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OFFICE OF THE ZONING HEARING EXAMINER
FOR PRINCE GEORGE'S COUNTY

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WORD POWER BAPTIST TABERNACLE, INC.: Case No. SE4694
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A hearing in the above-entitled matter was held on
June 23, 2016, at the Prince George's County Office of
Zoning, County Administration Building, Room 2174, Upper
Marlboro, Maryland 20772 before:

Maurene Epps-McNeil
Hearing Examiner

A P P E A R A N C E S

On Behalf of the Applicant:

Mike Nagy, Esq.

On Behalf of People's Zoning:

Stan Brown

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P R O C E E D I N G S

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MS. EPP-MCNEIL: Okay. Good morning. Good morning everyone, it is June 23, 2016. We're here in Special Exception 4694, a request to allow a church in the R-18 Zone. The applicant is Word Power Baptist Tabernacle, Inc. I am Maurene Epps-McNeil, I'll be the Hearing Examiner today and if counsel would identify themselves for the record.

MR. BROWN: Stan Brown, People's Zoning Council.

MR. NAGY: Mike Nagy with Rifkin, Weiner, Livingston representing the applicant.

MS. EPP-MCNEIL: And you wanted to introduce the Pastor?

MR. NAGY: And introduce Pastor David McLaughlin and I have an expert witness this morning, the expert land planner, Mr. Ferguson.

MS. EPP-MCNEIL: And who is your first, anything preliminary?

MR. NAGY: I don't believe so, Madam Examiner. I believe Pastor McLaughlin filed the sign affidavit. The only thing that we may have to do is --

MS. EPP-MCNEIL: Did you do the ethics? And I meant to ask you, are churches exempt?

MR. BROWN: No, they're not exempt.

MR. NAGY: We did file the ethics.

1 MS. EPP-MCNEIL: You did?

2 MR. NAGY: I believe that was all part of the
3 application to Park and Planning. If not --

4 MS. EPP-MCNEIL: I'll let Mr. Brown look for it.

5 MR. BROWN: All right.

6 MR. NAGY: -- we certainly can. I think it's in
7 that application there. It may be at the end of all that.

8 MR. BROWN: Yes, I'm sure it's in here.

9 MR. NAGY: I seem to recall filling out the ethics
10 affidavit.

11 MS. EPP-MCNEIL: Okay.

12 MR. NAGY: If you had any questions. I think
13 there it is.

14 MS. EPP-MCNEIL: One more thing for the record.
15 Is there anyone here in opposition to this request?

16 (No audible response.)

17 MS. EPP-MCNEIL: And let the record reflect that
18 no one is here. Okay.

19 MR. NAGY: Thank you, Madam Examiner. Again, this
20 is Special Exception 4694 for a church use on a site that's
21 between an acre and two acres, less than an acre.

22 MR. FERGUSON: Less than an acre.

23 MR. NAGY: Less than acre. Thank you, Mr.
24 Ferguson. And the structures are all existing. The second
25 part of this Special Exception Site Plan is to validate all

1 of the existing uses on site.

2 Two of the additions were built without permits.
3 We have had third party inspections of both additions and
4 have received a temporary U&O pending the outcome of this
5 special exception hearing. We've been working with DPIE and
6 other county agencies for five years, I guess, doing both
7 renovations to the original structure and to the two
8 additions to bring them up to code.

9 So with that as background, this special exception
10 was required because at the time the church has been
11 operating there for quite some time. When they first
12 started operating, the property was zoned commercial and
13 through the 2010 Plan, or 2009 Plan, the zoning was changed
14 to R-18 on this property and the property next door which is
15 more of an industrial use. So the requirement became a
16 special exception on less than an acre.

17 So with that, as background I'd like to call Mr.
18 Ferguson.

19 MS. EPP-MCNEIL: Mr. Ferguson, do you swear or
20 affirm under the penalties of perjury that the testimony you
21 shall will be the truth, and nothing but the truth?

22 MR. FERGUSON: I do.

23 MR. NAGY: Madam Examiner, again, we'll go through
24 this quickly.

25

DIRECT EXAMINATION

1 MR. NAGY: Mr. Ferguson, please state your name
2 and business address.

3 MR. FERGUSON: My business address is 14603
4 Marlboro Pike, here in Upper Marlboro.

5 MR. NAGY: And your occupation?

6 MR. FERGUSON: I'm a land planner.

7 MR. NAGY: And by whom are you employed?

8 MR. FERGUSON: RDA Engineering Company.

9 MR. NAGY: And how many years have you been
10 employed by RDA?

11 MR. FERGUSON: Since 1989, so 27.

12 MR. NAGY: Have you been qualified as an expert in
13 land use planning before this body?

14 MR. FERGUSON: On many occasions.

15 MS. EPP-MCNEIL: He will be admitted as an expert
16 in the area of land use planning and his resume will be
17 marked as Exhibit 18.

18 (Hearing Exhibit No. 18 was
19 marked for identification.)

20 MR. NAGY: Thank you, Madam Examiner.

21 MS. EPP-MCNEIL: And his land planning analysis
22 will be marked as Exhibit 19.

23 (Hearing Exhibit No. 19 was
24 marked for identification.)

25 MR. NAGY: You are well ahead of me, as usual,

1 Madam Examiner. Mr. Ferguson, have you reviewed the
2 applicant's Special Exception Site Plan, the statement of
3 justification for SE4694?

