

Board of Zoning Appeals

October 18, 2018

1 Application #CU-18-21

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4 **Variance Application #CU-18-21, North Church, Seeking a Conditional Use** from Section 7.04 of the
5 Orange Township Zoning Resolution to allow a home occupation in an area zoned Farm Residential
6 (FR-1) District. The subject property is located at 1992 Lewis Center Road, Lewis Center OH 43035,
7 and having a permanent parcel number 318-213-16-001-000.

8

9 A court reporter with Runfola Reporters administered the oath to Messrs. Snowball and Posteraro

10

11 Steve Snowball and Vinnie Posteraro, 1992 Lewis Center Road, we're here this evening for the
12 Conditional Use Application.

13

14 Mr. Beard presented Staff Report and presentation. Site is on the south side of Lewis Center Road, and
15 applicant is proposing to use the entire home for staff operations of North Church. Site totals .88 acres
16 with 1 single family dwelling occupying the land. North of the site is SFPRD/PC with Evans Farm,
17 south, east and west are Farm Residential single family home. Site is located directly across from the
18 entrance of Evans Farm.

19

20 Mr. McCarthy: The application requested a conditional use. As I understand it, it does not qualify
21 consideration on that basis as there will be no resident of the structure. So that being the case, you're
22 looking at a use variance rather than conditional use.

23

24 Mr. Oster: Does that change the percentage of the floor plan that can be used?

25

26 Mr. McCarthy: The problem is there's no residents here, just office use and it's not permitted, so it would
27 be a use variance, and it shall only be granted if there's no viable use of the property under the current
28 zoning. It is a use variance; it's not a question of percentages or anything else. It's not a Conditional Use
29 Permit determination, it's a use variance determination.

30

31 Mr. Beard: The applicant provided photographs of inside the home and what the layouts are.

32

33 Mr. Ward: Is it already in use?

34

35 Mr. Oster: It was sold to the church and it is currently under tax exempt status as the church which is
36 kind of in between something; I'm not sure what they've done there.

37

38 Mr. Ward: Is there anybody living in the home?

39

40 Mr. Snowball: No.

41

42 Mr. Ward: And you made this choice prior to coming to see us?

43

44 Mr. Oster: It's been that way.

45

46 Mr. Ward: If you're asking for the usage you're asking for, it requires that it's a home office use,
47 meaning somebody resides there and a certain percentage of the home is used for living and another
48 percentage used for office space, store space, whatever. Our confusion here is that that is normally done
49 prior to moving in, and in this case there's nobody living there, so are we considering the wrong thing?

