

**CITY OF NEWARK
DELAWARE
BOARD OF ADJUSTMENT
MINUTES
MARCH 20, 2025**

Those present at 7:00 p.m.:

Present:	Jeff Bergstrom, Chair Kevin Hudson Chris Rogers James Cloonan
Absent:	Mark Morehead
Staff:	Robert O'Neill, Deputy City Solicitor Mike Fortner, Senior Planner Diana Reed, Legislative Coordinator/Deputy City Secretary Tara Schiano, City Secretary

Mr. Bergstrom called the meeting to order at 7:01 p.m.

1. Approval of minutes from meeting held November 21, 2024:

MOTION BY MR. HUDSON, SECONDED BY MR. BERGSTROM: TO APPROVE THE MINUTES FROM THE MEETING HELD NOVEMBER 21, 2024.

MOTION PASSED. VOTE: 4 to 0.

Aye: Bergstrom, Hudson, Rogers, Cloonan.

Nay: 0.

Absent: Morehead.

2. The appeal of Casale Construction, LLC, on behalf of St. John AUMP Church, property address 77 New London Road, for the following variances:

Ms. Reed read the facts of the case into the record:

Sec. 32-11 (c) (5) – Building setback lines

- Except as specific in Article XVI, Section 32-56.2(d)(1), (2), (3), (4) of this chapter, each story or part of a building exclusive of cornices and uncovered steps and uncovered porches, shall be set back from the line of the street on which the building fronts by at least minimum distance of 15 feet [...]. The applicant is proposing a building setback of 6.6 feet from the street. A variance of 8.4 feet (-56%) to the minimum building setback distance in an RM-zoned property to allow for a setback of 6.6 feet is required.

Sec. 32-51 (a) – Nonconforming uses, structures and buildings

- A building, structure, or use which is not in conformity with the provisions of this chapter at the effective date of this chapter may be continued in its present location provided that no subsequent alteration or addition is made which would extend said building, structure, or

use [...]. Any building or structure addition shall conform to the area and height regulations of the district wherein it is located. A variance to permit a nonconforming building to construct the proposed building addition within the nonconforming building setback in an amount not to exceed the nonconformance of the existing building is required.

Mr. Bergstrom swore in Anthony Casale, Casale Construction, LLC.

Mr. Casale thanked the board for hearing this case. He stated he was attending on behalf of St. John Church at 77 New London Road. He explained that the church was hit by a stolen car months ago, which caused extensive damage to the vestibule and front-bearing wall of the church. During insurance negotiations and designs, the situation was resolved on a Friday, but a second car hit the church that following Sunday. This crash caused more damage to the east side wall all the way through. During this design process, the church believed it to be an opportune time to solve another hardship they have experienced for several years: a handicap restroom that the congregation can use without going outside and around the building. He noted he would speak on this building's construction, but the church would comment on the hardship.

He noted the inclusion of multiple photos, which signified the damage to the church, as well as the first variance being considered: the building setback line. The vestibule area has already encroached on the current Code setback for years. He noted that there is an open area of 24 square feet on each side of the vestibule. St. John Church is hoping to extend the vestibule out to where it is currently encroaching, and they will be pushing that wall out approximately 4 feet to match the existing line of the vestibule. This will help to add a 6 x 6 feet restroom on the right through two ways. First, one can go into the vestibule and turn left or right. Turning left will lead to a cloakroom, and turning right will take you to a hallway that leads to the new restroom. He noted the church owns the next-door lot, which is approximately 24 – 25 feet wide. If an elderly member of the congregation needs to use the restroom, they must exit the church and walk around the corner to access the restroom located at the front of the building. That is the purpose being wanting to add this handicapped restroom to the right. He reiterated that the church would not cross the existing line, as they are already opposed to it. They would not be going any further into the setback area than they already are. He believed that an effective building structure should be maintained in its present location. He noted the church is already nonconforming and has likely been there longer than anyone else in the neighborhood. It is due to this addition that the church would require a variance, and the variance presents an exceptional practical difficulty.