4 MR. FERGUSON: I have.

5 MR. NAGY: And have you reviewed the M-NCPPC
6 Technical Staff Report?

7 MR. FERGUSON: I have.

8 MR. NAGY: And have you personally inspected the
9 property and visited the property?

10 MR. FERGUSON: I have.

11 MR. NAGY: And are you familiar with the
12 surrounding area and land uses?

13 MR. FERGUSON: Yes, I am.

14 MR. NAGY: And are you familiar with the various
15 planning documents and policies of Prince George's County,
16 which are relevant to the subject property and the
17 surrounding area as to a special exception use?

18 MR. FERGUSON: I am.

19 MR. NAGY: And have you reviewed the approved
20 Subregion 4 Master Plan and Adopted Sectional Map Amendment?

21 MR. FERGUSON: I have.

22 MR. NAGY: And have you reviewed the Planned
23 Prince George's 2035 Approved General Plan?

24 MR. FERGUSON: Yes, I have.

25 MR. NAGY: And based on your review of all of the

1 aforementioned documents including the Technical Staff
2 Report, Site Plan, the applicant's statement of
3 justification, the General Plan, the Master Plan, your
4 personal visit to the site, have you prepared a written
5 summary of your expert opinion in this case?

6 MR. FERGUSON: I have.

7 MR. NAGY: And Madam Examiner, as you said, this
8 has been accepted into the record as Exhibit 19. Mr.
9 Ferguson, are you familiar with the zoning and development
10 history of the subject property?

11 MR. FERGUSON: I am.

12 MR. NAGY: And could you please describe the
13 existing onsite development and the proposed development of
14 this subject special exception?

15 MR. FERGUSON: Certainly. What Mr. Nagy --

16 MS. EPP-MCNEIL: Just before you do, I'm so sorry.
17 I'm on Marlboro Pike --

18 MR. FERGUSON: Yes, ma'am.

19 MS. EPP-MCNEIL: -- headed to D.C.

20 MR. FERGUSON: Yes, ma'am.

21 MS. EPP-MCNEIL: I pass Silver Hill Road.

22 MR. FERGUSON: Correct.

23 MS. EPP-MCNEIL: And I pass that Silver whatever
24 shopping center on the left.

25 MR. FERGUSON: Correct.

1 MS. EPP-MCNEIL: How much further down --

2 MR. FERGUSON: 1,000 feet.

3 MS. EPP-MCNEIL: -- before I get to the churches?

4 MR. FERGUSON: Not even a quarter mile.

5 MS. EPP-MCNEIL: So is it in the new, what is that
6 a new Fire Department?

7 MR. FERGUSON: It's just beyond that on the other
8 side of the street.

9 MS. EPP-MCNEIL: Oh it's on the other side.

10 MR. FERGUSON: On the other side of it. So the
11 Fire Department is on the right --

12 MS. EPP-MCNEIL: On the same side as the shopping
13 center?

14 MR. FERGUSON: -- and this is on the left.

15 MS. EPP-MCNEIL: I mean --

16 MR. FERGUSON: Well Silver Hill is on the left and
17 this is on the same side --

18 MS. EPP-MCNEIL: Okay.

19 MR. FERGUSON: -- as the Silver Hill Plaza
20 Shopping Center .

21 MS. EPP-MCNEIL: Okay. I think I have it.

22 MR. FERGUSON: Right.

23 MS. EPP-MCNEIL: Thank you.

24 MR. FERGUSON: So Mr. Nagy did give you a
25 reasonable summary of the property, had been occupied by a

1 single family dwelling, and at some time between 2000 and
2 2005 additions were placed onto that dwelling. At that
3 time, the property was located in the C-S-C Zone.

4 There was milling space down for parking to the
5 side of the building and to the rear. The applicant became
6 aware that they needed to obtain a use and occupancy permit
7 so they began that process, but they began that really after
8 the property had been rezoned to the R-18 Zone. In the R-18
9 Zone and in fact all residential zones that are smaller than
10 the R-A, you're required to obtain a special exception to
11 approve the use of a church on a site of less than one acre.

12 The subject site is 0.6650 acres. I would note
13 that the original application had a different area. In
14 doing my preparation for the case, I found that the area was
15 a couple of hundredths larger. So 0.6550 is the correct
16 answer.

17 One of the other things that I did want to point
18 out that is in the record was there are various citations
19 for the permitted lot coverage, which goes to one of the
20 criteria for approval. The Urban Design staff had
21 referenced the lot coverage of 60 percent, the permit staff
22 which made it into the report, suggested that the limit
23 should be 50 percent. I did copy Table 2 of the Residential
24 Regulations and I would draw you to the bottom and perhaps
25 you want to enter this as an exhibit --

1 MS. EPP-MCNEIL: I will.

2 MR. FERGUSON: -- or you can take notice of it as
3 simply a copy of the Ordinance.

4 MS. EPP-MCNEIL: You made a copy so I'll make it
5 Exhibit 20.

6 (Hearing Exhibit No. 20 was
7 marked for identification.)

