

PGCPB No. 00-09

Permit No. NCU-6762-99U

Prince George's County Certification of Nonconforming Use Permit No. 6762-99U

Applicant: Martha V. Boyd, Owner

Location: The subject property is located on the southeast corner of the intersection of Addison Road and 61<sup>st</sup> Avenue

Request: The applicant wishes to validate an existing church on a .26-acre parcel in the R-55 Zone

### R E S O L U T I O N

WHEREAS, on November, 1, 1999, Martha V. Boyd, filed an application for Certification of a Nonconforming Use for approximately .26 acres for a church in the R-55 Zone; and

WHEREAS, the advertisement of the public hearing was posted on the property in accordance with Section 27-244(f)(4) of the Prince George's County Zoning Ordinance; and

WHEREAS, the application for Certification of a Nonconforming Use, also known as Case #NCU-6762-99U, was presented to the Prince George's County Planning Board by the staff of The Maryland-National Capital Park and Planning Commission on Thursday, January 27, 2000, for its review and action in accordance with Sections 27-244(a)(1) and (f)(1)(A) of the Prince George's County Code; and

WHEREAS, the Technical Staff Report released January 19, 2000 recommends APPROVAL; and

WHEREAS, on January 27, 2000, having considered the recommendation in the staff report and heard testimony from the staff and applicant, the Prince George's County Planning Board agreed with the staff analysis and recommendation and adopted the same as its own.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 27, Prince George's County Code, the Prince George's County Planning Board APPROVAL Nonconforming Use No. 6762-99U.

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

- A. Location and Field Inspection: The subject property is located on the southeast corner of the intersection of Addison Road and 61<sup>st</sup> Avenue in the Town of Fairmount Heights. The property is developed with a two-story frame building that houses the Mount Zion Church of God. A small paved parking area is provided along the south side of the building.
- B. History: The Historic Preservation Section, in a memorandum dated January 6, 2000, provides the following information regarding the history of the subject church:

■The building located at 737 61st Avenue in Fairmount Heights is presently used as the Mount Zion Church of God; it is listed as Historic Resource #72-9-9 in the Historic Sites and Districts Plan, 1992 (Prince George's County's master plan for historic preservation).

■This two-story frame building was originally constructed in 1912 as the Fairmount Heights Elementary School. It was designed by architect William Sidney Pittman, a resident of Fairmount Heights and son-in-law of Booker T. Washington. The new school building (the first in the new African-American community of Fairmount Heights) opened in the summer of 1912, and was at that time the County's largest school for African Americans, as well as the first to include facilities for industrial training. It served as the public school for Fairmount Heights until 1934, when a new brick school building was constructed a few blocks to the north. At that time, the old school building was purchased by the Mount Zion Apostolic Faith Church (now the Mount Zion Church of God), and has been used continuously for services ever since.

■The Fairmount Heights Elementary School/Mount Zion Church of God has since 1981 been listed as an Historic Resource under Prince George's County's Historic Preservation Ordinance. It may qualify for designation as an Historic Site because it is a notable example of school architecture of the early 20th century, because it was designed by a prominent local architect, and because of its important role in the history of African-American education.●

- C. Master Plan Recommendation: The 1993 Master Plan for Landover and Vicinity recommends medium-density residential development (3.6 to 5.7 dwelling units per acre) for the subject property.
- D. Request: The applicant wishes to validate an existing church on a .26-acre parcel in the R-55 Zone. Pursuant to Council Bill CB-23-1993, a special exception is required for a church on less than one acre of land in the R-55 Zone. The applicant must show that the church existed prior to the enactment of CB-23-1993 (August, 1993).
- E. Surrounding Uses: The property is surrounded by single-family detached homes in the R-55 Zone.
- F. Certification Requirements: Certification of a nonconforming use requires that certain findings be made. First, the use must either predate zoning 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 sets forth the specific requirements:
  - 1. **In general, 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) certifies that the use is really nonconforming and not an illegal use.**
  - 2. **Application for Use and Occupancy Permit:**
    - a. **The applicant shall file for a use and occupancy permit.**

- b. Along with the application and accompanying plans, the applicant shall provide the following:**
- (1) 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.**
  - (2) 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 non-operation for more than 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.**
  - (3) Specific data showing:**
    - (i) The exact nature, size and location of the building, structure and use.**
    - (ii) A legal description of the property.**
    - (iii) The precise location and limits of the use on the property and within any building it occupies.**
  - (4) 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.**

G. Documentary Evidence: The applicant must show that the subject church existed prior to the passage of Council Bill-23-1993 which became effective in August 1993. Two large notebooks with church records have been submitted that include:

1. Church programs from 1966, 1985 and 1990.
2. Records of tithes from 1987 through 1994.
3. PEPCO bills from 1991 through 1999.
4. Programs for funeral services held at the church from 1976, 1985 through 1987.
5. Affidavits from neighbors, a former pastor and church members who have been associated with the church for over 40 years.

- H. Additional Finding: In response to a citizen's request for a traffic light at 61st Avenue and Addison Road, Chairman Elizabeth M. Hewlett agreed to send letters to the Police Department, Department of Public Works and Transportation (DPW &T) and Department of Environmental Resources (DER). The proposed traffic light would address a citizen's concern about a blind spot at the 61st Avenue and Addison Road intersection.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with the District Council of Prince George's County within thirty (30) days following the adoption of this Resolution.

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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 McNeill, seconded by Commissioner Brown, with Commissioners McNeill, Brown and Hewlett voting in favor of the motion, and with Commissioner Boone absent, at its regular meeting held on Thursday, January 27, 2000, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 17th day of February 2000.

Trudye Morgan Johnson  
Executive Director

By Frances J. Guertin  
Planning Board Administrator

TMJ:FJG:JJ:aj