

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF DECEMBER 1, 2011 - 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL**

Vice Chairman: the number of members present constitutes a quorum and the regular meeting of the Board of Zoning Adjustment called to order at 6:00 p.m. Let us have roll call.

Call of Roll:

Members Present:

Jeri Hargiss, Secretary
Glen Swaney, Vice Chairman
Tony Felts
Frank Lamb
Billy Mayhand

Members Absent:

Willie Robison, Chairman
Jim Moss

Staff Present:

Adrienne D. Jones, Director of Community Development
Tony Hoffman, BZA Attorney
Pat Houston, Recording Secretary

Vice Chairman: there will be five members of the BZA voting tonight and it takes a super majority to approve any of the appeals. The first order of business tonight will be the approval of the November 3rd, 2011 meeting minutes. The Chair will entertain a motion to approve the minutes as written.

Approval of Minutes:

The minutes of the November 3rd, 2011 meeting were considered for approval.

A **Motion** was made by **Mr. Lamb** and **Seconded** by **Mr. Mayhand** to **approve the minutes as written.**

The Motion carried unanimously.

New Business:

Appeal #2011-08 Key Point Communications

Vice Chairman: next item for business on the agenda is Appeal #2011-08 Key Point Communications, a special exception to allow the construction of a 180-foot monopole telecommunication tower on a vacant lot.

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Vice Chairman: the property is a grassed 100' x 100' lot located west of 28825 U.S. Highway 98 behind Subway, and it is in a B-2, General Business Zone. Ms. Jones, if you would take us through this please.

Ms. Jones: we have received a request to withdraw this appeal until February 2012.

Mr. Lamb: I am sorry. I did not hear that. Withdrawn until when?

Ms. Jones: until our regular meeting in February 2012.

Vice Chairman: okay. We will move on to the next appeal. Next on the agenda is Appeal #2011-09 Christ The King Church, a special exception to allow the construction of a new chapel at 715 College Avenue, which is zoned R-2, Medium Density, Single Family Residential. Ms. Jones, would you lead us through this?

Ms. Jones: [displayed a Power Point Presentation of 715 College Avenue, Christ The King Church.] Yes, sir. We have a request for a special exception for Christ The King Church. The property is located at 715 College Avenue and it is zoned R-2, Medium Density, Single Family Residential, and this slide shows the zoning of the property and the surrounding area. Christ the King is located south of Dryer Avenue and west of Main Street. The subject property is at the southwest intersection of those two streets. As is the property is zoned R-2, and in order to allow any expansion to the facility, which is grandfathered by the way, we would first have to grant a special exception for any further expansion of Christ The King Church or any new facilities. This slide shows the landscape plan for the purposed facility. It shows the located of the sanctuary, as well as, the gym. The sanctuary is located south of the purposed chapel, which is seven hundred and seventy five square feet. The chapel will be located east of the gymnasium.

Mr. Felts: Ms. Jones, if you can go back to that plan for me real quick, I just have a question. Is that the large Oak tree that exists on the site that is shown?

Ms. Jones: yes, sir.

Mr. Felts: are they purposing to take it down? It is purposed to remain.

Ms. Jones: it is purposed to remain. The area, I do not have my pointer, but if you can see the word Dryer Avenue, it is the drip line for the existing Oak tree.

Mr. Felts: excellent. Thank you, madam.

Ms. Jones: you are welcome.

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Ms. Jones: in order to properly facilitate a special exception review we must have a recommendation from myself, from the Building Official, as well as, the Public Works Director and each one of them has rendered a favorable recommendation including myself. With that I will pass this on to Doug Bailey, who is the authorized representative for Christ The King Church.