8 MR. FERGUSON: And at the bottom of the first page
9 of that exhibit, you'll see that there is a provision for
10 churches on lots between 1 and 2 acres in size, which are
11 limited to 50 percent, but all other allowed uses are 60
12 percent. And because this property is less than 1 acre,
13 that special provision --

14 MS. EPP-MCNEIL: So if you had more acreage --

15 MR. NAGY: Less coverage.

16 MS. EPP-MCNEIL: Okay. All right.

17 MR. FERGUSON: So whether it's rational or not, I
18 couldn't speak to, but it's clear churches or similar places
19 of worship one lot between 1 and 2 acres in size, 50
20 percent. I copied the wrong table because I didn't give you
21 the R-18, this is the first I have bound to R-20.

22 MS. EPP-MCNEIL: Okay.

23 MR. FERGUSON: But it is the same in the R-18.

24 MS. EPP-MCNEIL: Then I'll take it, you know, out.
25 I'll get rid of Exhibit 20 and I'll just take official

1 notice.

2 MR. FERGUSON: Yes, thank you.

3 MS. EPP-MCNEIL: Once I look it up.

4 MR. FERGUSON: Thank you. So other allowed uses
5 are 60 percent.

6 MR. NAGY: And I would just point out for Madam
7 Examiner, those changes that Mr. Ferguson talked about have
8 been made to the plan where the 60 percent lot coverage is
9 shown and the calculations have been provided, as well as
10 the acreage adjustment has been made on the plan to the --

11 MR. FERGUSON: And that is a revised Site Plan.

12 MR. NAGY: 0.66. And we'd ask that Madam
13 Examiner, while we're taking Exhibit 20 --

14 MS. EPP-MCNEIL: That could be Exhibit 20 --

15 MR. NAGY: Yes.

16 MS. EPP-MCNEIL: -- once my property is outlined
17 in red.

18 MR. NAGY: Okay. We can do that.

19 MS. EPP-MCNEIL: And should it be 20A, B and C?

20 Or is it --

21 MR. NAGY: Just A. Those are just extra copies.

22 MS. EPP-MCNEIL: Okay.

23 MR. BROWN: No, I don't need it.

24 MR. NAGY: You don't need a copy?

25 (No audible response.)

1 MR. FERGUSON: So there is a provision that's
2 planned for a slight relocation of the parking at the rear
3 of the building from the area behind, which possibly may
4 extend over onto the Shiloh Abundant Life Center property to
5 the rear and will extend across the rear lot line. There is
6 provisions for landscape buffers and internal landscaping
7 and a historic roadway buffer along Marlboro Pike.

8 What I would say, Madam Examiner, is that there
9 are several conditions on this property which lower the
10 impact, compared to other uses to other churches in the R-18
11 Zone. This property is sited on a collector roadway, it's
12 not back in a residential neighborhood. As such, it's
13 aspect is not as disruptive as it might be in another
14 residential zone and there are fewer traffic concerns as you
15 don't have traffic on an interior residential street. So
16 from a use perspective, I find this to have very, very low
17 impact and I would argue that given the size of the property
18 at less than 1 acre, its situation next to an industrial use
19 its probably far more suited for use as a church than it
20 would be for a multifamily building.

21 MR. NAGY: And Mr. Ferguson, are you familiar with
22 the general required findings for the grant of a special
23 exception in Prince George's set forth in 27-317(a)?

24 MR. FERGUSON: I am. And I do go through them in
25 my report and I think the testimony I just gave is a

1 sufficient overview. There are also, it's not in a critical
2 area here Madam Examiner to put that in my report. There
3 are five special criteria for the approval of a church that
4 are laid out in Section 27-341.02. Several of those are
5 noteworthy.

6 The first is that there is a requirement that the
7 minimum setback for all buildings shall be 25 feet from each
8 lot line. In this case, the existing corner of the existing
9 structure is only 25.1 feet from the existing lot line and
10 of course beyond the requirement of the special exception
11 special criteria there is a requirement that you meet the
12 zoning setback and for front yards in the R-18 Zone, that's
13 30 feet. So a variance would be required --

14 MS. EPP-MCNEIL: Okay.

15 MR. FERGUSON: -- for that provision --

16 MS. EPP-MCNEIL: Time out.

17 MR. FERGUSON: -- I was going to say except that
18 here is a question in my mind given that the structure was
19 constructed in between 2000 and 2005 at which time the
20 zoning was commercial at which time it would have been
21 compliant. So whether that means this is a nonconforming
22 situation --

23 MR. BROWN: But it didn't have the permits.

24 MR. FERGUSON: I know that.

25 MS. EPP-MCNEIL: Right.

1 MR. FERGUSON: You are correct. So I wasn't
2 opining I was merely presenting a fact.

3 MS. EPP-MCNEIL: So my thought is we need to have
4 a variance granted.

5 MR. NAGY: And if that was the case, Madam
6 Examiner, we didn't want to go through filing it if it
7 wasn't necessary. But it sounds as if you're both opining
8 that it is and we would just ask that it'd be held open --

9 MS. EPP-MCNEIL: And I was going to tell you, you
10 have to post it.

11 MR. NAGY: Okay.

12 MS. EPP-MCNEIL: And it has to be 30 days' notice.

13 MR. NAGY: Okay.

14 MS. EPP-MCNEIL: So which ever, I don't know
15 what's best for you, do you want to continue this hearing
16 now? Or do you want to stop now --

17 MR. NAGY: Well what I --

18 MS. EPP-MCNEIL: -- and do the remainder? I mean
19 the Pastor can say whatever he wants to say, but anything he
20 wants to tell me about the variance, probably should be at
21 that hearing on the off chance somebody came.

