

IN RE: PETITION FOR SPECIAL HEARING *

W/Side of Wesley Avenue, 31' from the
c/line of Shipley Road
1st Election District
1st Council District
(164 Wesley Avenue)

Spirit and Truth Worship Center, Inc.
Petitioner

BEFORE THE

OFFICE OF ADMINISTRATIVE

HEARINGS FOR

BALTIMORE COUNTY

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.

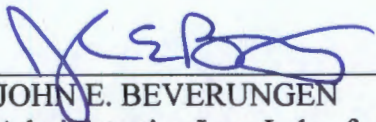
After considering the testimony and exhibits, and in light of the absence of any citizen or neighborhood opposition, I am persuaded to grant the requested special hearing relief. The current child care facility with 100 children is obviously a much more intense use than a church with 28 members in the 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 8 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.



JOHN E. BEVERUNGEN
Administrative Law Judge for
Baltimore County

Attachment

JEB:pz



KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
TIMOTHY M. KOTROCO
Administrative Law Judges

August 5, 2011

M. ARNOLD POLITZER, ESQUIRE
40 WEST CHESAPEAKE AVENUE, SUITE 212
TOWSON MD 21204

Re: Petition for Special Hearing
Case No. 2011-0362-SPH
Property: 164 Wesley Avenue

Dear Mr. Politzer:

Enclosed please find the decision rendered in the above-captioned case.

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 from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Sincerely,

A handwritten signature in black ink, appearing to read "JEB", is written over the typed name.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

Enclosure



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 14 WESLEY AVE
which is presently zoned DR 5.5

This Petition shall be filed with the Department of Permits and Development Management. 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 Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve REMOVAL OF THE PRIOR

SPECIAL EXCEPTIONS FOR A (CLASS B) GROUP CHILD CARE CENTER
PREVIOUSLY APPROVED UNDER CASE # 5

AND TO APPROVE THE EXISTING SITE FOR A PROPOSED CHURCH USE WITH ALL
PREVIOUS RELIEF AS GRANTED UNDER CASE # 92-140-SPHA

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded 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:

Name - Type or Print _____

Signature _____

Address _____ Telephone No. _____

City _____ State _____ Zip Code _____

Attorney For Petitioner:

M. Arnold Politzer
Name - Type or Print _____

Signature _____

M. Arnold Politzer, Attorney
Company _____

40 W TOWSON AVE #212
Address _____ Telephone No. _____

TOWSON MD 21204
City _____ State _____ Zip Code _____

Legal Owner(s):

Spirit and Truth Worship Center INC
Name - Type or Print _____

Signature _____
Roy L. Pope PASTOR/PRESIDENT

Name - Type or Print _____

Signature _____
Rev. Roy L. Pope

Address _____ Telephone No. _____

City _____ State _____ Zip Code _____

Representative to be Contacted:

JAMES R. SCHNEIDER
Name _____

609 SUNSPOT RD
Address _____ Telephone No. _____

DESTERSTOWN MD 21136
City _____ State _____ Zip Code _____

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 2011 0362 SPH

Reviewed By _____ Date _____

NOTE TO FILE 2011 0362 SPH

THE APPLICANTS AFFIRM AN ATTORNEY
WILL REPRESENT THE CORP. &
SIGN PETITION FORMS ASAP.

THE PLANS, ^{AND DESCRIPTIONS} ARE SEALED BY AN
ARCHITECT. CARL RICHARDS (ZAMM-SUPER)
ADVISED THEM THAT WE WOULD ACCEPT
SUBJECT TO THEIR OWN RISK.

John L

Planner II

6/17/11

ZONING
DESCRIPTION

4758

164 WESLEY AVENUE
FIRST ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

Beginning for the same at a point located on the west side of Wesley Avenue, said point also being located southeasterly 31 feet + from the center of Shipley Road; thence binding on the west side of Wesley Avenue (1) S 34°30'00" E 150.00 feet, thence leaving said west side of Wesley Avenue, (2) S 55°30'00" W 155.10 feet, thence (3) N 35°38'00" W 150.03 feet, and (4) N 55°30'00" E 158.10 feet to the west side of Wesley Avenue and point of beginning.