Mr. Bailey: as Adrienne said we are seeking a special exception for the addition of this chapel to the main sanctuary. I did want to point out and I tried to illustrate it in the letter that should have been enclosed in your packet, that this chapel works hand and hand with the main sanctuary in that we have been honored by the Archbishop and given permission to have Eucharistic Adoration twenty-four hours a day, three hundred and sixty-five days a year, which means that we display the hosts in the Monstrance, it is inside a large display case, if you will, inside the chapel twenty-four seven and there is always someone present. It is a requirement from the church that we have at least one or more persons present at all times. So that means that we have someone going, and my wife is on that Committee, I am a member of this church, as well as, being a local resident, but we have someone there coming and going every hour, two or three o'clock in the morning, rain or shine. The proximity of the chapel to the church is also equally important in that the host is brought or the Eucharistic is brought from the church into the main sanctuary for mass, and for other special masses. So being able to take that back and forth easily is another part of the function of it. Can we go back to the overall layout? Is it appropriate to get into the reasoning of the location of it at this point?

Vice Chairman: I think that would be ideal.

Mr. Bailey: do you have an overall layout that shows the entire site, the entire block?

Ms. Jones: no.

Mr. Bailey: can we go back to the color for the zoning? If I can point this out, you can see that the star is the location of the sanctuary and of the chapel. Of course, to the west of it is the gym and the P.E. field. I am sure you all have ridden by the site and ridden by it many times. To the south is the school, and farther south of that is the old sanctuary, which is on the corner right there across from Ms. Ceeanne's frame shop, and to the west of that is the Rectory, and our church offices, and then a large group of Oak trees and the playground equipment. So there were some purposeful choices not only the proximity to the church, as far as, bringing the Eucharistic in and out, but basically having a place to put it that fits in with the architecture of the church, it does not interfere with the other activities of the school, it provides a location that is well lit, and it is easily seen from Main Street.

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Mr. Bailey: as far as, people coming and going at night. If you ride by there tonight you will notice that it is the best lit area around that block. It also takes advantage of existing parking. We have handicap parking at the rear of the gym there, and we also have the additional parking at the Immaculate Center, plus it locates the building away from residences that on the south side of the campus, and it locates it away from the playground and the school where again, we will have people in there in the middle of the day. We will have kids outside playing, but we will not have to have solid walls to keep baseballs and soccer balls and everything else from bursting windows out. It is far enough away from the church that we still can get some natural light and separation between the buildings for fire issues and for natural light through the stain glass windows on the north side. We do not constantly have that in the shadows, and it is for enough west, as Mr. Felts pointed out, that it preserves that Oak tree. So we kind of got backed into that location there. We did look around the other parts of the campus and we did talk about other locations, but this seems to be the most logical. Even though, you know, we feel like we have a hard issue there to ask for a variance, well special exception and then a variance.

Vice Chairman: could you go to the detailed plot plan and show us the actual location of that chapel in relation to the church?

Mr. Bailey: yes, sir. The chapel is nineteen point three-feet or so, let us say nineteen-feet from the right-of-way and the right-of-way is actually another four and a half-feet to the edge of the curb. So when you are out there it is not nineteen-feet from the edge of the road, it is around twenty-three, twenty four-feet from the edge of the pavement, and we do purpose to have a walk along the north side that will be partially in the right-of-way and tie back into a walk leading directly into the sanctuary.

Vice Chairman: how does that sat in relations to the existing gym?

Mr. Bailey: the north wall of the chapel will align with the north wall of the gym.

Vice Chairman: okay, and that is the building that is grandfathered in. Correct?

Ms. Jones: yes.

Vice Chairman: okay.

Mr. Felts: does the church own that entire block or just the two parcels that the buildings are on?

Mr. Bailey: they own the entire block.

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Mr. Felts: in looking at the eastern side of Dryer Avenue and the street along the east over there is that mostly residential once you get back there? Is it fully developed as residences and that is kind of why you are trying to keep the chapel away from those open areas?

Mr. Bailey: are you talking about back to the west?

Mr. Felts: I am sorry, that is correct. I meant west. Get my directions in order here, back to the west.

Mr. Bailey: yes, there are residences on the north corners of the intersection of Sixth and Dryer.

Mr. Felts: and this will be a twenty-four hour facility.

Mr. Bailey: yes, sir.

Mr. Felts: have you had any objections from any of the residents in that area?

Mr. Bailey: to our knowledge, no, sir.

Ms. Jones: we have not received any objections by phone or mail.

Mr. Bailey: I believe we have a couple of residents here tonight that live in the area.