22 MR. NAGY: Okay. And what I would say Madam
23 Examiner, is we could just finish up as to the criteria for
24 the specific grants --

25 MS. EPP-MCNEIL: Right, we can do that.

1 MR. NAGY: -- and just finish Mr. Ferguson's
2 testimony as to the special exception.

3 MS. EPP-MCNEIL: Okay.

4 MR. NAGY: And then just have the continuance for
5 the variance issue, and just so that Madam Examiner knows, I
6 think we're less than and in just one corner, we have a
7 variance of somewhere on the order of 5 feet plus or minus.
8 And by the time we get to the other end of the building we
9 would be within the outside the 30 foot requirement. But --

10 MS. EPP-MCNEIL: I'm only smiling because this is
11 just like lawyers. Please forgive us, we're going to wait
12 until the next hearing, however, you keep talking about
13 this.

14 MR. NAGY: All right.

15 MS. EPP-MCNEIL: That isn't right.

16 MR. NAGY: Just speaking generally, Mark, is the
17 ingress/egress located so to direct traffic away from
18 streets that are internal to the subdivision?

19 MR. FERGUSON: It is. As I noted, Marlboro Pike
20 is a collector roadway, it's not an internal subdivision
21 street.

22 MR. NAGY: Okay. Will parking or traffic
23 adversely affect adjacent residential neighbors?

24 MR. FERGUSON: It will not because sufficient
25 parking is provided on site and then again the traffic is

1 not on an internal residential street.

2 MR. NAGY: And have the parking spaces been
3 located outside of the front yard to the degree possible?

4 MR. FERGUSON: To the degree possible there is a
5 portion of one parking space. There is some, again,
6 scattered testimony in the Staff Report as to the numbers of
7 spaces. The definition in the Zoning Ordinance of the front
8 yard is that that area regardless of the setback that's in
9 front of the building, so there is really only a portion of
10 one of the handicap spaces that is located in the front yard
11 as the improvements are constructed.

12 MR. NAGY: And based on your review of the
13 information submitted by the applicant into the record
14 contained in the Technical Staff Report, do you agree with
15 staff's conclusions that the required findings of 27-317(a)
16 and 37-341.02 have been satisfied?

17 MR. FERGUSON: I do, with the proviso of the
18 variance, there is by the way also an issue regarding
19 approval of an alternative compliance --

20 MS. EPP-MCNEIL: I was going to ask.

21 MR. FERGUSON: -- for the buffer along the eastern
22 property.

23 MR. NAGY: And that will be submitted again to,
24 while we've got this time --

25 MS. EPP-MCNEIL: So you do need it?

1 MR. NAGY: We will need that, we will submit that
2 and then submit that into the record when we have the
3 continuation, Madam Examiner.

4 MS. EPP-MCNEIL: And will you also give the entire
5 Site Plan to staff?

6 MR. NAGY: Yes, absolutely.

7 MS. EPP-MCNEIL: Okay.

8 MR. NAGY: The revised Site Plan because one of
9 the things that, or one of the last things I wanted to ask
10 Mr. Ferguson was and just put on the record as well is that
11 all of the conditions of approval that were in the, have
12 those issues, Mr. Ferguson, with the exception of the
13 alternative compliance and the variance have all those other
14 issues been satisfied?

15 MR. FERGUSON: There were a few things. If I can
16 go through, I found a number of little things --

17 MR. NAGY: Sure.

18 MR. FERGUSON: -- in the conditions and as long as
19 we're cleaning them up. Condition 1D, show a perimeter
20 landscape strip along the south property line because the
21 parking lot is within 30 feet of this property line. That's
22 really a bit of a mix and a match. That suggests that there
23 needs to be a parking lot perimeter strip because the
24 parking lot is too close but the vacant future church site
25 came from a comment by the Urban Design Staff which

1 indicated that because this property is currently vacant,
2 that you need to presume that it would be developed for
3 apartments and therefore there needs to be a buffer yard.
4 So this Site Plan does indicate the planting for a buffer
5 yard, which is what is properly required. So Condition 1D
6 should show a buffer yard along the south property line
7 vacant future church site period. And because there is a
8 buffer yard, there doesn't need to be the perimeter
9 landscape strip.

10 MS. EPP-MCNEIL: Okay. And so you'll get them to
11 address, they'll be commenting --

12 MR. NAGY: Yes.

13 MS. EPP-MCNEIL: -- you'll talk to them about your
14 issues and --

15 MR. NAGY: Yes.

16 MR. FERGUSON: There you go. I would note 1H, the
17 tree canopy coverage. There is no need for a waiver. There
18 is a schedule on here which demonstrates that the planting
19 proposed does meet the canopy coverage requirement. We have
20 discussed Condition 2A, regarding a maximum of 50 percent
21 allowed in the R-18 Zone and my contention is that should be
22 60.

23 So the variance is still outstanding for Condition
24 2C. Building mounted lighting shall be shown, that lighting
25 has been shown. I don't know if architectural elevations

1 were ever a part of the record. I have certainly not seen
2 them and for a church it has not been my experience that
3 that is a consideration that you have addressed in other
4 special exception hearings. And then certainly the level of
5 photometric things is something that they require for
6 Detailed Site Plans but is ordinarily not a requirement for
7 --

8 MS. EPP-MCNEIL: Okay. Let me ask you this.
9 There was something else in this record making them think
10 more, an additional, more construction is coming. Is that
11 not true?

