

**RUTHERFORD ZONING
BOARD OF ADJUSTMENT
Special Meeting
June 2, 2010**

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| Present: | Mr. Cuccinelli | Mr. Kucevic |
| | Ms. Kucevic | Mr. Gooding |
| | Mr. Germer | Mr. Holman |
| | Mr. Lee | |

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| Absent: | Mr. Rovito | Ms. Joyce |
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Also present were Gary Cucchiara, Board Attorney and Mary Ellen Sartori, Recording Secretary.

The meeting was called to order at 7:35 p.m. and the Sunshine Law was read by Vice Chairman Holman, followed by a salute to the flag.

NEW BUSINESS:

**Church of St. Mary
Home and Chestnut Avenue
Case 6-2010**

Vice Chairman Holman asked if any Board members had a conflict with this application. Mr. Cuccinelli recused himself due to being a parishioner and the fact that his son attends the grammar school. It was accepted by the Vice Chair.

Eric McCullough, Esq. appeared on behalf of St. Mary Church. Gary Cucchiara reviewed the documents and notices and stated all requirements were satisfied and marked the following as exhibits.

- A1 Application
- A2 Proof of Service and Publication of the Hearing
- A3 Tax Collector's Certification
- A4 Preliminary and Final Site Plan consisting of 11 pages by Mazur Consulting of 3/30/10
- A5 Architectural Plans by Genovese Architectural of 2/16/10
- A6 Boundary and Topographic Survey of Mazur Consulting of 7/6/09
- A7 Storm water Management Report of Mazur Consulting of 3/30/10
- A8 Traffic Report by Mazur Consulting of 11/20/09
- A9 Boswell Engineering report of 5/18/10

Mr. McCullough stated the Church is undertaking a renovation of the existing building and other changes on its campus. The main change to the church building will be a large plaza area added to the side by parking lot which will become new front of church. An elevated plaza and vestibule area inside the church will house a large meeting room for parish events. The church will not change size in terms of number of seats, still 600+ seats; only adding the meeting and vestibule area. Secondly, the former rectory was demolished as part of the original site plan and the parking area will be expanded to accommodate 21 additional spots with configuration changes. A children's playground near the school will be added. Many variances requested concern setbacks from the street which are existing conditions and not changing as a result of the application but the nature of site plan approval process requires setback variances on several streets.

Mr. McCullough continued that based on the number of seats in the Church, they would need 167 parking spots while there are 50 currently and the application provides for 71 which is still non-conforming but a better situation. Impervious surface would be reduced from 40.7% to 40.2%, still over allowed but better. We ask that the bulk variances and section D variances of conditional use of Church in a residential zone be granted tonight.

Mr. Cucchiara swore in Mr. Anthony Genovese, architect, of Genovese Associates, who was accepted by the Board as an expert in church architecture. He reviewed Ex. A5 for the Board members. He stated the church orientation would be rotated by 90 degrees and that the entrance would be off the parking lot, not Home Avenue, and would have circular seating. Off the parking lot is a raised plaza with handicapped access elevator to the side which takes one down to the basement or up the plaza level or up to the church itself. The existing chapel will be made larger and the main entrance lobby will be come the area for the Blessed Sacrament and no longer an entrance to the church.

Photographs were marked as Ex. A10 of existing church. A photograph of existing school is marked as A11. A conceptual rendering of new entrance is marked as A12. The concept was to tie the addition into the school buildings, so columns were used with a series of steps up to the plaza and then into the church. A bell tower houses the elevator shaft. Statue of St. Mary will be moved to front of church where current entrance is. Church currently has approx 631-640 seats which will not change.

Mr. Germer asked what will happen to the existing entrance and was told the area will be built up to a platform for the statue of Mary; there will not be any access to the inside; the doors will be removed.

Lena Balorda-Barone, P.E., Mazur Consulting, was sworn by Mr. Cucchiara and accepted as an expert.

Ms. Balorda-Barone showed a color rendering over aerial photo, A4, which was marked as Ex. A13.

