

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

APPEAL NO. 3389

Applicant: John DiBenedetto
201 Old York Road
Jenkintown, Pennsylvania 19046

Subject Premises : 2025 Church Road
Wyncote, Pennsylvania

Owner of Premises: Ancillae Assumpta Academy
2025 Church Road
Wyncote, Pennsylvania 19095

Nature of Application: Applicant appeals from the determination of the Zoning Officer finding that construction of a one story lobby addition, measuring 1,295 square feet, to the northeast rear of the "Sacred Heart Center" would violate the Cheltenham Zoning Ordinance of 1929, as amended, and, specifically, Article V, Section 295-21, regulating uses.

Applicant seeks a variance or special exception from the rules and regulations of the R-3 Residence District as follows:

- (1) a variance from Section 295-21 to allow construction of a one story lobby addition, measuring 1,295 square feet, to the northeast rear of the "Sacred Heart Center" as an expansion of the Nonconforming Religious Use of the Property instead of one of the permitted enumerated uses; and

in the alternative,

- (2) a special exception to Section 295-227(B) and (C) permitting construction of a one

story lobby addition, measuring 1,295 square feet, to the northeast rear of the "Sacred Heart Center" for the expansion of the Nonconforming Religious Use of the Property.

Time and Place of Hearing: Monday, December 13, 2010 – 7:30 p.m.
Curtis Hall
Church Road and Greenwood Avenue
Wyncote, Pennsylvania

FINDINGS OF FACT

1. Applicant John DiBenedetto ("Applicant") is the architect on behalf of Ancillae Assumpta Academy, 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 parochial 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. 3389;

ZHB-4. a location map marked as Real Estate Registry Block 143, showing the location of the property;

ZHB-5. MEA Land Record Parcel Information on Property dated October 25, 2010;

ZHB-6. Building and Zoning Committee recommendation letter dated December 13, 2010;

ZHB-7. Illustrative Land Development Plan, prepared by Hibbeln Engineering Company;

ZHB-8. plan entitled, "Stepping Stones Lobby Ancillae Assumpta Academy, prepared by John J. DiBenedetto Associates Architects;

3247; ZHB-9. copy of decision of the Zoning Hearing Board at Appeal No.

3221; ZHB-10. copy of decision of the Zoning Hearing Board at Appeal No.

ZHB-11. copy of decision of the Zoning Hearing Board at Appeal 2758;

ZHB-12. letter from Gregory S. Gerson dated December 13, 2010;

A-1. copy of article from the Glenside News;

A-2. a series of photographs of the Property;

A-3. Site and Floor Plan Proposed Addition, prepared by John J. DiBenedetto Associates Architects, Inc.;

A-4. Landscape Plant List, prepared by John J. DiBenedetto Associates Architects, Inc.;

A-5. Retention Pit Plan, prepared by John J. DiBenedetto Associates Architects, Inc.; and

P-1. photograph of the rear of the Sacred Heart Center.

5. Applicant proposes to construct a one story lobby addition, measuring 1,295 square feet, to the northeast rear of the "Sacred Heart Center"

6. The proposed lobby will enclose a reconstructed stairway and provide new and safer entrances into the building for pre-school children.

7. John J. DiBenedetto of John J. DiBenedetto Associates, Architects, Inc., was sworn and accepted as an expert in architecture on behalf of Applicant. The Board relied upon Mr. DiBenedetto's testimony.

8. The proposed lobby will include a code compliant six foot wide stairway with six inch risers and 11 inch treads.

9. Site lighting of the proposed lobby area will consist of bollards and exit lighting.

10. Motion detectors will activate the lighting of the stairwells in the proposed lobby area and the existing flood lights at the side of the existing convent building will be eliminated and replaced with bollard lighting and exit lighting.

11. The existing bituminous driveway will be removed and replaced with a retention basin and a flower garden. In addition, the existing flower garden will be expanded.

12. Roofing material for this building are blue and gray metal shingles.

13. Mr. DiBenedetto testified that the new floor plan reduces the square footage of the addition to 1,267 square feet and consists of a storage closet, a new lobby entrance and a stairway into the lower level of the existing building.

