



To: Mark A. Depo, Director of Community Planning and Development

From: Andrea Gerhard, Comprehensive Planner

Hearing Date: June 16, 2020

Subject: Administrative Adjustment Case #AA 20-02 Staff Memo

Request: An application by The Celebration Temple of God, the property owner (Applicant), is requesting approval of an Administrative Adjustment to the setback requirements of Zoning Ordinance Section 164-147 (A). The Administrative Adjustment will be to allow for a storage shed in a side yard.

I. History and Facts

On May 7, 2020, an application was submitted to the Department of Community Planning and Development, for one administrative adjustment at 67 Madison Street, hereinafter the "Property". The Property is zoned R-7,500 Residential. The Maryland State Department of Assessments and Taxation online records indicate the Property is owned by The Celebration of God Church.

II. Notice

On May 31, 2020, a Notice of Hearing appeared in the Carroll County Times. On June 2, 2020, the property was posted with a Zoning Notice sign and a Notice of Hearing was sent to the property owner and adjoining property owners. On June 10, a copy of the agenda was posted on the City's website. These notices were provided to meet the notification requirements set forth in the Maryland Open Meeting Act and Section four of the Administrative Adjustment Procedures, as contained in Resolution No. R03-9.

III. Authorization

Pursuant to Maryland Code Annotated, Land Use Article, Division 1, Single Jurisdiction Planning and Zoning, Title 4, Zoning, Subtitle 2, Designation and Adoption, Section 4-205 and the City of Westminster Zoning Ordinance Section 164-158.1 A. (1), "...the Planning Director is authorized to grant administrative adjustments from the following requirements contained in this chapter:

- (a) Local height requirements;
- (b) Local setback requirements;
- (c) Local bulk requirements;
- (d) Local parking requirements;
- (e) Local loading, dimensional, or area requirements; or
- (f) Similar local requirements.

The Planning Director may grant an administrative adjustment in cases where the strict compliance with the requirements of this chapter would result in practical difficulty or unreasonable hardship which has not been caused by the applicant.

IV. Proposal

The Celebration of God Church applied in August 2019 for a storage shed to be located on their property. The Church faces two streets, Madison Street and East George Street. For review purposes, the Church has two front yards and two side yards. Zoning Ordinance Section 164-147 (A). requires that an accessory structure be in a back yard and prohibited a side yard. The Applicant is requesting an Administrative Adjustment to allow for a storage shed to be located in a side yard.

V. Process

On July 14, 2003, the Mayor and Common Council adopted Resolution R03-9 that contains Administrative Adjustment Procedures. Under Section five of the Procedures, the Director may consider the factors set forth in Zoning Ordinance Section 164-161 A (3), originally related to the Board of Zoning Appeals and which are as follows:

Administrative Adjustment to the setback requirements of Zoning Ordinance Section 164-147 (A).

Such administrative adjustment shall be authorized by the Director only upon a finding by the Director as follows:

1. There are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or classes of uses in the same zone;

The Applicant states, the Celebration Temple of God is in need of a 18' x 34' storage shed in order to store items such as folding chairs, tables, etc. when not in use. The City of Westminster required a land survey for 67 Madison Street, in order to determine setback requirements for the shed. The survey was provided. it was determined that, due to the unique boundary layout that was created when the Church acquired the Property and the adjoining property, 61 Madison Street, that the site technically did not have a backyard. As the City prohibits sheds on side yards, a variance [administrative adjustment] is requested to allow the shed in this extraordinary case.

2. Such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zone and in the same vicinity; and

The Applicant states, the property adjacent to the Property is owned by the Church and the resident is the Church's pastor. Neighbors in the vicinity have been overwhelmingly supportive of the Church's plans, and the shed places no discernible impact on the preservation and enjoyment of neighbor's property rights.

3. The authorizing of such variance will not be of substantial detriment to adjacent properties and will not materially impair the purpose of this chapter or the public interest.

The Applicant states, as noted, the adjacent property is Church property, however, neighbors in the vicinity shall not be affected, materially or otherwise, by the Church's planned storage shed.

VI. Findings of Facts and Conclusions of Law

Staff recommends that the Director consider the following as findings of fact and conclusions of law:

Finding 1

The site is unusually configured with two front yards and two side yards.

Conclusion

This irregular lot configuration represents an exceptional condition for this property, which do not apply generally to other properties in the same zone. This scenario is an example of the kinds of hardship that are widely recognized as legitimate bases for granting variances. By citing Zoning Ordinance Section 164-161 A (3), City Code directs attention to the variance process as a model.

Finding 2

The adjacent property is also owned by the Church.

Conclusion

The property that will be closest to the proposed shed is owned by the Church. This is the property that would have the greatest, if any, impact from the location of the shed.

Finding 3

Pending the outcome of the hearing on June 16, 2020, the Applicant is claiming that there are no known detriments to adjacent properties, nor any known impairments to the purpose of the Code or the public interest. It should be noted that the adjoining property owners, according to the narrative submitted by the applicant, have been very supportive towards this application.