She stated the lot is approx. 2.3 acres and contains an existing church, high school and elementary school. The proposed building addition is approx. 2,300s.f. in footprint with basement and first level and there is also an elevated outdoor plaza 2-4' above ground

which would be 2500 s.f. to provide transition from the parking lot to the church space. It also serves as a gathering area lobby plaza. It will expand meeting room space in the basement as well as administrative space. No new seats are proposed; there are 668 seats currently. Its in the R2 residential zone which permits churches as conditional use.

As part of the application proposal, the parking has been completely reconfigured. Proposed is to have two access points from Home Avenue to provide more efficient circulation but also to maintain emergency access to Chestnut Street in existing configuration. Currently, there are 50 approved parking spaces and a total of 71 are proposed for 21 new spaces to be added. This is a variance as 167 are required for the seating capacity.

Other variances and waivers required for this application are:

Conditional use which does not meet the condition of an ordinance as the church is not located on a collector or arterial road, but that is existing condition.

There is no 20' buffer to residential uses; another existing condition.

Additional variances and waivers needed are for number of parking spaces, front yard setback, side yard setback, existing building height which is slightly over permitted, coverage of principle buildings, buffers, location of access drives, location of parking areas in front yard, width of access drives and enlargement of a non-conforming building.

Ms. Balorda-Barone stated they would create a new loading and drop-off area so parishioners can enter the plaza and cars would circulate around. The existing refuse and recyclable area is located adjacent to the high school, but would be moved over to the southerly side and enclosed in masonry and landscaped. Project will reduce impervious coverage by approx. 7,900s.f. meaning that total impervious coverage drops from 92% to 84% resulting in slight decrease of storm water runoff flow and volume. The site is in Urban Redevelopment Area, PA1, so there is no need for recharge by the project. A storm water collection system will be added which will further mitigate runoff.

A manhole will be added for any future storm water connections on Chestnut Street.

They are also willing to add a sub to the manhole in anticipation of any future connections. They propose landscaping around the addition and buffer areas and refuse area. A berm will be created along Home Avenue to add elevation and landscaping as screening. A playground will be between addition and high school.

Lighting modifications will be made. Currently there is one 25' high mounted fixture, reflector style which throws a lot of light onto existing parking lot. Ex A14 is a photo of Ms. Young next to the existing light pole. Proposed is to remove all existing and replace with 14' fixtures. Precaution was made to not light past property line. Ex. A15 is the printout of lighting plan which is sheet 9 of the site plan. They will minimize spillage and utilize evergreens to screen. Bollards are proposed for pedestrian lighting near the plaza. Some fixtures will be shut off during off hours.

Ms. Balorda-Barone stated the project will create more usable space for the church's parishioners and will improve the circulation of traffic; a storm water collection system will improve the drainage condition; the church is an inherently beneficial use and these changes do not render the site inappropriate for the use; and the improvements make the site more conforming.

Mr. Holman asked the height of the existing entrance vs. the proposed. Ms. Balorda-Barone stated the existing high school is 3.5 stories and they believe the tower will be 36' where 35' is permitted. Discussion. Mr. Holman asked the height of the current church and was told its approx. 28' for an additional 7' of height proposed. The spire will be 36'. A variance is required.

Mr. Gooding asked if the shorter lighting facilities will be 14' vs. the existing 25' and was told yes.

Mr. Cucchiara swore Mr. Raymond C. Liotta, principle associate of Mazur Consulting, licensed planner and landscape architect, who was accepted as an expert. He studied the 2007 Master Plan, zoning ordinances and site plan. Churches and schools are permitted uses in the R2 zone. He described the land use inventory of the lot for the board and how it is situated in the town. He reviewed the access points and that the rectory building was already demolished. The existing high school and grammar school are not affected and not being altered. It borders the commercial district but is primarily in a one and two family area.

The 2007 Master Plan goals and objectives are advanced by this application, such as item # 1 to provide a healthy balance of land uses; #4 to maintain diversity; #5 ensure community facilities and services are maintained; #8 promote aesthetically pleasing human scale development. His analysis of the Master Plan review is that churches are historically part of residential communities and have always been accepted and permitted as uses that are beneficial and provide certain degree of character and diversity to the neighborhood. This church has been here for a long time and we are looking to make improvements for church function and the neighborhood in circulation of traffic and pedestrian; changing the lighting to focus light down and reducing outward glow; adding additional pervious surfaces and street trees and landscaping buffer.

