

DECISION
TALBOT COUNTY BOARD OF APPEALS
Appeal No. 18-1673

Pursuant to due notice, a public hearing was held by the Talbot County Board of Appeals at the Bradley Meeting Room, Court House, South Wing, 11 North Washington Street, Easton, Maryland, beginning at 6:30 p.m. on February 12, 2018, on the application of **FAIRVIEW CONGREGATION CHURCH OF BRETHREN** (the “Applicant” or, alternately, the “Congregation”). The Applicant is requesting a special exception and a variance. Applicant’s special exception request is for a modification of the special exception to expand and continue the use of an existing two-story church with basement. Applicant seeks a non-Critical Area variance from the 50-foot required front setback to 31 feet in order to construct a 1,692 square-foot building footprint addition with a total of 4,160 square feet of gross floor area. The property comprises 5.4 acres, more or less, and is located at 11243 Chapel Road, Cordova, Maryland 21625 in the Agricultural Conservation (AC) zone. It is shown on tax map 12, grid 20 as parcel 28. The Congregation owns the property in trust. The request is made in accordance with Chapter 190 Zoning, Article II, §190-113, Article IX, §190-180 and Article IX, §190-182 of the *Talbot County Code* (the “Code”).

Present at the hearing were Board of Appeals members Paul Shortall, Jr., Chairman, Phillip Jones, Vice Chairman, John Sewell, Louis Dorsey and Frank Cavanaugh. Brett Ewing of Lane Engineering, LLC, 117 Bay Street, Easton, Maryland 21601 appeared and testified on behalf of the Applicant. Brennan Tarleton, Planner I, attended the hearing on behalf of Talbot County. Approximately 15 additional members of the public were present. William C. Chapman was the attorney for the Board of Appeals (the “Board”). It was noted for the record that each member of the Board had individually visited the site.

The following exhibits were offered and admitted into evidence as Board's Exhibits as indicated:

1. Application for a Modification to the Special Exception and Non-Critical Area Variance with Attachment A.
2. Tax Map of subject property.
3. Notice of Public Hearing for advertising in *The Star Democrat* newspaper.
4. Newspaper Confirmation.
5. Notice of Public Hearing and Adjacent Property Owner List.
6. Standards for Non-Critical Area Variance with Attachment B.
7. Standards for a Modification to the Special Exception with Attachment C.
8. Staff Report prepared by Brennan Tarleton.
9. Planning Commission Comment from February 7, 2018.
10. Sign Maintenance Agreement.
11. Authorization Letter.
12. Disclosure and Acknowledgment Form.
13. Aerial Photo.
14. Copy of Permit Cards.
15. History of Church.
16. Site Plan prepared by Lane Engineering, LLC.
17. Floor Plan.

Mr. Ewing testified in support of the application. He clarified that the subject property is not adjacent to a state highway and is entirely within the AC zone. Mr. Ewing described the proposed changes to the subject property, stated that the church use is a current special exception

use in the AC zone and emphasized that the proposed expansion will maintain the same 31-foot front setback that the church currently maintains. Mr. Ewing testified that the Planning Commission voted 4-0 to approve Applicant's site plan, waivers related to screening requirements, required parking spaces and parking in grass. Mr. Ewing requested that the application and its attachments, including Attachments A, B and C and the Site Plan prepared by Lane Engineering, LLC, be admitted as Applicant's Exhibit 1. The Board so admitted Applicant's Exhibit 1.

Mr. Ewing called as a witness Richard Hutchison, a member of the Congregation who owns farm property surrounding the subject property, to the east of Chapel Road, located at 11251 Chapel Road, Cordova, Maryland 21625.