Containing 0.539 acre of land, more or less.



0362

**CASHIER'S
VALIDATION**

NOTICE OF ZONING HEARING

The Administrative Law Judges of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #2011-0362-SPH

164 Wesley Avenue

W/side of Wesley Avenue, 31 feet (+/-) from the centerline of Shipley Road

1st Election District - 1st Councilmanic District

Legal Owner(s): Spirit and Truth Worship Center

Special Hearing for removal of the prior Special Exceptions 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 92-140-SPHA.

Hearing: Monday, August 1, 2011 at 11:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

ARNOLD JABLON, DIRECTOR OF PERMITS, APPROVALS AND INSPECTIONS FOR BALTIMORE COUNTY

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Administrative Hearings Office at (410) 887-3868.

(2) For information concerning the File and/or Hearing; Contact the Zoning Review Office at (410) 887-3391.
07/12/11 July 14 281336

Hearing
8/1/11

CERTIFICATE OF PUBLICATION

7/14/, 2011

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 7/14/, 2011.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 07/16/2011

Case Number: 2011-0362-SPH

Petitioner / Developer: ROY POPE, SPIRIT & TRUTH CHURCH
WORSHIP CENTER ~ JAMES SCHNEIDER

Date of Hearing (Closing): AUGUST 1, 2011

This is to certify under the penalties of perjury that the necessary sign(s)
required by law were posted conspicuously on the property located at:
164 WESLEY AVENUE

The sign(s) were posted on: JULY 16, 2011



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 - 666 - 5366
(Telephone Number of Sign Poster)

TO: PATUXENT PUBLISHING COMPANY
Thursday, July 14, 2011 Issue - Jeffersonian

Please forward billing to:
Fred Batson
3315 Essex Road
Baltimore, MD 21207

410-298-2241

NOTICE OF ZONING HEARING

The Administrative Law Judges of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2011-0362-SPH

164 Wesley Avenue

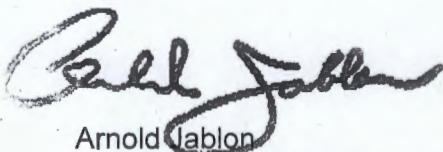
W/side of Wesley Avenue, 31 feet (+/-) from the centerline of Shipley Road

1st Election District – 1st Councilmanic District

Legal Owners: Spirit and Truth Worship Center

Special Hearing for removal of the prior Special Exceptions 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 92-140-SPHA.

Hearing: Monday, August 1, 2011 at 11:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon
Director of Permits, Approvals and Inspections for Baltimore County

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

July 11, 2011

NOTICE OF ZONING HEARING

The Administrative Law Judges of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 2011-0362-SPH

164 Wesley Avenue

W/side of Wesley Avenue, 31 feet (+/-) from the centerline of Shipley Road

1st Election District – 1st Councilmanic District

Legal Owners: Spirit and Truth Worship Center

Special Hearing for removal of the prior Special Exceptions 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 92-140-SPHA.

Hearing: Monday, August 1, 2011 at 11:00 a.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in dark ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:kl

C: Roy Pope, Spirit & Truth Church Worship Center, 164 Wesley Ave., Catonsville 21228
James Schneider, 609 Sunspot Road, Reisterstown 21136

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, JULY 16, 2011.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

**DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW**

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number:

2011 0362 SPH

Petitioner:

SPIRIT AND TRUTH WORSHIP CTR INC.

Address or Location:

164 WESLEY AVE

PLEASE FORWARD ADVERTISING BILL TO:

Name:

FRED BATSON

Address:

3315 ESSEX RD

BALTIMORE, MD.

