

# City of Cambridge

Department of Public Works  
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## Board of Appeals Minutes June 23, 2020

The Board of Zoning Appeals for the City of Cambridge met at 6:00 p.m. on Tuesday, June 23, 2020 via a conference call, while staff, the Chair of the Board, Bill Clyde and City Attorney Patrick Thomas were the only ones present at the Council Chambers at 305 Gay Street, Cambridge, Maryland.

**Board Members in Attendance by phone:** Vice-Chair Gaver Nichols, Commissioners Robin Sample, Barbara Knepp and alternate William Bishop.  
**Absent:** Dormaim Green

**Other representatives in Attendance:** Chairman Bill Clyde, City attorney Patrick Thomas, and Herve Hamon, Planner 1

**Appellants on the phone:** Pastor Cassandra Wright, Emmett Dunnock and Brian Roche

**Note:** There were no witnesses or member of the public on the call

Chairman Clyde opened the meeting at 6pm.

Chairman Clyde then issued a welcome and explained the order of the proceedings.

Chairman Clyde swore in those wishing to testify.

Chairman Clyde asked for a motion to revise the June 23<sup>rd</sup>, 2020 BOA Agenda asking for BOA-2020-008 Church at 610 Hubert Street, to be heard first instead of last. Vice Chair Nichols made a motion to revise the agenda; it was seconded by Comm. Sample; all approved.

### Regular Business:

#### **1. BOA 2019-008 – Special Exception for a Church at 610 Hubert Street**

€ **BACKGROUND:** (Note: this case was presented by City Planner Pat Escher)

Project Name: Breath of Life Outreach Ministries  
Applicant: Cassandra Wright  
Owner: Cassandra Wright  
P & Z Case No.: BOA 2019 - 008  
Nature of Request: A Special Exception for a Church  
Location of Property: 610 Hubert Street  
Total Acreage: 7,161 Sq. Ft.  
Zoning: NC-3

**From PZ 2020-003 SE for a church at 610 Hubert Street** – Minister Cassandra Wright, wants to reoccupy an old church at this location. The structure has been closed for some time and the architecture of the building denotes it was a church. She provided the Commission with a mission statement and site plan. This would be a Special Exception requiring a recommendation from the Commission and approval from the BOA.

**Staff Presentation at Planning & Zoning Commission of May 5, 2020:**

The site is located in a primarily residential neighborhood with narrow streets and limited pedestrian amenities such as sidewalks. It does appear to have adequate width for limited amount of on street parking. The site does have enough clearance on one side to accommodate a driveway and parking in the rear, if needed. The main meeting area appears to be 29 feet by 36 feet which is approximately 1,044 sq. ft. When you deduct areas for aisles on either side and in the rear and front to the room, the remaining area is approximately 540 sq. ft. If you use the IBC minimum standards of one seat requiring 7 sq ft, the occupancy would be approximately 77 people. If you use a more generous area for each seated person, say 10 sq. ft, it would be closer to 54 people. Parking for a church is calculated at one parking space per 4 seats which would require approximately 14 parking spaces. The rear of the property has approximately 80 linear feet that could accommodate 8 head-on parking spaces if necessary. Staff believes that given Cambridge's low car ownership rate and the surrounding neighborhood context, requiring the installation of a parking lot at this time would be onerous. If the church does flourish, the City can require through the Special Exception process, that the church shall install onsite parking.

**€ DISCUSSION:**

Staff enumerated the 7 standards which need to be satisfied in order to receive approval for a special exception:

1. The establishment, maintenance and operation of the special exception at its proposed location will not be detrimental to or endanger the public health, safety, or general welfare.
2. The special exception at its proposed location shall be such that it will be harmonious in character as well as appropriate in appearance with and will not be injurious to the use and enjoyment of other property in the neighborhood for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special exception at its proposed location will not impede the normal and orderly development and improvement of surrounding properties.
4. Adequate utilities, public water and sewer facilities, access streets, drainage and all necessary facilities have been or are being provided.
5. The special exception shall be such that pedestrian, bicycle, and vehicle traffic associated with such use at its proposed location will not be hazardous to or unduly conflict with the existing and anticipated traffic in the neighborhood.
6. The special exception shall in all other respects conform to the applicable regulations of the district in which it is located and to the special requirements that may be established for the specific use.
7. The proposed use at its proposed location conforms to the Comprehensive Plan.

