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Office of Zoning Administration
Neil M. Ridgely
Zoning Administrator

Notice of Decision

Case # ZA-854
Permit # 04-2026

Variance Request: For a variance from the minimum side yard setback from 100 feet to 50 for the placement of portable classrooms at the North Carroll Assembly of God, 2695 Hanover Pike, Hampstead, MD in Election District 06 by Vito Tunzi, Trustee.

Basis for Variance: § 223-37 and § 223-181 of the Carroll County Code of Public Local Laws and Ordinances.

Decision: Denied.

Basis for Decision:
It is the opinion of the Zoning Administrator that approval of the variance request could:

- Adversely affect the public health, safety, security, morals, or general welfareof the public. Although there was testimony at the hearing that a Site Plan had been submitted to the County, the Bureau of Development Review could not verify that a Plan had been submitted. Review of a Site Plan by County agencies would assure that issues such as sight distance at the point of ingress / egress, adequacy of parking and the well and septic system and sufficient means of fire suppression for the proposed portable classrooms are addressed. These issues must be resolved before a variance is deemed appropriate or not.
- Result in dangerous traffic conditions or jeopardize the lives or property of people living in the neighborhood, as addressed in the comment above.

In making this determination, the Zoning Administrator has reviewed the criteria provided in Section 223-191 of the Carroll County Code and is not assured that approval of the variance would not:

- have a detrimental effect on the people working or residing in the area
- have a negative impact on the orderly growth of the community
- have a detrimental effect on the peaceful enjoyment of people in their homes
- have a negative effect on the conservation of property values.

Without an approved Site Plan, one would be guessing at the effects which additional student enrollment and new buildings at this site would have on traffic, the increased flow of stormwaters on surrounding properties, any possible negative impacts to wells, impacts from increased flows to the septic system; any of which could negatively impact property values and the peaceful enjoyment of people in neighboring homes. Although initial enrollment in the school is not projected to exceed current enrollment, once a variance is granted and a Use and Occupancy Certificate issued there is no way to govern the number of students.

Additionally, there was no substantial evidence offered to meet the two essential criteria for variances:

- **Uniqueness of the property.** While there are site constraints evident from the existing stormwater management area, septic field and topography, these are not unique to similar church and business locations in the area. The largest constraint is the 4.8 acre size of the

parcel. The lot size makes the case that it may be too small to entertain all of the proposed uses. The addition of the office building (former picnic shelter) and classrooms outside the main building, plus the areas which contemporary regulations require for stormwater management, septic system & reserve and parking were possibly not conceived of when the lot was conveyed in 1984 - but none of these requirements, nor the lot size itself, substantiate a claim of uniqueness

- **Practical Hardship.** That strict compliance with the setbacks would result in a practical difficulty or unreasonable hardship was not demonstrated. If there were any hardship it would appear to have been created by the applicant.
  Testimony was offered by the Trustees of the Church that classes are currently held in the sanctuary of the church and that the placement of portables would allow the church to use that portion of the facility currently dedicated to classes for use as additional seating for as many as 100 people in the sanctuary. The Trustees offered that the current school enrollment is 34 to 35 students but that the projected enrollment for the next year is for only 20 students and further, that denial of the variance would limit the ministry of the Church. Since classes are currently held in the existing facility, the desire to add portable classrooms is a matter of self-created hardship.

Further, the applicant did not make it clear just how many portable classrooms were to be located, be that one or more, on the property nor were any dimensions given for one or more portables. There is no indication that this 4.8 acre parcel can provide adequate facilities to support any additional seats in the church, much less meet the needs created by a full capacity in the portable classrooms, the capacity and dimensions of which were not indicated in the application nor in the testimony. All of this information would be derived in the Site Plan submittal and approval process.

Testimony in opposition to the variance was offered in person by Mr. Kevin Graff, an adjoining property owner and by letter from Anthony and Kelly Rinaudo, also adjoining property owners. The issues raised by both parties in protest are enumerated in correspondence attached as a part of the record for this hearing; however, the failure to meet the two essential criteria for a variance and the health safety and welfare issues outlined above are the compelling reason for the denial of the variance more so than the issues raised by the protestants.

16 July 2004

Neil M. Ridgely
Zoning Administrator

Per Section 223-182 or the Carroll County Code of Public Local Laws and Ordinances, appeals of this decision must be made within 30 days of the date of the decision to the Board of Zoning Appeals pursuant to Section 223-188 of the Carroll County Code. Unless timely appealed, parties may not thereafter contest the Zoning Administrator's decision.