Mr. Casale acknowledged that the board would be examining four important points, and he believed the church met at least three, if not all, of them to a preponderance of the evidence. The property is situated in a busy commercial corridor with rental apartments. He did not believe the nature of this would change at all to what it is. The character of the immediate vicinity of the subject property and the uses of the property within that immediate vicinity would not change. He reiterated the church has likely been there longer than anyone else in that corridor. Whether the relevant restriction on the property was removed, such removal would seriously affect neighboring property and uses. He did not believe that adding this or extending the existing line would affect anyone or any use in that area. He believed that the factor that carries the most weight would be whether, if not removed, the restriction would create unnecessary hardship or exceptional difficulty for the owner in relation to efforts to make normal improvements in the character or permitted use of the property. He did not believe there would be a better example than an elderly congregation going out and around a dangerous corner to use the restroom. He added that the final pew is within two feet of the wall, and the second car had come through that wall in the middle of the night. If it were to come through during service, it would severely injure whoever was sitting in that pew. If this wall is allowed to be pushed, it will provide an additional layer of safety for the people in the building. He considered this to be a "tough" corner, situated at an angle, where cars coming down are forced to look right at the church if they do not

make a slight bend to the left. He believed that adding the brick wall and extending it out provides an additional 3–4 feet of protection to anyone in the building. He noted the actual façade would look the same, except the wing of the vestibule would open up that much more. The character of the building would remain the same, such as the historic windows and new brick. The church will stabilize the floors that have been damaged, as the building has gone through extensive damage. He stated that he and the church would appreciate the board's review of this variance and assistance in getting the church under construction so that services can continue as soon as possible.

Mr. Hudson asked if the Zion church is across the street from this property.

It was affirmed that the church is still across the street.

Mr. Casale stated that the character of the building would not change, and there would be no additional development at the front of the building. He did not believe this encroaches the side yard requirement. He believed the bathroom is actually in violation of the section because it constitutes a non-conforming use. Any alteration to an existing non-conforming structure will create the need for such a variance.

Mr. Rogers noted that a person with a disability will need to exit the building and proceed to the front to use the facilities. He requested clarification to confirm that there is no interior access to the ADA-compliant bathroom.

Mr. Casale responded that there is no interior access. It is located at different elevations, and if a service is in session, there is no interior access for anyone.

Mr. Bergstrom asked if the applicant needed a variance for a new set of bollards.

Mr. Casale understood that the State has investigated this area. They had called and requested a meeting with him to note they want to be involved in a barricade on this corner. He stated the current bollards are very shallow and very light, and they were already “wiped out” by the time the second car hit the church. The project plans to reinforce the bollards and make them deeper.

Mr. Cloonan noted that the structure was being restored, apart from the distance difference between the back pew and the proposed new exterior wall. He asked how the structure was being altered, if it would be more structurally sound, if the applicant was using just studs and exterior brick, or if it would be a block wall with reinforcing.

Mr. Casale stated it would be a brick and block wall, but the interior wall will remain a studded wall. The exterior brick will be pushed back an additional 4–5 feet.

Mr. Cloonan asked if it would be brick.

Mr. Casale stated the wall will consist of block up to the foundational height and then switch to brick, for a brick façade.

Mr. Cloonan requested clarification that the wall itself will not be structurally reinforced in any way, except as a standard stud wall.

Mr. Casale responded in the affirmative.

Mr. Cloonan asked if the applicant had considered improving the structure of the wall to make it more resistant.

Mr. Casale believed this is a financial question and did not believe this would happen in an “insurance scenario.” This has not been discussed.

Mr. Cloonan requested clarification to confirm that the applicant will retain the interior wall, so there will be two walls they will have to go through.

Mr. Casale responded in the affirmative. He noted that the church is an old 3x4 building, so it is not like modern-day structures. It is weaker than what would be in today’s construction.

Mr. Cloonan asked if the windows would also be moved out.

Mr. Casale noted there would be two wall references. The current wall would be rebuilt, and if the church pushes back out, they get a second wall. A car would have to go through the barricades and two walls. He noted that from a construction perspective, there is no other configuration that works without losing a major space to accommodate handicap access and maintaining the hallway clearance without requiring the church to remove 2–3 pews. There would be no other configuration other than that being proposed to get to the handicap bathroom without losing the necessary space inside of the building.

Mr. Cloonan asked if it was commonplace for handicapped restrooms to be at the front of the church.

Mr. Casale noted there was no bathroom in this case because it could not be accessed during service. He hoped that in current times, handicap accessibility would be the norm whenever possible.

Mr. Cloonan: That I understand.

Mr. Hudson stated St. John’s on Main Street as the same issue, as congregants have to go outside and downstairs to reach the restroom.

Mr. Casale stated that this is not even possible for St. John AUMP Church. The church’s handicap ramp does not provide access to a handicap accessway without going outside. There is no handicap ramp within the building.

Mr. Cloonan noted there are two buildings. He asked where the restroom is located.

Mr. Casale stated that it was located in the hall or office at the back.

Mr. Rogers asked for confirmation that the handicap bathroom would be on the right, looking at the church.

