

BOARD OF APPEALS

July 10, 2024

County Administration Building, 100 W. Washington St., Meeting Room 2000, Hagerstown, at 6:00 p.m.

AGENDA

AP2024-028: An appeal was filed by Lanes Run Mennonite Church for a variance from the required 50 ft. rear yard setback to 40 ft. for proposed addition to an existing church on the property owned by the appellant and located at 12725 Lanes Run Road, Big Pool, Zoned Environmental Conservation. - **GRANTED**

Closed Session: (To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom the Board of Commissioners of Washington County has jurisdiction; or any other personnel matter that affects one or more specific individual; and To consult with counsel to obtain legal advice on a legal matter)

.....

Pursuant to the Maryland Open Meetings Law, notice is hereby given that the deliberations of the Board of Zoning Appeals are open to the public. Furthermore, the Board, at its discretion, may render a decision as to some or all of the cases at the hearing described above or at a subsequent hearing, the date and time of which will be announced prior to the conclusion of the public hearing. Individuals requiring special accommodations are requested to contact Katie Rathvon at 240-313-2464 Voice, 240-313-2130 Voice/TDD no later than June 17, 2024. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

The Board of Appeals reserves the right to vary the order in which the cases are called. Please take note of the Amended Rules of Procedure (Adopted July 5, 2006), Public Hearing, Section 4(d) which states:

Applicants shall have ten (10) minutes in which to present their request and may, upon request to and permission of the Board, receive an additional twenty (20) minutes for their presentation. Following the Applicant's case in chief, other individuals may receive three (3) minutes to testify, except in the circumstance where an individual is representing a group, in which case said individual shall be given eight (8) minutes to testify.

Those Applicants requesting the additional twenty (20) minutes shall have their case automatically moved to the end of the docket.

For extraordinary cause, the Board may extend any time period set forth herein, or otherwise modify or suspend these Rules, to uphold the spirit of the Ordinance and to do substantial justice.

Tracie Felker, Chairman

Board of Zoning Appeals



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

ZONING APPEAL

Property Owner: Lanes Run Mennonite Church
C/O Deacon William Eby
13830 Leishear Court
Clear Spring MD 21722

Appellant: Lanes Run Mennonite Church
13830 Leishear Court
Clear Spring MD 21722

Property Location: 12725 Lanes Run Road
Big Pool, MD 21711

Description Of Appeal: Variance from the required 50 ft. rear yard setback to 40 ft. for addition to an existing church.

Docket No: AP2024-028
Tax ID No: 15013990
Zoning: EC
RB Overlay: No
Zoning Overlay:
Filed Date: 06/12/2024
Hearing Date: 07/10/2024

Appellant's Legal Interest In Above Property:

Owner:	Yes	Contract to Rent/Lease:	No
Lessee:	No	Contract to Purchase:	No
Other:			

Previous Petition/Appeal Docket No(s):

Applicable Ordinance Sections: Washington County Zoning Ordinance Section: 5B.6

Reason For Hardship: Topographically any further expansion to the front would require excessive fill which is adjacent to a pond

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Churh

Proposed Use: Addition to Church

Previous Use Ceased For At Least 6 Months:

Date Ceased:

Area Devoted To Non-Conforming Use -

Existing:
Proposed:

I hearby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

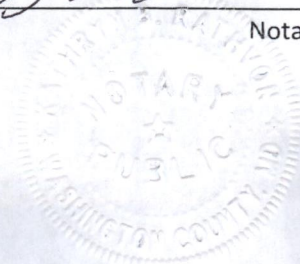
Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this June day of 2024.

Kathryn B Rathvon
My Commission Expires
WASHINGTON COUNTY
MARYLAND
MY COMMISSION EXPIRES NOVEMBER 07, 2025

Notary Public





WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2024-028

State of Maryland Washington County, To Wit:

On 6/12/2024, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Frederick Seibert & Associates and made oath in due form of law as follows:

Frederick Seibert & Associates will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 07/10/2024, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

Sign(s) will be posted on 06/18/2024 and will remain until after the above hearing date.

Frederick Seibert & Associates

Sworn and subscribed before me the day and year first above written.