He continued that in the R2 area, permitted uses are single and two family homes, parks, playgrounds, public facilities and schools so the two school buildings are permitted uses. The church is a permitted conditional use. With respect to the bulk variances, for the most part, they are existing conditions except for two that are changing for the better which are the reducing impervious coverage and increasing parking. The variances are C1 and C2 and a conditional use variance for the church as it doesn't meet the two standards for churches in this zone of being on an arterial or connector road.

Variances

Mr. Liotta reviewed the nine variances required. One for required number of parking spaces, which is being increased by 21 spaces to 71 total but 167 are required. A front yard setback variance is needed as there is 14' on Ames Avenue and 10.6' on Chestnut where 25 is required and that's existing. A side yard variance for existing condition is required as we have 4.6' where 10 is required. The existing school building height is three stories and it slightly exceeds 35' but that is not being changed so there is no exacerbation for those two buildings. The proposed structure on the church meets the ordinances height limit. Building coverage variance is needed as existing is 40.7% and 40.2% is proposed for half percent reduction by introducing lawns, shrub beds and shade trees. Some variances relate to the center line of access drive. The distance from the right of way line of Ames to the center line of access driveway on Home is 190' where

200 is required but the existing driveway cuts there are 115' so this is a great increase along Home Avenue to make access safer. Parking is contained within front yard of Home Avenue with 9.8' minimum setback; currently setback is much less. Drive aisle width is proposed at 24' where 25' is required but 24' is a common standard for non-commercial use. A conditional use variance is required for the church since its not located on an arterial or connector road and there is no 20' landscape buffer along the property lines; these are existing conditions which can't be changed but the landscape can be improved. It is 2.5 blocks from the train depot and he states it really is on an arterial type of road.

Regarding the C1 variances, they can be granted when there is some kind of hardship from shape or size of lot, unusual circumstances and all of the existing conditions present are hardship type of variances. To comply with the ordinance conditions would be a big hardship on the applicant. The Church predates a lot of the ordinance setback conditions. Regarding C2 variances, they should be granted when the purposes of zoning are advanced and there is benefit to community in general. The Board must do a balancing test; do positives outweigh negatives. The positive criteria here are the church is a permitted conditional use in the zone and has been here a long time. The use and proposed site plan modification supports the master plan goals and objectives which advance the purposes of zoning so that adds to positive criteria. Regarding negative criteria, are there any substantial detriments to the public good and we look at the neighborhood around the site. If the answer is no, you have enough reason to approve the application. The parking will be improved by 21 spaces to improve the present condition of dirt lot and unorganized area. Subdued lighting and trees will be added to improve the area and reduce castoff lighting. Landscaping on southern side of lot will be tall evergreens to further reduce castoff lighting. Regarding front and side yard setbacks, they are existing conditions and can't be changed. The building coverage is being reduced by half percent. The access aisle on Home Avenue is being moved further away from intersection to improve safety. Front yard parking distance on Home Avenue is being increased and most spaces are 12' off right of way line to allow for shade tree and landscaping. Drive aisle is industry standard and produces no detrimental impact. It is Mr. Liotta's opinion as a planner that the bulk variances can be granted without any detrimental impact to the public.

Regarding conditional use variance justification, the Court says that the board shouldn't focus on the use which is presumed to be permitted; but the non-conformity or how the application doesn't conform to the standards of a conditional use and whether that's an impact to the site and if it runs with the site inappropriately. In this case, the two standards applying are that the site be located on a collector or arterial road and that there be 20' buffer along the property lines. We have shown the existing condition of not being on a collector road but we are within walking distance to them. The 20' buffer is not complied with but the landscaping on Home Avenue and southern lot line is being improved. The Church is an inherently beneficial use.

When deciding on the facts, the Board should consider that the Church has existed here for a long time and is part of the fabric of the neighborhood making it particularly suited

for the use. Churches and schools are accepted as permitted uses within residential districts. The Court has said to look at how to improve the lot and we have shown that. This site can accommodate this plan.