21207

Telephone Number:

410. 298 - 2241

Revised 2/17/11 DT



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
*Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections*

July 27, 2011

Roy L. Pope, Pastor
Spirit & Truth Worship Center, Inc.
164 Wesley Avenue
Catonsville, MD 21228

RE: Case Number 2011-0362-SPH, 164 Wesley Avenue

Dear Roy L. Pope, Pastor,

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 18, 2011. This letter is not an approval, but only a **NOTIFICATION**.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

A handwritten signature in black ink that reads "W. Carl Richards, Jr." The signature is stylized with a large, flowing "W" and a prominent "J" at the end.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:mcn

Enclosures

c: People's Counsel
James R. Schneider, 609 Sunspot Road, Reisterstown, MD 21136
Arnold Politzer, 40 W. Chesapeake Avenue, Ste 212, Towson, MD 21204

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

DATE: July06, 2011

FROM: ^{DAK}Dennis A. Kennedy, Supervisor
Bureau of Development Plans
Review

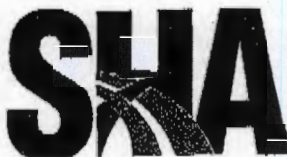
SUBJECT: Zoning Advisory Committee Meeting
For July 11, 2011
Item Nos. 2011-359, 361, 362, 363, 364, 365, 367, 368
And 369.

The Bureau of Development Plans Review has reviewed the subject-zoning items, and we have no comments.

DAK:CEN

cc: File

G:\DevPlanRev\ZAC -No Comments\ZAC-07112011 -NO COMMENTS.doc



Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor

State Highway
Administration

Beverley K. Swain-Staley, Secretary
Neil J. Pedersen, Administrator

Maryland Department of Transportation

Date: 6-28-2011

Ms. Kristen Matthews
Baltimore County Department of
Permits, Approvals and Inspections
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 2011-0362
164 WESLEY AVENUE
SPIRIT & TRUTH WORSHIP CENTER, INC.
SPECIAL HEARING -

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 2011-0362.

Should you have any questions regarding this matter, please contact Richard Zeller at 410-545-5598 or 1-800-876-4742 extension 5598. Also, you may E-mail him at (rzeller@sha.state.md.us). Thank you for your cooperation.

Sincerely,

For: Steven D. Foster, Chief
Access Management Division

SDF/rz



KEVIN KAMENETZ
County Executive

JOHN J. HOHMAN, *Chief*
Fire Department

June 28, 2011

County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: Zoning Review

Distribution Meeting of: **June 27, 2011**

Item No.:

Special Hearing: 2011-0362

Comments:

The proposed building shall be designed and constructed so as to meet the applicable provisions of the Baltimore County Fire Prevention Code; Bill # 48-10.

Don W. Muddiman, Inspector
Baltimore County Fire Marshal's Office
700 E. Joppa Road, 3RD Floor
Towson, Maryland 21286
Office: 410-887-4880
dmuddiman@baltimorecountymd.gov
cc: File

8-1 11 AM 205

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: David Lykens, Department of Environmental Protection and Sustainability
(DEPS) - Development Coordination

DATE: July 1, 2011

SUBJECT: DEPS Comment for Zoning Item # 11-362-SPH
Address 164 Wesley Avenue
(Spirit & Truth Worship Center, Inc.)

Zoning Advisory Committee Meeting of June 27, 2011.

X The Department of Environmental Protection and Sustainability has no
comments on the above-referenced zoning item.

Reviewer: *Jeff Livingston, Development Coordination*

RECEIVED

JUL 01 2011

OFFICE OF ADMINISTRATIVE HEARINGS

RE: PETITION FOR SPECIAL HEARING
164 Wesley Avenue; W/S Wesley Avenue
31' from c/line of Shipley Road
1st Election & 1st Councilmanic Districts
Legal Owner(s): Spirit & Truth Worship Center*
Petitioner(s)

* BEFORE THE
* ADMINISTRATIVE LAW
* JUDGE FOR
* BALTIMORE COUNTY
* 2011-362-SPH

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent and all documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED

JUL 06 2011

.....!

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of July, 2011, a copy of the foregoing Entry of Appearance was mailed to James Schneider, 609 Sunspot Road, Reisterstown, MD 21136, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Debra Wiley - Fwd: ZAC Comments

From: Debra Wiley
To: Livingston, Jeffrey; Lykens, David
Date: 7/12/2011 3:23 PM
Subject: Fwd: ZAC Comments
Attachments: ZAC Comments

Please accept my apology; we have DEPS comment for 2011-0362-SPH. Thanks.

