

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: FAITH UNITED METHODIST CHURCH

(Case No. 12328)

A hearing was held after due notice on July 15, 2019. The Board members present were: Ms. Ellen Magee, Dr. Kevin Carson, Mr. Jeff Chorman, Mr. John Williamson and Mr. Brent Workman.

Nature of the Proceedings

This is an application for a variance from the front yard setback requirement (Sections 115-82 and 115-182 of the Sussex County Zoning Ordinance).

Findings of Fact

The Board found that the Applicant is seeking a variance from the front yard setback requirement on a parcel of land zoned C-1 General Commercial. The property is identified as Sussex County Tax Map and Parcel Number 3-34-13.20-36.00, with a 911 address of 19940 Church Road, Rehoboth Beach, Delaware.

After the hearing, the Board made the following finding of fact:

1. The Board was given copies of the Application, a portion of the tax map of the area, a survey, current and past aerial photography of the property, the deed, a survey of the proposed construction, renderings of the proposed construction, and photographs of the church.
2. Ms. Bulkilvish, of Sussex County, described the case and stated that the Office of Planning and Zoning has no letters concerning the Application.
3. Michael Cohalan, Architect, was sworn in and testified about the request for the front yard variance.
4. The Board found that Mr. Cohalan testified that the applicant is seeking to expand the existing entrance area of the church, which with the need for a handicap ramp, will create the encroachment.
5. The Board found that Mr. Cohalan testified that the Church has been in existence for decades prior to the creation of the Sussex County Zoning Code. This is evident in part from the fact that the Church is located on "Church Street", which takes its name from the historical existence of the Church in this location.
6. The Board found that Mr. Cohalan testified that the Church property is unique in that it is only .041 acres in size and that it is in the shape of a letter "L".
7. The Board found that Mr. Cohalan testified that there is a 60-foot front yard setback on Church Street because the Property is zoned C-1 General Commercial. This setback would make most of the Property unbuildable, and a very significant portion (50%) of the existing Church is within this setback.
8. The Board found that Mr. Cohalan testified that the existing Church is only 7.15 feet from the front boundary of the Property along Church Street.
9. The Board found that Mr. Cohalan testified that the 60-foot setback would preclude construction anywhere but in the rear of the Church, and that area is currently used as the only area available for church parking.
10. The Board found that Mr. Cohalan testified that the addition will be designed to remain in character with the historic building.

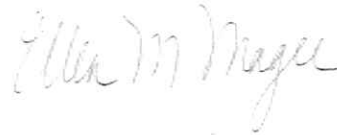
11. The Board found that Mr. Cohalan testified that because the Church has occupied this site for decades (almost 100 years) the improvements to the building requiring the variance will not alter the essential character of the neighborhood- a character acknowledged by the fact that the street is named "Church Street".
12. The Board found that Mr. Cohalan testified that the proposed addition requiring the variance is the minimum necessary to provide relief; it is in keeping with the original structure and includes additional square footage for a ramp providing access to the Church.
13. The Board found that thirteen (13) people appeared in favor of the application, and no individuals appeared in opposition to it.
14. Based on the findings above and the testimony and evidence presented during the Public Hearing and contained in the Public Record, the Board determined that variance of fifty-eight (58) feet from the sixty (60) foot front yard setback on a parcel of land zoned AR-1 should be granted as follows:
 - a. The property is unique because the size and shape of the lot are irregular. In addition, the Church structure is nearly 100 years old, and predates zoning, including the 60-foot front yard setback otherwise required in the C-1 District where this property is located.
 - b. The building is old, and the variance is necessary to enable the reasonable use of the property. This variance will enable the congregation to perform necessary improvements to the nearly 100-year old structure, as well as install an access ramp to the front doors of the Church so that all of the congregation can have access through the front doors of the building and into the Church itself.
 - c. The variance will not alter the essential character of the neighborhood. In case, the Church itself represents the character of the neighborhood, having been in existence at this location for nearly 100 years. This character is exemplified in the fact that the building is located on a street identified as "Church Street".
 - d. The variance is the minimum necessary to afford relief with the least modifications. Here, the Church predates zoning, with the 60-foot front yard setback of the Zoning Code superimposed upon the structure some 50 years after it was first built. The requested variance represents a minor, but needed, improvement to the Church structure.
 - e. The need for the variance was not created by the Applicant. Instead, the need was created by the fact that the Sussex County Zoning Code was superimposed upon this Church structure decades after it was built. In addition, the configuration of the property was not created by the Applicant.
 - f. The improvements to the Church cannot otherwise occur without the variance being granted. This old, but active, Church needs to be upgraded for the use of its congregation, including an improved and more accessible entrance and vestibule. These necessary improvements cannot occur without the granting of this variance.
 - g. No parties appeared in opposition to this Application, and at least 13 parties appeared in favor of it.

Based on the foregoing, the Board approved a variance of fifty-eight (58) feet from the sixty (60) foot front yard setback on a parcel of land zoned C-1, finding that it met the standards for granting such a variance.

Decision of the Board

Upon motion duly made and seconded, the Board approved a variance from the front yard setback requirements for proposed and existing structures (Sections 115-82 and 115-182 of the Sussex County Zoning Code). The Board Members in favor of the approval were Ms. Ellen Magee, Dr. Kevin Carson, Mr. John Williamson, Mr. Brent Workman, and Mr. Jeff Chorman.

BOARD OF ADJUSTMENT
OF SUSSEX COUNTY



Ellen M. Magee
Chair

If the use is not established within two (2) years from the date below the application becomes void.

Date September 10, 2019