

VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY

INITIATED: Applicant

DATE: December 18, 2001

RECOMMENDATION FROM: Zoning Board of Appeals

FILE REF: C-5-01

NATURE OF ACTION:

ORDINANCE

STEPS NEEDED TO IMPLEMENT ACTION:

Motion to adopt "AN ORDINANCE AUTHORIZING SPECIAL USE AT SAINT MARY OF GOSTYN'S CATHOLIC CHURCH TO PERMIT AN ADDITION TO THE EXISTING STRUCTURES", as presented.

SUMMARY OF ITEM:

At their meeting of December 4, 2001, the Zoning Board of Appeals recommended that a Special Use be granted for Saint Mary of Gostyn's Catholic Church to building additions to the existing Saint Mary of Gostyn's Catholic Church. This includes modification of the setback requirements for this property along Douglas Road to reduce the required setback to permit construction of the additions as shown on the Special Use Plans - Exhibit C. Such modification will result in setbacks reductions to permit setbacks ranging from 6.71 feet to 7.18 feet.

RECORD OF ACTION TAKEN:

ORDINANCE NO. _____

**AN ORDINANCE AUTHORIZING SPECIAL
USE AT SAINT MARY OF GOSTYN'S CATHOLIC CHURCH TO PERMIT
AN ADDITION TO THE EXISTING STRUCTURES**

WHEREAS, the following described property, to wit:

Lots 9 and 10 in Block 3, together with Lots 33 through 43 inclusive in Block 4, together with Lots 1 through 3 inclusive, 11 through 39 inclusive, in Block 5 in Gostyn, being a Subdivision in part of the Northeast Quarter of Section 8, Township 38 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded June 8, 1889 as Document 41158, in DuPage County, Illinois (PIN 09-08-213-037, 038; 09-08-221-027, 028; 09-08-221-014, 015; 09-08-222-018; 09-08-222-001, 002, 003, 004, 005, 006, 007, 008; 09-08-222-022)

Together with

Lot 2 in J. G. Skala's Resubdivision, being a Resubdivision in part of the Northeast Quarter of Section 8, Township 38 North, Range 11 East of the Third Principal Meridian, according to the Plat thereof recorded September 14, 1954 as Document 929984, in DuPage County, Illinois (PIN 09-08-221-016).

Together with

A portion of vacated alley in Block 4 in Gostyn, being a Subdivision in part of the Northeast Quarter of Section 8, Township 38 North, Range 11 East of the Third Principal Meridian, according to the vacated alley recorded on July 22, 1976, as Document R76-48942, in DuPage County, Illinois.

Together with

A portion of vacated alley in Block 5 in Gostyn, being a Subdivision in part of the Northeast Quarter of Section 8, Township 38 North, Range 11 East of the Third Principal Meridian, according to the vacated alley recorded on December 5, 1955, as Document 783562, in DuPage County, Illinois. [Commonly known as Saint Mary of Gostyn's Catholic Church/School, 4744 Douglas Road, Downers Grove Illinois]

(hereinafter referred to as the "Property") is presently zoned in the "R-4 Single Family Residence District" under the Comprehensive Zoning Ordinance of the Village of Downers Grove, and is a lawful special use as a pre-existing use pursuant to Section 28-1202(f) of the Zoning Ordinance, as heretofore amended (hereinafter referred to as the "Zoning Ordinance"); and

WHEREAS, the owner of the Property has filed with the Secretary of the Zoning Board of Appeals, a written petition conforming to the requirements of the Zoning Ordinance, requesting that an amendment to the special use be granted for the Property to permit an addition to the existing Saint Mary of Gostyn's Catholic Church building; and

WHEREAS, Pursuant to Section 28-1020 of the Downers Grove Zoning Ordinance, the lot and bulk provisions of the Zoning Ordinance may be modified by the Council in the context of a Special Use proceeding to the extent the Council determines that strict compliance substantially burdens the exercise of religion. Provided, no modification shall be permitted to the extent that the Council

determines that application of the burden (i) is in furtherance of a compelling governmental interest and (ii) is the least restrictive means of furthering that compelling governmental interest; and,

WHEREAS, the applicant has requested modification of the front setback requirements for this property along Douglas Road to reduce the required setback to permit construction of the additions as shown on the Special Use Plans - Exhibit C. Such modification will result in setback reductions to permit setbacks ranging from 6.71 feet to 7.18 feet; and,

WHEREAS, such requests were referred to the Zoning Board of Appeals of the Village of Downers Grove, and said Zoning Board has given the required public notice, has conducted a public hearing respecting said petitions and has made its findings and recommendations, all in accordance with the statutes of the State of Illinois and the ordinances of the Village of Downers Grove; and

WHEREAS, the Zoning Board has recommended approval of the amended special use and the modifications, contingent upon approval by the Council of the amended special use; and,

WHEREAS, the Village Council finds that the evidence presented in support of said petition, as stated in the aforesaid findings and recommendations of the Zoning Board of Appeals, is such as to establish the following:

