

May 25, 2000

TECHNICAL STAFF REPORT:

TO: The Prince George's County Planning Board
The Prince George's County District Council

VIA: Arie Stouten, Zoning Supervisor

FROM: Elsabett Tesfaye, Senior Planner

SUBJECT: **Special Exception Application No. 4360**
Variance Application No. 4360
Departure from Parking and Loading Standards Application No. 255

REQUEST: **Church**
Waiver of the required building set back
Waiver of 150 required parking spaces

RECOMMENDATION: <u>SE-4360:</u>	DENIAL
<u>VSE-4360:</u>	DENIAL
<u>DPLS-255</u>	DENIAL

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 301-952-3280 for additional information.

FINDINGS:

- A. Location and Field Inspection: The site is located on the northeast side of Eastern Avenue, approximately 1,500 feet southeast from its intersection with Riggs Road. The site is triangularly-shaped, comprises approximately .68 acre of land and is improved with an existing church building. Concrete walkways connect the front entrance via terraced steps to Eastern Avenue and to the rear entrance and Riggs Plaza parking lot. A six-foot-high, chain-link fence extends along the northwest boundary and across to the building's rear entrance. The site has approximately 433 feet of frontage on Eastern Avenue.
- B. History: The property was retained in the R-55 Zone in the approved 1990 Sectional Map Amendment for Langley Park-College Park and Greenbelt. The District Council approved SE-1814 for a day care center for the property in 1968.
- C. Master Plan Recommendation: The 1989 Approved Master Plan for Langley Park-College Park and Greenbelt recommends the property for public or quasi-public use.
- D. Request: The site area is less than one acre and therefore requires a special exception. The applicant, Shiloh Church of God Seventh Day, also proposes to construct a 15,269-square-foot addition to the existing 6,100-square-foot church building. The applicant's site plan does not provide for the required parking spaces for the proposed use. A departure of 105 parking spaces and 2 loading spaces is requested (DPLS-255). In addition, the applicant is requesting a variance (VSE-4360) from the required 25-foot building setback.
- E. Neighborhood and Surrounding Uses: The neighborhood is generally defined by Chillum Road to the northeast, Riggs Road (MD 212) to the northwest, Sargent Road (MD 211) to the southeast and Eastern Avenue to the southwest. The immediate neighborhood is predominantly residential in the R-55, R-80 and R-T Zones with some commercial uses along Riggs Road and Eastern Avenue. The subject property is surrounded by single-family, attached dwellings to the northeast and east in the R-T Zone and the Riggs Plaza Shopping Center to the north and northwest in the C-S-C Zone. To the south and southwest, across Eastern Avenue and within the District of Columbia, there are single-family, attached dwellings.
- F. Specific Special Exception Requirements: A church on a lot less than one acre in size is permitted in the R-55 Zone as a special exception. **Section 27-341.01 sets forth the specific requirements:**

(1) The minimum setback for all buildings shall be 25 feet from each lot line.

The application does not meet the 25-foot building setback requirement. The existing church building is within 12 feet of the southern property line and within 10 feet of the northern property line. The applicant requested a variance of 11 feet from these requirements. A variance of 13 feet on the western property line and a variance of 15 feet on the northern property line need to be obtained.

The proposed site plan shows a shed located in the northeastern portion of the property, within the bufferyard and the 25 feet building setback. The shed is not shown on the

approved site plan. The shed should be removed; if it is to remain, a variance will be required to validate its location.

- (2) **When possible, ingress should be located so as to direct traffic away from streets that are internal to a residential subdivision.**

The subject property fronts Eastern Avenue which is a 75-foot-wide right-of-way and the only possible access to the subject property. The site plan shows a 22-foot-wide two-way access driveway on the southeastern portion of the property. However, the only vehicular traffic using the driveway will be delivery vehicles that need to access the loading space located at the southern end of the proposed addition. As noted, the applicant has requested a departure from all of the required parking spaces. The applicant's proposal for the departure calls for the use of the Riggs Plaza parking lot to accommodate the parking needs. Therefore, vehicular traffic associated with the church is intended to be directed along major roads, through the Riggs Plaza parking lot and not through internal subdivision streets.