12 MR. NAGY: Well --

13 MS. EPP-MCNEIL: Maybe that's why they want to see
14 elevations?

15 MR. NAGY: Well, Madam Examiner, there is a future
16 building addition that's shown on here that is part of the
17 calculations for the overall lot coverage. So what we're
18 doing was showing this on here at the time we would do a
19 building permit, then you would submit the elevations. But
20 again, what you're looking at with these elevations are the
21 backside that faces the existing parking lot and screening.
22 Then the Coppers industrial use to this side. The only
23 public view really is about 9 feet along Marlboro Pike and
24 anything we did would be compatible with the existing
25 architecture. I'm not sure that it was really necessary to

1 include the elevations.

2 MS. EPP-MCNEIL: But how do you know? I mean I'm
3 sure you're telling the truth, but how do we know it will be
4 consistent with the existing if you don't see it?

5 MR. BROWN: We've got a couple of photographs --

6 MR. NAGY: Right.

7 MR. BROWN: -- here in the file. And I'm going to
8 assume the building still looks the way these photographs
9 depict it?

10 MR. FERGUSON: It does.

11 MR. NAGY: Correct.

12 MR. FERGUSON: It does.

13 MS. EPP-MCNEIL: And then at the very least, you'd
14 need a condition that they match.

15 MR. NAGY: And we could live with that, that use a
16 similar pallet of materials. We've got brick and siding on
17 the existing building. Yes.

18 MS. EPP-MCNEIL: But let me ask you this too. I'm
19 surprised when you're holding your questions?

20 MR. BROWN: Go ahead.

21 MS. EPP-MCNEIL: We don't usually approve future,
22 I know we're doing that to get around a revision of the Site
23 Plan --

24 MR. NAGY: Well, exactly, is that it provides the
25 setbacks, it provides the screening that would be required

1 for that.

2 MR. FERGUSON: It demonstrates the lot coverage,
3 it demonstrates the adequacy of parking. So I think the
4 only question would be one of architectural compatibility.

5 MS. EPP-MCNEIL: Right.

6 MR. FERGUSON: And I think that as I had said, the
7 particular nature of this particular application as cited,
8 it's not back in the middle of a residential neighborhood
9 where there is more of a concern about disturbance to the
10 residential character of a neighborhood as it would be in
11 the number of little churches that sprung up in Riverdale,
12 for instance.

13 MS. EPP-MCNEIL: And I hear you and I don't
14 disagree. But if the property to the rear which is --

15 MR. NAGY: South.

16 MS. EPP-MCNEIL: -- south, isn't developed and
17 there's nothing in this record that precludes it from being
18 developed, it's an abundance, I can see where you don't need
19 elevations, but at the very least is there a way to put in
20 something other than a picture telling us what the existing
21 church is made of and then we could say and any additions
22 shall be --

23 MR. NAGY: We could come up with --

24 MS. EPP-MCNEIL: -- because my eyeball is looking
25 at this, I don't see well enough to know.

1 MR. BROWN: Well I mean I've been by this place
2 many, many times and just looking at the photographs, I mean
3 with all due respect, you know what I mean, there's not an
4 architectural theme for the building.

5 MR. NAGY: Right.

6 MR. BROWN: I mean it's basically cinderblock and
7 what type of shingle is this?

8 MR. NAGY: Asphalt.

9 MR. BROWN: Cinderblock and --

10 MR. NAGY: Oh the siding?

11 MR. BROWN: The siding.

12 MR. NAGY: The siding is, that's T-111 on the back
13 side.

14 MS. EPP-MCNEIL: Here's a perfect one on Exhibit
15 8C, so the addition, would we see the addition from here?

16 MR. FERGUSON: You would.

17 MS. EPP-MCNEIL: Okay.

18 MR. NAGY: This is the industrial plan --

19 MS. EPP-MCNEIL: Okay.

20 MR. NAGY: -- so this elevation or where that
21 photograph is taken from is about here, you'll see in the
22 corner of the building here.

23 MR. FERGUSON: And that much of it --

24 MS. EPP-MCNEIL: So then the addition will attach
25 to that. Is there a way to --

1 MR. NAGY: And the addition would be here.

2 MS. EPP-MCNEIL: -- make sure, you know, if we
3 knew that this was and just say any addition will blend?

4 MR. BROWN: Maybe we can add a condition that says
5 any addition architecturally needs to be approved by the
6 Planning Board's designee.

7 MR. NAGY: By the staff, that would be a staff
8 level review of the architecture would be fine, Madam Chair.

9 MR. BROWN: Right.

10 MR. NAGY: Because I don't think it's something
11 that needs to rise to the Planning Board level.

12 MR. BROWN: I don't think the Board would need to
13 have a hearing on it, no. But it would at least make sure
14 that it's at least up to the same standards which you have
15 here --

16 MR. NAGY: Right.

17 MR. BROWN: -- if not better.

18 MR. NAGY: Right. That would certainly be
19 amenable.

20 MR. FERGUSON: And then related to that in
21 Condition 2E a photometric plan, I would contend would be
22 overkill for a couple of building mounted lights.