50

51 Mr. McCarthy: Yes; it's a use variance and not conditional use.

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- 52 Mr. Oster: They bought a residential house and have been using it for their own purposes.
53
54 Mr. Snowball: We're a mobile church, so we meet at Orange Middle School every Sunday currently. We
55 own property on Africa Road which will be our permanent home.
56
57 Mr. Ward: You were in here not too long ago.
58
59 Mr. Snowball: You zoned as well. From our standpoint of being a mobile church, this allows us to have
60 the office space for 2 full time staff members, which are pastoral staff, and 4 part time.
61
62 Mr. Miller: Unfortunately the word mobile means it's moving. You're stationary.
63
64 Mr. Snowball: But church isn't held here, so all the church to us is unloading 3 box trucks every Sunday
65 and setting it up in Orange Middle School, then putting it back in the box truck. Not a moving site of the
66 church but not a permanent site.
67
68 Ms. Posteraro: We have to set up and tear down.
69
70 Mr. Ward: Do we need to take another shot at this?
71
72 A court reporter with Runfola Reporters administered the oath to Ms. Culler
73
74 Stephanie Culler, 2026 Lewis Center Road, I'm directly to the east of this business. I can verify with
75 100% certainty that no one has ever lived in that home; I have pictures. I spoke with Mr. Beard's
76 predecessor (Tom Farahey) when this all happened in 2012. The property sold, I got on the Auditor's site
77 to see who bought it; North Church. I spoke to Mr. Farahey, said nobody lives there and he said he was
78 told by the church that that's the parsonage for the pastor, which is untrue. Mr. Farahey said he had
79 driven by many times and there were never more than 2 cars in the driveway. I have photos going back 6
80 years showing 9-10 cars in the driveway. I leave my house between 5:30 and 6:30 for work and there has
81 never in 6 years been a vehicle at that house between those hours except, coincidentally, yesterday there
82 were 4. There's anywhere from 4 to 10 cars every evening. You can see on the aerial view where they've
83 taken a big portion of their yard and made a driveway. I have photos going back way before they did that.
84 I don't appreciate someone doing something illegal under the guise of religion. It's a business; that's
85 what it is. I don't want a business beside me. And the box trucks only come in at night.
86
87 Mr. Ward: Was this home a residence when it was purchased?
88
89 Mr. Oster: It was. They purchased it and used it for whatever, not that anyone approved that, but I can
90 attest to her statement that there have been 8-10 cars parked there a lot which, this being used as a
91 business, what are the parking requirements for that?
92
93 Ms. Culler: Go to the aerial view.
94
95 Mr. Beard: That's a big lot.
96
97 Mr. Ward: Loaded.
98
99 Mr. Miller: Were these photos taken by the Zoning Department?
100
101 Ms. Boni: No; they were submitted.
102

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103 Ms. Culler: I kept a notebook in my car for many years documenting how many cars; somehow that got
104 thrown away but until yesterday morning, there was never anyone there in the morning. They converted a
105 major part of the front yard into parking.

106
107 Mr. Ward: They can do that.

108
109 Mr. Snowball: The original driveway when we bought the residence, the asphalt portion on the west side
110 of the driveway was existing. We have added a duplicate side to the asphalt and gravel on the east side of
111 the driveway, so existence wise, we haven't added any asphalt, we've added stone on the other side to
112 mirror a portion of the actual driveway.

113
114 Mr. McCarthy: Mr. Beard, as far as the designation, that came from the applicant's request for a
115 conditional use for a home occupation?

116
117 Mr. Beard: It actually originated from the Fire Department. Their Code Enforcement Officer contacted
118 us. He said he was driving by and saw a lot of cars and reached out to us to investigate; he thought there
119 was a business going on. They contacted them and they said they were having offices, so we sent a
120 violation letter to them.

121
122 Ms. Culler: They have taken all of the front yard and made into a gravel driveway, parking basically.
123 There seems to be a lot happening on Wednesdays, and there were 10 cars parked there when I got home
124 from work. Previously there were 4; Monday there were none.

125
126 Mr. Snowball: Monday is the off day for the church.

127
128 Mr. Ward: We can take it up and vote it down and then what?

129
130 Mr. McCarthy: It's an enforcement issue. This certainly doesn't qualify as a home occupation and I'll
131 welcome any input Ms. Boni might have on this. There is however a conditional use in FR1 for churches
132 provided they're on a 5 acre lot, etc. I believe you were here at the time, Michele; was it the Unitarians.

133
134 Ms. Dill: On Franklin Street, my next door neighbor.

135
136 Mr. McCarthy: There was a house across the street from the church.

137
138 Ms. Dill: Which is next door to us.

139
140 Mr. Ward: They wanted to use it for educational purposes.

141
142 Mr. Oster: The one on the corner.

143
144 Ms. Dill: I can refresh your memory. The house in question was not on 5 acres but when you combined
145 the acreage the church itself sat on, it was considered continuous with the street between it, and it met the
146 requirement. They asked to use it for religious education and the occasional non-profit meeting. At that
147 time I spoke for them; I did not find an objection to what they were doing. At the time they thought they
148 would vacate that house in a few years, you guys tried to talk them into taking a 5 year conditional use
149 and they said they would take 3. I don't know if they re-upped or what. In recent years they tried to put
150 in a for profit Montessori home next to us, which I opposed; that is not what we requested.