- (3) **The applicant shall satisfactorily demonstrate that parking and traffic will not adversely affect adjacent residential neighborhoods.**

The proposal does not provide for any of the required on-site parking spaces. The applicant's statement of justification indicates that there are 270 more parking spaces in the Riggs Plaza parking lot than required by the Ordinance. The statement further indicates that the church will continue using the excess parking spaces on the Plaza's parking lot as it has been doing for the past 30 years.

A letter dated March 11, 1998, from the manager of the Shopping Center to the Pastor of the church, confirms the fact that the church has been using the Plaza's parking lot for the past 30 years. The letter further indicates that the owner would have no objection in maintaining the practice. However, there is no legally binding agreement for a lease or indefinite use of the Plaza's parking lot by the church. As long as the current parking arrangement with the shopping plaza remains unchanged, parking and traffic is not likely to adversely affect adjacent residential neighborhoods. However, in the absence of any binding agreement to guarantee the future use of the plaza's parking lot, it is impossible to predict how long the residential neighborhood will remain unaffected by traffic generated by the church use. Without the guaranteed use of the plaza's parking lot through a binding legal agreement, the sudden loss of 150 off-site parking spaces would undoubtedly create parking and traffic congestion in the adjacent residential areas.

- (4) **When possible, there should be no parking spaces or loading areas located in the front yard.**

Technically, no parking spaces or loading areas are located in the front yard. However, a loading space is proposed within 15 feet of the Eastern Avenue frontage.

- (5) **The maximum allowable lot coverage for the zone in which the use is proposed shall not be increased.**

The proposal complies with this requirement. A notation on the site plan indicates a total lot coverage of 40.7 percent for the subject property. The Zoning Ordinance allows a maximum lot coverage of 60 percent for the subject use in the R-55 Zone.

- G. **Parking Regulations: Section 27-568 of the Zoning Ordinance requires one parking space for every four seats in the main auditorium of a church, plus one space for every four seats in other rooms occupied at the same time as the main auditorium.**

Pursuant to Section 27-586 (a) the total number of parking spaces required for a church may be reduced by not more than thirty percent (30%), provided:

- (1) The lot upon which the church is located is within five hundred (500) feet of any existing parking lot, including a public, private, or commercial lot;**
- (2) The church has written permission to use the existing parking lot; and**
- (3) The existing parking lot has sufficient spaces available during the time of regular church services to provide the total number of spaces required.**

According to the applicant's parking statement on the site plan, the existing church has 200 seats and the proposed addition consists of 400 seats. The statement also indicates that a 30 percent reduction for shared usage of parking is applied in the tabulation of the parking spaces to arrive at a total figure of 105 parking spaces for which a departure is requested. The Permit Review Section has disagreed with the method employed by the applicant to calculate the required number of parking spaces needed and offered the following comments:

■Section 27-586 of the Prince George's County Zoning Ordinance was inaccurately applied and referenced in the parking statement provided on the site plan. This section of the Zoning Ordinance allows churches to provide only 70 percent of their required parking on site, and the remaining 30 percent can be provided off-site. It does NOT allow the total number of parking spaces required by the church use to be reduced by thirty percent. The parking statement provided on the site plan should be corrected so as not to cause confusion on the parking requirements.●

The parking statement on the site plan and the number of parking spaces for which a departure (DPLS-255) is requested should be revised to a total of 150 parking spaces (600/4=150).

- H. **Loading Requirements: Section 27-582 of the Zoning Ordinance requires one loading space for every 10,000 to 100,000 square feet of gross floor area (G.F.A)**

The site plan provides for one loading space, dimensioned at 15 feet wide by 35 feet long. The loading space is located on the southeast side of the proposed building. The proposed loading space and its access driveway are located within the required 50-foot setback from the adjoining

residentially-zoned property. The applicant needs to obtain a departure from design standards to allow a loading space and access drive less than 50 feet from land in a residential zone.