Debbie Wiley
Legal Administrative Secretary
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Md. 21204
410-887-3868
410-887-3468 (fax)
dwiley@baltimorecountymd.gov

Debra Wiley - ZAC Comments

From: Debra Wiley
To: Kennedy, Dennis; Lanham, Lynn; Livingston, Jeffrey; Lykens, David; M...
Date: 7/12/2011 3:04 PM
Subject: ZAC Comments

Good Afternoon,

Please see the cases listed below and the hearing date, if assigned. If you wish to submit a ZAC comment, please be advised that you must do so before the hearing date. If it's not received by the hearing date, it will not be considered in our decision.

Thanks and feel free to contact me should you have any questions or concerns.

2011-0359-SPH - 110 Forest Avenue (No Hearing Date reflected in data base as of today)

2011-0360-A - 1512 Denton Road (Hearing Date: 8/1/11) [DEPS comment rec'd]

2011-0361-SPH - Lincoln and Cooper Avenue (No Hearing Date reflected in data base as of today) - [DEPS comment rec'd]

2011-0362-SPH - 164 Wesley Avenue (Hearing: 8/1/11)

2011-0363-A (Administrative Variance) - 606 Hollow Road (Closing Date Per ZAC Agenda - 7/11/11; Closing Date Per data base - 7/25/11 - not sure which is correct)

2011-0364-SPH - Gilroy, Map 51, Parcel 360 Rd. (Hearing Date: 8/2/11) - [DEPS comment rec'd]

2011-0365-A (Administrative Variance) - 750 Chapel Ridge Road (Closing Date 7/18/11)

2011-0366-ASA (Variance Special Variance) - 1402 East Joppa Road (No Hearing Date reflected in data base as of today)

2011-0367-A (Administrative Variance) - 5 Ivy Brook Farm Ct. (Closing Date 7/18/11) - [DEPS comment rec'd]

2011-0368-SPH - 2464 East Ruhl Road (No Hearing Date reflected in data base as of today)

2011-0369-A - (Administrative Variance) 2627 Brannan Avenue (Closing Date 7/18/11)

Debbie Wiley
Legal Administrative Secretary
Office of Administrative Hearings
105 West Chesapeake Avenue, Suite 103
Towson, Md. 21204
410-887-3868
410-887-3468 (fax)
dwiley@baltimorecountymd.gov

Maryland Department of Assessments and Taxation
Real Property Data Search (vw1.1A)
BALTIMORE COUNTY

[Go Back](#)
[View Map](#)
[New Search](#)
[GroundRent](#)
[Redemption](#)
[GroundRent](#)
[Registration](#)

Account Identifier:

District - 01 Account Number - 0110450670 ✓

Owner Information**Owner Name:** SPIRIT AND TRUTH WORSHIP CENTER**Use:** COMMERCIAL**Mailing Address:** 9353 AFTERNOON LN
COLUMBIA MD 21045-3902**Principal Residence:** NO**Deed Reference:** 1) /29974/ 00067
2)**Location & Structure Information****Premises Address**164 WESLEY AVE
0-0000**Legal Description**0.539 AC
164 WESLEY AVE WS
532 N MAIN AV

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assessment Area	Plat No:
0101	0001	0438		0000				3	Plat Ref:

Special Tax Areas

Town	Ad Valorem	Tax Class
NONE		

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1946	3074	23,478 SF	06

Stories **Basement** **Type** **Exterior**
DAY CARE CENTER

Value Information

	Base Value	Value	Phase-in Assessments	
		As Of	As Of	As Of
		01/01/2009	07/01/2010	07/01/2011
Land	68,400	141,500		
Improvements:	270,000	312,800		
Total:	338,400	454,300	415,667	454,300
Preferential Land:	0			0

Transfer Information

Seller:	Type:	Date:	Deed1:	Price:	Deed2:
TINY TOTS EARLY LEARNING	NON-ARMS LENGTH OTHER	10/07/2010	/29974/ 00067	\$130,900	
KIDS ZONE CHILD CARE INC	ARMS LENGTH IMPROVED	09/13/2006	/25904/ 00724	\$375,000	
HANNA CYNTHIA	ARMS LENGTH IMPROVED	05/12/2004	/20047/ 00031	\$320,000	