Mr. Casale responded in the affirmative, noting that the church owns the next lot to the right.

Mr. Rogers was concerned about someone being even closer to the street when using the facilities.

Mr. Casale stated that the church would only have a walkway to the bathroom from the front, which is why the front wall needs to be extended. The church needs to allow congregants to move freely from the pews or the front door to the bathroom.

Mr. Rogers noted that the facility itself would be closer to the street than the pews are.

Mr. Casale responded in the affirmative. It would align flush with the current front entrance. He noted the second wall would still be in place.

Mr. Cloonan noted the previous mention that the handicap bathroom is not substantially related to the impact on the church. The way both cars hit the church on the church's left side and the angle of the road is such that it would be unusual for a car to hit the other side. The applicant is requesting a variance for the nonconformance in the bathroom, which is unrelated to the improvements made to the structure to restore it to its previous use.

Mr. Casale responded in the affirmative. The applicant was granted a permit to put the structure back to its previous use. This is an opportune time for the church to overcome its current hardship, as everything is being demolished. The variance is not required to restore the church to its former state.

Mr. Hudson did not believe the variance directly pertains to the addition of the restroom. The building is already non-conforming, and as work is being done on it, it needs to be brought up to the current non-conforming standards.

Mr. Casale responded in the affirmative.

Mr. Cloonan requested clarification from the Planning and Development Department.

Jessica Ramos-Velasquez, Planning & Development Deputy Director, explained that the variances are twofold. The church will apply for an administrative subdivision to add the secondary parcel to the main parcel. The bathroom will be located in that section of the parcel. The reason the church must approach the board is that they will be encroaching on and crossing the property line on one side of the project. This is the part of the church that has not been impacted by any of the accidents.

Mr. Bergstrom asked if the variance was just for the corner on the secondary parcel.

Ms. Ramos-Velasquez responded in the affirmative.

Mr. Hudson asked if the nonconformance would be resolved once they had combined the properties into this parcel.

Ms. Rogers noted the application references a front setback.

Ms. Ramos-Velasquez stated the front setback would remain the same. The location of the church is supposed to be 15 feet. Given that the church was already built, the applicant will not relocate it to the 15 feet required. It would continue the building line. For the contractor's proposal, the wall will be extended, specifically the smaller 4 x 6 on the farthest side. This is indicated in the submitted design.

Mr. Casale stated that the project would not extend any closer to the street than the current location of the entryway into church.

Mr. Bergstrom understood the effort. He was unaware whether the church had completed the administrative subdivision. He believed this was a question that could be answered relatively quickly and thanked Mr. Casale for his input.

Mr. Bergstrom swore in Robert “Bob” Anderson Sr., President of the St. John AUMP Church Trustee Board.

Mr. Anderson explained that he has been a member of the church since 1975. Of the multiple points he would make this evening, he stated that the first is to preserve the history, honor, and celebrate the legacy of St. John Church, which stands as the oldest African American church in Newark, having been established in 1848. The goal is not to change its essence but to ensure it remains welcoming to all. He noted there are multiple unique and unnecessary hardships about this location, such as the physical constraints of the property, which limit the beneficial use to members and guests attempting to come to the church. He believed the variance would allow the church to install a handicapped-accessible restroom for the congregation and guests. Currently, attendees are unable to move from left to right to build anything due to the church's location. There are some physical limitations of the property. The 1867 sanctuary structure cannot be expanded to the left or right, indicating that this variance is essential. If the church could build to the left or right due to the property, it would do so, but it currently does not have that right. He shared the history of the church's contributions and challenges. St. John Church has a long-standing commitment to supporting the City of Newark. The church has taken numerous steps over the years to accommodate both the needs of the church and community growth in the City of Newark. In 1954, they happily sold land to make space for Newark's expansion, which then allowed the creation of Hillside Road. The church purchased property to build classrooms and conference rooms but was prevented from doing so due to restrictions on green space. Instead, they installed a ramp connecting the sanctuary to the church as people could not properly access the restroom. In 2018, the church installed handicap restrooms in the hall, but they remained approximately 65 feet from the sanctuary entrance. The church purchased property and built a parking lot to accommodate the congregation, prevent backups on Hillside Road, and enhance accessibility and traffic flow, following public complaints. He believed this is evidence that the church is doing its part for the community.

