

R E S O L U T I O N

WHEREAS, the Prince George’s County Planning Board has reviewed Certification of Nonconforming Use Application No. CNU-8881-2016, Sovereign Grace Baptist Church, requesting certification of a nonconforming use for a church with 60 seats on a residentially-zoned lot that is less than one acre in accordance with Subtitle 27 of the Prince George’s County Code; and

WHEREAS, after consideration of the evidence presented at the public hearing on July 20, 2017, the Prince George’s County Planning Board finds:

A. **Location and Field Inspection:** The subject property known as 6832 Third Street, is located on the north side of Third Street, between Chestnut Avenue and Auburn Avenue. The subject property is zoned R-R (Rural Residential) and is comprised of 0.32 acre of land. The site is improved with a one-story building that has two entrances and a handicap ramp. The site has an unmarked milled asphalt and gravel parking lot in the rear yard. The submitted site plan shows the dimensions of the parking spaces including one handicapped space in accordance with the pre-1970 parking regulation. Access to the site is via two gravel driveways. One driveway is on the west side of the building that is 21.9 feet wide, which accommodates a two-way driveway to the rear parking lot. The other driveway is on the east side of the building that is nine-foot-wide one-way exit from the parking lot.

B. **Development Data Summary:**

	EXISTING	APPROVED
Zone	R-R	Unchanged
Lot/Parcel	1	Unchanged
Acreage	0.32	Unchanged
Gross Floor Area	1,565 sq. ft.	Unchanged
Use	Church	Unchanged

C. **History:** The building was constructed in 1936. According to the statement of justification, the building was once used by the Wildercroft Citizens Association (WCA) as a community building. On January 21, 1972, a lease agreement was signed between WCA (Landlord) and Grace Baptist Church (tenant), with an option to purchase the property. Since then, the property has been used as a church. On March 4, 1975, the Sovereign Grace Baptist Church (SGBC) purchased the property from the WCA (Liber 4464, Folio 611). On August 31, 1993, the Prince Georges County Council adopted County Council Bill 23-1993, to require a special exception for churches located on a lot less than one acre in size. Per the Property Standards Division of the Department of Permitting, Inspection and Enforcement, there is no prior use and occupancy permit for the church. Therefore, certification of nonconforming use is required for the subject site.

- D. **Request:** The applicant requests certification of a nonconforming use for a church comprised of 60 seats located in the R-R Zone that is less than an acre in size.
- E. **Surrounding Uses:** The site is surrounded by existing single-family detached houses on north, east, and west sides in the R-R Zone. The south side of the property is bounded by Third Street, a 40-foot-wide public right-of-way, and a congregated living facility in the R-R Zone beyond.
- F. **Definition of Nonconforming Use:**
- (A) **The “Use” of any “Building,” “Structure,” or land which is not in conformance with a requirement of the Zone in which it is located (as it specifically applies to the “Use”), provided that:**
 - (i) **The requirement was adopted after the “Use” was lawfully established; or**
 - (ii) **The “Use” was established after the requirement was adopted and the District Council has validated a building, use and occupancy, or sign permit issued for it in error.**
 - (B) **The term shall include any “Building,” “Structure,” or land used in connection with a “Nonconforming Use,” regardless of whether the “Building,” “Structure,” or land conforms to the physical requirements of the Zone in which it is located.**
- G. **Certification Requirements:** Certification of a nonconforming use requires that certain findings be made. First, the use must either predate the pertinent zoning regulation or have been established in accordance with all regulations in effect at the time it began. Second, there must be no break in operation for more than 180 days since the use became nonconforming.

Section 27-244 of the Zoning Ordinance sets forth the following specific requirements for certifying a nonconforming use:

- (a) **In general.**
 - (1) **A nonconforming use may only continue if a use and occupancy permit identifying the use as nonconforming is issued after the Planning Board (or its authorized representative) or the District Council certifies that the use is nonconforming and not illegal (except as provided for in Section 27-246 and Subdivision 2 of this Division).**

