



City of
Salisbury
John "Jack" R. Heath, Mayor

MINUTES

The Salisbury Board of Zoning Appeals met in regular session on May 4, 2023, in Room 301, Government Office Building at 6:00 p.m. with attendance as follows:

BOARD MEMBERS:

Shawn Jester
William Hill (Absent)
Maurice Ngwaba
Edward Torbert
Miya Horsey (Absent)
Sandeep Gopalan
D'Shawn Doughty

CITY STAFF:

Brian Soper, City Planner
Henry Eure, Senior Planner
Beverly Tull, Recording Secretary
Laura Hay, City Solicitor

* * * * *

Mr. Soper, City Planner, called the meeting to order at 6:03 p.m.

* * * * *

Mr. Soper announced that there were changes to the Agenda to include the election of a Chair and Vice Chair, the election of the Open Meetings Act Representative, and that the 600 E. Church Street case had been withdrawn.

Mr. Soper explained the purpose of the newly formed Board of Appeals.

* * * * *

NOMINATION OF CHAIR:

Mr. Soper explained the importance of having someone that has experience with the zoning cases be the Chair as most of the cases will involve zoning.

Department of Infrastructure & Development
125 N. Division St., #202 Salisbury, MD 21801
410-548-3170 (fax) 410-548-3107
www.salisbury.md



City of
Salisbury
John "Jack" R. Heath, Mayor

Upon a motion by Mr. Torbert, seconded by Mr. Ngwaba, and duly carried, the motion to have Mr. Shawn Jester serve as the Chair. Mr. Gopalan abstained from the vote.

Mr. Jester gave a brief introduction explaining that he had served on the Board of Zoning Appeals for five (5) years. He explained that his full-time job is working for Andy Harris.

NOMINATION OF VICE CHAIR:

Mr. Soper explained that it would be beneficial to have an attorney who can serve in the absence of the Chair hold the Vice Chair position. Ms. Hay added that the Vice Chair tends to make the motions.

Upon a motion by Mr. Torbert, seconded by Mr. Ngwaba, and duly carried, Mr. Sandeep Gopalan was elected as Vice Chair. The vote was unanimous by all members present at the meeting.

Mr. Jester assumed the role of Chair and proceeded with the meeting.

NOMINATION OF OPEN MEETINGS ACT REPRESENTATIVE:

Mr. Jester explained the need for electing an Open Meetings Act Representative. Ms. Hay discussed the need for all members to take the Open Meetings Act training, which is required by the State. One member must be responsible for monitoring the meetings to make sure they adhere to the Open Meetings Act.

Upon a motion by Mr. Torbert, seconded by Mr. Gopalan, and duly carried, Mr. Ngwaba was elected as the Open Meetings Act Representative. The vote was unanimous by all members present at the meeting.

* * * * *

Ms. Hay introduced herself to the Board and explained that she served as the City Attorney for the Board. Staff also introduced themselves as well as each Board member.

* * * * *

MINUTES:

Upon a motion by Mr. Gopalan, seconded by Mr. Ngwaba, and duly carried, the Board **APPROVED** the February 2, 2023 minutes as submitted.

* * * * *

Mr. Eure administered the oath to anyone wishing to speak before the cases heard by the Salisbury Board of Appeals.

* * * * *

Case #SA-23-334 Cristo Vive Church – Enlargement of a Legal Nonconforming Use and a 0.7 ft. Front Yard Setback Variance and a 27.7 ft. Side Yard Setback Variance – 1308 Westchester Street – R-10 Residential District.

Mr. Frank Hawk came forward. Mr. Eure presented the Staff Report and all accompanying documentation into the record. Mr. Eure explained that the applicant requests permission to construct 5,241 sq. ft. of additions to the existing nonconforming building. The building is nonconforming, as it does not meet the minimum required rear yard setback of 75 ft. The front addition is proposed to have a front yard setback of 49 ft., 3 in. along Westchester Street. The Zoning Code requires a minimum front yard setback of 50 ft. Board approval to enlarge an existing nonconforming building and a 27.7 ft. side yard setback and a 0.7 ft. front yard setback variance is requested.

Mr. Hawk explained that the church was built in 1969 to the Code standards at that time. The Church sanctuary only holds 120 people and it is full most of the time. The request to expand the building will increase the seating to 250 people. The restrooms must be brought up to Code for the increase capacity. The nursery and child area must be secured. The requested addition to the front of the building will handle the nursery and child area. The original plans were much larger but have been scaled back due to the Code requirements. The 0.7 ft. setback is needed to build the nursery and toddler area. The nursery must be on the same level as the sanctuary for safety purposes. The utilities are at the front of the building so the restrooms need to stay at the front of the building. The parking area is currently gravel and grass without a buffer but the new site plan will buffer the church from the residential properties. The variance will not be detrimental to the City or the surrounding neighborhood.

