

## **BOARD OF APPEALS**

July 27, 2015

7:00 PM

**ATTENDANCE:** Board Members: Chairman William Malesh, Tim Thompson, Michael Salmon, Wayne Kommalan, Janine Antoshak, Town Attorney Fred Sussman, Planning and Zoning Director Mary Ann Skilling and Planning and Zoning Coordinator Dianna Battaglia.

Mr. Malesh called the hearing to order at 7:00 p.m.

### **NEW BUSINESS:**

Mr. Malesh introduced new member, Janine Antoshak, as an alternate member right now and can vote if any of our other members are not here.

### **SE2015-01 Special Exception:**

Mr. Malesh stated this has been requested by New Victory Christian Church at 304 Aiken Avenue at the corner. Who is here to speak in support and do you have an attorney to assist you with the regulations you need to follow for a Special Exception?

Pastor Sheppard responded no we do not.

Mr. Malesh responded at this time you do not, that's not necessarily necessary but helpful to you.

Pastor Sheppard stated first of all New Victory Christian Church would like to thank you for the opportunity to come again and state our purpose here and also take any concerns you may have concerning the church being located there. With parking we did address those things the last time but we're grateful once again to be here and answer any questions you might have about our operation and what we're doing. I hope you can see that it is our desire to be a blessing to this community and we've only been here four months now and are certain you can already see the impact that we're having on the community. So we're anxious to hear any questions that you may have in addition to the ones you previously asked in the last session. The landlord isn't here at the moment so any questions you may have I'll try to answer those questions as best as I can since he's not present at the moment.

Mr. Malesh replied your last session wasn't before the Board of Appeals; it was before the Planning Commission. So that's a misunderstanding there. You weren't talking to us. They sent you to us, following the regulations.

Pastor Sheppard commented we're planning on operating as a mission, as a church that is four months old and that's why we're here now. We have an average somewhere a little bit below twenty (20) members that are attending so we don't have a parking issue. On bible study nights it seems attendance is a little low and we have residents who are walking and there's plenty of parking in the public parking area and is more than sufficient for the attendance that we're having and that we plan to have even as we grow. So we have three persons for each space and that gives us a lot of room because there's a lot of flexibility in that area. So we're hoping that particular concern is resolved.

Mr. Malesh asked has Cecil County given you Fire Department regulations yet to come out and certify the building for the number of people who will be there.

Pastor Sheppard indicated we talked with Cecil County before we even signed the lease but we haven't received anything further and I think it's because we didn't have a lot of members at that time, I don't know. We're taking another space, so maybe it's because we have more space than we're actually fully utilizing.

Mr. Malesh stated it is really not your job to do that; it should be the person who owns the building. To make sure and get it certified for the number of people who are going to be there. So he's going to have to follow up with that for you and help you out with that procedure.

Pastor Sheppard commented we did speak with the county regarding the use of the space and they did not have a problem with the use of the space when we spoke with the county but we know we had to go through the formality here in town.

Mr. Malesh responded and you probably have to do that, that occupancy formality as well. You don't know exactly how large you're going to get and your growing would be a positive thing. The other thing, right now it seems the parking is fine but it seems like you probably should get permission for Sunday's from the Post Office, from the school building across the way, get a letter from each of them saying you have permission from them on Sundays to use their parking spaces and would make our job easier as far as approving this.

Mr. Salmon indicated I have a question about the other uses in the building.

Pastor Sheppard stated there is an apartment upstairs on the very end of the building but I'm not sure. I'm not sure where the access is for the apartment but they are not above the space where we occupy. We are at one end of the building. The other end is unoccupied at this time.