He continued to state that this request seeks approval for the installation of a handicapped-accessible restroom on the right side of the main entrance near the front of the church. This will provide direct and safe restroom access, eliminating the need for attendees to go outside into the inclement weather and avoiding the need to walk through the pulpit area during services, thereby preserving the sanctity of the sacred space. He explained that currently, to access the restroom, a congregant must either walk outside the church and up the ramp or walk through the pulpit area while the pastor is preaching. Although this is contrary to everything the congregation stands for, it may sometimes be permitted due to special circumstances. This addition will necessitate the reconfiguration of existing church space and pews to create a hallway leading to the proposed bathroom, thereby enhancing safety for congregants and guests. Many members and guests currently hesitate to attend services due to concerns about restroom accessibility and safety. He noted a recently passed trustee who refused to come in the front door and passed away without coming to the church for two years. He emphasized this initiative has been a topic of discussion since 1980. For over 45 years, they have explored various ways to enhance the facilities, including multiple attempts to acquire land for expansion. The church attempted to buy as much land to the right of the building as possible, but even with the high offers they proposed, those property owners did not sell. At one time, the St. John Church Board of Trustees and its members owned a significant portion of the surrounding land, extending from New London Road to Hillside Road and then to Corbitt Street. Mr. Anderson expressed the congregation's sincere gratitude for the ongoing support of the Newark community. He stated the church has received tremendous support from the community during these past eight months of challenges. He thanked the Board for listening.

Mitch Slijepcevic, 7 Chippenham Drive, explained that he owned property on Corbitt Street and supported the requested variances. He noted that he had toured the church with Rev. Blaine Hackett and learned of the church's goal, which was to extend the two sidewalks to match the current level of the vestibule. He believed this made total sense. He noted Rev. Hackett had pointed out that one side would have a closet and the other would have the restroom. He believed this was a “slam dunk” type of situation. He

noted the concern about attendees being even closer to the street while using the restroom. He stated that even if the church were moved 50 feet back, it would still be vulnerable to accidents of the same type, as all the previous cars had been driving at detrimental speeds. Anyone traveling at a normal rate of speed will be able to make the turn without hitting the church, especially with the reinforced bollards. He believed this was something that needed to be done for the church and supported it wholeheartedly.

Mr. Bergstrom swore in Doug Wasgatt, 812 Devon Drive.

Mr. Wasgatt stated he lived, worked, and bicycled in Newark for over 30 years and loved the town. While he did not understand the exact work of the Board of Adjustment, he appreciated their work. He noted he is a letter carrier who has delivered to 77 New London Road many times over the past 30 years. He encouraged the Board of Adjustment to grant the variances being sought this evening.

Mr. Bergstrom swore in Donald Gude, 116 Mary Drive.

Mr. Gude shared that he is a long-time community member, having lived on Corbitt Street for 23 years until his recent move to the outskirts. He noted that he is a long-standing member of the congregation who has witnessed the great extent to which the church has contributed to the community. He noted the church has been struck twice, and this is an opportunity, permissible by Council, to expand or add to the property. He noted that the church is an older building, but fortunately, no congregants were hurt, as there was no nighttime service during the time of the accident. He believed this would be a “no-brainer” to allow elderly and handicapped individuals to access a bathroom through a covered area, given that the church is already under construction following the two incidents. He believed that approving this would be a good deed that the Board could extend to the house of worship.

Mr. Bergstrom swore in Dr. Freeman Williams, 1 Farmhouse Road & President of the Newark branch of the National Association for the Advancement of Colored People (NAACP).

Dr. Williams supported the variance request, stating that both Mr. Casale and Mr. Anderson had effectively articulated the need for the project to move forward. He noted that the community, the NAACP, and multiple other organizations have recognized the importance provided by St. John Church in Newark throughout its history. He believed the variance must be approved so St. John Church can continue its long legacy and work they have engaged in. He believed it made sense to approve the variance. He stated, on behalf of the groups he is involved in, that he was there to show their support for this request.

Ms. Reed read one written public comment into the record.

(Secretary's Note: The following letter was received from:

- [Kevin Mayhew, Mayhew Management LLC.](#))

Mr. Rogers asked for Mr. Casale to reiterate the plans for what will be done to the bollards at the site.

Mr. Casale stated that his company has not yet met with DelDOT. He noted that the bollards knocked down were only about 24 inches of semi-concrete. He noted they were three feet high and were hit hard in the accidents, indicating the need that they have stronger resistance. The ongoing idea was that the footing underneath would be integral until he had the chance to meet with DelDOT. It would be one large footing all the way. With the steel barrows that come out, one would essentially have to pull the whole footing onto it

to try to get through. The bollards would still be considerably strengthened regardless of DeIDOT's involvement.

Mr. Rogers requested clarification that Casale Construction, not DeIDOT, would be responsible for carrying this out.