- I. Landscape Manual Requirements: The proposal is subject to the landscaping, buffering and screening requirements of the *Landscape Manual* through the approval of a landscape plan.

The applicant's revised landscape plan that is submitted May 3, 2000 meets the requirements of the *Landscape Manual*.

- J. Zone Standards: The site plan conforms to all other development standards of the R-55 Zone.

- K. Sign Regulations: The site plan provides for a sign located on the southwestern portion of the property near the pedestrian access to the existing building. Detailed information about sign is not provided. The sign must also comply with the height and area requirements of sign regulations.

- L. Subdivision: The Subdivision Section has indicated that prior to issuance of a building permit for the proposed addition, a subdivision plat will be required pursuant to Section 24-107(c)(7)(D) and 24-111(c)(4) of the Subdivision Regulations.

- M. Required Findings:

Section 27-317(a) of the Zoning Ordinance provides that a special exception may be approved if:

- (1) **The proposed use and site plan are in harmony with the purposes of this Subtitle.**

The fundamental purposes of the Zoning Ordinance, as found in Section 27-102, are to protect the health, safety and welfare of the public and promote compatible relationships between the various types of land uses. Review of the applicant's site plan for conformance with the requirements of the Ordinance indicates potential conflicts with the following fundamental purposes:

Purpose No. 6 ●To promote the most beneficial relationship between the uses of land and buildings and protect landowners from adverse impacts of adjoining development.

Purpose No. 11 ●To lessen the danger and congestion of traffic on the streets, and to insure the continued usefulness of all elements of the transportation system for their planned functions.

- (2) **The proposed use is in conformance with all the applicable requirements and regulations of this Subtitle.**

The proposed use does not conform to the requirements of Section 27-341.01(1) ● the specific special exception requirements relative to churches that requires 25-foot

building setbacks from all property lines. Moreover, the proposal does not provide for any of the required number of parking spaces and it requires a departure to allow a loading space and access drive that is less than 50 feet from land in a residential zone.

- (3) The proposed use will not substantially impair the integrity of any validly approved Master Plan or Functional Master Plan, or in the absence of a Master Plan or Functional Master Plan, the General Plan.**

The 1989 Approved Master Plan for Langley Park-College Park and Greenbelt recommends the property for public or quasi-public use that include religious institutions to recognize the current use. The 1990 Sectional Map Amendment retained the R-55 Zoning of the property. Although the proposed expansion of the church will not substantially impair the integrity of the Master Plan, it is contrary to the Master Plan's goal for *Living Areas* to protect and improve the quality of all living areas. The subject proposal reflects development of the property over its capacity that a variance from the required building setback and a departure of all of the required 150 parking spaces are needed.

- (4) The proposed use will not adversely affect the health, safety or welfare of residents or workers in the area.**

- (5) The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.**

As long as the church's parking need is satisfied by the surplus spaces on the adjoining shopping center, the proposed addition will not adversely affect the health, safety or welfare of residents or workers in the area, nor will the use be detrimental to the use or development of adjacent properties or the general neighborhood. The church use has been in existence at the same location for over 30 years. The proposed expansion of the church by four hundred seats (200 percent) and 15,269 square feet of GFA (150 percent), represents a substantial increase. Since there is no binding agreement with the owners of the shopping center, there is a possibility of losing the existing parking arrangement with the shopping center at any given time. If such a situation occurs, the resulting demand for 150 additional on-street parking spaces will adversely impact the immediate neighborhood.

The proposal also exhibits deficiency with regard to the 25-foot building setback requirement and the 50-foot setback requirement for loading spaces and access driveway. The shape of the property is not exactly suited for a placement of a building with a design and magnitude of the proposed addition. This unbalanced relationship of the land and the proposed building is the major reason for the deficiencies in meeting the requirements of the Ordinance. With alternative designs and a smaller size, a building that is more compatible and harmonious with existing developments in the area could be placed on the property.

