

DECISION
TALBOT COUNTY BOARD OF APPEALS
Appeal No. 19-1695

Pursuant to due notice, a public hearing was held by the Talbot County Board of Appeals (the Board) at the Bradley Meeting Room, Court House, South Wing, 11 North Washington Street, Easton, Maryland, beginning at 6:30 p.m. on June 24, 2019, on the Application of the **John Wesley Preservation Society, Inc.**, (the Applicant). The Applicant is seeking approval of a special exception to permit a community and cultural facilities use on a property located in the RC (Rural Conservation) district. The Applicant is also requesting three (3) non-critical area variances for the purposes of constructing a privy building and ADA compliant access ramp adjacent to an existing meeting house building: (1) a variance of the required one hundred fifty foot (150') state highway setback to thirty feet (30'); (2) a variance of the required twenty-five foot (25') side yard setback to twenty feet (20'); and (3) a variance of the required ten foot (10') building separation to three feet two inches (3'2")

The request is made in accordance with Chapter 190 Zoning, Article II, §190-8.5, §190-12.2.B.1, and §190-12.3.A.2; Article IV, §190-25, Article VII, §§190-56 and 190-58 of *Talbot County Code* (the *Code*). The property owner is the John Wesley Preservation Society, Inc. and the property is located at 4957 Evergreen Road, Oxford, MD 21654 in the Rural Conservation (RC) District, and is shown on county tax records as Tax Map 53 Grid 4, Parcel 75.

Present at the hearing for the Board of Appeals were: Phillip Jones, Chairman; Frank Cavanaugh, Vice Chairman; members Paul Shortall, Jr., John Sewell and Louis Dorsey, Jr. Anne C. Ogletree served as attorney for the Board of Appeals. Elisa DeFlaux, Environmental Planner, was in attendance.

The Chairman inquired if all members had visited the site and received affirmative responses.

The following Board exhibits were then offered and admitted into evidence as indicated:

- Exhibit 1. Application for a Special Exception and Non-Critical variance;
- Exhibit 2. Attachment A to Application;
- Exhibit 3. Attachment B to Application;
- Exhibit 4. Copy of tax map with parcel highlighted;
- Exhibit 5. Notice of Public Hearing for Star Democrat;
- Exhibit 6. Newspaper confirmation;
- Exhibit 7. Notice of Public Hearing & Adjacent Property Owners List;
- Exhibit 8. Standards for Special Exception;
- Exhibit 9. Standards for Non-Critical Variance;
- Exhibit 10. Staff Report prepared by Brennan Tarleton, Planner 1;
- Exhibit 11. Letter from J. Esposito, Critical Areas Commission dated 06/14/19;
- Exhibit 12. Planning Commission Recommendation;
- Exhibit 13. Sign Maintenance Agreement;
- Exhibit 14. Letter from H. Dierker, III, State Highway Admin. dated 5/23/19;
- Exhibit 15. Letter from James Reed dated 4/20/19;
- Exhibit 16. Independent Procedures Disclosure and Acknowledgement Form;
- Exhibit 17. Aerial Photo;
- Exhibit 18. Critical Area Computation Worksheet;
- Exhibit 19. MDE Authorization Letter received 4/29/19;;
- Exhibit 20. Letter from Maryland Department of Planning dated 4/26/19;
- Exhibit 21. Letter from Maryland Department of Planning dated 10/23/18;
- Exhibit 22. Letter from Maryland Department of Planning dated 9/24/18;
- Exhibit 23. Letter from Oxford Fire Company dated 6/4/19;
- Exhibit 24. Site Plan by Rauch, Inc.;
- Exhibit 25. Floor Plans and Elevations prepared by Rauch, Inc.

Mr. Jones asked that those who might wish to testify rise and be sworn. All witnesses were then sworn. He next invited the Applicant to tell the Board about the project.

Mr. Paul Rogers, Rauch, Inc., 108 N. Harrison Street, Easton, MD 21601 introduced himself, explaining that his firm does civil engineering and site development. The firm had been asked to assist the Applicant with the proposed improvements. He felt that the Applicant had adequately addressed the standards for the requested uses in Attachments A and B, Exhibits 2 and 3. He didn't have anything to add to those explanations. He suggested that the Board hear from Mr. James Reed, who could explain the need for the proposed project and give the Board a little history of the site.

Mr. James Reed, P.O. Box 515, Oxford, MD 21654 stated that the structure located at the end of Evergreen Road is a late nineteenth century replacement of a church originally constructed in the 1830s by African Americans. The original church congregation was integrated, which made it rather unusual for that time period. The

congregants would come down from Oxford to worship and spend the day.