Mr. Casale was uncertain due to the recent proposal. DeIDOT may view the property and offer a different proposal for the bollards, but the strengthening would be done regardless. He noted the bollards would be significantly tougher than they currently are.

Ms. Schiano reminded the board that they should only discuss the requested variances, and no additional discussion is necessary.

Mr. Rogers believed the bollards were related to the requested variances.

Mr. Bergstrom stated that the board would not be discussing the Religious Land Use Act this evening.

Mr. Anderson stated there was a meeting at St. John Church, which included State representatives, City Council members, and engineers from the Highway Department. This meeting reached a consensus on the necessary actions to be taken at that particular location. The entire area will be divided, and the church will make a recommendation regarding the bollards. It will then meet with Mr. Casale and come together to make the final decision. No decision can be made until they meet with Mr. Casale and the State to talk about it.

Mr. Bergstrom closed the public discussion and returned to the table for the deliberation of the case.

Mr. Hudson was sympathetic that the church is here for the circumstances leading up to this case. He was pleased to hear that they are taking the opportunity to improve their building for the congregants. He noted his family has lived in downtown Newark for over a century and was worried the church would leave after these accidents. He noted there is a long history in that corridor, but the neighborhood has changed and he would not blame the commission if they wanted to leave. He was pleased that the church is still planning to stay on that corner. Mr. Hudson addressed the *KWIK Check Factors*.

1. *The nature of the zone in which the property is located* – There are many rental properties in this area, in addition to the Zion Church, located kitty-corner on New London Road.
2. *The character of the immediate vicinity of the subject property and the uses of the property within that immediate vicinity* – He noted the nearby residential homes and church.
3. *Whether, if the restriction upon the applicant's property were removed, such removal would seriously affect the neighboring properties and uses* – Due to the proposal not extending the lines any more than what they already were, and the fact that the church has always been there with a lot next door, Mr. Hudson did not believe these smaller additions to the property would seriously affect any of the neighboring properties or their uses.
4. *Whether, if the restriction is not removed, the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in relation to efforts to make normal improvements in the character of that use of the property* – Mr. Hudson stated this is a situation not often seen by the board. Due to this, along with the hardship to the congregants – especially those older trying to use a restroom during services – he understood how the

restrictions create an unnecessary hardship if not removed. This is an attempt to rebuild the church after it was destroyed due to an incident that was not the church's fault, while also enhancing its usability for the congregation. Due to these reasons, the property's shape, and the unique circumstances of owning the adjacent land to expand, he saw no issue with approving this variance.

Mr. Hudson concluded that he saw no issue with approving this variance.

Mr. Rogers added that there is nothing on the record to suggest that the church has a serious impact on the neighboring property. Instead, the only comments on the record are positive comments from the surrounding neighbors. He believed the church was experiencing practical difficulty due to congregants needing to leave the building to use the restroom, which he considered an exceptional practical difficulty. He favored approving both variances, believing if one is approved, the other needs to be approved as well.

Mr. Cloonan concurred with the comments previously made by the board. He added that this meeting is related to the variance required for the handicapped bathroom and the construction that will be done in the other part. The improvements to the other side of the building would occur regardless, as they fall within what is allowed, and behind the existing line of construction. The improvements correlating to resisting the impacts from the traffic is unrelated to this board since it is not something the board has a say on. Making that wall as structurally sound as possible is imperative, but it is not relevant to this meeting. The continuation of the construction on the right side of the building would provide a unified look to the front of the building. As this is a continuation of the existing nonconforming line along the front of the building, he had no objection and would vote in favor of these variances.

Mr. Bergstrom believed the KWIK Check factors have been satisfied for the variance itself. He believed it might have been a moot point if the parcels were already adjacent to one another, but it will be resolved at this meeting if the variances are approved. He noted that the KWIK Check factors had been adequately discussed and believed these variances were appropriate to grant, even without regard to the Religious Land Use Act. He called the question of approving the requested variances.

MOTION BY MR. HUDSON, SECONDED BY MR. CLOONAN: TO APPROVE THESE TWO VARIANCES.

MOTION PASSED. VOTE: 4 to 0.

Aye: Cloonan, Rogers, Hudson, Bergstrom.

Nay: 0.

Absent: Morehead.

MOTION BY MR. HUDSON, SECONDED BY MR. ROGERS: TO ADJOURN.

Aye: Bergstrom, Hudson, Rogers, Cloonan.

Nay: 0.

Absent: Morehead.

The meeting adjourned at 8:14 p.m.

Jordan Herring
Administrative Professional I

/jlh