

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
SE/S Linden Ave., 220 ft. SW * ZONING COMMISSIONER
of e/l of Fullerton Avenue * OF BALTIMORE COUNTY
7407 Linden Avenue * 14th Election District
6th Councilmanic District * Case No. 92-118-A
Emanuel Baptist Church *
Petitioner *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance from Section 1B02.2.B of the Baltimore County Zoning Regulations (B.C.Z.R.) (V.B.2 CNDP) to allow for a front yard setback of 27 ft. in lieu of the required 40 ft. and side yard setback of 12.4 ft. in lieu of the required 20 ft.; and a variance from Section 409.6 (A.4) of the B.C.Z.R. for 0 parking spaces in lieu of the required 29 parking spaces, as more particularly described on Petitioner's Exhibit No. 1.

Reverend John L. Clanton, the pastor of Emanuel Baptist Church, appeared on behalf of the Petition and was represented by Gordon H. Levy, Esquire. Also appearing on behalf of the Petition was Lenwood Johnson from the Baltimore County Office of Planning and Zoning, and Robert Forster, a Traffic Inspector from the Baltimore County Bureau of Traffic Engineering. There were no Protestants.

Testimony presented by Reverend Clanton established that the church building on the subject property is in excess of 70 years old and supports a congregation of approximately 200 parishioners. Reverend Clanton further testified that because of the needed repairs to the church building, it was decided by the officials of the Church to construct an addition to the rear of the existing building. This addition would provide much needed

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By M. J. Brock

meeting space and also bring the Church into compliance with certain underwriting requirements of its liability insurance company. Further, Reverend Clanton, testified that the only appropriate location to construct the addition was on the rear of the property, thus mandating that the requested setback variances be granted.

Also appearing on behalf of the Petition was Lenwood Johnson, a Community Planner who works with historic African-American Communities within Baltimore County. He testified that there was adequate on-street parking to support the Church's need and that overflow parking could be accommodated on a lot maintained by the nearby Overlea Senior Center. Mr. Johnson also presented a video which depicted the parking situation during Sunday services which clearly demonstrated that there was sufficient onstreet parking to handle the Church's needs.

Mr. Johnson's testimony was echoed by Robert Forster from Baltimore County Bureau of Traffic Engineering. He opined that the addition would not inhibit the parking or traffic flow in the subject locale and appeared in support of the Petition.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

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- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variances are granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variances were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variances requested will not be detrimental to the public health, safety and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 4th day of Dec. 1991 that a variance from Section 1B02.2.B of the Baltimore County Zoning Regulations (B.C.Z.R.) (V.B.2 CNDP) to allow for a front yard setback of 27 ft. in lieu of the required 40 ft. and side yard setback of 12.4 ft. in lieu of the required 20 ft., be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that a variance from Section 409.6 (A.4) of the B.C.Z.R. for 0 parking spaces in lieu of the required 29 parking spaces, in accordance with Petitioners' Exhibit No. 1, be and is hereby GRANTED,

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subject, however, to the following restriction which are conditions precedent to the relief granted herein:

1. The Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES/mnn
cc: Peoples Counsel

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By M. J. Brock

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning
111 West Chesapeake Avenue
Towson, MD 21204
887-3353

October 31, 1991

Gordon H. Levy, Esquire
114 E. Lexington St.
Suite 702
Baltimore, Maryland 21202

RE: Petition for Zoning Variance
Emanuel Baptist Church
Case No. 92-118-A

Dear Mr. Levy:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

Lawrence E. Schmidt
Lawrence E. Schmidt
Zoning Commissioner

LES:mnn
cc: Rev. John Clanton



Petition for Variance #122

to the Zoning Commissioner of Baltimore County 92-118-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1B02.2.B of the Baltimore County Zoning Regulations (B.C.Z.R.) (V.B.2 CNDP) to allow for front set back of 27 ft. in lieu of required 40 ft., and side set back of 12.4 ft. in lieu of required 20 ft. Variance section for 409.6 (A.4) to allow 0 parking spaces in lieu required 29 at one parking space. I/we do so for the following reasons: (Indicate hardship or practical difficulty) To be determined at hearing

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc. upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City and State

Signature

(Type or Print Name)

Address

City and State

Signature

(Type or Print Name)

Address

City and State

Signature

(Type or Print Name)

Address

City and State

Signature

(Type or Print Name)

Address

City and State

Signature

(Type or Print Name)

Address

City and State

EMANUEL BAPTIST CHURCH

Signature

Signature

Guy Matthews, Trustee

Signature

Signature

7407 Linden Avenue

Address

Baltimore, MD 21206

City and State

Name

Rev. John Clanton

Address

1918 Taylor Avenue

Address

882-9878

Phone No.

ESTIMATED LENGTH OF HEARING - 1/2HR.

