

**FINDINGS AND RECOMMENDATION
OFFICE OF PLANNING AND ZONING
ANNE ARUNDEL COUNTY, MARYLAND**

APPLICANT: Anthony Dunny

ASSESSMENT DISTRICT: 4th

CASE NUMBER: 2023-0170-V

COUNCILMANIC DISTRICT: 5th

HEARING DATE: March 19, 2024

PREPARED BY: Robert Konowal
Planner

REQUEST

The applicant is requesting a use variance to allow a religious facility on a lot of at least 4.07 acres at 549 Burns Crossing Road, in Gambrills.

LOCATION AND DESCRIPTION OF SITE

The subject site has an area of 4.07 acres and is located with 174 feet of frontage on the northeast side of Burns Crossing Road, 0 feet north of Annapolis Road. These lands are identified as Parcel 567 on Tax Map 30, Grid 7. The property is zoned RLD-Residential Low Density District, as adopted by the comprehensive zoning of the Fifth Council District, January 29, 2012. The subject property is currently improved with a single family detached dwelling and a small shed located in the rear yard.

APPLICANT'S PROPOSAL

The applicant seeks to convert the existing single family detached dwelling to a religious facility. The existing dwelling is approximately 75 feet in width and 32 feet in depth. The applicant has indicated that the parking area will be expanded. No other parking details were provided.

REQUESTED VARIANCES

Section 18-4-106 of the Anne Arundel County Zoning Code allows religious facilities in a RLD District on a lot of at least 5 acres if the coverage for all buildings, including onsite parking, is not more than 30% of the lot. A religious facility on a lot of at least 4.07 acres is not an allowed use in Section 18-4-106 of the Code. A use variance is therefore required.

FINDINGS

The County Code is silent on “use variances” as a use variance is considered tantamount to a rezoning. However, Maryland case law does provide guidance on the evaluation of a potential use variance. A use variance can change the character of the zoned district while an area variance does not. Because the impact of a use variance is viewed as being more significant and possibly drastic, such variances have been dependent on cases of ‘hardship’ where a variance must be

approved to avoid a taking. In such cases, it must be proven that the applicant is unable to secure a reasonable return or make any reasonable use of their property, the difficulties or hardship are peculiar to the subject property in contrast to other properties in the zoning district, and the hardship is not the result of the applicant's own actions. The agent for the applicant has indicated Mr. Anthony Danni is a current member of the church and the church would face financial hardship in trying to acquire another property.

The applicant has not demonstrated that they cannot secure a reasonable return or make reasonable use of the subject property if restricted to the use provisions of the RLD District. Rather than suffering from any hardship, the site is already developed with a single family detached dwelling which is a permitted use in the RLD District and can continue to be used so. The applicant will not be prevented from using the property for a permitted purpose if it does not receive the requested variance.

No evidence has been provided that would indicate that there is any hardship in using the lands for residential purposes that are peculiar to the subject property in contrast to other properties that are located in the RLD District. The submission did note two churches in the area however one of the churches mentioned (952 Annapolis Road) is located on a 2.64 acre lot in a R2 District and exceeds the required 2 acres required for a church in that District. The second church at 886 Annapolis Road (c. 1912) is like the subject property, also located in the RLD District on an undersized lot but according to SDAT that structure predates zoning in the County.

In summary, the criteria for a use variance, namely hardship in the use of these lands if limited to the use restrictions of the ordinance has not been demonstrated.

The Anne Arundel County Department of Health indicated that additional information is needed on: the type and location of the water supply well on-site disposal system.

RECOMMENDATION

Based upon the standards set forth in Section 18-16-305 of the Code under which a variance may be granted, this Office recommends *denial* of the requested use variance to allow a religious facility on a lot of at least 4.07 acres in a RLD District.

DISCLAIMER: This recommendation does not constitute a building permit. In order for the applicant(s) to construct the structure(s) as proposed, the applicant(s) shall apply for and obtain the necessary building permits and obtain any other approvals required to perform the work described herein. This includes but is not limited to verifying the legal status of the lot, resolving adequacy of public facilities, and demonstrating compliance with environmental site design criteria.