Kathryn B Rathvon
NOTARY PUBLIC
WASHINGTON COUNTY
MARYLAND
MY COMMISSION EXPIRES NOVEMBER 07, 2025

Notary Public

Seal

My Commission Expires



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P: 240.313.2430 | F: 240.313.2431 | Hearing Impaired: 7-1-1

BOARD OF ZONING APPEALS

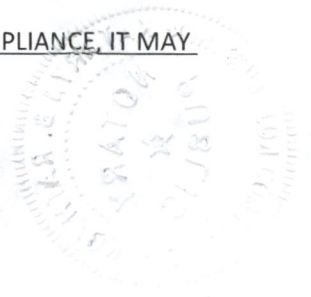
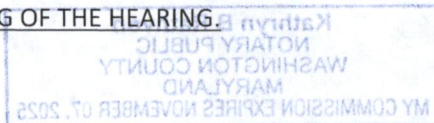
ATTENTION!

Posting Instructions

The premises MUST be posted in accordance with the following rules:

1. The sign must be posted a minimum of fourteen (14) days prior to the public hearing. Section 25.51(c) Property upon which the application or appeal is concerned shall be posted conspicuously by a zoning notice no less in size than twenty-two (22) inches by twenty-eight (28) inches at least fourteen (14) days before the date of the hearing.
2. The sign must be placed on the property within ten (10) feet of the property line which abuts the most traveled public road.
3. The sign must be posted in a conspicuous manner not over six (6) feet above the ground level, and affixed to a sturdy frame where it will be clearly visible and legible to the public.
4. The sign shall be maintained at all times by the applicant until after the public hearing. If a new sign is needed or required, please contact the Plan Review Department at 240-313-2460.
5. An affidavit certifying the property will be posted for the minimum of fourteen (14) days prior to the public hearing date.

Proper posting of the sign will be spot checked by the Zoning Inspector. IF SIGN IS NOT IN COMPLIANCE, IT MAY RESULT IN RESCHEDULING OF THE HEARING.



Project Name: Lanes Run Mennonite Church

**Owner/Applicant: Lanes Run Mennonite Church c/o William Eby
13830 Leishear Ct
Clear Spring, MD 21722-2044**

Project Address: 12725 Lanes Run Road, Big Pool, MD 21711

Tax Map 33 Grid 9 Parcel 208

Account # 15013990

Zoning: EC-Environmental Conservation

Variance request:

The request is to reduce the rear yard setback from the required 50 feet as enumerated in table 5B.6 to 40 feet of the Washington County Zoning Ordinance for the construction of a building addition to an existing church. The existing site is arranged with a parking lot on the right side of the building which needs to be maintained. The natural and most efficient expansion of the building is how it is shown on the exhibit.

Topographically any further expansion to the front would require excessive fill which is adjacent to a pond. Expansion to the right is limited as that is the existing parking lot.

Surrounding property owners have reviewed the site plan and have indicated no objection to the reduction.

Further testimony will be provided at the hearing.



Washington County Board of Zoning Appeals Owner's Representative Affidavit

This is to certify that Fred Frederick or Ed Schneider
is authorized to file an appeal with the Washington County Board of Appeals for Lanes Run Mennonite Church
on property located at 12725 Lanes Run Rd.
The said work is authorized by William Eby, Deacon
the property owner in fee.

PROPERTY OWNER

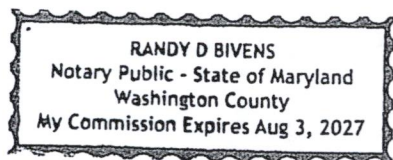
William Eby, Deacon
Name
13830 Leishear Ct.
Address
Clear Spring, MD. 21722
City, State, Zip Code

[Signature]
Owner's Signature

Sworn and subscribed before me this 30 day of MAY, 2024.

[Signature]
Notary Public

My Commission Expires:



AUTHORIZED REPRESENTATIVE

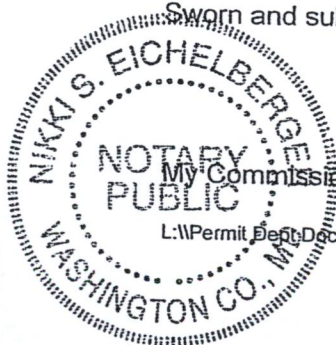
Fred Frederick or Ed Schneider
Name
128 S. Potomac St.
Address
Hagerstown, MD. 21740
City, State, Zip Code

[Signature]
Authorized Representative's Signature

Sworn and subscribed before me this 10 day of June, 2024.