Regarding the negative criteria, the Church has been here for a long time and is a permitted conditional use; the site improvements reduce the negative aspects of the existing conditions. The use is consistent with many Master Plan goals; there is nothing in the Master Plan about eliminating churches and schools.

In my opinion, the applicant has satisfied the requirements for the bulk variances and conditional use variance.

Mr. Germer asked if there would be a change to the existing street parking and was told the only change would be the loss of one or two spaces near the proposed new curb cuts.

Mr. Holman asked about the existing church height being 28' and going to 36'. Mr. Liotta stated yes and the steeple will be 35' and is exempted from height restrictions. The addition of peak still complies. The bulk variance for height is needed for the existing high school and grammar school which aren't changing. There is no variance needed for height for addition. Mr. Gooding stated the height variances aren't an issue. Mr. Tombalakian stated he is satisfied with the plan.

Ms. Kucevic asked how big the demolished rectory was. Mr. Liotta stated approx. 2300s.f. and two and half story. Approx 2300s.f. of addition will be added. Ms. Kucevic asked about double parking along Home Avenue and would it block one car. Mr. Liotta stated its commonly referred to as tandem parking and usually people who come early will park there and stay longer will use those spaces. There may be some time when a few people will have to wait a few minutes but that would be infrequent. Ms. Kucevic asked if this was how 20 more spaces were obtained and he said yes. Mr. Liotta stated the 21 space count is from the tandem parking and it's a design alternative used when you have situations like this but it wouldn't work for a shopping center.

Mr. Holman asked if the tandem parking conforms with counting spaces separately. Mr. Liotta stated the parking spaces meet the standard size. Mr. Holman asked how big the tandem spaces are and was told they are all 9x19', just one behind the other with one near curb and one behind. Mr. Holman asked Mr. Tombalakian to address the RSIS of tandem parking. Mr. Tombalakian stated the Boro's code is silent on this and at the site meeting with Boro staff prior to this meeting, the issue of tandem parking was discussed and they asked if there was a more conventional way to provide more parking. The site engineer investigated the options and determined there is not an opportunity to do it in a more conventional format so this tandem use is proposed; we don't have an issue considering the nature of the use and low turnover. There might be a courtesy and learning curve involved. Mr. Holman continued that people might not want to get parked in and would then park on the street. Mr. Liotta continued that there are 14 spaces in the row for 28 total tandem spaces. Mr. Tombalakian stated the Board could consider asking the Church to develop a parking policy of who would park where to minimize block-ins. Ms. Kucevic stated the second car could leave a note on their car with a phone number or time they would come back. Mr. Holman stated someone will make a motion stating

some kind of procedure should be reviewed with town officials. Ms. Kucevic stated something must be in place as she would not want to park in front for fear of being blocked in and this works in New York City. Mr. Liotta stated that when he attends church, his family lingers and some other families do too, so the Church could devise a system of self-policing. Mr. McCullough stated that with 71 spots, the most likely time for blocking would be during mass and for only a few minutes as people leave and should only be a Sunday morning or Saturday evening and not daily. Mr. Holman still had concerns about exacerbating the parking problem on the street.

Mr. Kucevic asked if the meeting room addition will only be on basement level and was told yes.

Vice Chair Holman opened the hearing to the public. All were sworn by Mr. Cucchiara.

Michael Landolfi, 112 Home Avenue

People on Home Avenue are opposed to lighting of parking lot which has not been lit before. He submitted a spec sheet on low bollard style lighting which is marked as L1 and referred to the Code encouraging the use of bollard lighting.

Mr. Liotta stated the lights were designed with neighbors in mind; six of the 11 fixtures will be off in evening hours and light poles provide for more safety and security for the site; bollard lights can be blocked by cars; the half-foot candle light level are minimally intrusive to neighbors and the level of moonlight. Mr. Tombalakian stated the Board may consider a lighting survey of existing conditions and as a condition of approval, they can do an as-built lighting survey prior to issuance of CO. This would provide current lighting conditions and an after built survey to measure and could be adjusted from there to ensure meeting ordinance and plans.

Mr. Liotta stated bollard lights are used in the pedestrian plaza for safety. Bollards are only 3-4' and can be blocked by cars in parking lots. Discussion.