23 MS. EPP-MCNEIL: Are the building mounted lights
24 shown at least?

25 MR. NAGY: Yes, they are.

1 MR. BROWN: They are in the photographs.

2 MS. EPP-MCNEIL: Okay.

3 MR. FERGUSON: Condition 2, no I'm sorry 2F is
4 fine. Condition 3C I would just note apply for and receive
5 approval of alternative compliance along, it should be
6 eastern property line.

7 MS. EPP-MCNEIL: 3C?

8 MR. FERGUSON: 3C.

9 MS. EPP-MCNEIL: Okay.

10 MR. FERGUSON: Actually I was hoping it stayed
11 western, because western we meet. Sorry.

12 MS. EPP-MCNEIL: Dag-gone expert witnesses.

13 MR. NAGY: Right. He catches everything.

14 MS. EPP-MCNEIL: So but for your changes, you have
15 addressed every other condition?

16 MR. FERGUSON: Yes.

17 MR. BROWN: Yes.

18 MS. EPP-MCNEIL: Now tell me, did the parking
19 calculations tell you about this is 2G. It seems like there
20 should be a note instead of, is that what they mean?

21 MR. FERGUSON: 2G, there is a note now that says
22 no other activity will occur concurrently on site with the
23 worship services.

24 MS. EPP-MCNEIL: Okay.

25 MR. FERGUSON: So the concern that there was

1 daycare or --

2 MS. EPP-MCNEIL: What's going on with this Site
3 Plan? Are they all this little now?

4 MR. FERGUSON: Yes.

5 MS. EPP-MCNEIL: These schedules are all this
6 little?

7 MR. FERGUSON: Yes.

8 UNIDENTIFIED PERSON: Then in an MMLA copied them,
9 Madam Examiner.

10 MR. FERGUSON: Yes. Very shady.

11 MS. EPP-MCNEIL: Okay.

12 MR. NAGY: Yes.

13 MR. FERGUSON: Very shady.

14 MR. NAGY: A very shady operator.

15 MS. EPP-MCNEIL: Okay.

16 MR. NAGY: The economy of scale.

17 MS. EPP-MCNEIL: Mr. Brown?

18 MR. BROWN: I don't have any problems with Mr.
19 Ferguson's testimony. But some general questions for either
20 Mr. Ferguson or Pastor McLaughlin. Did we swear him in?

21 MS. EPP-MCNEIL: Not yet. Pastor McLaughlin, do
22 you swear or affirm under the penalties of perjury that the
23 testimony you shall give will be the truth and nothing but
24 the truth?

25 PASTOR MCLAUGHLIN: I do.

1 MS. EPP-MCNEIL: Okay. And just state your name
2 and business address for the record.

3 PASTOR MCLAUGHLIN: David McLaughlin business
4 address 2518, sorry, 5715 Marlboro Pike, Forestville,
5 Maryland 20747.

6 MS. EPP-MCNEIL: And just before you start, the
7 Planning Board no resolution, they didn't have a hearing?

8 MR. NAGY: No resolution, they didn't, no hearing.

9 MS. EPP-MCNEIL: Thank you.

10 MR. BROWN: I did not see an affidavit in the
11 file.

12 MS. EPP-MCNEIL: I didn't either.

13 MR. NAGY: I will double check, Mr. Brown, I
14 thought we had filed affidavits but I will check with Park
15 and Planning to make sure we did. If not, we will.

16 MR. FERGUSON: The sign is currently posted.

17 MS. EPP-MCNEIL: No, the ethics.

18 MR. FERGUSON: Oh the ethics affidavit, no.

19 MR. NAGY: The ethics affidavit.

20 MR. BROWN: All right. And then Pastor, your
21 hesitation on what your address is, I had already circled
22 that as well.

23 PASTOR MCLAUGHLIN: Yes.

24 MR. BROWN: Because I noticed on the applicant
25 address you have 2518 Pennsylvania Avenue as the address.

1 The property is on Marlboro Pike?

2 PASTOR MCLAUGHLIN: Yes.

3 MR. BROWN: Do you live in Pennsylvania Avenue?

4 PASTOR MCLAUGHLIN: That's my business address
5 that we have a suite there.

6 MR. BROWN: Oh you have a suite.

7 PASTOR MCLAUGHLIN: It's a funeral home.

8 MR. BROWN: A funeral home there on Pennsylvania
9 Avenue.

10 PASTOR MCLAUGHLIN: Right.

11 MR. BROWN: And is that associated with the
12 church?

13 PASTOR MCLAUGHLIN: No. That's just where my mail
14 comes. My personal mail goes there.

15 MR. BROWN: Okay.

16 PASTOR MCLAUGHLIN: Also my driver's license shows
17 that address.

18 MR. BROWN: All right. But the church itself?

19 PASTOR MCLAUGHLIN: It's 5715 Marlboro Pike.

20 MR. BROWN: Right. But do you do any funeral
21 services, not funeral services just related to the church
22 but funeral services related to this funeral service
23 business that you have at this church?

24 PASTOR MCLAUGHLIN: We've had funerals at the
25 church, yes.

1 MR. BROWN: Is it connected to the funeral
2 business that you have on Pennsylvania Avenue?

3 PASTOR MCLAUGHLIN: Some of them, yes.

4 MR. BROWN: Yes.

5 PASTOR MCLAUGHLIN: If I'm understanding
6 correctly. A family may ask do you know a church that we
7 can use.

8 MR. BROWN: Yes.

9 PASTOR MCLAUGHLIN: And of course I say yes,
10 there's a church and these are some churches you could
11 consider based upon where you live. My church has been one
12 of those churches that has been used. Right.