Exemption Information

Partial Exempt Assessments	Class	07/01/2011	07/01/2012
County			0.00
State			0.00
Municipal			0.00

Tax Exempt:
Exempt Class:

Special Tax Recapture:
* NONE *

PLEASE PRINT CLEARLY

CASE NAME

CASE NUMBER 2011-362-SPH

DATE 9-1-11

PETITIONER'S SIGN-IN SHEET

[illegible]



8/1 11AM

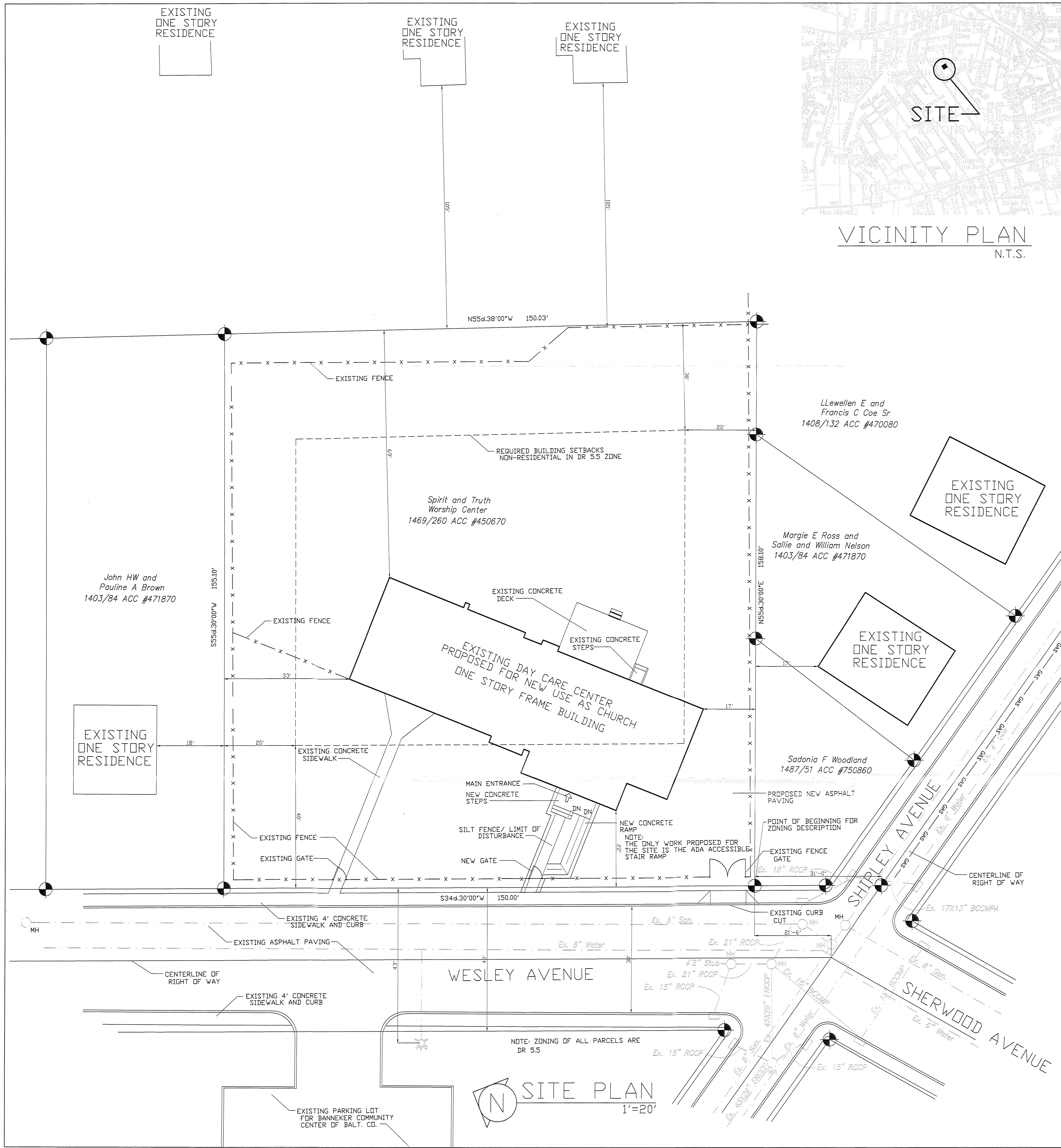
Case No.: 2011-0362-SPH - 164 Wesley Ave.