Nikki S. Eichelberger
Notary Public

My Commission Expires: 9/15/2024



Frederick Seibert & Associates, Inc.

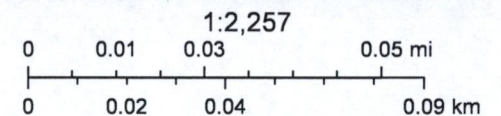


6/11/2024, 10:57:56 AM

World Transportation

Parcels Washington County

MD_SixInchImagery



Maxar, Microsoft, Esri Community Maps Contributors, WVU Facilities, WashCo MD, West Virginia GIS, © OpenStreetMap, Microsoft, Esri, TomTom,

Web AppBuilder for ArcGIS

Maxar, Microsoft | MD iMAP, DoIT | Hagerstown MD | Washington County Planning Department | Source: USDA NRCS, Esri | Washington County | MD iMAP, USDA | Esri, HERE, IPC | Esri Community Maps Contributors, WVU Facilities, WashCo MD, West Virginia GIS,

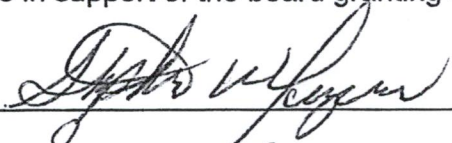
May 7, 2024

Washington County Board of Zoning Appeals
747 Northern Avenue
Hagerstown, MD 21740

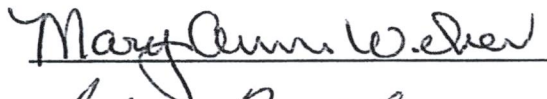
RE: Variance Request for rear yard setback

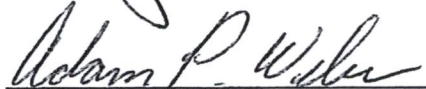
Dear Board Members:

We, the below signed neighbors of Lanes Run Mennonite Church, hereby acknowledge that we met with William Eby regarding the above referenced variance to reduce the rear yard setback from 50 feet to 40 feet so that they can do an addition to their church and keep the building in line with a projection of the existing eastern building face so that it aids in the construction of the building addition. We further acknowledge that we are in support of the board granting a variance for this rear yard setback.



Doug F. Collins



Mary Ann W. Eby


Adam P. Weber

Real Property Data Search ()
Search Result for WASHINGTON COUNTY

[View Map](#)
[View GroundRent Redemption](#)
[View GroundRent Registration](#)

Special Tax Recapture: None

Account Identifier: District - 15 Account Number - 013990

Owner Information

Owner Name: CHURCH LANES RUN MENNONITE Use: EXEMPT COMMERCIAL
Principal Residence: NO
Mailing Address: C/O WILLIAM EBY, DEACON Deed Reference: /00653/ 00745
13830 LEISHEAR CT
CLEAR SPRING MD 21722-2044

Location & Structure Information

Premises Address: 12725 LANES RUN RD Legal Description: 3.61 ACRES
BIG POOL 21711-0000 12725 LANES RUN RD
CHURCH

Map: Grid: Parcel: Neighborhood: Subdivision: Section: Block: Lot: Assessment Year: Plat No:
0033 0009 0208 30000.22 0000 2024 Plat Ref:

Town: None

Primary Structure Built Above Grade Living Area Finished Basement Area Property Land Area County Use
1,410 SF 3.6100 AC

Stories Basement Type Exterior Quality Full/Half Bath Garage Last Notice of Major Improvements
CHURCH / C2

Value Information

	Base Value	Value As of 01/01/2024	Phase-In Assessments As of 07/01/2023 As of 07/01/2024	
Land:	88,300	88,300		
Improvements	110,200	137,400		
Total:	198,500	225,700	198,500	207,567
Preferential Land:	0	0		

Transfer Information

Seller:	Date:	Price:
Type:	Deed1: /00653/ 00745	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:
Seller:	Date:	Price:
Type:	Deed1:	Deed2:

Exemption Information

Partial Exempt Assessments: Class	07/01/2023	07/01/2024
County: 700	198,500.00	207,567.00
State: 700	198,500.00	207,567.00
Municipal: 700	0.00 0.00	0.00 0.00

Special Tax Recapture: None

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

Homeowners' Tax Credit Application Status: No Application Date:

Received for record Feb. 6, 1978 at 9:52 AM LIBER 653

745

Feb. 6 12878Arf 17.00
Feb. 6 12879Art 33.00
FEB -6-78 AF 12880 ***** 36.10

THIS DEED, Made this 3rd day of January, 1978, by Daisy A. Taylor, of Washington County, Maryland.