6. **The proposed site plan is in conformance with an approved Tree Conservation Plan.**

A Tree Conservation Plan is not required because the property is less than 40,000 square feet in area, contains less than 10,000 square feet of woodland, and it does not have a previously approved Tree Conservation Plan.

N. Required Findings - Departure from Parking and Loading Standards (DPLS-255):

- (A) **Section 27-588(b)(8) of the Zoning Ordinance provides that in order for the Planning Board to grant the departure, it shall make the following findings:**

1. **The purposes of Section 27-550 will be served by the applicant's request.**

The purposes of the Parking Regulations are as follows:

- a. **The off-street and on-street parking areas are sufficient to serve the parking and loading needs of all persons associated with the building and use.**
 - b. **To aid in relieving traffic congestion on streets by reducing the use of public streets for parking and loading and reducing the number of access points.**
 - c. **To protect the residential character of residential areas.**
 - d. **To provide parking and loading areas which are convenient and increase the amenities in the Regional District.**
2. **The departure is the minimum necessary, given the specific circumstances of the request.**
 3. **The departure is necessary in order to alleviate circumstances which are special to the subject use, given its nature at this location, or alleviate circumstances which are prevalent in older areas of the County which were predominantly developed prior to November 29, 1949.**
 4. **All methods for calculating the number of spaces required have either been used or found to be impractical.**
 5. **Parking and loading needs of adjacent residential areas will not be infringed upon if the departure is granted.**

The applicant's statement of justification indicates that all of the required parking spaces for the church use will be provided on the adjoining property that is developed with the Riggs Plaza Shopping Center. The statement also indicated that

the church has used the shopping center's parking lot for over 30 years. Moreover, a departure from parking and loading standards (DPLS-155) for 35 spaces was granted by the Planning Board in 1993 based upon this arrangement.

At the time of the 1993 DPLS approval, the owner of the shopping center had given written permission for the use of the parking lot by the church. In the letter, the owner also reserved the right to revoke permission for the church's use of the parking lot in the event an expansion of the shopping center occurred. Similarly, in support of the current application, the applicant has submitted a signed letter from the Riggs Plaza manager that gives permission to the church members to park up to 125 vehicles in the shopping center parking lot. However, there is no binding agreement or legal document that guarantees the continuation of the current parking arrangement on a long-term basis. The lack of such legally binding document is a concern since there is nothing to prevent the shopping center from disallowing the continuing use of its parking spaces at any time. The termination of the shopping center's non-binding permission would result in a spill over of 150 parking spaces infringing upon the adjacent residential areas. Absence of a legal agreement to guarantee the long-term availability of the shopping center's parking lot, it will not be possible to make a finding that the purposes of Section 27-550 will be served by the applicant's request.

Given the size of the proposed development, the departure is the minimum necessary. There is not enough space left on the site to accommodate the parking requirement of the church. There is no other possible way to further reduce the parking requirement.

(B) In making its findings, the Planning Board shall give consideration to the following:

- 1. The parking and loading conditions within the general vicinity of the subject property, including numbers and locations of available on- and off-street spaces within 500 feet of the subject property.**
- 2. The recommendations of an area master plan, or County or local revitalization plan, regarding the subject property and its general vicinity.**
- 3. The recommendations of a municipality (within which the property lies) regarding the departure.**
- 4. Public parking facilities which are proposed in the County's Capital Improvement Program within the general vicinity of the property.**

The applicant's parking statement indicates that the Riggs Plaza Shopping Center, which is the adjoining property, has a total of 676 parking spaces. The applicant identified 270 of the spaces to be in excess of the minimum requirement for the shopping center use. As noted, the applicant proposes to provide all of the required

parking spaces for the church on the shopping center's parking lot using the excess parking spaces.

In addition, the master plan recommends public or quasi-public use. The subject property is not within the boundaries of a municipality. There are no public parking facilities proposed in the County's Capital Improvement Program within the general vicinity of the property.

