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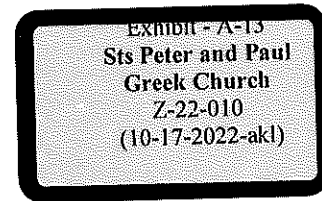
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MEMO TO: City of Bayonne Zoning Board

FROM: Malvika Apte, PP/AICP 
Consulting City Planner

DATE: October 13, 2022

RE: **St. Peter & Paul's Greek Church
Minor Subdivision
Planning Report # 1
Block 170 Lots 2 and 24
93-95 West 27th Street & 94-96 West 28th Street
Bayonne, New Jersey
Our File: PBYZ0170.02
Application # Z-22-010**



As per your request, our office has reviewed the above referenced application. The following documents were reviewed for this application:

- Application form and Statement.
- One (1) sheet titled " Survey of Property for tax lots 1, 2, 24, 25 and 26; Block 170 prepared by Schmidt Surveying, dated March 26, 2021.
- One (1) sheet of "Minor Subdivision tax lots 1, 2, 24, 25 and 26- Block 170, prepared by Schmidt Surveying dated March 26, 2021.

We offer the following comments for the Board's consideration:

1. Summary of Application

The Applicant, St. Peter and Paul Greek Church is seeking a minor subdivision to subdivide the existing two (2) lots into three (3) lots. No Changes to use and site improvements is proposed. The subject site containing the two (2) lots; Lot 24, with frontage on West 26th Street and Lot 2, with frontage on 27th street, is to be subdivided so that each lot is developed with one principal use on each lot.

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In total the subject site (comprising of the two lots) contains, two (2) residential dwellings, one (1) single family and one (1) two family both with frontage on 27th street. The Church (house of worship) is located along West 26th street frontage. Between these two uses, is a Church annex building used as accessory use for the House of Worship. This building is located partially on each of the lots.

With this proposal, applicant is reconfiguring the lot lines, such that each of the residential dwelling units shall be its own lot proposed lot 2 and 2.01 and the Church and annex building shall be on its own lot, Lot 24.

It should be noted, the applicant was previously before the Board per Application Z-21-014 for a similar three (3) lot subdivision. The application was denied. The applicant is essentially seeking a similar three (3) lot subdivision, however the configuration of lot line has been revised in order to propose sufficient lot depth for the two proposed residential lots.

2. Review:

- (a) **Use:** The subject site is located in R-2 Detached/ Attached Residential District. The zone permits detached single family and two family as permitted use. The Zone further permits religious use as a conditional use. With the proposed subdivision, the conditional use requirements such as lot area, minimum setback from any property line is not met. Further, the proposed subdivision of the two (2) lots is creating undersize lot area requirements. D(3) Conditional Use Variance along with several bulk variances are required.

Details and types of activities in the existing annex should be discussed. Applicant should discuss in details regarding the timings of the church, the annex and the sufficient of parking.

It appears applicant requires a conditional use variance, what is commonly known as a d (3) variance. A conditional use is a use that is permitted in a zone district only if it satisfies specified conditions stated in the ordinance. If the conditions are not satisfied the use is not permitted. For a d (3) variance, the Courts indicated that the standard to sustain a d variance in such circumstances is less stringent that that required for a use not permitted in the zone (Coventry Square v Westwood Zoning Board of Adjustment). Inherent in the Coventry decision is the recognition that the governing body has already made the determination that the use is acceptable in the district, albeit as a conditional use. The analysis from a planning



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perspective, should be whether the site continues to be an appropriate location for the use irrespective of the fact that the application does not meet the established conditions. The Court has stated that the Board's inquiry should include rigorous subdivision review. In this instance, review should include issues that arise from not meeting the conditions albeit the parking requirement and the buffer requirement.

Thus, the Coventry Courts have spelled out a slightly revised conditional use standards for meeting the positive and negative criteria as follows:

Positive criteria:

The proof of special reasons has already been established by meeting one or more of the conditions established by the ordinance in respect of conditional use. However, for conditional use the focus must be to show that the site will accommodate the problems associated with the use even though the proposal does not comply with the conditions the ordinance established to address those problems. This leaves the focus of the board entirely on the particular suitability of the site in accommodating the use despite its failure to meet the conditions. The board must consider whether there are particular features of the site that may better or entirely offset the failure to meet the conditions or whether there are conditions that board could require that would offset the failure to meet the conditions.

Negative criteria:

This is similar to the regular two prong test however, with respect to the first prong of the negative criteria, that the variance can be granted without substantial detriment to public good, the focus is to evaluate the impact of the proposed conditional use upon adjacent properties and whether or not it will cause damage to the character of the neighborhood. With respect to the second prong, that the variance will not substantially impair the intent and purpose of the zone plan, the board must be satisfied that the grant of the conditional use for the specific project at the designated site is reconcilable with the municipality's legislative determination that the conditions should be imposed on all conditional uses in that zoning district.

- (c) **Bulk Variance:** The following tables notes the subject site's compliance/non-compliance with the zone district. The table have been divided into two parts, one is for permitted residential use and the other is for conditionally permitted religious use.



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Regulation	R-2 Zone	Proposed Lot 2.01	Proposed Lot 2.02
Min. Lot Area (sq. ft.)	3,000	2,015 (V)	2,100 (V)
Min. Lot Frontage (ft.)	30	26 (V)	24 (V)
Min. Lot Width (ft.)	30	26 (V)	24 (V)
Min. Lot Depth (ft.)	100	77.5 (V)	87.5 (V)
Min. Front Yard Setback	20	24.6	19.3 (e)
Min. Rear Yard Setback	20	5 (V)	27.7 (V)
Min. Side Yard setback (one/ both)	3 ft./ 6 ft.	1.0 (V)/5.4 (V)	0 (V)/ 3.1 (V)
Max. Building Ht. (ft.) Principal Structure (sty/ ft.)	2.5 sty/35	2.5/ 29	2.5/29
Max. Lot Coverage (%)*	70%	81.4 (V)	65.0 (V)

V-variance

Regulation	R-2 Zone House of worship (conditionally permitted)	Proposed Lot 24.01
Min. Lot Area (sq. ft.)	20,000	9,484 (V)
Min. Lot Frontage (ft.)	30	50
Min. Lot Width (ft.)	30	50
Min. Setback from Property line	30 ft.	3.6 (V)
Min. Landscape Buffer	30 ft.	0 (V)
Max. Building Ht. (ft.) Principal Structure (sty/ ft.)	2.5/35	Not provided
Max. Lot Coverage (%)	70%	80.0 (V)

V-variance



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(b) **Parking:** Per the application, the following is noted:

Number of bedrooms	Number of spaces required	Required	Proposed
Proposed Lot 2.01 (SF dwelling)*	1.25 sp/dwelling unit = 1.25	1.25	0 (V)
Proposed Lot 2 (two family) *	1.25 sp/dwelling unit = 2 x1.25	2.5	0 (V)
Religious land use **	1 sp/ 4 seats =		0 (V)

*number of bedrooms not provided. ** (ii)

(i) Residential Use: There is no parking provided for each lot, a variance is requested.

(ii) Religious land use: The number of spaces required for religious land use should be provided. It is noted that parking is provided on lot 26. The number of spaces provided and its sufficiency should be discussed.

(e) **Refuse and Recycling:** Applicant should discuss how the refuse and recycling for religious land use is handled.

If you should have any questions with regard to the above matter, please do not hesitate to call.

cc: Land Use Administrator
Board Attorney
City Engineer
Zoning Officer
City Planner