Exhibit Sheet

Petitioner Developer

Protestant

No. 1	Site Plan	
No. 2		
No. 3		
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		



PROPERTY INFORMATION

SPIRIT AND TRUTH
WORSHIP CENTER, INC.
164 WESLEY AVENUE
CATONSVILLE, MARYLAND

OWNER INFORMATION

SPIRIT AND TRUTH
WORSHIP CENTER, INC.
ATT: MR. ROY L. POPE

ZONING CLASSIFICATION

D.R.5.5 W/ SPECIAL EXCEPTION

AREA OF SITE

.539 Ac

GENERAL SITE INFORMATION

TAX DISTRICT- 01
TAX ACCOUNT NUMBER- 0110450670
TAX PARCEL NUMBER- P 438
ELECTION DISTRICT: 01
COUNTY COUNCIL DISTRICT: 01
ZONING MAP #: 010A1

SURVEY NOTES:

1. BASED UPON SURVEY BY RUXTON DESIGN CORPORATION DATED 4/1/11
2. EXISTING CONTOUR TOPOGRAPHY NOT AVAILABLE
3. ALL UTILITIES ARE EXISTING TO REMAIN.

SIGNS:

1. THERE ARE NO EXISTING SIGNS LOCATED ON SITE
2. FUTURE SIGNS WILL COMPLY WITH SECTION 450 OF BCZR

EXISTING USE OF PROPERTY

DAY CARE CENTER FOR 100 CHILDREN

PROPOSED USE OF PROPERTY

CHURCH WORSHIP CENTER FOR 28 PEOPLE

STREET WIDENING

NO STREET WIDENINGS ARE PLANNED FOR THIS VICINITY

HISTORIC STATUS:

NON-HISTORIC

IN RE: PETITION FOR SPECIAL HEARING & ZONING VARIANCE
W/S Wesley Ave., 31' (+/-) SR
from c/l Shipley Rd.
164 Wesley Avenue
1st Election District
1st Councilmanic District
Richard Hanna, et ux
Petitioners

- * BEFORE THE
- * ZONING COMMISSIONER
- * OF BALTIMORE COUNTY
- * Case No. 92-140-SFHA

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing and Petition for Zoning Variance filed by the property owners, Richard and Cynthia Hanna, for that property known as 164 Wesley Avenue. As to the Petition for Special Hearing, the Petitioners seek approval of an amendment of the Order in case No. 69-59-SFH, to permit the onsite care of 100 children on the subject property, which consists of .539 acres and is currently zoned D.R.5.5. As to the Petition for Zoning Variance, the Petitioners seek relief from Section 409.6A4 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 0 parking spaces in lieu of the required 11 spaces. These requests are more specifically shown on Petitioners' Exhibit No. 1, the site plan of the property.

One of the Petitioners, Cynthia Hanna, appeared and testified. The Petitioners were represented by James D. O'Connor, Esquire. Also appearing on behalf of the Petition was Paul Lee, the Engineer who prepared the plat to accompany the Petitions. There were no Protestants.

Testimony presented at the hearing was that a special permit for use of the property as a day nursery was granted on June 8, 1953 under case No. 2063-5. This original Order was amended on October 9, 1968, under case No. 69-59-SFH, to permit the onsite care of 60 children. At those prior hearings, the number of parking spaces available was not an issue. At present, the Petitioners wish to expand their facility to serve up to 100 children and to legitimize the existing parking situation.