Mr. Hutchison testified about the history of the church and its Congregation, stating that the Congregation originally met beginning around 1881 south of Easton, Maryland in a structure commonly known as the "Little Round Top Church" before constructing the original portion of the present church at the subject property in Cordova in 1893 on land provided by Mr. Hutchison's great-grandfather. Mr. Hutchison described some of the improvements and additions made to the church over the past 125 years and those that are the subject of these modification of special exception and variance requests. The plan will raise the basement ceilings from 6 feet, 6 inches to 8 feet, consistent with the Code, Mr. Hutchison said, adding that the plan will replace the church's old, residential elevator with a modern, commercial-grade model. Mr. Hutchison testified that the original church was constructed long before most neighboring structures were built and is consistent with the neighborhood, as all living neighbors moved to the surrounding area with the church already long established. Mr. Hutchison testified that the existing church is at approximately 80 percent capacity when full, and the expansion will

add 50 percent to the sanctuary, helping to alleviate a problem of families having to split up when they arrive for service to a nearly full sanctuary.

The Board then considered the application. Based on the testimony, application and exhibits, upon motion and seconded, the Board approved the requested modification of special exception and variance, by a vote of five to zero.

The Board made the following findings of fact and law:

1. All legal requirements pertaining to a public meeting were met.
2. The use will be consistent with the purposes and intent of the Talbot County Comprehensive Plan. Based on information submitted by the Applicant, the church has existed and conducted activities on the subject property, with similar building and site layout, for over 100 years. The Code permits churches and related cemeteries as a permitted use by special exception in the AC zone. The Applicants' project seeks to preserve, restore and improve an existing and historic facility to better serve a growing congregation.
2. The use will comply with the standards of the zoning district in which it is located, except as those standards may have been modified by the granting of a variance. The Applicant's proposal will comply with the Code's standards for the AC zone, with the exception of Applicant's requested variance for a reduction of the 50-foot front setback to 31 feet for construction of the proposed addition, no closer to the front of the subject property adjoining Chapel Road than the existing structure. The Applicant's requested waivers related to screening requirements, required parking spaces and parking in grass were all approved 4-0 by the Planning Commission.

3. The scale, bulk and general appearance of the use will be such that the use will be compatible with adjacent land uses and with existing and potential uses in its general area, and will not be detrimental to the economic value of neighboring property. The church and subject property are surrounded on the eastern side of Chapel Road by active agricultural fields. The nearest dwellings are across Chapel Road from the subject property. Although the church use is inconsistent with neighboring residential and agricultural uses, the church has been in operation long before most of the neighboring structures were built and is a recognized use among the surrounding community.
4. The use will not constitute a nuisance to other properties and will not have significant, adverse impacts on the surrounding area due to trash, odors, noise, glare, vibration, air and water pollution, and other health and safety factors or environmental disturbances. No negative implications are anticipated from Applicant's proposed addition. The church will continue to be used for weekend services, limited classes and occasional events.
5. The use will not have significant adverse affect on public facilities or services including roads, schools, water and sewer facilities, police and fire protection or other public facilities or services. The church is primarily used for weekend services and occasional events. Although overall attendance may increase slightly over time, no adverse affect on public facilities or services is expected.
6. The use will not have a significant adverse affect upon marine, pedestrian or vehicular traffic. The subject property is located in a rural area and is not adjacent

to any waterways. The subject property features on-site parking, and Applicant's proposal includes additional parking on-site and not alongside Chapel Road.

7. The use will not produce traffic volumes which would exceed the capacity of public or private roads in the area or elsewhere in the County, based on the road classifications established in Chapter 134, the Talbot County Roads and Bridges Ordinance, and other applicable standards for road capacity. The church produces minimal daily traffic activity and no significant increase is anticipated for Applicant's project. Because the proposed development falls below the required daily one-way trips for an impact study pursuant to §134-12 D.(2)(a)[1], no impact study is required for this expansion.
8. Any vehicle access to proposed off-street parking areas and drive-in facilities will be designed to minimize conflicts between vehicular, bicycle and pedestrian traffic and to minimize impacts on adjacent properties and on public or private roads. No commercial or truck traffic is proposed. Applicant's project proposes to reduce access to the subject property from Chapel Road from three points of ingress and egress to two, which will improve traffic flow and reduce any impact on Chapel Road traffic and vehicles entering and exiting neighboring properties. Applicant's project contains improvements to pedestrian and vehicular movement on-site.
9. Any use will not significantly adversely affect wildlife with respect to the site's vegetation, water resources, or its resources for supplying food, water, cover, habitat, nesting areas, or other needs of wildlife. The subject property is located outside of the Critical Area, and no adverse impact on wildlife is anticipated.