151
152 Mr. McCarthy: That is not this property; I was trying to think of something similar.

153

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- 154 Ms. Dill: That was a couple of years ago. They got a conditional use permit to use that otherwise vacant
155 house for Sunday school class rooms and the occasional non-profit meeting.
156
- 157 Mr. Ward: So that was a conditional use.
158
- 159 Mr. McCarthy: As I was talking about the fact that this is not a home occupation, I was trying to think of
160 something that might have been like it, at least somewhat related.
161
- 162 Mr. Oster: So the acreage doesn't meet on this lot here, correct?
163
- 164 Mr. McCarthy: The acreage didn't meet, as Ms. Dill indicated.....
165
- 166 Mr. Oster: Combined?
167
- 168 Mr. McCarthy: Yes. I honestly can't speak to the combining one way or another; I just remembered
169 there was that one application.
170
- 171 Mr. Miller: This is less than an acre as it is.
172
- 173 Ms. Dill: And their church property was continuous, just basically divided by a road.
174
- 175 Mr. McCarthy: You'd have to pull the record; I can't remember anything about the combining. Anyone
176 on Staff remember anything on that?
177
- 178 Mr. Oster: I remember them coming up and there was all kinds of discussion about was there going to be
179 anything outside and was there going to be chanting, how late was that going to go on.
180
- 181 Mr. Ward: Something about the kids coming down from the church to the home.
182
- 183 Ms. Boni: They did it in 2016 and requested a conditional use for the church and then they had a variance
184 for a sign, and we did approve a variance to reduce the acreage.
185
- 186 Mr. Culp: So it sounds like the conditional use application doesn't apply because there is nobody living
187 there.
188
- 189 Mr. McCarthy: As far as the home occupation, correct.
190
- 191 Mr. Culp: There's an issue of it being used as an office, not as a home; does that require a different
192 application or is there a whole other process?
193
- 194 Mr. McCarthy: That's what I was trying to think about and what came to my mind was this church and
195 Ms. Boni you're indicating that there was actually a variance granted for the acreage?
196
- 197 Ms. Boni: That's correct.
198
- 199 Mr. McCarthy: This was the house across the street and I'm sure the fact that they had the adjoining
200 property was probably a consideration but it was a variance they didn't say it was a part of the 5 acre
201 tract, correct?
202
- 203 Mr. Oster: They had joined them with a road and a bridge.
204

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205 Mr. McCarthy: It was a different physical situation; your church site's going to have to grow. I was just
206 trying to think of an application that was at least somewhat similar.

207
208 Mr. Oster: I think that one was different; this one is standalone.

209
210 Mr. Ward: The situation is if the conditional use does not apply and we need to deal with it because it's
211 on the table and we vote it down because it doesn't apply, then they become in violation and now you've
212 got a whole new thing.

213
214 Mr. Oster: That's why it's here. It's going to become an enforcement issue because they're using it for a
215 non-intended use.

216
217 Mr. Ward: It would be nice if we could avoid that.

218
219 Mr. Oster: I don't know how you can.

220
221 Mr. Ward: Technically, if they were to apply for the correct usage.

222
223 Mr. Miller: That's after the fact.

224
225 Mr. McCarthy: Everything's after the fact at this point.

226
227 Mr. Oster: So we have to turn this one down.

228
229 Mr. Snowball: So it becomes a reallocation of a use variance.

230
231 Mr. McCarthy: Right now it would seem to me either a use variance or be a conditional use with a
232 variance request similar to that one granted to the Unitarian Church.

233
234 Ms. Boni: Yes, because the conditional use that was granted wasn't for their church; it was for their
235 office space.

236
237 Mr. McCarthy: That was my recollection; it was an office and they also had youth meetings there. While
238 we're at it, do you have youth meetings or other meetings of a religious nature in this structure?