AVAILABLE FOR HEARING

MOR./TUES./WED. - NEXT TWO MONTHS

ALL OTHER

REVIEWED BY: [Signature] DATE 11/18/91

4: 687-4922

FRANK S. LEE

Registered Land Surveyor

1277 NEIGHBORS AVE. - BALTIMORE, MD 21237

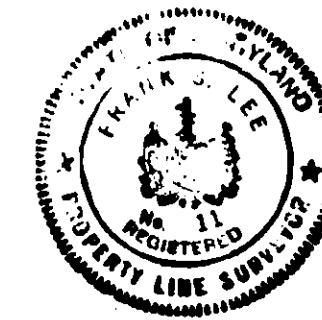
August 3, 1991

Emanuel Baptist Church
7407 Linden Avenue
14th District Baltimore County, Maryland

Beginning for the same on the southeast side of Linden Avenue at the distance of 204.10 feet measured southwesterly along the southeast side thereof from the southwest side of Fullerton Avenue, thence running and binding on the southeast side thereof South 41 degrees 50 minutes 57 seconds West 80 feet, thence running for three lines of division as follows: South 48 degrees 09 minutes 03 seconds East 155 feet, North 41 degrees 50 minutes 57 seconds East 80 feet and North 48 degrees 09 minutes 03 seconds West 155 feet to the place of beginning.

Containing 0.29 acres of land more or less.

Being Lots 49 and 50 Cherry Heights, 3/71



CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 14E4 Date of Posting: 12/17/91
Posted for: Variance
Petitioner: Emanuel Baptist Church
Location of property: SE/S Linden Ave., 220' of Fullerton Ave.
7407 Linden Ave.
Location of Sign: 7407 Linden Ave. 35' E. of the Survey
Remarks: on property of R. L. Johnson
Posted by: [Signature] Date of return: 12/17/91
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., 10/13/91

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 10/13/91.

THE JEFFERSONIAN,

S. Zabe Orlean
S. Zabe Orlean
Publisher

\$70.76

CERTIFICATE OF PUBLICATION

10/3 1991
THIS IS TO CERTIFY, that the annexed advertisement was published in the NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER, weekly newspapers published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 10/3 1991.

NORTHEAST TIMES BOOSTER and the NORTHEAST TIMES REPORTER

S. Zabe Orlov
Publisher

\$707.76

Vertical text on the left side of the certificate, including publication details and contact information.

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning
111 West Chesapeake Avenue Towson, MD 21204
887-3553
DATE: 10/9/91
Emmanuel Baptist Church
7407 Linden Avenue
Baltimore, MD 21206
RE: CASE NUMBER: 92-118-A
SE/S Linden Avenue, 220' SW of c/1 Fullerton Avenue
7407 Linden Avenue
14th Election District - 6th Councilmanic
Petitioner(s): Emmanuel Baptist Church
HEARING: WEDNESDAY, OCTOBER 30, 1991 at 11:00 a.m.
Dear Petitioner(s):
Please be advised that \$ 95.76 is due for advertising and posting of the above captioned property.
THIS FEE MUST BE PAID. ALSO, THE HEARING SIGN & POST SIGN(S) MUST BE RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SIGN(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.
Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.
Lawrence E. Schmidt
Zoning Commissioner
BALTIMORE COUNTY, MARYLAND
cc: Gordon H. Levy, Esq.

COPY

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning
111 West Chesapeake Avenue Towson, MD 21204
887-3553
SEPTEMBER 20, 1991
NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 118, Baltimore County Courthouse, 444 Washington Avenue, Towson, Maryland 21204 as follows:
CASE NUMBER: 92-118-A
SE/S Linden Avenue, 220' SW of c/1 Fullerton Avenue
7407 Linden Avenue
14th Election District - 6th Councilmanic
Petitioner(s): Emmanuel Baptist Church
HEARING: WEDNESDAY, OCTOBER 30, 1991 at 11:00 a.m.
Variance to allow for front setback of 27 ft. in lieu of the required 40 ft. and side setback of 12.4 ft. in lieu of the required 20 ft.; to allow zero parking spaces in lieu of required 29 at one parking space per four seats.
Lawrence E. Schmidt
Zoning Commissioner of Baltimore County
cc: Emmanuel Baptist Church
Rev. John Clanton
Gordon H. Levy, Esq.

COPY

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning
111 West Chesapeake Avenue Towson, MD 21204
887-3553
October 15, 1991
Gordan H. Levy, Esquire
114 E. Lexington Street, Suite 702
Baltimore, MD 21202
RE: Item No. 122, Case No. 92-118-A
Petitioner: Emanuel Baptist Church
Petition for Variance
Dear Mr. Levy:
The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.
Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.
The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.
1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

Baltimore County Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
92-118
Account # 001 6150
Number
Please Make Checks Payable To: Baltimore County
CASHIER VALIDATION

Zoning Plans Advisory Committee Comments
Date: October 15, 1991
Page 2
2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.
3) Attorneys and/or engineers who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the loss of filing fee.
Very truly yours,
James E. Dyer
Chairman
Zoning Plans Advisory Committee
cc: Rev. John Clanton
Emmanuel Baptist Church
7407 Linden Avenue
Baltimore, MD 21206

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning
111 West Chesapeake Avenue Towson, MD 21204
887-3553
Your petition has been received and accepted for filing this 5th day of September, 1991.
Arnold Jablon
DIRECTOR
Received By:
James E. Dyer
Chairman,
Zoning Plans Advisory Committee
Petitioner: Rev. John Clanton, et al
Petitioner's Attorney: Gordon H. Levy