14. Mr. DiBenedetto testified that the proposed addition has been set back from the end of the existing building a distance of 5 feet 6 inches, leaving an area of 7 feet by 37 feet for a landscape buffer. Cypress trees will be planted in the buffer area to provide a visual separation from the neighboring properties.

15. Mr. DiBenedetto testified that the height of the proposed addition has been lowered and is, in fact, several inches shorter than the existing building. Further, the new design eliminated the windows facing the western property line. The color of the roofing shingles was changed to blue and tan which is closer in color to the brick exterior of the building.

16. The vehicular drop-off area for the children has been relocated from the west side to the south side of the building, thereby eliminating the traffic issues previously caused by the queuing line of vehicles.

17. All storm water from the addition and portions of the existing roof areas will be piped into the new retention basin, measuring 13 feet by 45 feet by 5 feet deep.

18. The removal of the existing bituminous driveway, contiguous to the convent building, will reduce impervious cover and will result in additional landscape gardening.

19. Several neighbors of the Academy provided their statements in favor of the proposed project, though there was some concern regarding the color of the roofing shingles.

20. A grant of relief to allow construction of a one story lobby addition, measuring 1,267 square feet, to the northeast rear of the "Sacred Heart Center" as an expansion of the Nonconforming Religious Use of the Property instead of one of the permitted enumerated uses will result in no adverse effect to individual property rights or to the public health, safety, or welfare.

21. A grant of relief to allow construction of a one story lobby addition, measuring 1,267 square feet, to the northeast rear of the "Sacred Heart Center" as an expansion of the Nonconforming Religious Use of the Property instead of one of the permitted enumerated uses 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.

22. A grant of relief to allow construction of a one story lobby addition, measuring 1,267 square feet, to the northeast rear of the "Sacred Heart Center" as an expansion of the Nonconforming Religious Use of the Property instead of one of the permitted enumerated uses will not be contrary to the public interest.

CONCLUSIONS OF LAW

1. Construction of a one story lobby addition, measuring 1,267 square feet, as an expansion of the Nonconforming Religious Use of the Property is not permitted by the Cheltenham Township Zoning Ordinance.
2. 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.
3. Under the circumstances of this matter, Applicant has met his burden in establishing that, due to the unique physical circumstances of the Property and those imposed by surrounding properties, a failure to grant relief to allow the construction of a one story lobby addition, measuring 1,267 square feet, to the northeast rear of the "Sacred Heart Center" for the expansion of the Nonconforming Religious Use of the Property would result in an unnecessary hardship.
4. The variance as hereafter granted is the minimum variance that will afford Applicant relief and represent the least departure from the governing regulations.
5. The variance will not be contrary to the public interest.

DECISION

WHEREFORE, this 13th day of December, 2010, the Cheltenham Township Zoning Hearing Board, by a 3-0 vote, grants to Applicant a variance from the rules and regulations of Article V, Section 295-21, to allow the construction of a one story lobby addition, measuring 1,267 square feet, to the northeast rear of the "Sacred Heart Center" as an expansion of the Nonconforming Religious Use of the Property.

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;
- (2) that the proposed improvements be constructed in substantial conformity with the plans and model presented to the Building and Zoning Committee and the presentation made to the Building and Zoning Committee as its December 8, 2010 meeting;
- (3) that a Landscape Buffer Plan, prepared by a professional landscape architect, detailing the species, "dbh" and height of buffer landscaping of the east side of the proposed addition by submitted to the Township Engineer for his review and approval; and

- (4) the proposed improvements shall be constructed in substantial conformity with the testimony and exhibits produced by Applicant during the course of the presentation made to the Zoning Hearing Board at its December 13, 2010 meeting.

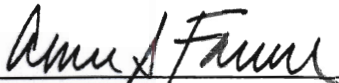
This grant of relief is not a waiver of any provision of the Cheltenham Zoning Ordinances not specifically addressed in this decision.

CHELTENHAM TOWNSHIP ZONING HEARING BOARD



PETER LABIAK, Chairman

ALAN S. GOLD, Vice Chairman and Secretary



AMEE FARRELL, Member

THIS DECISION IS OFFICIALLY ISSUED ON MARCH 1, 2011.