



## NONCONFORMING USE 4562-00-U

Application	General Data
<b>Project Name:</b> True Way Deliverance Church  <b>Location:</b> S.E. corner of Nash St. & Doewood Ln., known as 1217 Doewood Ln.  <b>Applicant/Address:</b> Bishop Ann Whitmyer-Savannah 516 Hill Rd. Landover, Md. 20785  <b>Correspondent:</b> Arthur J. Horne, Jr. 1101 Mercantile lane Suite 240 Largo, MD 20774	Date Accepted 04/12/00
	Planning Board Action Limit N/A
	ZHE Hearing Date N/A
	Plan Acreage 0.2486 Acres
	Zone R-55
	Dwelling Units N/A
	Square Footage N/A
	Planning Area 72
	Council District 05
	Municipality N/A
	200-Scale Base Map 202NE4

Purpose of Application	Notice Dates
Certification for Church	Adjoining Property Owners (CB-15-1998) N/A
	Previous Parties of Record (CB-13-1997) 11-20-00
	Sign(s) Posted on Site 8/4/00
	Variance(s): Adjoining Property Owners N/A

Staff Recommendation			Staff Reviewer
APPROVAL	APPROVAL WITH CONDITIONS	DISAPPROVAL	Elsabett Tesfaye
	X		

February 28, 2001

**TECHNICAL STAFF REPORT:**

TO: The Prince George's County Planning Board

VIA: Arie Stouten, Zoning Supervisor

FROM: Elsabett Tesfaye, Senior Planner

SUBJECT: **Certified Nonconforming Use Application No. 4562-00-U**

REQUEST: **Certification for Church**

RECOMMENDATION: **APPROVAL** with condition

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**NOTE:**

The Planning Board has scheduled this application for a public hearing on the agenda date indicated above. The Planning Board also encourages all interested persons to request to become a person of record in this application. Requests to become a person of record should be made in writing and addressed to the Development Review Division at the address indicated above. Please call 301-952-3530 for additional information.

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## FINDINGS:

- A. Location and Field Inspection: The property is located on the southeast corner of the intersection of Doewood Lane and Nash Street, one block east of Eastern Avenue. It comprises approximately .25 acre of land and has 100 feet of frontage on Doewood Lane and 102 feet of frontage on Nash Street, from which it is accessed. The property is improved with a one-and-one-half-story brick structure that is housing the True Way Deliverance Church. The structure also includes a deck with approximately 225 square feet of area. The deck is located on the first floor level of the rear of the structure and accessed from the northeastern corner of the structure through a stairway. The deck is also accessed from inside through the kitchen. The deck, which was recently constructed to replace a previously existing deck, is not shown on the site plan submitted with this application.
- B. History: The 1993 Sectional Map Amendment for Landover and Vicinity retained the existing R-55 Zone for the subject property. On February 22, 2000, the Prince George's County Council denied Special Exception No. 4340 for a church use on the subject property because it could not find justification for the variance from the 25-foot building setback requirement.
- C. Master Plan Recommendation: The 1993 Master Plan for Landover and Vicinity recommends the site for medium-suburban density of 3.6 to 5.7 dwelling units per acre.
- D. Request: The applicant requests certification of an existing church in the R-55 Zone that became nonconforming with the adoption of CB-23 on August 31, 1993.
- E. Surrounding Uses: The subject property is surrounded by single-family detached dwellings in the R-55 Zone. The immediate neighborhood is characterized by residential developments in the R-55 and R-18 Zones. There are at least two other churches within two blocks of the subject property.
- 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.**

The church purchased the subject property, which was a residential property, in 1986. In August of 1993, the Prince George's County Council adopted CB-23-1993 and the subject church use became nonconforming. Pursuant to the current Zoning Ordinance, a church use on less than one acre of land is permitted in the R-55 Zone only through approval of a special exception. As noted, the applicant's request for approval of a special exception (SE-4340) was denied in February of this year. Subsequently, the applicant filed this application for certification of the church as a nonconforming use.

As previously noted, a newly constructed wooden deck is located at the rear of the building. The applicant has indicated that the new deck replaced a previous deck that was badly deteriorated. However, the newly constructed replacement is larger and is intruding deeper into the side yard than the previous deck, and as such, cannot be considered as part of the nonconforming use. Moreover, neither the previous deck nor the newly constructed deck is shown on the site plan that was submitted for review with this application, and the applicant has not provided any evidence demonstrating that a deck existed at the time the use became nonconforming. Therefore, the new deck must be removed. An addition to or alteration of a structure housing a nonconforming use is authorized only through a special exception process after a certification of the use as nonconforming.

G. Documentary Evidence: The applicant has submitted the following documentation, which establishes the existence and continuous use of the church on the subject property since prior to the enactment of CB-23-1993 on August 31, 1993:

- 1. An affidavit of Ms. Pamela Smith, a neighbor and owner of a property adjacent to the subject property, attesting to her personal knowledge that the church has held on-going worship services at that location since 1986.

2. An affidavit of Mother Margaret Taylor, a neighbor and member of the church for the past five years attesting to her personal knowledge that the church ■has held on-going worship services• at that location since 1986.
3. Copies of statements, programs, church bulletins and letters containing the name and address of the subject church with dates ranging from 1986 to the present.
4. Copies of tax papers from the State of Maryland Department of Assessments and Taxation for tax years ranging from 1986 to 1999. All of the tax papers contain the name and address of the subject church.

**CONCLUSION:**

Based on the evidence submitted by the applicant and the lack of contradictory evidence from other sources, staff concludes that the subject church was located on the property prior to August 31, 1993, and has been in continuous use since that time. Therefore, it is recommended that this application be APPROVED, subject to the condition that the newly constructed deck be removed prior to the issuance of the pending certified nonconforming use permit.