**Staff additional comments:**

- The site was used as a church in the past (please note the potential driveway and off-site parking location on the side of the building).
- The proposed use at this location is compatible with the surrounding neighborhood with respect to scale and mass. It would be an amenity to the neighborhood and provides a place for the local community to come together.
- In addition, ad pursuant to a list of complementary questions sent to the appellant on June 9, the following documents were provided at the meeting: Fire Marshal report, and Building Department Official compliance note

**€ STAFF RECOMMENDATIONS:**

To grant the Special Exception with the following conditions:

1. Prior to occupying the building, the applicant shall submit a “to scale” drawing demonstrating vehicular access and a parking lot layout in the rear of the property.
2. For the first six months of the building being used a church, the applicant shall submit a monthly report to the Zoning Official, recording the number of vehicles used to attend church services and any related activities.
3. If at any time the Zoning Official determines that the number of vehicles parking on the street are a negative impact to the community, the applicant shall install a gravel parking lot as depicted on the site plan and instruct the members to park on site.
4. Prior to occupying the building, the applicant shall meet with the City’s Fire Chief for his review of the building for safety measures and to determine the occupancy of the building, if not already determined by the Fire Marshall. After which, the applicant shall submit a drawing showing the layout of the seating and lecture. The floor plan should include a bathroom if one exists.
5. Prior to occupying the building, the applicant shall meet with City staff to review ADA requirements, knowing that this is an existing building and some leeway may be granted to comply with the ADA standards.
6. Prior to occupying the building, the applicant shall meet with the City’s Building Division and adhere to any requirements they impose.
7. This Special Exception does not include any residential use for the building; any ancillary functions such as bible school or other religious gatherings, shall be permitted.
8. This is a Special Exception Permit and runs with the land. In the event that the property sells to another person, the applicant will contact the Zoning Official to determine if the transaction requires additional action.

**€ DECISION:**

Commissioner Bishop made a motion to approve BOA 2020-008 – Special Exception for a Church at 610 Hubert Street, with all 8 conditions spelled above in the staff recommendations. Vice-Chair Nichols seconded that motion.

The motion passed unanimously, and the special exception was approved.

## 2.BOA 2019-008 – Special Exception for Commercial Use in Residential District – 120 Choptank Avenue

### € BACKGROUND:

Applicant/Owner: Brian Roche  
BOA Case No.: 2020-005  
Nature of Request: Special Exception – Commercial Use in Residential District  
Location of Property: 120 Choptank Avenue  
Total Acreage: 3,762sf  
Zoning: NC-3  
Year Built: 1918  
Open violations: None known

The property owner Brian Roche would like to get approval for a special exception with respect to the above referenced property. The property at the above referenced address was never built to be a single-family home. Brian has provided documentation showing that the property used to be a commercial store (Collins Drug) on the ground level and was later converted to 4 apartments. He has provided a narrative and photos of the property below.

On March 3<sup>rd</sup>, 2020 the Planning Commission heard Mr. Roche's presentation, and concurred that this was not a single-family residence and was originally uses a commercial store on the ground level with two apartments above. They agreed it would be preferable to have the building occupied (it is currently vacant) and recommended that Brian proceed to the BOA to secure a Special Exception pursuant to Section 4.2.3 B 1. Commercial Uses; Uses Classified as an NC District Corner Store/Commercial Uses. The Commission supported either 3 or 4 apartments in the building, pending the final design.

### € DISCUSSION:

Staff then read through the Standards for Special Exception, providing the appellant's responses to each point.

The Board of Appeals shall grant a special exception unless it finds, from a preponderance of evidence of record, that the proposed use submitted for a special exception would have adverse impacts at its proposed particular location which would be above and beyond those inherently associated with the proposed use irrespective of its location with the zoning district. In making its decision, the Board shall make findings with respect to each of the following standards (*responses by the appellant are in italic below each point*):

1.The establishment, maintenance and operation of the special exception at its proposed location will not be detrimental to or endanger the public health, safety, or general welfare.