WITNESSETH: That for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, Daisy A. Taylor does hereby grant and convey unto Preston M. Showalter, Henry S. Eby and Norman A. Horst, Trustees for the Lane's Run Mennonite Church and their successors, all that lot or parcel of land situate along the East side of Lanes Run Road, in Election District No. 15 Washington County, Maryland and being more particularly described as determined by a recent survey by Fox & Associates, Inc., as follows:

Beginning at an iron pipe at base of a fence post, being at or near the beginning point of a parcel of land described in a Deed from Blanche Viola Eichelberger, to Lloyd T. Mills and Sallie V. Mills, his wife, dated April 29, 1961 and recorded in Liber 367, folio 24 among the Land Records of Washington County thence running with the lands of Lloyd T. Mills which Deed is recorded as aforesaid in Liber 367, folio 24, South 30 degrees 35 minutes 40 seconds East 197.06 feet to an iron pipe at base of a fence post, thence running along or near an existing fenceline, with the Lands of Joseph H. Forsyth which deed is recorded among the aforesaid Washington County Land Records in Liber 366, folio 661, South 43 degrees 29 minutes 56 seconds West 424.49 feet to an iron pipe, thence with a line of division now made North 37 degrees 54 minutes 17 seconds West 383.80 feet to an iron pipe in the eastern right of way line of Lanes Run Road, thence running with said right of way line the two following courses and distances North 51 degrees 28 minutes 52 seconds East 150.85 feet to an iron pipe, thence with a curve to the left having a radius of 660.95 feet an arc length of 248.64 feet and a chord bearing and distances of North 38 degrees 33 minutes 48 seconds East 247.18 feet to an iron pipe thence running back from said road, with the lands of Lloyd T. Mills which Deed is recorded among the Land Records in Liber 281, folio 31. South 54 degrees 07 minutes 45 seconds East 192.00 feet to the point of beginning. Containing 3.61 acres of land more or less. And being part of the same property which was conveyed unto Earl A. Taylor and Daisy A. Taylor, his wife, by Deed from James A. Repp and Mildred T. Repp, his wife, dated April 10, 1948 and recorded among the Land Records of Washington County, Maryland in Liber 246, folio 522. The said Earl A. Taylor having predeceased his wife, title became vested in Daisy A. Taylor as surviving tenant by the entirety. SUBJECT to all rights of way, and easements of record.

And I, Daisy A. Taylor, do hereby covenant that I will warrant generally the above described property, and that I will execute such other and further assurances of said property as may be requisite.

WITNESS my hand and seal.

WITNESS:

Daisy A. Taylor (SEAL)
Daisy A. Taylor

Mary Ann Kishner

STATE OF MARYLAND, COUNTY OF WASHINGTON, to-wit:

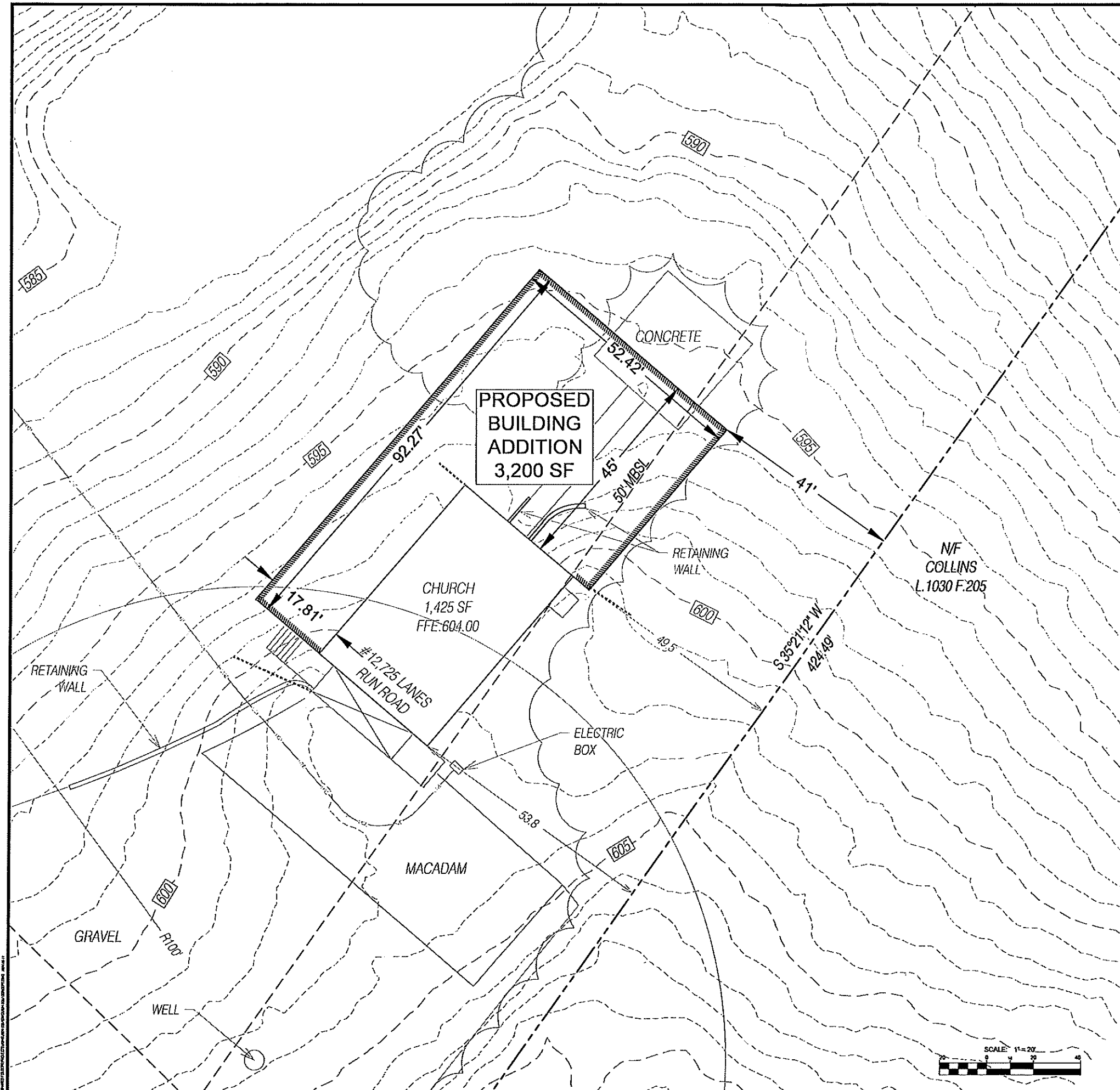
I HEREBY CERTIFY That on this 3rd day of January, 1978, before me, the Subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Daisy A. Taylor and acknowledged the foregoing Deed to be her act and Deed.

WITNESS my hand and Official Notarial Seal.

Mary Ann Kishner
Notary Public

My Comm. Exp.
7/1/78

Box 338 Manganaville, MD



LEGEND

	EXISTING	PROPOSED
SUBJECT BOUNDARY	---	---
BUILDING SETBACK LINE	---	---
RIGHT OF WAY	---	---
ADJOURNER BOUNDARY	---	---
DITCH (STREAM)	---	---
SOIL BOUNDARY	---	---
CENTERLINE	---	---
EDGE OF PAVEMENT	---	---
EDGE OF GRAVEL	---	---
WALL	---	---
EDGE OF CONCRETE	---	---
BUILDING	---	---
SIGN (SITE)	---	---
TOPOGRAPHIC FEATURES		
CONTOUR (INDEX)	---	---
CONTOUR (INTERMEDIATE)	---	---
SPOTS ELEVATION	---	---
VEGETATION AREAS		
TREELINE	---	---
WATER	---	---
WELL	---	---
STORM DRAINAGE	---	---
ROOF DRAIN LINE	---	---
UTILITIES		
ELECTRICAL LINE	---	---
OVERHEAD LINES	---	---
PEDS, BOX, & ETC	---	---
POLE	---	---