The plan is to turn the church cook shop/meeting hall into a museum. Currently there is an existing privy located in the graveyard area but no well or septic on the property. The plans call for a “privy building” to be located where the existing shed is currently placed. It will house an electric incinerator toilet. The old privy building will remain (at the request of the Maryland Historical Trust) but will be secured to prevent use. Because the site is constrained by the existing buildings and the graveyard, all of which antedate zoning, the site will require variances to add the new “privy building” and an ADA compliant ramp and entrance for the museum and “privy building”. He also noted that the Applicant was in the process of adding donated land to the site to provide additional parking.

The Chairman asked the members if they had any questions.

Mr. Shortall commented that he believed the Board understood the proposed project.

Mr. Dorsey asked about the proposed hours of operation and wondered if whether additional vehicles visiting the site would cause traffic problems.

Mr. Reed stated that the museum would be open for six (6) hours on Saturdays from spring through fall. In addition, the site might host or schedule three (3) or four (4) small events or gatherings per year. The new parking area should be able to accommodate any parking necessary. In the event of overflow, the Applicant has discussed a parking arrangement with the Oxford Community Center. Overflow vehicles will park at the Community Center and visitors would be shuttled to the site. He added that currently there are occasional visits to the cemetery by relatives of those interred there, and the new parking area would make their access much easier. He did not anticipate any traffic issues.

Mr. Rogers added that the small events would require a county temporary use or special event permit.

Mr. Jones stated that the attachments had provided an excellent explanation of the project and how the proposed use met the required standards. As there was no additional public comment, Mr. Jones invited the members to discuss the application.

Mr. Cavanaugh asked about the original use of the cook shop – had it been used

for church dinners? He received an affirmative response and was advised that it will be now house the museum. Mr. Cavanaugh commented that he was pleased that the Applicant was intent on preserving the old structures and believed the project would preserve the cultural history of the area.

Mr. Jones pointed out that the staff report, Exhibit 10, laid out the history of the site and the standards to be met. This site is unique because of the constraints imposed on the site by the existing structures and the existing cemetery. He also highlighted that the site is subject to a Maryland Historical Trust (MHT) Easement that protects the land and existing buildings. The application recognizes these limitations and the proposed configuration and construction has been approved by the MHT. (Exhibit 20).

Mr. Cavanaugh felt the proposed project would enhance understanding of the area's cultural history.

Mr. Sewell stated that the use of the church by both the black and white communities was an historical fact that was not well known. He thought the museum would make that history better known.

Mr. Dorsey and Mr. Shortall concurred with the comments made.

There being no other public comment, the Board made the following findings of fact and conclusions of law based on the Applicant's written responses, the testimony and the evidence presented:

1. The Applicant has submitted written applications for both a special exception to permit a community and cultural facilities use on the property and an application for three variances necessary to complete the project. Exhibit 1. .
2. The public hearing was properly advertised, the property was posted, and the adjacent land owners were properly notified. Exhibits 4, 5, 6, 7 and 13.
3. The Applicant has received a favorable recommendation from the Planning Commission for the special exception use, Exhibit 12, and similar recommendations from staff for both the special exception use and the requested variances. Exhibit 10, Staff Report. The proposed use is consistent with the County's Comprehensive Plan.
4. The subject property is a small existing lot, roughly eight tenths (.8) acre, created long prior to zoning and the enactment of the critical areas law. Exhibit 24, Site

Plan. It is improved by an existing church building believed to have been built in the late 1800s on the site of an earlier church building initially constructed by a largely African American congregation in the 1830s. There is an existing meeting hall/cook shop constructed *circa* 1940 which will be converted into the proposed museum. An existing shed is located to the north of the cook shop/ meeting hall closer to the road. It will be removed and a privy building erected in that location. The exterior of the privy building will be designed to mimic the appearance of the existing shed. The proposed placement for that building will reduce the required side setback from twenty-five feet (25') to twenty feet (20'), and the separation between the museum and privy from ten feet (10') to a distance of three feet two inches (3' 2"). Both actions require a variance from the requirements of the *Code, See, §§ 190-8.5; 190-12.3.A.2.*