Vice Chairman: we will open up the meeting a little later for objections.

Mr. Felts: I just have one more question. You mention in your letter about the moving the host from the chapel into the main sanctuary of the church. Is that a somewhat cumbersome process or is that a large heavy object?

Mr. Bailey: well, it is kind of a dual issue here in that right now what we do is use the cry room, that is inside the building, for the chapel, and every time we have mass, of course, we are fortunate enough to have seventeen hundred families in our church, and as you can imagine it gets crowded real quick, and we have to make use of that cry room. So it is disassembled, set up, and put back several times over the weekends and through the week. Then, of course, with that added capacity and not having to do that if we had the chapel nearby we are able to reduce that and make it a short trip in and out, but yes, sir, it is large and tall, a large piece to carry.

Vice Chairman: any additional questions of Mr. Bailey?

Mr. Lamb: let me ask this. What are you going to do with the Oak tree?

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Mr. Bailey: the Oak tree is to remain, and we understand we will probably have to trim some limbs on the very west side of it. There is a tree protection plan that has been put together by Kent Broom. We have gone ahead and developed some of that plan as far as the site plan submittal. So we knew some of these issues when we came out. For instance, on the south side of the chapel, there is existing plumbing that goes into the gym and into the building of the sanctuary. So we are trying to keep the building a little north to avoid that. We went as far west as we could to still have a corridor between the back of the building and the gym. Because a lot of the kids, and I forgot to mention this, thank you, that sidewalk of the west side of the chapel has a striped crossing there and signage to the east and west of that, and that is where the children cross in the mornings, and it is also where a lot of people cross during mass and everything because it is signed. So people are aware of it as they turn that corner, hey there is a traffic crossing here.

Vice Chairman: I see. There is a fairly wide area between the chapel and the adjacent building sidewalks, you mentioned plumbing in there and so forth. Can you move it any closer to the existing building?

Mr. Bailey: we could, well, you see where there is a circle. It is one of the planting to the southwest corner of the chapel that is where the grease trap, the plumbing and such come into building. They go west into the gym and that is where the cafeteria or the kitchen is right there inside the gym.

Vice Chairman: what is the distant between the chapel and the existing building now?

Mr. Bailey: the distant between the chapel and the northern part of the sanctuary where it comes out, which is the doorway right there, I believe is fifteen and a half feet.

Vice Chairman: but you said that you would rather not because of engineering problems, plumbing and etc.

Mr. Bailey: there are some storm drains that go through there. The storm drain for the main sanctuary runs east and west and comes back to the back side of the gym underneath that sidewalk and goes out all the way across campus over to Sixth Avenue and runs out over there close to where the gate is.

Vice Chairman: I see.

Mr. Lamb: getting back to the tree. I was looking at it today and it seems to me that you are going to have to cut a lot off the west side of the Oak tree. The tree is going to look out of balance, if you will. Those are some pretty big limbs and you have got to go up pretty high.

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Mr. Lamb: it is an old, old tree and from an ecstatic viewpoint it is not going to look right because you are going to have to cut a lot of limbs off of it.

Mr. Bailey: I understand, that was one of the main concerns that a lot of people mentioned when we started looking at this thing was to try not to cut down any of the trees around there. Of course, the farther east you go with it the worse that gets.

Vice Chairman: any more questions or comments? Thank you.

Mr. Bailey: thank you, sir.

Vice Chairman: how many tonight would like to speak in favor of this appeal? I just want a show of hands at this time. Who would like to speak in opposition of this appeal? Okay. With that in mind the floor is open for public participation. Who would like to be the first to speak and if you would please limit your comments to four minutes.