239
240 Mr. Snowball: Yes. There are church meetings for both youth ministry, high school, middle school; all of
241 our elementary school stuff is done in church on Sunday; we also have elder board meetings there.

242
243 Mr. McCarthy: Now this is where?

244
245 Mr. Snowball: At the 1992 Lewis Center Road. We have board meetings; the meeting she referenced at
246 6:30 yesterday morning was a board and pastoral meeting, so there were more cars there yesterday
247 morning at 6:30 a.m., so there are church meetings there but we don't have any church activities as in
248 family events or otherwise that would be held at the property.

249
250 Mr. McCarthy: You can talk to your own counsel on this, but I would just point out that for a use
251 variance, if you were to go in that direction to simply allow use for office use, that's a very difficult
252 standard and as I said earlier it would require that there be no viable use of the property without the
253 variance. I don't know all the facts, we haven't heard it yet, but if it's a house in a residential area, you
254 might have a problem with that. I can't say what the Board will do, I'm not saying that the prior activity
255 was totally parallel, but I think Ms. Boni and Mr. Beard could provide you with copies of the record

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256 related to the First Unitarians and maybe that would suggest something to you. But again, talk to your
257 own counsel.

258
259 Mr. Snowball: We will.

260
261 Mr. Culp: If we deny this, does that preclude them from other activities....

262
263 Mr. McCarthy: No, this is a request for a home occupation; you'd be denying the home occupation. The
264 new application would be changed in so far as it, unless they want to get turned down again.

265
266 Mr. Culp: Is there a difference, are they able to withdraw?

267
268 Mr. McCarthy: I would leave that to the Board.

269
270 Mr. Ward: We can do either or; it's within our authority to do that. If they as the applicant want to back
271 off and we'll just tuck this under our arm and go home.

272
273 Mr. Snowball: Is there a favor in regards to the Board based on history and variances that were granted to
274 the Unitarian Church if we withdraw? Is it worse to have a denial from the Board and then a reapplication
275 using that as a history?

276
277 Mr. McCarthy: I can't speak for all lawyers, but I would say that it would always be my preference to
278 have my client withdraw the application then have one strike against me coming up to bat next time.

279
280 Mr. Snowball: I agree.

281
282 Mr. Ward: Our vote is on record, of course.

283
284 Mr. Snowball: So it is at this point and time that we would like to withdraw our application for a
285 conditional use.

286
287 Mr. McCarthy: As a home occupation?

288
289 Mr. Snowball: Correct.

290 MOTION TO ACCEPT WITHDRAWAL OF APPLICATION

291
292
293 Mr. Ward made a motion to approve the applicant's request to withdraw Conditional Use Application
294 #CU-18-21, North Church; seconded by Mr. Culp.

295
296 Ms. Culler: I just want to say I have a big business in front of me; I don't want a business beside me.

297
298 Mr. McCarthy: Please feel free to come back. You will receive notice again and you will be heard.

299
300 Vote on Motion: Mr. Ward-yes, Mr. Oster-yes, Mr. Culp-yes, Mr. Miller-yes
301 Motion carried

302
303 Mr. Ward recessed the meeting for 5-10 minutes
304 Hearing continued with Variance Application #VA-18-22

305
306 Minutes prepared by Cindy Davis, Zoning Secretary

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307 On January 17, 2019, Mr. Miller made a motion to approve the meeting minutes of the Orange Township
308 Board of Zoning Appeals for Conditional Use Application #CU-18-21, North Church, dated October 15,
309 2018, with the following corrections:

- 310
- 311 • Line 28 – CUP should read “Conditional Use Permit”
- 312
- 313 Motion seconded by Mr. Trefz
- 314
- 315 Vote on motion: Ms. Jordan-abstain, Mr. Oster-yes, Mr. Trefz-yes, Ms. Sundar-yes, Mr. Miller-yes

316

317 Motion carried.

318
319