Mr. Torbert questioned Mr. Hawk if there would be blacktop parking. Mr. Hawk responded in the affirmative. Mr. Eure responded that paved parking is required. Mr. Hawk added that they would connect the sidewalk to the school.

Mr. Gopalan questioned Mr. Hawk on the practical difficulty or hardship for the 0.7 ft. variance request. Mr. Hawk responded that the need for the restrooms to be near the nursery and child area, as well as making sure the room was at least 12 ft. wide and meeting ADA requirements were the hardships that made the 0.7 ft. variance a necessity.

Mr. Ngwaba thanked Mr. Eure for his analysis. He suggested that the addition of the 5,241 sq. ft. to the church might not have included exploration of all the options for design. Mr. Hawk responded that the location has to be on the same level as the sanctuary and near the restrooms.

Mr. Eure referenced Attachment #2 and discussed adjoining the nursery to the new sanctuary, making a corridor to the restroom. Mr. Hawk responded that a 2 hr. firewall was required and the rear wall of the sanctuary must have a 2 hr. firewall.

Mr. Ngwaba questioned Mr. Hawk about reviewing the plans and looking at ways to meet the setback requirements. Mr. Hawk responded that the plans that were shown were the best layout, adding that the 0.7 ft. setback request was not a big deal.

Mr. Torbert questioned if the architects from Georgia specialized in church design. Mr. Hawk responded that he specializes in church design, having designed over 50 churches. Mr. Torbert questioned that if Mr. Hawk followed Mr. Eure's suggestion to move the nursery, how much of a financial impact would it make. Mr. Hawk responded that it would not be a big financial impact but that he could not relocate it because of the distraction to the sanctuary. There must be a line of sight to each room per the safety protocol. The control desk must be manned.

Mr. Gopalan questioned if the placement of the utilities was also a requirement. Mr. Hawk responded that he could not render the utilities to the other side of the building.

Mr. Doughty suggested that the nursery and toddler room at the rear of the building would be safer. Mr. Hawk stated that he could not run the utility lines to the rear of the building.

Mr. Ngwaba questioned the stair width because if they were to move one (1) foot it would not lose anything.

Mr. Gopalan questioned Ms. Hay if the Code required the Board to redesign the project. Ms. Hay responded that the Board does not redesign the project but can offer suggestions. She added that the Board discusses the factors of the variance and must do Findings of Fact of the decision. The other issue is the enlargement of the

nonconforming use.

Mr. Jester stated that he appreciated the Staff providing a recommendation and the Board can make a decision if they feel differently.

Mr. Torbert questioned the basis for the Staff's recommendation of denial. Mr. Eure responded that there are no hardships and the building would be noncompliant on three (3) sides. There are alternatives for the design.

Ms. Hay requested that the Staff Report be moved into the record. Mr. Jester stated that the Staff Report was part of the record.

Mr. Hawk questioned where it was codified that the 50 ft. setback is from the curb. Mr. Eure responded that the requirement is in the Code. Mr. Hawk stated that if it was from the lot line that it would be 8 ft.

Upon a motion by Mr. Ngwaba, seconded by Mr. Torbert, and duly carried, the Board **APPROVED** the 27.7 ft. Side Yard Setback Variance, **DENIED** the 0.7 ft. Front Yard Setback Variance, and **APPROVED** the Enlargement of a Legal Nonconforming Structure based on Section V (c) of the Staff Report and subject to the following Conditions of Approval:

CONDITIONS OF APPROVAL:

1. The front addition may meet but not encroach any closer to Westchester Street than the allowable 50 ft. front yard setback.
2. Landscaped islands shall have a minimum 8 ft. width.
3. Provide at least two (2) van accessible parking spaces.

The Board vote was as follows:

D'Shawn Doughty	Aye
Maurice Ngwaba	Aye
Sandeep Gopalan	Nay
Ed Torbert	Aye
Shawn Jester	Nay

* * * * *

Mr. Soper explained that there are currently no zoning cases for June but haven't received any information from HCDD if they have any cases for June.



City of
Salisbury
John "Jack" R. Heath, Mayor

Mr. Doughty questioned if the alternates were required to attend each meeting. Mr. Soper responded that it is preferred if all members attend each meeting. Staff has the ability to pick from the members who should sit based on the case.

There was discussion about the meeting date and time. Mr. Torbert noted that he has a conflict with the first Thursday of the month.

Mr. Soper questioned Ms. Hay if the handbook needed to be voted on. Ms. Hay responded that it did not need to be voted on but should go on a future agenda for a briefing.

* * * * *

ADJOURNMENT

With no further business, the meeting was adjourned at 7:28 p.m.

* * * * *

This is a summary of the proceedings of this meeting. Detailed information is in the permanent files of each case as presented and filed in the City of Salisbury Department of Infrastructure and Development Department.

Shawn Jester, Chairman

Richard Baldwin, Secretary to the Board

Beverly R. Tull, Recording Secretary