10. The use will not significantly adversely affect adjacent existing agricultural uses. Applicant's project will be limited to construction on the subject property immediately adjacent to the existing church structures. No adverse impact on adjacent agricultural land is anticipated.
11. Unique physical characteristics exist, such as unusual size or shape of the property or extraordinary topographical conditions, such that the literal enforcement of the provisions of this chapter would result in a practical difficulty or unreasonable hardship in enabling the applicant to develop or use this property. The existing church was built prior to the enactment of any setback requirements by Talbot County, and the existing church is located 31 feet from the front property line. Applicant's proposal seeks to extend the church's sanctuary in a functional manner while preserving the historical integrity of the church. Construction along the same horizontal plane will maintain the same 31-foot setback as the existing church.
12. The need for the variance is not based upon circumstances which are self-created or self-imposed. The need for this variance is based solely upon the location and configuration of the existing church, built approximately 125 years ago, prior to the enactment of any setback requirements in Talbot County.
13. Greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient cause for a variance. Applicant's request for a variance is to allow for expansion of the historic church, at the same front setback distance as the existing structure. Greater profitability or lack of knowledge of restrictions are not factors in Applicant's request.

14. The variance will not be contrary to the public interest and will not be a detriment to adjacent or neighboring properties. Applicant's proposal is designed primarily to accommodate its existing Congregation and allow for reasonable growth. The proposal will maintain the 31-foot setback of the existing church. Even with increased attendance, the church and associated facilities are used primarily for weekend services, with occasional events, and no negative impact to neighboring and adjacent properties is anticipated.
15. The variance shall not exceed the minimum adjustment necessary to relieve the practical difficulty or unreasonable hardship. Applicant's proposal for a lateral expansion of the existing church conforms to the historic structure's footprint and layout.

HAVING MADE THE FOREGOING FINDINGS OF FACT AND LAW, IT IS, BY
THE TALBOT COUNTY BOARD OF APPEALS,


RESOLVED, that the Applicant, **FAIRVIEW CONGREGATION OF BRETHREN**
(Appeal No. 18-1673) are **GRANTED** the requested modification of special exception and
variance consistent with the evidence presented to the Board of Appeals, subject to the following
conditions:

1. The Applicant shall take all of the required steps and acquire all necessary approvals, including any additional waivers necessary, required for a Major Site Plan and Landscaping Plan as spelled out in the Code.
2. The Applicant shall make applications to the Office of Permits and Inspections, and follow all of the rules, procedures and construction timelines as outlined regarding new construction.

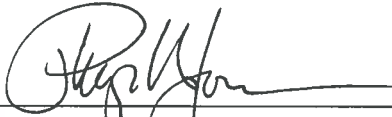
3. The Applicant shall commence construction on the proposed improvements within eighteen (18) months from the date of this Decision.

GIVEN OVER OUR HANDS, this 13 th day of March, 2018.


TALBOT COUNTY BOARD OF APPEALS



Paul Shortall, Jr., Chairman



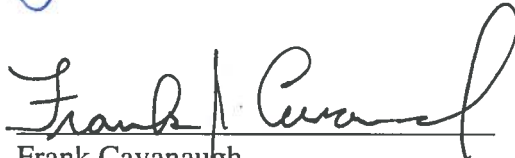
Phillip Jones, Vice-Chairman



John Sewell



Louis Dorsey



Frank Cavanaugh