Mr. Malesh explained prior to granting a Special Exception there are a number of criteria that need to be met. In your case the property owner should come to answer those criteria and stand where you are and say here's how we meet that criteria and that's how we approve the Special Exception. That's not saying I'm not in favor of your church, it sounds like a wonderful idea but the regulations are that certain criteria be met and rather than you talking about storage and bathrooms and things, having an attorney prepare something to say this is how we meet the criteria for us to approve your request. There is no charge to come back to us again but that will make it possible for us to grant the Special Exception. Our hands are a little tied right now unless you're going to address all these things right now.

Pastor Sheppard responded if you're talking about restrooms, we can speak to that but I'm not sure....

Mr. Malesh continued answers regarding adequate storm drains, water, sewer, runoff water, there are a lot of things to follow through and it's hard to come before this board but we really need this information in order to grant a Special Exception. We have to grant something special, something that's not approved for this area because we have all these bases covered. My feeling is you're already invested so I hope it all works out for you as well and I have no problem with giving it to you if you give us the criteria to do it.

Mr. Salmon asked how much of this is the tenant's responsibility and how much is the owner's?

Mr. Malesh replied that is something that needs to be discussed but it's the owner's responsibility to have these things done.

Pastor Sheppard indicated I can't speak for the owner. I thought they were going to be here today as they were at the last meeting. I will speak with them and we'll figure out what we need to do to get the information you need.

Mr. Sussman stated you've mentioned that the applicant would be well served to engage an attorney to put the material together. I've been involved in plenty proceedings where laypersons can do it but I think there needs to be a combination of the pastor, the owner who probably has access to a lot of the information and perhaps even in consultation with Town Staff to get the information and then compiling it in an organized way to address the criteria that the board needs to find in order to approved the Special Exception application.

Mr. Malesh indicated you can probably get the criteria today and don't be disheartened. We'll get this taken care of and hopefully you'll be very successful here.

Mr. Sussman commented I would suggest that perhaps the board would consider entertaining a motion to continue this hearing until next month to give the Pastor a month to pull whatever staff needs to get the information before the next hearing. To give you an opportunity to pull it all together and submit it and that would be so you don't have to re-advertise and everything else.

**Motion** made by Mr. Kommalan and seconded by Mr. Salmon the public hearing be continued next month to give the applicant an opportunity to compile information that will satisfy the requirements of Section 57 of the Town's Zoning Ordinance. **All in Favor. Motion Carried.**

#### **APPROVAL OF MINUTES:**

**Motion** made by Mr. Salmon and seconded by Mr. Thompson to approve the November 24, 2014 meeting minutes as written. **All in Favor. Motion Passed.**

Ms. Battaglia introduced Pastor Keith who came to my office on Friday because he also leases space in the same building, which we were unaware of. So I asked him to attend tonight because he is doing the same use. Typically what happens is we get a Zoning Certificate submittal to start the process to get a use permitted and once that is approved then it goes to Cecil County, our building authority, and they are the ones who look at the building structure, the Fire Marshal inspects for capacity of the building and without going through that process that never happened for you. We need to make sure that happens and the property owner should have been here. I sent an email last week that we needed a layout of the building because we don't know what the square footage is. And I apologize if you didn't get the standards that were needed so that the board would know that you addressed the criteria. I'll make sure you get a copy of that.

Mr. Sussman commented I would encourage you to work with Town Staff to pull together the information that you need and see if they may be able to help you with that. Not putting it together but providing you with the information.

Ms. Skilling explained in this case because your use is existing, it's an illegal use at this point because we don't even have any information for your use, and the same thing, what's the layout of the building, the capacity, and we need to address that with the property owner because the property owner needs to give us this information. So we can discuss that and what we need to do to make sure to get that to be a legal use as well.

Mr. Malesh commented once we have the information, the building diagram, doors, windows, and parking then it would all be set up.

**ADJOURNMENT:**

**Motion** made by Mr. Thompson and seconded by Mr. Kommalan to adjourn the hearing at 7:17 p.m.  
**All in Favor: Motion Carried.**

Respectfully submitted,

Dianna M. Battaglia  
Planning & Zoning Coordinator