Conclusion

Authorizing these adjustments would not result in the aforementioned detriments or impairments.

VII. Recommendation

Staff recommends approval of Administrative Adjustment AA 20-02, per § 164-158.1 of the City Code.

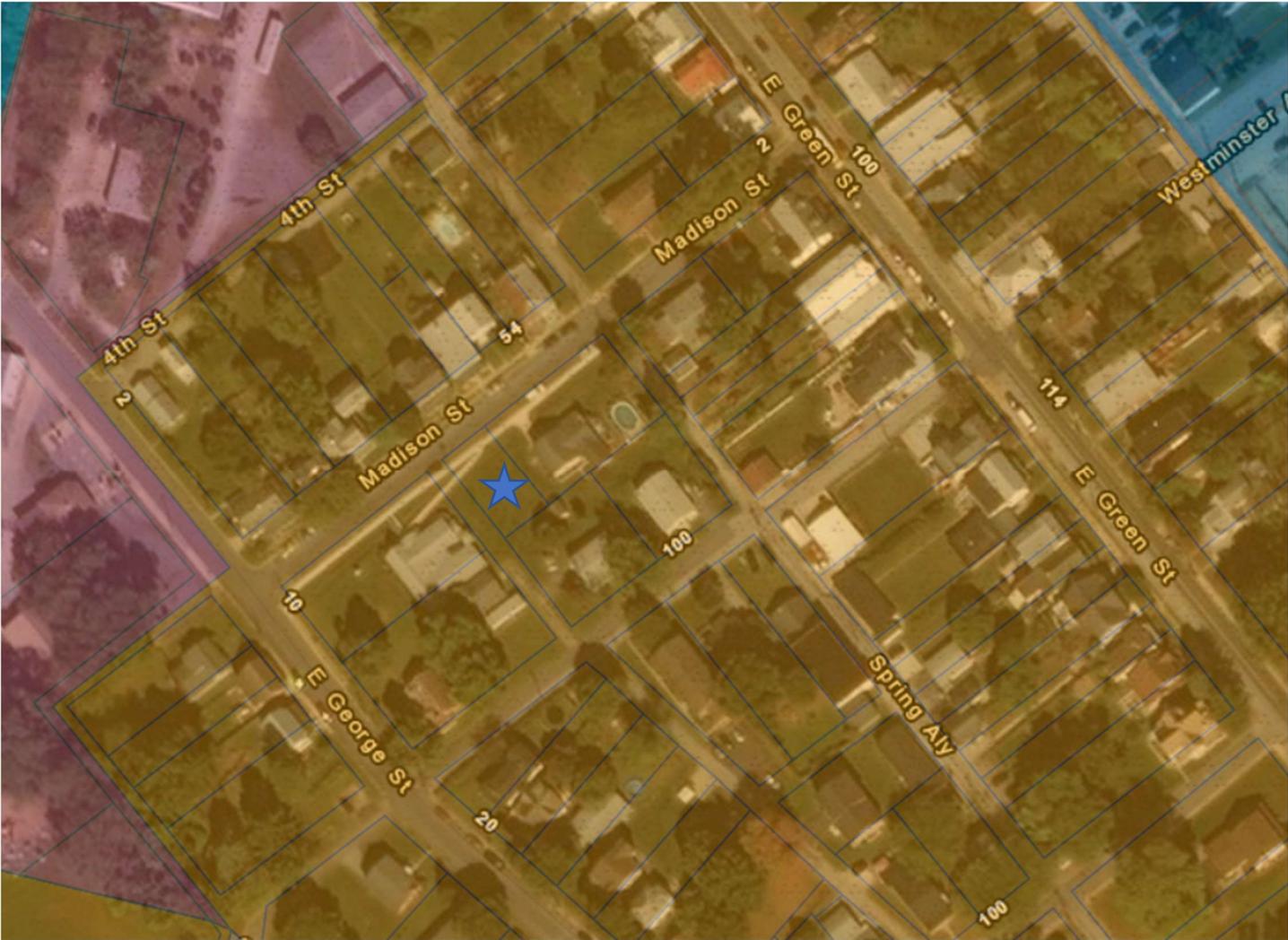
Attachments

Site location aerial map

Zoning Ordinance relevant to the Administrative Adjustment

cc: Barbara B. Matthews, City Administrator Elissa D. Levan, City Attorney

Proposed Shed Location



Proposed Shed Location

abutting minor road to street or 30 feet in the case of a major street. These minimums shall also apply to the side of a corner lot.

- B. In computing the depth of a rear yard or the width of a side yard where the rear or side yard opens on an alley, 1/2 of the alley width may be included as a portion of the rear or side yard, provided that no buildings shall be located within five feet of an alley line.
- C. The side yard width may be varied where the side wall of a building is not parallel to the side lot line or is broken or otherwise irregular. In such case the average width of the side yard shall not be less than the otherwise required least width; provided, however, that such side yard shall not be narrower at any point than 1/2 the otherwise required least width.
- D. A corner lot shall have two front yard setback lines.