Mr. Holman asked if Mr. Landolfi would prefer what is there now or for the applicant to make the situation better. Mr. Landolfi said there is nothing there now and they will create something new; the 2 25' lights are by the Church and they want to put something in front of his house.

Kenneth Lutz, 90 Chestnut Street

Had concerns about animals in the garbage and storm water runoff. Asked the Board to review the water drainage report. He showed the Board the way water runs toward his property, lot 14, and stated there is a 2 foot grading drop to his property from Home Avenue. What if the storm drain clogs, the water will come to his basement. Has had to trap and remove animals and has concerns the new location of refuse and recycling will attract more animals. Has concerns about parking on side streets. Would rather have a two story parking structure.

Mr. McCullough stated that the original plan called for dumpsters to remain in original location, but after meeting with Superintendent of DPW, he asked they be moved to the

proposed location as the trucks couldn't back in to the present location with changes made to parking lot; so the Boro asked applicant to move them where they are proposed. Mr. Germer asked if locks could be put on the garbage bins and it must be cleaned and enforced properly. Mr. McCullough stated the enforcement is an issue not location if the garbage is not being kept properly. Mr. Gooding stated there is a water retention system proposed which would reduce run-off. Ms. Balorda-Barone stated the proposal calls for a drainage inlet in front of the refuse area so all water will go there and it drains only .46 acres. It will be routed out the twin pipes to storm sewer on Chestnut.

Vice Chair Holman closed the public portion of the hearing.

Mr. Germer asked where the additional A/C units will be. The answer was inaudible.

Ms. Kucevic asked how often the garbage is currently picked up from the school. She was told 2 days a week and then asked if they could move the trash cans to another location so as not to affect the back neighbors. Mr. McCullough stated the DPW can't get the trucks to where they currently are and asked to put garbage as proposed. She asked if they could be closer to Home Avenue and has concerns for neighbor. Mr. McCullough stated concerns that trash trucks would bump poles or cars and also for neighbor; DPW stated they can get trucks to proposed location and enclose the trash properly. Mr. Gooding asked if trash will be in masonry enclosure and was told yes.

Mr. Kucevic stated he formerly worked for DPW and asked if they are using same dumpsters because the garbage was never contained or closed when he came to pick up trash. Also, can the drainage be in middle of parking lot and slope downward instead of toward neighbor. Ms. Balorda-Barone stated the dumpsters are proposed to be in masonry closure with PVC. Mr. Kucevic stated the dumpsters were never closed in the past. Ms. Balorda-Barone stated that's enforcement issue. Regarding sloping, it will be sloped to the drain to catch and additional grading could be done. Mr. Germer asked Mr. Tombalakian his opinion. He said the land runs the way it does now and to change it would be to buck the grade and piping against the lay of the land; they have sorted it all out. Mr. Tombalakian stated that any dumpster run-off control and further drainage control can be added to the final design.

Mr. McCullough summarized that the height of the church does not need a variance but its for the height of the school which is approx. 36' and pre-existing.

Vice Chairman called for comments from the Board.

Mr. Germer stated either you let them build this or you don't and there are more positive criteria than negative as everything brought out addressed the issues but enforcement issues we can't address. This is about the best plan.

Mr. Gooding agreed with Mr. Germer that it improves the neighborhood and aesthetics of the Church; it has hardships; the positives outweigh the detriments and he would like the engineers to meet regarding a lighting plan to make any needed changes to proposed plan.

Mr. Cucchiara stated that could be a condition of any approval.

Mr. Gooding made a motion to accept with the addition of a lighting approval condition. Vice Chair Holman agreed with a measurable survey of lighting as a stipulation and in terms of garbage and drainage, the proposal is better than current conditions.

Mr. Gooding moved to accept the application with one stipulation regarding lighting. The motion was seconded by Mr. Germer. The Recording Secretary took roll call and Mr. Germer, Mr. Gooding, Mr. Holman voted yes; Ms. Kucevic and Mr. Kucevic voted no.

Mr. Cucchiara stated the application is denied as five affirmative votes are required for the conditional use variance.

With no further business to discuss, the Vice Chairman adjourned the meeting on motion by Mr. Germer.

Mary Ellen Sartori, Recording Secretary