5. Constructing the necessary ADA compliant parking and access ramp to both the museum and privy will take place within the required setback from the state highway (Oxford Road, Rt. 333) necessitating a variance from the one hundred fifty foot (150') setback requirement. *See, Code § 190-12.2.B.1.*
6. The privy building will be constructed in the approximate location of the existing shed once that building has been removed. The location has to be shifted slightly to obtain the proper clearances for handicapped access. The reconstruction will slightly enlarge the footprint. Both the existing shed and the proposed privy building are closer to the east property line than permitted thus requiring a side setback variance. None of the proposed improvements will have an adverse effect on the adjoining properties.
7. The Board finds that the site is unique in that the structures currently existing antedate zoning and are protected by an easement from the MHT. The site is also constrained by the state road, and the existing cemetery located to the rear and west of the existing structures. The cemetery also antedates zoning and its location prevents construction elsewhere on the existing property.
8. The proposed museum will be open for six (6) hours on Saturdays from spring through the fall. It is anticipated that the additional parking to be added when the site is expanded through a lot line revision will accommodate all normal site

traffic. The additional parking area will be accessed from Evergreen Road, a county road, and will help to alleviate any possible traffic issues created by the use of the existing Oxford Road entrances.

9. In the event that there are special events held at the site, the Applicant has arranged for additional parking at the Oxford Community Center, and will transport guests to the site by shuttle. The Applicant is aware that special events will require a temporary use permit from the County.
10. The Board finds that the proposed museum use will be a valuable historical and cultural resource, and that the use is permitted by special exception in the RC district. *Code* § 190-28.7.
11. The Board finds that the site is unique. It is constrained by the state road on the north, by Evergreen Road and the existing cemetery on the west, and by the existing cemetery on the south. Non-tidal wetlands exist on the east. The improvements on site antedate zoning. The site and improvements are protected by an MHT easement. That entity has approved the project. *See*, Exhibit 20 and earlier correspondence in Exhibits 21 and 22.
12. The Applicant did not create the need for the variances. The variances are required as the majority of the site is taken up by the cemetery and by existing buildings. The only way to install the necessary ADA compliant features is to place them between the existing buildings to the north of the cook/shop meeting hall.
13. The proposed improvements are required for ADA compliance, as the museum will be a public place as defined in that law. Greater profitability is not involved in this request.
14. The variances will not have an adverse effect on surrounding properties. The proposed lot line adjustment will add parking for the site, and will lessen the impact of traffic merging on to the State Road from the existing driveway on the current site. The planned museum will highlight the rich cultural history of the site.
15. Because of existing buildings, cemetery and necessary clearances for the ADA required features, the requested variances are the minimum necessary to afford the

Applicant relief.

For the reasons set out in the Board's findings, Mr. Cavanaugh made a motion that the special exception permitting a museum as a community and cultural facility be approved and that the three requested variances -- a reduction of the one hundred fifty foot (150') setback from the state highway to thirty feet (30') ; a reduction of the twenty-five foot (25') required side yard setback to twenty feet (20'); and the reduction of the building separation from ten feet (10') to three feet two inches (3' 2") also be approved subject to the following conditions proposed by the Critical Areas Commission and by Planning Staff:

A. No permits or new construction associated with the special exception use of the property shall occur until the lot line revision plat contemplated by the Applicant has received County approval.

B. The Applicant shall take all of the required steps and acquire all necessary approvals for a Minor Site Plan and Minor Revision Plat as set out in the *Talbot County Code*.

C. The Applicant shall make applications to, and follow all rules, procedures and construction timelines outlined by the Office of Permits and Inspections for new construction.

D. The Applicant shall commence construction of the proposed improvements within eighteen (18) of the date of the approval by this Board.

Mr. Sewell seconded the motion. There was no further discussion on the motion. The Chairman called for a vote. The motion passed, 5-0 with all members voting to grant the variances requested.

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

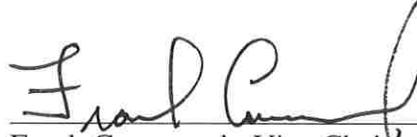
RESOLVED, that the Applicant, **John Wesley Preservation Society, Inc.** (Appeal No. 19-1695) is **GRANTED** the requested Special Exception and the three variances requested for the property consistent with the evidence presented to the Board of Appeals, and subject to the aforementioned conditions, by vote as previously noted.

GIVEN OVER OUR HANDS, this 16th day of July, 2019.

TALBOT COUNTY BOARD OF APPEALS



Phillip Jones, Chairman



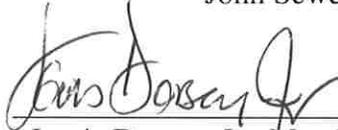
Frank Cavanaugh, Vice Chairman

Unavailable for Signature

Paul Shortall, Jr., Member

Unavailable for Signature

John Sewell, Member



Louis Dorsey, Jr., Member