- *The establishment, maintenance and operation of renovating and upgrading the interior and exterior of the existing 4 apartments at its proposed location will not be detrimental to or endanger the public health, safety, or general welfare.*

2.The special exception at its proposed location shall be such that it will be harmonious in character as well as appropriate in appearance with and will not be injurious to the use and enjoyment of other property in the neighborhood for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

- *The intent of the renovation of the interior and exterior of the existing 4 apartments at the proposed location is make the structure more harmonious in character and appearance for the purposes already permitted as well as enhance and improve the property values in the neighborhood.*

3.The establishment of the special exception at its proposed location will not impede the normal and orderly development and improvement of surrounding properties.

- *The establishment of the special exception and resulting investment in this historic building will hopefully accelerate the orderly development and improvement of surrounding properties.*

4.Adequate utilities, public water and sewer facilities, access streets, drainage and all necessary facilities have been or are being provided.

- *All adequate utilities, public water and sewer facilities, access streets, drainage and all necessary facilities have been and are being provided. No additional public utilities or infrastructure are required as part of the planned renovation and use.*

5.The special exception shall be such that pedestrian, bicycle, and vehicle traffic associated with such use at its proposed location will not be hazardous to or unduly conflict with the existing and anticipated traffic in the neighborhood.

- *There are no proposed changes of pedestrian, bicycle, and vehicle traffic associated with such use at its proposed location.*

6. special exception shall in all other respects conform to the applicable regulations of the district in which it is located and to the special requirements that may be established for the specific use.

- *The building was originally a corner store with upstairs apartments. It had been converted to 4 residential apartments when the store ceased operations. Considering the structure was never a single-family structure, maintaining the residential apartments in the building more closely conforms with the applicable regulations than its historic commercial use for which it is no longer zoned.*

7.The proposed use at its proposed location conforms to the Comprehensive Plan.

- *It does. The intent of the NC-3 zoning district is to maintain the character of neighborhoods including the setting for important historic and cultural resources.*

Upon Staff presentation of the Standards, the Board raised a few issues:

- Even though the Special Exception Application was filed for Commercial Use / Corner Store, there is no corner store commercial involved with this proposal, only the appearance of one
- The origin of the building (one store and 2 apartments above) is not relevant to these proceedings
- This is a non-conforming building on a non-conforming lot
- There is currently only 1 off-street parking space available if the rear yard is converted into parking; and the UDC regulation for multifamily calls for 1.5 parking space per dwelling unit (4.5 spaces for 3 units)
- The larger problem at hand is traffic and parking;
  - o With a right of way of 22 feet, even though School Street is a one-way street, having cars parked on each side (if they did not park on top of the sidewalks) would not provide sufficient width for an emergency vehicle (22' - 2x8' = 6 foot left)
  - o In order to provide a minimum of 12 foot clear (the width of one lane of traffic), cars on each side would only be allowed to encroach 5 feet onto the right of way, creating an obligation to park on the sidewalk, or preventing the possibility of a clear and safe path for pedestrians along the building - forcing walkers into the street); Note: the South side of School Street does provide a damaged 4' wide concrete sidewalk, while the North side - abutting the property - is flush with a layer of gravels and dirt up to the building about 6.5 to 7 feet way from the curb

€ **DECISION:**

Vice-Chair Nichols made a motion that:

- The case would be deferred in order to provide a further detailed study of the width of the street, parking strategy, parking layout on a dimensioned site plan; accompanied by a letter from the Cambridge Fire Department stating the width required for emergency vehicles
- The appellant would provide studies showing 2 units versus 3 units to further reduce density
- The appellant would include an analysis of shared parking, or other alternate solutions to provide off-street parking for the 3 apartments
- The appellant would have an informal meeting with the Historic Preservation Commission (HPC), and have HPC issue a letter of recommendation on the conceptual design of the Choptank Avenue façade design

Commissioner Knepp seconded that motion.

The motion passed unanimously to defer the case.