13 MR. BROWN: Just approximately how many funeral
14 services do you guys do in an average month?

15 PASTOR MCLAUGHLIN: Sometimes we don't do any up
16 there, but maybe one, if there's going to be any maybe one.

17 MR. BROWN: Because --

18 PASTOR MCLAUGHLIN: And it may go as much as
19 three, four, five months before we have one.

20 MR. BROWN: No, the reason I ask is because if
21 it's approved it's approved as a church special exception.

22 PASTOR MCLAUGHLIN: Yes.

23 MR. BROWN: Not as an accessory used to a funeral
24 home.

25 PASTOR MCLAUGHLIN: It's not that, no.

1 MR. BROWN: I know but we have to make sure you
2 understand --

3 PASTOR MCLAUGHLIN: Right. Okay.

4 MR. BROWN: -- that.

5 PASTOR MCLAUGHLIN: Right. Yes.

6 MR. BROWN: Also the applicant is listed as Word
7 Power Baptist Tabernacle, Incorporated.

8 PASTOR MCLAUGHLIN: Yes.

9 MR. BROWN: Do we have in the file, I did not see
10 it, a good standing for that incorporation? We need that.
11 Okay. Also on the disclosure statement the Tabernacle is
12 listed, again we need the disclosure statement, none of the
13 officers or the Board of Directors are listed. They need to
14 be identified for the corporation. You, of course, are one
15 of the officers?

16 PASTOR MCLAUGHLIN: Yes.

17 MR. BROWN: How many officers are there?

18 PASTOR MCLAUGHLIN: It's four.

19 MR. BROWN: Okay. And just tell me what their
20 titles are?

21 PASTOR MCLAUGHLIN: It would be President, Vice
22 President --

23 MR. NAGY: Secretary and Treasurer.

24 PASTOR MCLAUGHLIN: -- Secretary and Treasurer,
25 yes.

1 MR. BROWN: All right. So we need to identify
2 those individuals.

3 PASTOR MCLAUGHLIN: Okay.

4 MR. BROWN: And do you have a separate Board of
5 Directors? No?

6 PASTOR MCLAUGHLIN: No.

7 MR. BROWN: All right. And also, Mr. Nagy, I need
8 to have in the file a notice that said that the owner is
9 again the Tabernacle Incorporated from SDAT that in fact
10 that is the owner. The land is not owned by any individual,
11 or is it?

12 MR. NAGY: No, it's owned by the --

13 MR. BROWN: Owned by the corporation.

14 MR. NAGY: -- corporation.

15 MR. BROWN: And you're going to give me good
16 standing for that?

17 MR. NAGY: Okay.

18 MR. BROWN: All right. That's all I have.

19 MS. EPP-MCNEIL: Okay. I just want to throw one
20 record out, now switching hats with you, one question out.
21 If a church has funerals --

22 MR. BROWN: Well no it's quite all right. Right
23 if a church has funerals, but because he did tell us that he
24 runs some type of funeral service, I did not want the church
25 to be converted to a funeral service.

1 MS. EPP-MCNEIL: He can't do that. He understands
2 that --

3 MR. BROWN: Right. That's why I explained it to
4 him.

5 MS. EPP-MCNEIL: -- he can't turn it to something
6 else.

7 MR. BROWN: Right. Right. Right. I explained
8 it.

9 MS. EPP-MCNEIL: But having funerals, I mean
10 that's what churches do.

11 MR. BROWN: Yes, yes, yes. That's right, part of
12 it, yes. Another thing I was going to ask though, Mr.
13 Ferguson said that the church commenced --

14 MS. EPP-MCNEIL: Okay. I need to know that too.

15 MR. BROWN: -- using this property in 2005, did I
16 hear you correctly?

17 MR. FERGUSON: Well I can tell you that the
18 additions were added on to the structure that had been on
19 the property for a long time between 2000 and 2005, based on
20 my examination of the aerial photographs. I don't know when
21 the church commenced their --

22 MR. BROWN: Well the church has been here since
23 1997, is that correct?

24 PASTOR MCLAUGHLIN: '97, yes.

25 MR. BROWN: '97.

1 PASTOR MCLAUGHLIN: Right. Yes.

2 MR. BROWN: That's when you purchased the
3 property?

4 PASTOR MCLAUGHLIN: Correct.

5 MR. BROWN: Right. Right. Do you recall what it
6 was used for?

7 PASTOR MCLAUGHLIN: We were told that it was a
8 tire company and one of our visitors came and said that his
9 grandmother lived there years back. So either residential
10 and perhaps the tire company that I was told.

11 MR. BROWN: Right. Right. But no one lived there --

12 MS. EPP-MCNEIL: It was vacant when you moved in?

13 PASTOR MCLAUGHLIN: Yes.

14 MR. BROWN: No one lives there now, right?

15 PASTOR MCLAUGHLIN: No one. Lives at the church?

16 MR. BROWN: Right. On a day to day basis.

17 PASTOR MCLAUGHLIN: Oh no.

18 MS. EPP-MCNEIL: Mr. Nagy, did you have any
19 questions?

20 MR. NAGY: I just had one to ask the Pastor.

21 Pastor, if Madam Examiner once we reconvene, were to approve
22 the special exception, have you reviewed the Technical Staff
23 Report?