Mr. Robinson: I am Bill Robinson, my wife and my family live at 1500 Main Street, very nearby. We had Mr. Frances take a look at that tree issue, maybe it was Mr. Lamb that raised it, but this is going to be as minimal a trimming of the tree as we can do. He is very aware of the parishes driving concern to maintain that tree and to keep its natural beauty as intact as possible. The only other thing that I would like to say is that it is so important to a Catholic Christian community to have adoration of the Eucharist. The real presence of our Lord Jesus Christ is recognized by Catholic Christians throughout the world. We will be the first parish in our dioceses to have perpetual adoration. We have had for many years forty hour adoration at Christ The King, but it has been so crowded so that is one of the primary liturgical reasons that the parish is so enthusiastic in support of this. We have got about five hundred families with five hundred children in our school and another group of families with five hundred in our Catholic education program. We are going to rotate these classes of children in this as part of their Catholic Christian education, and that is part of the reason for the size of the chapel. So thank you very much for your consideration.

Vice Chairman: thank you, Mr. Robinson. The next person please.

Mr. Crimmins: I am Walt Crimmins a Deacon at the church, Christ The King, Daphne resident and former member of this Board. Some of you still recognize me. I asked to be relieved of the duties about 2007. I would like to tell you that right now there are hundreds of people involved in this perpetual adoration, probably somewhere between four and five hundred that are dedicated to this and in need of this facility to continue on, and I ask you to consider that. People come not only from, they are all connected with Christ The King, but some of them come from Fairhope or Spanish Fort and anywhere in between.

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Mr. Crimmins: they come and promote this. So this benefits The Christ The King family and all of the Eastern Shore. Thank you.

Vice Chairman: thank you. Next person if there is any.

Mr. Mayhand: I would like to ask the attorney a question concerning conflict of interest. When I was a youngster I attended Christ The King many years ago and some of these ladies and gentlemen may have known my mother, Gertrude Longmire Mayhand, that worked there for many years. So I would vote yes because I care about the school and the church. So I do not know if that is called a conflict or nor.

Mr. Hoffman: do you think that you can be impartial in your decision making and make the best decision for the Board of Zoning Adjustment, taking into account whether you know the individuals of the church.

Mr. Mayhand: yes, I think so.

Mr. Hoffman: then I do not think that would be a conflict.

Mr. Mayhand: okay, I just wanted to put that out there.

Vice Chairman: thank you, Mr. Mayhand. For point of reference, the tree that Mr. Lamb discussed has a radius now. What do you anticipate the trimmed radius to be or diameter? How drastic is that trimming going to be?

Mr. Bailey: sorry I had to consult with them. They met with Chris Francis, of Chris Francis Landscaping, he is a license Arborist here in town, and he had told the church that he thought it would be a minimal trimming just to try and get up high enough away from the face of the building. You know the building is not high until you get to the peak. I do not know, but have you all seen the elevation views of the building?

Mr. Felts: it is in our packet.

Mr. Bailey: okay. I believe, I cannot remember the peak height of the building, but it is at the edges of those limbs. He did not seem to think there was an issue with them is what I have been told.

Mr. Mayhand: it is probably going to be an ongoing process of trimming that tree every five years or so.

Mr. Bailey: yes, sir, and that is one reason why we are not including gutters on the building, of course, because of leaves and such as that, so that was something else we looked at, maintenance issues later on. As you can tell from the elevation views of the building, I do not know if you have seen the color renderings or not, but same brick, same slate roof, pitch and that kind of thing.

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Vice Chairman: your plot plan would indicate that you do not plan any additional parking in front of the chapel.

Mr. Bailey: correct.

Vice Chairman: you do not.

Mr. Bailey: no, sir. We plan to make use of the parking behind the gym and the parking at the Immaculate Center.

Vice Chairman: okay, thank you. Any additional discussion or questions?

Mr. Felts: perhaps just a question for staff or the attorney. If the Board was so inclined to approve the location of the chapel as shown by the applicants, could we place a condition on it that impact on the tree be as limited as possible in order to preserve it?

Mr. Hoffman: you can do that, but it is sort of a grey area. What would as limited as possible be? Who would interpret it and things of that nature? So I do not know how effective that limitation would be.

Mr. Felts: or perhaps a limitation of preservation of the tree.

Mr. Hoffman: again, you can make any restrictions you want to. Twenty years down the line if something happens to the tree that does not affect it you will already have the special exception in place. You can try and put as much as you can into it or express your desires, but essentially it is here for a special exception and then ultimately a variance, which will go into play immediately.

