioner's Exhibit 1.

Appearing at the public hearing held for this case was Pastor and President Roy L. Pope with Spirit and Truth Worship Center, Inc. and M. Arnold Politzer, Esquire, representing the Petitioner. James Schneider, the architect who prepared the site plan, also attended the hearing. A review of the file reveals that the Petition was properly advertised and the site was properly posted as required by the Baltimore County Zoning Regulations. There were no Protestants or other interested persons in attendance at the hearing.

The Zoning Advisory Committee (ZAC) comments were received and are made a part of

the record of this case. There were no adverse Zoning Advisory Committee (ZAC) comments received from any of the reviewing agencies.

Comments were received from the Fire Department dated June 28, 2011, indicating that the proposed building must comply with the applicable provisions of the Baltimore County Fire Prevention Code (Bill 48-10).

Testimony and evidence offered revealed that the subject property is located in the Catonsville area of Baltimore County and is zoned D.R.5.5. The property is currently used as a child care facility, with up to 100 children on-site. The new owner – a church congregation – seeks to establish the first “permanent” location for its church, and the only exterior change required is the addition of an ADA-compliant stair ramp, about 259 square feet in size.

After considering the testimony and exhibits, and in light of the absence of any citizen or neighborhood opposition, I am persuaded to grant the requested special hearing relief. The current child care facility with 100 children is obviously a much more intense use than a church with 28 members in the active congregation. See Exhibit 1. There is no evidence to suggest the church will be incompatible with the surrounding residential properties. Indeed, churches are permitted as of right in a D.R. 5.5 zone, and I find the church operation will not harm or endanger the health and general welfare of the community.

Pursuant to the advertisement, posting of the property and public hearing on this Petition and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED, this 8th day of August, 2011 by the Administrative Law Judge for Baltimore County, that the Petition for Special Hearing seeking relief pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.) for removal of the prior Special Exception for a Class B Group Childcare Center previously

approved under Cases 92-140-SPHA, 1969-0059-SPHA and 1953-2603-SPHA, and to approve the existing site for a proposed church use with all previous relief as granted under Case No. 92-140-SPHA, be and is hereby GRANTED, subject, however to the following:

1. The Petitioner may apply for its building permit and may be granted same upon receipt of this Order, however the Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the thirty (30) day appellate process from this Order has expired. If for whatever reason, this Order is reversed, the Petitioner will be required to return and be responsible for returning said property to its original condition.
2. Petitioner shall comply with the Zoning Advisory Committee (ZAC) comment submitted by the Fire Department dated June 28, 2011; a copy of which is attached hereto and made a part hereof.

Signed _____
JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

Attachment

JEB:pz