24 PASTOR MCLAUGHLIN: I have, yes.

25 MR. NAGY: And would you abide by all the

1 conditions of approval that were in that report?

2 PASTOR MCLAUGHLIN: Certainly.

3 MR. NAGY: That's all I had, Madam Examiner and if
4 we could just continue the hearing?

5 MS. EPP-MCNEIL: One second. Because I have to
6 get a magnifying glass to read some of this new revised Site
7 Plan. Mr. Ferguson, tell me again the total square, the
8 existing, the two additions and the future what the square
9 footage of each is of the building?

10 MR. BROWN: That's right.

11 MR. FERGUSON: As it has been noted on the, well
12 the original structure I'm sorry was --

13 MR. NAGY: Mark, it's right here.

14 MR. FERGUSON: For the lot coverage?

15 MR. NAGY: Yes. Lot coverage allowable 60 percent
16 would be 17,000 --

17 MS. EPP-MCNEIL: But how much of that was, see
18 that's the total with the two additions, right --

19 MR. FERGUSON: The two additions and --

20 MS. EPP-MCNEIL: -- without the U&O?

21 MR. FERGUSON: -- the parking.

22 MS. EPP-MCNEIL: Okay. So and the parking.

23 MR. FERGUSON: And that total does include the
24 future additions.

25 MS. EPP-MCNEIL: Yes, I'm just trying to, I know

1 it meets the lot cover, I just want to know what each --

2 MR. NAGY: What each one is?

3 MS. EPP-MCNEIL: Right. The original structure?

4 MR. FERGUSON: The original structure was 1,056
5 square feet.

6 MS. EPP-MCNEIL: Okay.

7 MR. FERGUSON: The first addition was 805 square
8 feet. The second addition was 679 square feet.

9 MS. EPP-MCNEIL: And the proposed?

10 MR. FERGUSON: The proposed addition is listed as
11 2,028, but I came up with a different number. I came up
12 with 1,942 square feet.

13 MS. EPP-MCNEIL: So if that's correct would you be
14 able to revise this Site Plan accordingly since if I'm
15 agreeing to a future, I want it to be the exact somehow.

16 MR. NAGY: I believe the number that Mr. Ferguson
17 gave you I took from his report which was the 54.4 percent
18 which is 15,474. But we will --

19 MS. EPP-MCNEIL: That's says 747.

20 MR. NAGY: 747.

21 MS. EPP-MCNEIL: Okay.

22 MR. NAGY: Reading upside down and dyslexic.

23 MS. EPP-MCNEIL: Okay.

24 MR. FERGUSON: So it's 15,747 used my
25 calculations, so that would be the correct number even

1 though that 2,028 appears to be --

2 MS. EPP-MCNEIL: Well my point is I want this Site
3 Plan to be proper --

4 MR. NAGY: Yes, the Site Plan will be revised to
5 show --

6 MS. EPP-MCNEIL: Okay.

7 MR. NAGY: -- 1,942 square feet.

8 MS. EPP-MCNEIL: All right. Thank you.

9 MR. FERGUSON: And while you're at it, you can
10 correct this dimension from 53 to 67.

11 MS. EPP-MCNEIL: Well you know what, I'll just
12 leave it as a possible revised Site Plan because you're
13 going to talk to staff and the --

14 MR. NAGY: Right.

15 MS. EPP-MCNEIL: -- two of you may handle and
16 change a little more. So we're going to leave that open.

17 MR. NAGY: All right. Leave the record open for
18 the revised Site Plan? Thank you.

19 MS. EPP-MCNEIL: So in closing, we're leaving it
20 open for a revised Site Plan as necessary. We're going to
21 schedule a new hearing and I have to actually, I mean you
22 can come back to the office, but we actually have to pick a
23 day and you have to get your signs, et cetera. It's just
24 like a brand new hearing. So we need a new hearing on the
25 variance request. In the meantime, you'll also be able to

1 submit the alternative compliance needed and --

2 MR. NAGY: Right.

3 MS. EPP-MCNEIL: -- the ethics disclosure needed.

4 Proof of good standing of the applicant and showing all of

5 the -- well that's a separate one. Proof of good standing

6 for the applicant and showing the ownership of the property.

7 Then also you're going to amend then disclosure your Exhibit

8 6 to show all of the officers of the corporation. I think

9 that's it. Any others? Okay. Then I thank you all for

10 being here today and Pastor, you're welcome to back. It

11 looks like all the testimony next time will be technical

12 issues on the variance requested. I'll see you all in 30

13 some odd days.

14 MR. NAGY: Thank you.

15 PASTOR MCLAUGHLIN: Thank you very much.

16 MR. FERGUSON: Thank you.

17 (Whereupon, the hearing was concluded.)

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C E R T I F I C A T E

DEPOSITION SERVICES, INC., hereby certifies that the attached pages represent an accurate transcript of the electronic sound recording of the proceedings before the Prince George's County Office of the Zoning Hearing Examiner in the matter of:

WORD POWER BAPTIST TABERNACLE, INC.

Case No. SE4694

By:

Diane Wilson, Transcriber