**3.BOA 2019-007 – Special Exception for Seasonal Sales – Produce Stand at 746 Race Street**

€ **BACKGROUND:**

Project Name:	Produce Stand
Applicant:	Carl Emmett Dunnock III, Applicant
Owner:	Delmar Willey, Property Owner
P & Z Case No.:	BOA 2019 - 007
Nature of Request:	A Special Exception for Temporary or Seasonal Activities
Location of Property:	746 Race Street
Total Acreage:	7,118 Sq. Ft.
Zoning:	DWDD-Center

Mr. Dunnock has operated at this location for numerous years with no complaints being registered at the City. This stand was in operation prior to the arrival of present staff. Staff did some research to see when the special exception for the stand would expire and was not able to locate a permit. Staff approached Mr. Dunnock about this matter last season. He indicated that he had just operated the stand and had not gone through a City process. It was agreed that Mr. Dunnock could continue to sell produce to close out the year but should come to the City for a special exception for his produce stand.

Mr. Dunnock has complied with this request. The site has access from Washington and Race Streets and is located in the parking lot. The stand sells produce from 9:30 am to 5:30 pm, Monday through Saturday, from the beginning of June to the end of August. Giving Cambridge residents access to fresh produce is a great amenity and much needed service. Additionally, this stand has been in operation for a long time with no complaints or safety issues ever being raised.

The applicant uses a truck at this location and not a stand as this site is used AS PARKING for church services on Sundays and moving a larger stand on a weekly basis would be burdensome.

## € DISCUSSION:

Staff then read through the Standards for Special Exception, highlighting the points specifically related to the appellant's case.

The Board of Appeals shall grant a special exception unless it finds, from a preponderance of evidence of record, that the proposed use submitted for a special exception would have adverse impacts at its proposed particular location which would be above and beyond those inherently associated with the proposed use irrespective of its location with the zoning district. In making its decision, the Board shall make findings with respect to each of the following standards:

1. The establishment, maintenance and operation of the special exception at its proposed location will not be detrimental to or endanger the public health, safety, or general welfare.
2. The special exception at its proposed location shall be such that it will be harmonious in character as well as appropriate in appearance with and will not be injurious to the use and enjoyment of other property in the neighborhood for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special exception at its proposed location will not impede the normal and orderly development and improvement of surrounding properties.
4. Adequate utilities, public water and sewer facilities, access streets, drainage and all necessary facilities have been or are being provided.
5. The special exception shall be such that pedestrian, bicycle, and vehicle traffic associated with such use at its proposed location will not be hazardous to or unduly conflict with the existing and anticipated traffic in the neighborhood.
6. The special exception shall in all other respects conform to the applicable regulations of the district in which it is located and to the special requirements that may be established for the specific use.
7. The proposed use at its proposed location conforms to the Comprehensive Plan.

Mr. Dunnock, the appellant, expressed the following:

- The stand has operated at this location for many years without any complaints
- It provides fresh produce to local population and regulars, a good portion walking from the Bradford House and other parts of the immediate neighborhood
- Traffic has not been an issue throughout the years, with the use by locals facilitating the understanding of the functioning of the intersection
- Mr. Dunnock proposes to add traffic signs (right turns only) to his layout, for exiting vehicles

Commissioner Bishop made a comment that any "traffic rules" related to the produce stand would be difficult to enforce, but that the absence of complaints about traffic impact was satisfactory.

Commissioner Sample asked if there was a record of accidents at the intersection, and if some would be related to the produce stand. Mr. Dunnock testified that there were none to his knowledge.

€ **DECISION:**

Commissioner Bishop made a motion to approve BOA 2020-007 – Seasonal Sales – Produce Stand at 746 Race Street, with the following conditions:

1. The Special Exception be valid for 5 years and the applicant shall submit an application for staff review annually; the format of the application shall be a status report to staff at close of season, highlighting any issues that may have arisen during the produce stand dates of operations
2. The stand can operate from June 1st to August 31<sup>st</sup> from 9:30 am to 5:30 pm, Monday through Saturday. The selling season may vary slightly from each year as dependent on that availability of produce.
3. The truck shall be parked in such a way as to not impede the visibility of either Race or Washington Street.

Vice-Chair Nichols seconded that motion.

The motion was approved unanimously, and the special exception was granted.

Chairman Clyde asked for a motion to adjourn.

Motion was made to adjourn by Vice-Chair Nichols; seconded by Commissioner Sample; all approved.

The meeting adjourned at 8:15pm.

Respectfully submitted,

Herve Hamon, Planner I

Signature: William W. Clyde  
William Clyde, Chairman, Board of Appeals

Date: July 6, 2020