- (b) Application for use and occupancy permit.**
- (1) The applicant shall file an application for a use and occupancy permit in accordance with Division 7 of this Part.**
 - (2) Along with the application and accompanying plans, the applicant shall provide the following:**
 - (A) Documentary evidence, such as tax records, business records, public utility installation or payment records, and sworn affidavits, showing the commencing date and continuous existence of the nonconforming use;**
 - (B) Evidence that the nonconforming use has not ceased to operate for more than 180 consecutive calendar days between the time the use became nonconforming and the date when the application is submitted, or that conditions of nonoperation for more than one hundred eighty (180) consecutive calendar days between the time the use became nonconforming and the date when the application is submitted, or that conditions on nonoperation for more than one hundred eighty (180) consecutive calendar days were beyond the applicant's and/or owner's control, were for the purpose of correcting Code violations, or were due to the seasonal nature of the use;**
 - (C) Specific data showing:**
 - (i) The exact nature, size, and location of the building, structure, and use;**
 - (ii) A legal description of the property; and**
 - (iii) The precise location and limits of the use on the property and within any building it occupies;**
 - (D) A copy of a valid use and occupancy permit issued for the use prior to the date upon which it became a nonconforming use, if the applicant possesses one.**

Analysis—According to the applicant's justification statement and supporting documentation, the property was leased from the Wildercroft Citizen Association in 1972. Since that time, the property has been operating as a church. At the time churches were permitted in the R-R zone, so long as off-street parking requirements and regulations of the R-R Zone were met. The size of the subject site is only 0.32 acre. As stated above, on August 31, 1993, per adoption of County

Council Bill 23-1993, Section 27-441(b)(2)(A) of the Zoning Ordinance, a special exception approval for churches or similar place of worship, located on a lot less than an acre in size is required. Consequently, the church became nonconforming. The subject property never had a valid use and occupancy permit on record. Hence, the Maryland-National Capital Park and Planning Commission, Permit Review Section, determined that the subject church could not be approved administratively. Therefore, in accordance with Section 27-244(f) of the Zoning Ordinance, the Planning Board must determine whether, in fact, the use was legally established prior to the date it became nonconforming and that it has been in continuous operation since that time.

The applicant has submitted the following documentation as evidence of a continuous use of the existing church in support of this application:

1. A notarized affidavit dated December 12, 2016 from Pastor Roland Roy (current pastor), attesting that the church was established in 1972 and has been continuously operating until present day.
2. A notarized affidavit dated November 8, 2016 from Ms. Maureen Gaffiney, a current neighbor, who has been resident in the area for 18 years, attesting that the subject site has always been used as a church.
3. A notarized letter dated September 8, 2016, from Ms. Theresa Gibson, a 55-year-old neighbor, attesting that the church has been in existence since she moved to the area in 1968.
4. A letter dated May 30, 2017, from the Washington Suburban Sanitary Commission (WSSC) stating that, the computerized record shows that the water and sewer services have been continuously used and available to this property since December 1978. During that time, there has been no service interruption for more than 180 days. Although the account was activated on December 12, 1952, due to archiving limitations, billing information prior to 1978 is not available.
5. Billing summary and payment record from the Washington Suburban Sanitary Commission (WSSC) showing continuous use of the site from May 1999 to June 8, 2016.
6. Copies of church service program flyers from August 11, 2010, November 17–19, 2010 and from January 30, 2011 under Pastor Roy.
7. Copies of Article of Sale and deed information which indicated that the Grace Baptist Church leased the building from Wildercroft Citizens Association on January 21, 1972 and then purchased the property on March 1, 1975 (Liber 4464, Folio 611). Also, the deed with Liber 478, folio 377, indicates that the property was originally conveyed to the Wildercroft Citizen Association on September 1, 1937.
8. Copies of the current use and occupancy permit.

DISCUSSION

The applicant has provided evidence to support their assertion of legal use prior to the use becoming nonconforming in August 1993. The applicant has provided documents ranging from notarized affidavits, service letters from utility companies, letters from citizens, copies of church programs, and deeds demonstrate the use of the subject property as a church. There is no evidence that the subject property ceased operating as a church at any time since the use become nonconforming.

CONCLUSION

Based on the evidence submitted by the applicant, together with the lack of contradictory evidence from other sources, the Planning Board concludes that the subject church was in existence prior to August 31, 1993. There is also no evidence to suggest a lapse of continuous use since that time.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to Subtitle 27 of the Prince George's County Code, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the findings contained herein and APPROVED the above-noted application.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council for Prince George's County, Maryland within thirty (30) days of the final notice of the Planning Board's decision.

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This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Doerner, with Commissioners Washington, Doerner, Bailey, Geraldo, and Hewlett voting in favor of the motion at its regular meeting held on Thursday, July 20, 2017, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 27th day of July 2017.

Patricia Colihan Barney
Executive Director

By Jessica Jones
Planning Board Administrator

PCB:JJ:TA:rpg