Mr. Lamb: this is almost a unique situation, but not entirely. It requires almost a division between the emotional religiosity, liturgical agreement of what you would like to do, want to do, need to do verses the responsibility of the BZA to protect not only this facility, but the entire City of Daphne in their Ordinance. Now if we consistently grant every setback that comes before us indiscriminately because they are good people, it is nice, they want to do something, so then we might as well take the Ordinance and throw it out. Now of the many years that I have been on this Board we have almost consistently, regardless of who it was, denied any setback that was more than three or four-feet, maybe seven. I am not even sure about seven. Last month we denied one for twelve-feet. Would you mind backing up to that overhead view of the church. Yes that one. Now that is Dryer Street and you go down and take a right and the last lot of the right on that street we denied a ten-foot setback. The property was owned by the mother of the lady and she passed away, the individual lived in Monroeville and had no desire, need or want to move to Daphne and wanted to sell her property. It was all created prior to the Land Use & Development Ordinance.

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Mr. Lamb: however, the lady had built a carport before the Land Use & Development Ordinance was even established, which infringed upon the setback ten-feet. Now here she is stuck with this property. This Board denied her that, denied the setback. She still owns the property and I think she has it rented out now. Down the street is a church that asked for a special exception and they would have probably had a festivity, if you want to say that, maybe twice a year. Unfortunately, area residents objected to it and so we as a Board listened to their concerns, looked at it and we denied that church the special exception. As a member of the Board we have to look at the setbacks as far as the future implication, and at this point I would like to ask the attorney. This is an Olde Towne Daphne Overlay District. If we were to grant this setback, would future landowners in the City of Daphne, have recourse to say you granted the church one and they may even say because it is a church, but they may say you granted that church, we want to encroach the setbacks and refer the reasoning that we granted it to the church. Even though we may say, may say this is a one-time thing and it does not set a precedent. Would the Court on further appeal say you set the precedent, you cannot say you are not setting a precedent, and therefore in effect change the Land Use & Development Ordinance to whatever setback up to sixteen-feet that anybody else might want to have?

Mr. Hoffman: obviously I cannot tell you what a Judge or an Appeals Court would decide. I cannot tell you for a fact how they would decide. With every case you would look at it, and we are looking at two different things. The first is the special exception and the second one is the variance, and with the variance it is the Board's determination as to what constitutes a hardship. Can somebody then say well it appears to be the same thing and make that argument in Court? They could try to make that argument. Whether the Court would say well one is a church, one is a commercial building or one is a church verses a residential building I cannot tell you that it would be something that they will utilize, but it could be an argument way down in the future. I do not know if that answers your questions, but it can be an argument. Each case is taken on its own facts, as to what the Board decides is a hardship, under the law and how someone would then try to interpret that hardship and make it similar to theirs depends on what the Judge would decide.

Vice Chairman: I have an additional question of Mr. Bailey. What would cost be to the church to move that building some seven to ten-feet closer to the gym or the adjacent building?

Mr. Bailey: I do not know, but we are probably thinking along the same lines. I did want to point out that if we were a residence, of course, in R-2, we would not have an issue with the setback if we were at twenty-feet, you all are aware of that. If we were zoned B-2 and we moved the building to twenty five-feet off the right-of-way it is my understanding we would not have an issue with the side setback.

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Mr. Bailey: it is my understanding from reading the Olde Towne Daphne District regulations that the Planning Commission can no longer consider zoning or rezoning amendments for B-2 General Business or R-4 zoning districts, so we do not have an option to rezone to B-2 to get inside that window and that is why the church has owned this property since 1905, long before zoning existed in the mid-eighties or so. We do have an issue in that we would like to comply. Our property on the north side, the Immaculate Center is B-2, but of course, it was the First National Bank building forty years ago. I guess what I would propose would be, perhaps a compromise, is if we could move the building to a point where it is twenty five-feet from right-of-way line by reworking that in there then perhaps moving the handicap ramp to the other side would allow the building to shift five and a half so feet. If we got to twenty five-feet we would meet B-2, unfortunately our hands are tied we cannot go to B-2.