NOTES

1. FIELD SURVEYS WERE PERFORMED BY FREDERICK, SEIBERT, AND ASSOCIATES ON 03-11-2024, AND ALL BEARINGS SHOWN HEREON ARE IN THE STATE PLANE COORDINATE SYSTEM, PA SOUTH ZONE, NORTH AMERICAN DATUM OF 1983 (NAD83).
2. TOPOGRAPHIC INFORMATION SHOWN HEREON IS FROM MARYLAND SPATIAL DATA ACCESS, AND IS ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVDS83).
3. ACCORDING TO FEMA FLOOD INSURANCE RATE MAP (FIRM) COMMUNITY PANEL NO. 2404001000, THIS PROPERTY IS NOT LOCATED IN A 100 YEAR FLOODPLAIN.
4. ACCORDING TO THE US FISH & WILDLIFE SERVICE NATIONAL WETLANDS INVENTORY, WETLANDS ARE NOT PRESENT ON THIS SITE.
5. FSA, INC. ASSUMES NO LIABILITY FOR THE LOCATION OF ANY ABOVE GROUND AND BELOW GROUND UTILITIES. EXISTING UTILITIES ARE SHOWN FROM THE BEST AVAILABLE INFORMATION. CONTRACTOR TO FIELD VERIFY LOCATION AND DEPTH OF ALL ABOVE AND BELOW GROUND UTILITIES PRIOR TO CONSTRUCTION.
6. THIS PLAN WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT.
7. THIS SITE IS ZONED EC (ENVIRONMENTAL CONSERVATION).

LEGEND - ABBREVIATIONS

AASHTO - AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS	OC - ON CENTER
ADS - ADVANCED DRAINAGE SYSTEM	PC - POINT OF CURVE
ASTM - AMERICAN SOCIETY FOR TESTING AND MATERIALS	PCU - POINT OF COMPOUND CURVE
AWWA - AMERICAN WATER WORKS ASSOCIATION	PGL - PROPOSED GRADE LINE
BLDG - BUILDING	PRC - POINT OF REVERSE CURVE
BOT - BOTTOM	PT - POINT OF TANGENT
CL - CAST IRON PIPE	PVC - POINT OF VERTICAL CURVE
CL - CENTERLINE	PVI - POINT OF VERTICAL INTERSECTION
CMP - CORRUGATED METAL PIPE	PVT - POINT OF VERTICAL TANGENT
CO - SANITARY SEWER CLEAN-OUT	ROW - RIGHT-OF-WAY
COMM - COMMUNICATION	SAW - SANITARY
CONC - CONCRETE	SCE - STABILIZED CONSTRUCTION ENTRANCE
DA - DRAINAGE AREA	SDR - STANDARD DIMENSION RATIO
DA - DIAMETER	SIP - SET IRON PIN
EG - EXISTING GRADE LINE	SO - STORM DRAINAGE
EX - EXISTING	SQ - SQUARE FEET
EP - EXISTING IRON PIN	SS - SANITARY SEWER
F - FINISH FLOOR ELEVATION	SSMH - SANITARY SEWER MANHOLE
FI - FIRE HYDRANT	STA - STATION
GV - GATE VALVE	STO - STANDARD
HGL - HYDRAULIC GRADE LINE	SY - SQUARE YARDS
HDPE - HIGH DENSITY POLYETHYLENE	TAN - TYPE AS NOTED
INV - INVERT	TEMP - TEMPORARY
LF - LINEAR FEET	TS - TOP OF STRUCTURE
MAX - MAXIMUM	TG - TOP OF GRADE
MB - MAIL BOX	TR - TOP OF RM
MIN - MINIMUM	TYP - TYPICAL
MJ - MECHANICAL JOINT	UP - UTILITY POLE
NO - NUMBER	VF - VERIFY IN FIELD
NC - NOT IN CONTRACT	WL - WATERLINE
NTS - NOT TO SCALE	WM - WATER METER
OAC - OR APPROVED EQUAL	WV - WATER VALVE

ES&S ASSOCIATES, INC.
FREDERICK, SEIBERT, AND ASSOCIATES
10000 WASHINGTON AVENUE, SUITE 100
FREDERICK, MARYLAND 21701
TEL: 410-326-1111
WWW.ESANDS.COM

LANES RUN MENNONITE CHURCH
1425 L. 1030 F. 205
WASHINGTON COUNTY, MARYLAND
NOT A PROPOSED PROJECT
1425 NATIONAL PINE CREEK SPRING, MD 21722
301-971-0811

PROJECT NO: 2024-0057
DATE: 04.30.2024
PROJECT MANAGER: TMF
DESIGNER: TMF/ES&S-PC/DOCS
PROPERTY INFORMATION
0205-0009-0206
SCALE: 1" = 20'
SHEET TITLE: CONCEPT PLAN
C-101
SHEET 01 OF 01

*

LANES RUN MENNONITE CHURCH

Appellant

Appeal No.: AP2024-028

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* * * * *

Lanes Run Mennonite Church (hereinafter “Appellant”) requests a variance to reduce the required rear yard setback from 50 feet to 40 feet, for a proposed addition to the existing church at the subject property. The subject property is located at 12725 Lanes Run Road, Big Pool, Maryland and is zoned Environmental Conservation. The Board held a public hearing in this matter on July 10, 2024.