§ 164-146 Height exceptions.

[Amended 12-8-1997 by Ord. No. 624]

- A. Building height limitations shall not apply to water tanks, barns, windmills, silos or other accessory farm structures; or to belfries, steeples, spires, electric or transforming or switching equipment, radio, television or radar towers, chimneys or smokestacks, flagpoles, fire or observation towers, cupolas, domes, monuments or roof structures for housing stairways or elevators; or to tanks, ventilating fans, air-conditioning equipment required to operate and maintain the building. No roof structure shall have a total area greater than 25% of the roof area, nor shall such structure be used for any purpose other than a use incidental to the main use of the building. The building height limitations contained in § 164-139.1 shall apply to telecommunications facilities.

[Amended 10-26-1998 by Ord. No. 631]

- B. Any college or university building or administration, student center, dormitory, classroom, place of worship, lecture hall, laboratory, theater, or such type of building related to the educational function of the college or university, constructed on the campus may not exceed a height equal to the height of the tallest building existing on campus as of July 1, 1997; buildings for commercial purposes not principally related to the educational function of the college or university, regardless of ownership of the building or land, shall conform to the height restrictions of the zoning district in which they are located.

[Amended 5-13-2019 by Ord. No. 910]

§ 164-147 Accessory buildings.

- A. Accessory buildings shall be confined to rear yards, except as may hereinafter be otherwise provided in this chapter.
- B. Accessory buildings shall be at least eight feet in distance from alley lines and from lot lines which are adjoining lots in any residential zone.
- C. In any residential zone where a corner lot adjoins in the rear a lot fronting on the side street and located in a residential zone, no part of any accessory building on such corner lot shall be nearer the side street lot line than the minimum front yard requirement along such side street for a dwelling on such adjoining lot. In no case shall any part of such accessory building be nearer to the common lot line than the minimum side yard requirement for the principal building to which it is accessory.
- D. Notwithstanding the provisions of Subsection B above, storage sheds not in excess of 150 square feet of floor space and not in excess of one story in height may be located on rear and/or side lot lines of single-family attached dwellings and multiple-family dwellings. Such storage sheds may not be utilized for the storage of motor vehicles.

E.

Notwithstanding the provisions of Subsection B above, a residential garage which is a portion of a main building or is attached to a main building may be located anywhere on a lot, provided that the garage is within the rear, side and front yard requirements of the zone within which the lot is classified.

- F. Notwithstanding the provisions of Subsection B above, a residential garage which is not a portion of a main building nor is attached to a main building may be located anywhere to the side or rear of the main building, provided that the garage is within the side yard requirements of the zone within which the lot is classified and is at least five feet in distance from the rear lot line of said lot, unless access to the garage is from an existing alley or street which abuts the rear lot line, in which case the setback shall be eight feet from the rear lot line.

§ 164-148 Off-street parking and loading.

In every zone, spaces for off-street parking and for loading and unloading of vehicles shall be provided in accordance with the requirements of Article XVI.

§ 164-149 Automobile service stations.

- A. An automobile service station may be permitted upon a finding by the Board, in addition to the findings required in Article XXII of this chapter, that:
- (1) The use will not constitute a nuisance because of noise, fumes, odors or physical activity in the location proposed.
 - (2) The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads or intersections or its location in relation to other buildings or proposed buildings on or near the site and the traffic pattern from such buildings or by reason of its location near a vehicular or pedestrian entrance or crossing to a public or private school, park, playground or hospital or other public use or place of public assembly.
 - (3) The use at the proposed location will not adversely affect nor retard the logical development of the general neighborhood or of the industrial or commercial zone in which the station is proposed, considering the service required, the population, character, density and number of similar uses.
 - (4) The evidence of record establishes that for the public convenience and service a need exists for the proposed use due to an insufficient number of similar uses presently available to serve existing population concentrations in the City and that the use at the location proposed will not result in a multiplicity of proposed uses. In the absence of convincing evidence to the contrary, the following shall constitute lack of probability of a reasonable public need:
 - (a) An automobile service station within one mile on the same side of the road, except at intersections.
 - (b) The presence of two service stations within the four quadrants of an intersection, including 1/2 mile from the center of the intersection in any direction.
 - (5) The proposed use will be conducted upon a lot having a minimum area of 20,000 square feet, provided that this size is adequate to meet the necessary services and the setback and buffering requirements, and a minimum lot frontage of 120 feet on a public road shall be required for each automobile service station site.
 - (6) The lot shall contain landscaping on a minimum of 10% of the site area.
- B. In addition, the following requirements shall be met:
- (1) When such abuts a residential zone or institutional premises not recommended for reclassification to commercial or industrial zone on an adopted Master Plan and is not effectively screened by a natural terrain feature, the use shall be screened by a solid wall or a substantial, sightly, solid fence not less than five feet in