PREVIOUS ZONING CASES:

19532603 6/8/53 DAYCARE- 15 CHILDREN
19920140 10/5/68 DAYCARE- 60 CHILDREN
19690059 6/20/91 DAYCARE- 100 CHILDREN
RELIEF WAS GRANTED FOR 0 PARKING SPACES
IN LIEU OF 11

REQUIRED OFF-STREET PARKING

PROPOSED USE: CHURCH
PARKING REQUIREMENT: 1 SPACE PER 4 SEATS
NUMBER OF SEATS: 28 (ACTIVE CONGREGATION)
NUMBER OF SPACES REQUIRED: 7
NUMBER OF SPACES PROVIDED: 0 REQUESTED BY VARIANCE
RELIEF WAS GRANTED UNDER ZONING CASE 19690059
FOR 0 PARKING SPACES IN LIEU OF 11

FLOOR AREA RATIO CALCULATION

AREA OF LOT: 22,940 SF
AREA OF BUILDING: 3,011 SF
F.A.R.: 0.13

FLOODPLAIN INFORMATION

THE PROJECT SITE IS NOT LOCATED IN A FLOODPLAIN

EROSION AND SEDIMENT CONTROL

1. NO SITE GRADING IS REQUIRED FOR NEW PAVING CONSTRUCTION.
2. EARTH DISTURBANCE SHALL BE LIMITED TO NEW PAVING AS INDICATED ON THE DRAWINGS.
TOTAL DISTURBED AREA IS APPROXIMATELY 4,408 SQUARE FEET.
3. EROSION AND SEDIMENT CONTROL WILL BE ACCOMPLISHED ACCORDING TO A STANDARD BALTIMORE CITY SEDIMENT CONTROL AGREEMENT AND STANDARD EROSION AND SEDIMENT CONTROL PLAN. STANDARD SILT FENCE WILL BE INSTALLED TO COINCIDE WITH THE LIMIT OF DISTURBANCE LINE.

STORMWATER MANAGEMENT

1. STORMWATER MANAGEMENT CALCULATION:
DISTURBANCE FROM CONCRETE STEPS: 295 SF
DISTURBANCE FROM ASPHALT PAVING: 0 SF
TOTAL DISTURBANCE: 295 SF
2. FOR EARTH DISTURBANCE UNDER 5,000 SF NO STORMWATER MANAGEMENT QUANTITY CONTROL IS REQUIRED.

Mr. Lee also testified in support of the Petitions. He noted that any overflow parking could be handled by the Large Banneker Community Center lot located immediately across the street. He also testified that the adjacent residences have their own driveways and that there is sufficient offsite parking to accommodate the increased number of employees. In his expert opinion, Mr. Lee testified that the requirements of Section 307.1 of the B.C.Z.R. were met in regards to the Petition for Variance.

As to the Petition for Special Hearing, I am persuaded that same should be granted. The unique character of this site lends itself well to the proposed use. In my view, an increase in the number of children to be cared for at the facility will not adversely impact the surrounding locale. Certainly, facilities of this type are in great demand and are in need throughout Baltimore County.

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
- 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).

THEREFORE, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 27th day of July, 1991, that the Petition for Special Hearing for approval to amend the Order in case No. 69-59-SFH to permit the onsite care of 100 children on the subject property be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that, pursuant to the Petition for Zoning Variance, a variance from Section 409.6A4 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit 0 parking spaces in lieu of the required 11 spaces, in accordance with Petitioners' Exhibit No. 1, be and is hereby GRANTED, subject, however, to the following restriction which are conditions precedent to the relief granted herein:

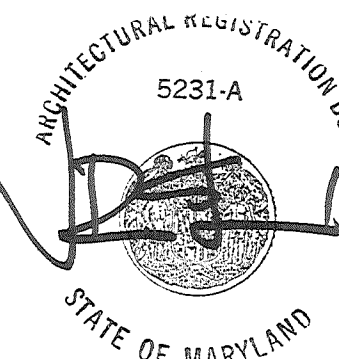
1. The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

JAMES R SCHNEIDER
ARCHITECT

609 SUNSPOT RD. REISTERSTOWN, MD. 21136 410-833-6942

Spirit and Truth Worship Center
PLAN TO ACCOMPANY SPECIAL HEARING
164 WESLEY AVE., CATONSVILLE, MD. 21228



DATE: 06/17/11
REVISED:

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