Findings of Fact

3. The church building was constructed sometime between 1977 and 1978. The rear wall of the church runs parallel to the east boundary line of the property and crosses over the setback line at an angle.

4. The boundary line on the north side of the property follows the existing stream.

5. Appellant proposes to construct an L-shaped addition to the existing church building to accommodate its growing congregation. Due to the angle of the building, the northeast corner of the proposed addition would encroach into the required setback area.

6. The septic and reserve area are located to the front of the subject property.

7. Appellant has flattened an area of the property where they construct a tent in the summer for bible school.

8. Appellant has consulted with the immediate neighbors and all have indicated they don't have an objection to the proposed project.

9. There was no opposition presented to this appeal.

Rationale

The Board has authority to grant a variance upon a showing of practical difficulty or undue hardship. §§ 25.2(c) and 25.56.¹ "Practical Difficulty" may be found by the Board when: (1) strict compliance would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome; and (2) denying the variance would do substantial injustice to the applicant and a lesser relaxation than that applied for would not give substantial relief; and (3) granting the variance would observe the spirit of the Ordinance and secure public safety and welfare. § 25.56(A).

Practical difficulty and undue hardship are the result of a property being unique. "'Uniqueness' of a property for zoning purposes requires that the subject property have an inherent characteristic not shared by other properties in the area, i.e., its shape,

¹ "When the terms unnecessary hardship (or one of its synonyms) and practical difficulties are framed in the disjunctive ("or"), Maryland courts generally have applied the more restrictive hardship standard to use variances, while applying the less restrictive practical difficulties standard to area variances because use variances are viewed as more drastic departures from zoning requirements." *Belvoir Farms Homeowners Ass'n, Inc. v. North*, 355 Md. 259, 276 n.10 (1999) (citations omitted).

topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.” *North v. St. Mary’s Cnty.*, 99 Md. App. 502, 514 (1994).)

Pursuant to Section 5B.6 of the Zoning Ordinance, the required rear yard setback is fifty (50) feet for the subject property. Appellant requested a reduction to forty (40) feet for the rear yard to accommodate the proposed addition to the existing church building.

Appellant provided testimony through their representatives, Fred Frederick and William Eby. Mr. Frederick testified regarding the original location of the building which was likely intended to be parallel to the boundary lines but instead is askew based on the subsequently adopted setback requirements. Both Mr. Frederick and Mr. Eby described the limitations imposed by the topography, namely the heavily wooded areas, the location of the septic and septic reserve, the exiting macadam parking area, and the layout of the existing building. While Mr. Eby acknowledged that the concept drawings were not complete, the proposed location of the addition is not likely to change. He did note that the northeast corner may not encroach as much as indicated in this appeal. Mr. Frederick further noted the lack of any complaint from the neighbors and the relative distance of their homes to the church building.

The Board is persuaded that due to the topography and layout of the subject property, the proposed location for the addition is the most appropriate. Due to the position of the building which already encroaches into the setback area, there is no way to reasonable expand the church without needing a variance. Thus, strict compliance with the setback requirements would render conformance impossible and leave Appellant to either construct an addition that is not useful or abandon construction altogether. This is the very definition of practical difficulty and justifies variance relief. Appellant has satisfied the criteria for a variance and the requested relief should be granted.

Accordingly, the requested variance to reduce the required rear yard setback from 50 feet to 40 feet, for a proposed addition to the existing church at the subject property is GRANTED, by a vote of 5-0. The variance is granted upon the general condition that the use is consistent with the testimony and evidence presented.

BOARD OF APPEALS

By: Tracie Felker, Chair

Date Issued: August 8, 2024

Notice of Appeal Rights

Any party aggrieved by a final order of the Authority in a contested case, whether such decision is affirmative or negative in form, is entitled to file a petition for judicial review of that order to the Circuit Court for Washington County within thirty (30) days of the date of the order.