Vice Chairman: let me ask an additional question of the attorney. Could we tonight modify the appeal to be the setback we just discussed here? In other words, could we change those setbacks they are requesting?

Mr. Hoffman: I would think that you need to table it at this point because a site plan has to be approved and considered by the Planning Commission.

Vice Chairman: I was not thinking so much of tabling as I was of just establishing a minimum setback line as per Mr. Bailey's discussion.

Mr. Bailey: so we would be asking for less of a variance than what we originally applied for?

Vice Chairman: yes.

Mr. Hoffman: but in order to apply for a special exception you need to have a site plan in place, and there is no site plan in place to modify so you would be acting without a site plan, and the requirements require the site plan first.

Vice Chairman: well in essence we have a site plan we are just changing one dimension.

Mr. Hoffman: I understand that, but you still would not have the site plan and the recommendations based upon the new site plan.

Vice Chairman: so in other words we cannot modify the setback as requested.

Ms. Jones: we have actually jumped into the variance request. You need to make a determination on the special exception first. I think once we open the hearing for the variance we can vent it out some more.

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Mr. Felts: but the special exception is dependent, from what I understand Mr. Hoffman saying, the special exception is dependent upon this site plan. So if we approve the special exception it is dependent upon site plan. Is that correct?

Mr. Hoffman: well the site plan and the variance are actually two different things. I mean the special exception and the variance are two different things.

Mr. Felts: so if we approve the variance with what is different than what is presented then they would still have to come back for another special exception?

Mr. Hoffman: no, I think you can approve the special exception and then work on the terms of the variance. Right now we are talking globally both of them at the same point and time. If you approve the special exception then you can accept terms on the variance so long as then it is approved through the proper channels. Does that make sense? You might want some restrictions on the variance side, but not on the special exception side.

Vice Chairman: would you then state how this next motion should be made.

Ms. Jones: or do you want to not vote on the special exception and review the variance request and then take them both at the same time for the determination? That way if there are conditions that would apply to variance those would be in place at the same time that you would consider the special exception.

Mr. Hoffman: I think the problem is that because it is Olde Town Daphne District then you need both in this situation. You are going to have to have both. You cannot do the variance without the special exception, and you need the site plan for the special exception. I just think that is the problem, which is why I say if we are going to modify the site plan then you would need to not modify the site plan and move forward. They have a year if it is denied or you get approved, and I do not know which or you table it, and work on the site plan and variance from there, but the special exception has to come first I would think.

Vice Chairman: if we tabled it this evening if they withdrew, in essence their appeal, would they have to pay any additional fees and so forth or could they just modify the site plan and come back?

Ms. Jones: if it is tabled, no they would not have to pay any additional fees.

Mr. Lamb: I do not have a problem with the appeal to build a new chapel. I do not think we have a problem with allowing that.

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Mr. Lamb: the big problem is in the setback. My big problem is does that set precedent, particularly when we have had a history of not allowing that.

Vice Chairman: of course, our attorney has responded saying in essence that each case is treated different.

Mr. Hoffman: and that is why when you look at each hardship case that we have had in the past you have to look at the factual circumstances as to what is creating the hardship, is it a hardship and then you rule on it. So without going into the minds of the Board it is difficult to determine if there is precedent there. Because what one Board member might see as a hardship in one case they might not see it as necessarily one in another case, for example, saving trees is a hardship in one case to preserve the atmosphere, but maybe not in another situation. So it is a little hard for me to say that it is a precedent, but I cannot tell you it would not in the mind of some judge or appeals court later on.

Mr. Felts: Ms. Jones, the applicant made a statement about perhaps there is a setback discrepancy. If this was a residence as opposed to a church, commercial building, would it have a reduced setback than what is required?

Ms. Jones: this chart I prepared for the variance and it provides all the corner yard setbacks for properties. The first talks about Article 14, which is Olde Towne Daphne, and every zoning district whether it is residential or commercial is allowed to have a twenty five-foot side corner yard setback. Article 13.6 talks about our general district requirements, everything except R-1 and our business districts are allowed to have twenty-feet on the corner yard setback. For those that are R-1 and for those the "B" zones it is allowed to have twenty five-feet on the corner yard as a setback. Now for semi-public buildings, a church, hospital, city hall, fire department or what have you they are classified as semi-public buildings and would be required to have a thirty-five foot corner yard setback. Right now what is being requested, for the variance, is essentially a nineteen-foot corner yard setback, which is similar to what an "R" district would be, R-2, R-3, R-4 for general.