(C) In making its findings, the Planning Board may give consideration to the following:

- 1. Public transportation available in the area.**
- 2. Any alternative design solutions to off-street facilities which might yield additional spaces.**
- 3. The specific nature of the use (including hours of operation if it is a business) and the nature and hours of operation of other (business) uses within 500 feet of the subject property.**

Although there is public transportation in the vicinity of the subject property, the applicant does not anticipate any significant use of public transportation facilities by its members. With respect to alternative design solutions, the applicant contends that the arrangement with the shopping center has worked well for over 30 years and makes good planning sense based upon the excess parking spaces available.

The peak hours of the church use are Saturday on which services start at approximately 10:00 a.m. Evening prayer services are held on Wednesdays and Fridays at 7:30 p.m. Approximately 15-20 people attend the evening prayer services.

- O. Variance from Building Setbacks for churches in residential Zones: **Section 27-341.01 requires a minimum building setback of 25 feet from each lot line.** The proposed site plan requires a variance of 13 feet on the western property line and a variance of 15 feet on the northern property line.

- P. Required Findings - Variances (VSE-4360):

Section 27-230 provides that a variance may be granted based on the following findings:

- (1) A specific parcel of land has exceptional narrowness, shallowness, or shape, exceptional topographic conditions, or other extraordinary situations or conditions.**
- (2) The strict application of this Subtitle will result in peculiar and unusual practical difficulties to, or exceptional or undue hardship upon, the owner of the property; and**

(3) The variance will not substantially impair the intent, purpose, or integrity of the General Plan or Master Plan.

The applicant contends that although there are other properties in the immediate area with similar shape (triangular) as the subject property, the relatively small size of the subject property has made compliance to the setback requirement impossible. With a GFA of 15,269 square feet and 400 new seats, the proposed addition represents more than a 150 percent increase in the size of the church building and a 200 percent increase in the church's membership.

Staff agrees with the applicant's contention regarding the substandard nature of the subject property, in comparison to other similarly shaped properties in the area. However, it is the magnitude of the proposed development and its setting on the yet, unimproved portion of the property rather than the shape and size of the property itself that is causing the need for the requested variance. The proposed addition simply represents the applicant's desire to expand the capacity of the site beyond a reasonable extent, and the resulting need for the variance is a self-imposed hardship.

Employing alternative design solutions, the property may be able to accommodate a modest expansion of the church that would conform with current development standards. As proposed, the requested variances are not justified because they are needed as a result of the applicant's ambitious expansion plans that are beyond the property's capacity. Furthermore, a self-imposed hardship, as the one proposed by the applicant, constitutes an invalid basis for the requested variance.

The 1989 Approved Master Plan for Langley Park-College Park and Greenbelt recommends the property for public or quasi public uses in recognition of the Church's existence at that location since 1969. The subsequent Sectional Map amendment retained the property's R-55 Zoning. The proposed addition will not substantially impair the integrity of the Master Plan. It does, however, represents an over development of the property to the extent that it infringes into the required setback necessitating the requested variance. As such, the proposal is in conflict with the Master Plan's goal for *Living Areas*, to protect and improve the quality of all living areas.

CONCLUSION:

The proposed addition represents excessive development and would exceed the property's capacity to safely accommodate the intended expansion of the church. There is a possibility for the applicant to consider alternative designs for the placement of the new construction on the property in a manner that would be consistent with applicable development standards. However, this would mean a substantial reduction in building size and number of seats in the sanctuary. With the subject proposal, the applicant has not met the burden of proof under Section 27-230. The need for the variance is self imposed and therefore, invalid.

With respect to the applicant's request for departure from parking and loading standards, although the proposed alternative parking accommodation may satisfy the church's current parking needs, it does not guarantee a lasting solution to the potential problem that could result from the sudden loss of these parking accommodations. The applicant has failed to provide evidence that would guarantee a permanency or a long-term availability of the shopping center's parking lot for the church's use. Revocation of the shopping center's permission to use its parking lot would mean an infringement upon the immediate area (with a demand for 150 parking spaces), potentially conflicting with health, safety and welfare considerations.

Therefore; based on the foregoing discussion, staff recommends DENIAL of SE-4360, VSE-4360 and DPLS-255.