

5

**ZONING HEARING BOARD
OF CHELTENHAM TOWNSHIP
MONTGOMERY COUNTY, PENNSYLVANIA**

APPEAL NO. 3247

Applicant: Ancillae Assumpta Academy
2025 Church Road
Wyncote, Pennsylvania 19095

Subject Premises : 2025 Church Road
Wyncote, Pennsylvania

Owner of Premises: Ancillae Assumpta Academy

Nature of Application: Applicant appeals from the determination of the Zoning Officer finding that construction of a 1½-story addition to the southwest side of the library, which encloses a stairway and adds a minor storage area and is a non-conforming religious use would violate the Cheltenham Ordinance of 1929, as amended, and, specifically, Article XXIX, Section 295-227, regulating non-conforming uses

Applicant seeks a special exception from the rules and regulations of the General Regulations, Section 295-227(B) and (C) in a R-3 Residence District to permit the expansion of the non-conforming religious use by the construction of a 1½ story addition to the southwest side of the library, which encloses a stairway and adds a minor storage area.

Time and Place of Hearing: Monday, November 19, 2007 – 9:00 p.m.
Curtis Hall
Church Road and Greenwood Avenue
Wyncote, PA

FINDINGS OF FACT

1. Applicant Ancillae Assumpta Academy ("Applicant") is the owner of the premises known as 2025 Church Road, Wyncote, Pennsylvania (the "Property").
2. Prior to the holding of the hearing in this matter, an advertisement, noting the time and place of the hearing and the contents of the appeal, was placed in a newspaper of general circulation.
3. The property is located in an R-3 Residence District and is improved by a private elementary school.
4. The following documents were made a part of the record:
 - ZHB-1. a listing of exhibits;
 - ZHB-2. a copy of the legal notice with regard to the holding of hearing;
 - ZHB-3. an Application to the Zoning Hearing Board, referenced as Appeal No. 3247;
 - ZHB-4. a location map marked as Real Estate Registry Block 143, showing the location of the property;
 - ZHB-5. MFA Land Record Parcel Information on Property dated October 5, 2007;
 - ZHB-6. Building and Zoning Committee recommendation letter dated November 13, 2007;
 - ZHB-7. Illustrative Land Development Plan prepared by Hibbeln Engineering Company; and
 - ZHB-8. plan of proposed classrooms and proposed library addition prepared by John J. DiBenedetto Assoc., Architects.
5. Applicant proposes to construct a 1½-story addition to the southwest side of the library to enclose a stairway and adding a minor storage area.
6. Applicant previously received approval for the proposed classrooms and library renovation.
7. John J. DiBenedetto of John J. DiBenedetto Assoc, was sworn and accepted as an expert in architecture on behalf of Applicant. The Board relied upon Mr. DiBenedetto's testimony.
8. Expert DiBenedetto testified that as Applicant continued with design for the library it was determined that the exposed steel stairway is hazardous and unsafe for the

children. Applicant proposes additional construction space, measuring less than 500 square feet, to enclosed the stairway and add additional storage space for the library.

9. A grant of relief to permit the expansion of the non-conforming religious use by the construction of a 1½-story addition to the southwest side of the library, which encloses a stairway and adds a minor storage area will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

10. A grant of relief to permit the expansion of the non-conforming religious use by the construction of a 1½-story addition to the southwest side of the library, which encloses a stairway and adds a minor storage area will result in premises consistent with the character of the neighborhood and will not materially alter the character of the zoning district or of the community.

11. A grant of relief to permit the expansion of the non-conforming religious use by the construction of a 1½-story addition to the southwest side of the library, which encloses a stairway and adds a minor storage area will not be contrary to the public interests.

CONCLUSIONS OF LAW

1. Expansion of the non-conforming religious use by the construction of a 1½-story addition to the southwest side of the library of an existing private elementary school is not permitted by the Cheltenham Township Zoning Ordinance. However, in accordance with the Pennsylvania Municipalities Planning Code and the Cheltenham Zoning Ordinance, the Cheltenham Township Zoning Hearing Board is empowered to hear and decide requests for variances where it is alleged that strict conformance with the governing ordinances would result in unnecessary hardship. Similarly, the Zoning Hearing Board is empowered to grant special exceptions where the application meets the criteria of the zoning ordinances.

2. Under the circumstances of this matter, Applicant has met its burden in establishing that the application meets the criteria of the ordinance and Applicant is entitled to special exception.

3. The special exception as hereafter granted is the minimum special exception that will afford Applicant relief and represent the least departure from the governing regulations.

4. The special exception will not be contrary to the public interest.

DECISION

WHEREFORE, this 19th day of November, 2007, the Cheltenham Township Zoning Hearing Board, by a 3-0 vote, grants to Applicant a special exception to the rules and regulations of Article XXIX, Section 295-227(B) and (C) permitting the expansion of the non-conforming religious use by the construction of a 1½-story addition to the southwest side of the library.

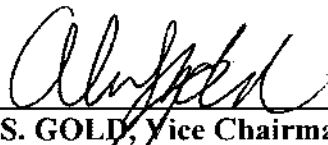
This grant of relief is subject, however, to the following conditions:

- (1) a complete copy of the recorded deed of the subject Property shall be submitted to the Zoning Officer within four (4) weeks of the date of Hearing; and
- (2) the proposed improvements shall be constructed in substantial conformity with the plans submitted to the Zoning Hearing Board and the presentation made to the Zoning Hearing Board at its November 19, 2007 meeting.

This grant of relief is not a waiver of any provision of the Cheltenham Zoning Ordinances not specifically addressed in this decision.

CHELTEHAM TOWNSHIP ZONING HEARING BOARD



PETER LABIAK, Chairman

ALAN S. GOLD, Vice Chairman and Secretary

MICHAEL McCANN, Member