Mr. Felts: if they were not located in Olde Towne?

Ms. Jones: yes.

Mr. Felts: so essentially if this was not in Olde Towne Daphne and it was not a public building, if it was a residence we would really only be talking about one-foot. Right?

Ms. Jones: correct.

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Mr. Felts: correct me if I am mistaken, but this building does not go out any further than the existing gym does already.

Mr. Lamb: that is correct.

Ms. Jones: this building would align with the existing gym, yes.

Mr. Felts: you know ordinarily I have a problem with setback variances as a professional planner we know the purpose of setbacks is to preserve air and light and to provide overall quality of life. However, in this case with it being in line with an existing building and the fact that really if it was in a district that was not in the Olde Town District we would only be talking about point seven feet. It does not seem like that much of a stretch to allow it in its present location.

Vice Chairman: point well taken I think. Any additional questions or comments? If not, the Chair will entertain a motion in the affirmative. All members will be voting tonight and you need a super majority of four to approve this appeal.

A Motion was made by **Mr. Lamb** and **Seconded** by **Mr. Felts** to approve **Appeal #2011-09, Christ The King Church, for a special exception to allow the construction of a new chapel. The property is located at 715 College Avenue, and it is in an R-2, Medium Density, Single Family Residential Zone.**

Upon roll call vote, **the motion carried unanimously.**

Mr. Swaney	Aye
Mr. Mayhand	Aye
Mr. Lamb	Aye
Ms. Hargiss	Aye
Mr. Felts	Aye

Chairman: the appeal has been granted. Ms. Houston they can pick up the paperwork tomorrow, correct?

Ms. Houston: yes, sir.

Chairman: next item on the agenda is Appeal #2011-10, Christ The King Church, a variance allowing the construction of a new chapel to encroach into the required thirty five-foot north side yard setback by sixteen-feet. The property is located at 715 College Avenue, which is zoned R-2, Medium Density, Single Family Residential.

Mr. Lamb: I make a motion to approve Appeal #2011-10.

Ms. Jones: you have to open the floor for public participation first.

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Mr. Lamb: excuse me.

Vice Chairman: are there any public comments concerning Appeal #2011-10?

Mr. Bailey: the only thing I would like to add is that, of course Mr. Lamb under the site plan submittal we do have a tree protection plan that has been given to Community Development for review by the Planning Commission.

Mr. Lamb: thank you.

Vice Chairman: is there a second to the motion?

A Motion was made by Mr. Lamb and Seconded by Mr. Felts to approve Appeal #2011-10, Christ The King Church, for a variance to allow the construction of a new chapel to encroach into the north yard setback sixteen feet in lieu in the required thirty five-foot setback. The property is located at 715 College Avenue, and it is in an R-2, Medium Density, Single Family Residential Zone.

Upon roll call vote, the motion carried unanimously.

Mr. Swaney	Aye
Mr. Mayhand	Aye
Mr. Lamb	Aye
Ms. Hargiss	Aye
Mr. Felts	Aye

Vice Chairman: the appeal has been granted. Again you can pick up your paperwork on tomorrow morning in the Community Development office. Thank you very much. If there is no other business, the Chair will entertain a motion to adjourn.

Adjournment:

A Motion was made by Mr. Lamb and Seconded by Ms. Hargiss to adjourn.

The Motion carried unanimously.

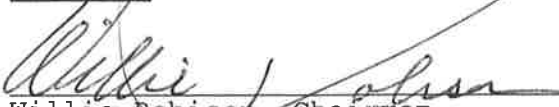
There being no further business the meeting was adjourned at 6:45 p.m.

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Respectfully submitted by:


Pat Houston, Recording Secretary

APPROVED: May 3, 2012


Willie Robison, Chairman

/ph