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Church considers suing over plan denial

Disputed deadline at issue in effort for new building

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BY NYIER ABDOU
Star-Ledger Staff

Officials at the Millington Baptist Church in Bernards Township are weighing whether to sue the township after a 7-year effort to win approval for a new 67,000-square-foot church was dismissed last week based on a missed deadline.

J. David Ramsey, attorney for Millington Baptist, contends the church didn't actually miss the deadline and the township planning board used a loophole to deny the application, which has been met by vocal opposition from residents near the proposed site.

The church could file a federal lawsuit under Constitutional violations of freedom of religion or it could contest the planning board decision regarding the deadline as incorrect in state court.

"It's being considered by the church," Ramsey said.

Millington Baptist in 1998 began the application process to build a 1,200-seat church for its growing congregation on an 87-acre property on Mine Brook Road near Route 287. The church's current location is at the intersection of King George and Valley roads.

Church officials filed their final designs on Sept. 23, 2004 but an attorney for residents opposed to the church's plans argued at Tuesday's meeting that the deadline was Sept. 7.

The church had received preliminary approval of its plans on Sept. 7, 1999 and had three years to finalize them. That and two one-year extensions brought the deadline to Sept. 7, 2004, according to residents.

The planning board agreed and dismissed the 7-year-old application. Bernards Planning Board Chairman Scott Spitzer said the church has the option of starting the entire process over again.

"I believe if this matter were challenged by the church, the planning board's decision would be upheld," Spitzer said.

"We're trying to deal with the shock of the whole thing," said Peter Pendell, senior pastor at the church. "We need to pray and talk and find out what possibilities there are."

He declined to say whether the church would sue.

The dispute centers on the interpretation of when the clock started running for the church to complete its plan. The church argued that a resolution passed by the board in October 2000 changed the time frame for when the final application had to be submitted.

Karen Terracciano DelVento, a former prosecutor who lives near the proposed church, found a New Jersey Supreme Court case that ruled townships could dismiss any applications that failed to meet established deadlines.

"The deadlines are set for a reason," DelVento said. "This is the first time in the history of this application that they did the right thing, even if it felt wrong."

Ramsey said the case is irrelevant to the church's proposal. He argued that the amended resolution for the church's application passed by the board in October 2000 and the two subsequent extensions pushed the deadline to Oct. 3, 2004.

Spitzer said the interpretation offered by DeIVento came as a surprise to both sides, but once it was raised, it could not be avoided.

"The result was uncontestable," said Stuart Lieberman, an attorney hired by residents opposed to the new church. "They didn't do it on time. That's just the way it is. This wasn't a 'gotcha,' it was black-and-white."

In a series of planning board meetings since the final plans were filed last year, neighbors have raised concerns about flooding and the size of the new facility, which includes an 85-foot bell tower.

"It started becoming, in our view, evident that the church wasn't being as straightforward with what they were going to be doing at this church as they could be," Lieberman said.

"The size of the building is basically the size of an office building," said neighbor Peter Hilliard. "It's not actually a church."

Township engineer Peter Messina said the proposed facility would not be the largest church in the municipality. The Saint James church, on South Finley Avenue in Basking Ridge, is more than 100,000 square feet and the Liberty Corner Presbyterian Church, on Church Street, is more than 70,000 square feet.

Messina said the proposal presented posed no environmental risks or traffic concerns.

"The neighbors want to see this vacant property stay vacant," Messina said. With the new detention basins, he said, "There would actually be slower runoff and water quality would be better."

For Pendell, the aftermath of the decision has been a mix of disappointment and resolve.

"I'm down and up, but for the most part I'm not overwhelmed," he said. "There's a funny sense of relief. Now we can sit back and decide what to do."

Nyier Abdou works in the Somerset County bureau. She may be reached at nabdou@starledger.com or (908) 429-9925.

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