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE
TO: Arnold Jablon, Director DATE: October 7, 1991
Zoning Administration and Development Management
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Emanuel Baptist Church, Item No. 122
In reference to the petitioner's request, staff offers the following comments:
Emmanuel Baptist Church has served the Cherry Heights Community for more than 60 years. Staff has visited the site to observe parking conditions on several Sunday mornings and found that a sufficient number of parking spaces are available. It is our understanding that overflow parking is also accessible at the Overlea-Fullerton Senior Center. A review of the plan indicates that the applicant's proposal will not increase the number of seats in the church.
Based upon an analysis of the petitioner's request, staff recommends the request be granted.
If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.
FK/JL/pat
ITEM122/TXTROZ

Baltimore County Government Fire Department
700 East Joppa Road Suite 901
Towson, MD 21204-5500
(301) 887-4500
SEPTEMBER 23, 1991
Arnold Jablon
Director
Zoning Administration and Development Management
Baltimore County Office Building
Towson, MD 21204
RE: Property Owner: EMANUEL BAPTIST CHURCH
Location: #7407 LINDEN AVENUE
Item No.: 122 Zoning Agenda: SEPTEMBER 24, 1991
Gentlemen:
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.
5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.
REVIEWER: [Signature] Noted and Approved: [Signature]
Planning Group Fire Prevention Bureau
Special Inspection Division
JP/KEK
200d 71-401

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: September 24, 1991
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for September 24, 1991

The Developer's Engineering Division has reviewed the subject zoning items and we have no comments for items 118, 119, 120, 121, 122, 123, 125, 126 and 128.

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developer's Engineering Division

RWB:6

12-118-A 4-7-91

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: October 10, 1991

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

FROM: Rahee J. Famill

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: September 24, 1991

There are no comments for item numbers 118, 119, 121, 122, 123, 125, 126 and 128.

Rahee J. Famill
Rahee J. Famill
Traffic Engineer II

RJF/lvd

B 115165
C -2342-91

FILING FEE \$25.00

L.U./MODIFICATION = L.U./MOD

LANDSCAPE WAIVER/MODIFICATION REQUEST FORM

NAME OF PROJECT & LOCATION: EMMANUEL BAPTIST CHURCH
7400 LEXINGTON AVE. BALTO MD

COUNCIL DISTRICT: 6 ELECTION DISTRICT: 14/26

OWNER(S) NAME: EMMANUEL BAPTIST CHURCH INC 21234

OWNER(S) ADDRESS & PHONE NO.: 1918 TAYLOR AVE BALTO MD

SIGNATURE OF APPLICANT & DATE: Rahee J. Famill 10/10/91

"REQUESTS FOR MODIFICATIONS MUST BE SUBMITTED TO THE OFFICE OF PLANNING AND ZONING IN WRITING WITH THE ORG. PLAN, OR PRIOR TO FILING OF A GRADING AND/OR BUILDING PERMIT. SUCH REQUESTS SHOULD BE ACCOMPANIED BY SUFFICIENT EXPLANATION AND JUSTIFICATION, WRITTEN AND/OR GRAPHIC, TO ALLOW APPROPRIATE EVALUATION AND DECISION BY THE DIRECTOR OF PLANNING AND ZONING. ALL DECISIONS SHALL BE RENDERED WITHIN TEN DAYS AFTER SUBMISSION."

NATURE OF WAIVER/MODIFICATION:
"Modification of these standards may be permitted by the Director of Planning and Zoning when the modification more fully achieves the objectives contained herein and when one or more of the following conditions justify the modification."

- Waiver of Landscape Architect Seal.
- Waiver of fence.
- Waiver of wall.
- Waiver of berm.
- Waiver of location being in Critical Area.
- Topography, soil or other site conditions are such that full compliance is impossible or impractical.
- Improved environmental quality, economy and/or utility would result from the modification.
- Long established local practices and customs in the area assure contained market acceptance of the modification.
- Alternate or special construction methods, techniques, materials and mechanical equipment are significantly better than those required by these standards.
- When traffic safety considerations made modifications necessary.
- When OTHER: COUNTY LANDSCAPE REQUIREMENTS

STATUS:

- APPROVED
- DENIED

Joseph A. Mansueti for P. David Fields 1/3/92
Director of Planning and Zoning Date

PLEASE PRINT CLEARLY PETITIONER(S) SIGN-IN SHEET

NAME: Gordon Levy attorney ADDRESS: 114 E Lexington St, 21204
Rahee J. Famill 1918 Taylor Ave, 21234

Lennard Johnson
Planner

Baltimore County
Office of Planning & Zoning
County Center Building Suite 406
Towson, Maryland 21284

(301) 587-3485

AREA CODE 301 721 1000
FAX 301 721 8000

GORDON H. LEVY

LAW OFFICES
LEVY & BARRELL

SHEET NO.
101 E. LEXINGTON STREET
BALTIMORE, MARYLAND 21204