1. The proposed use at that particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community.
2. The proposed use will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, or general welfare of persons residing or working in the vicinity or injurious to property values or improvements in the vicinity.
3. The proposed use will comply with the regulations specified in this Zoning Ordinance for the district in which the proposed use is to be located.
4. The proposed use is one of the special uses specifically listed for the district in which it is to be located and, if approved with restrictions as set forth in this ordinance, will comply with the provisions of the Downers Grove Zoning Ordinance regulating this Special Use; and,

WHEREAS, as regards the requested modifications, the Village Council finds that the evidence presented in support of said petition, as stated in the aforesaid findings and recommendations of the Zoning Board of Appeals, is such as to establish the following:

1. The modifications requested are the minimal adjustment needed to the so that the regulation no longer substantially burdens the exercise of religion and the regulations are not modified to the extent that they are in furtherance of a compelling governmental interest and are also the least restrictive means of furthering that compelling governmental interest.
2. The modification are to be permitted only to the extent that and for the period of time that, the structure is used for a church.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Downers Grove, in DuPage County, Illinois, as follows:

SECTION 1. The Special Use of the Property is hereby amended to permit construction and operation of an additions to the existing Saint Mary of Gostyn's Catholic Church building as provided herein.

SECTION 2. Modifications are authorized as a reasonable accommodation pursuant to Section 28-1020 to reduce the front setback for this property along Douglas Road as shown on the Special Use Plans - Exhibit C. Such modification will result in setbacks reductions to permit setbacks ranging from 6.71 feet to 7.18 feet.

SECTION 3. This approval is granted subject to the following conditions.

1. The conditions and recommendations of the Zoning Board of Appeals as set forth in their findings dated December 4, 2001. (Exhibit A)
2. Special Use Narrative prepared by applicant (Exhibit B)
3. Substantial compliance with the plans submitted to the Zoning Board of Appeals, a reduced copy of which is attached hereto and made a part hereof. (Group Exhibit C)
4. Staff report. (Exhibit D)
5. A covenant shall be recorded with the Office of the DuPage County Recorder of Deeds; in a form acceptable to Village Attorney, providing that the modification will be brought into compliance with the affected regulation in the event the property ceases to be used as a church. The village shall have the right to refuse to issue, or to revoke and occupancy permit for the structure in the event it is not used as a church unless and until such compliance is achieved.

SECTION 4. That all ordinances or resolutions, or parts thereof, in conflict with the provisions of this ordinance be and are hereby repealed.

SECTION 5. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor

Passed:

Published:

Attest: _____

Village Clerk

Exhibit A

FORTHCOMING

Zoning Board of Appeals
December 4, 2001 Conditions and Board Recommendation
St. Mary of Gostyn's Special Use
to permit an addition to the existing structures
Case No. C-5-01

C-5-01

WIEDEL, HUDZIK & RUSS

A Partnership of Professional Corporations
Attorneys & Counselors
4915 Main Street
P.O. Box 578
Downers Grove, Illinois 60515

Exhibit B

Michael C. Wiedel, P.C.
Richard F. Hudzik, P.C.
James F. Russ, Jr., P.C.

November 20, 2001

Telephone 630/969-2300
Fax 630/969-1342

Mr. William White, Chairman
Zoning Board of Appeal
Village of Downers Grove
801 Burlington Avenue
Downers Grove, IL 60515

Dear Mr. White:

St. Mary's has been in its current location for over 100 years and is an integral part of the Downers Grove community. The current church was completed in 1964. Due to the current configuration and size of the church sanctuary the many ceremonial or traditional functions that occur in the catholic traditions of worship cannot be met. In an attempt to meet the worship needs of the parish, St. Mary's seeks to expand its sanctuary to the west to enclose what is currently a covered walkway.

At the time the current church was designed, the altar was to be located at the far north end of the sanctuary in a much more traditional style. In the early 1960's, Vatican II had convened and as a result of "new" ideas of worship, the altar was placed in its current location. Currently, aisles converge on the central altar. This results in lost seating in half of the church. The aisle configuration also eliminates a primary main aisle for liturgical processions such as weddings, funerals and the sprinkling of community on Palm Sunday.

In order to maintain the church's current seating capacity of 1,048 people and be able to provide for a main aisle, the covered walkway on the west side of the sanctuary needs to be enclosed or the church will lose 54 seats. Only by expanding the sanctuary can the interior of the church be redesigned to accommodate a more traditional main aisle which will allow for processions which are an integral part of the catholic religious ceremony as well as more traditional use of the sanctuary for weddings, funerals and religious holiday ceremonies.

The redesign of the sanctuary will also allow the baptismal font to be relocated to an area at the north end of the church. No longer is the baptismal ceremony a private ceremony of only parents, godparents and immediate family members. Today, baptisms are a full religious community ceremony. Currently, the baptismal font is at the rear of the altar and is not able to be used when there are multiple baptisms that include a large number of family members. The new location allows flexibility to have all members of the babies' families intimately involved in this

sacrament. The new configuration allows for movable seating around the baptismal font to accommodate the baptismal ceremonies of today.

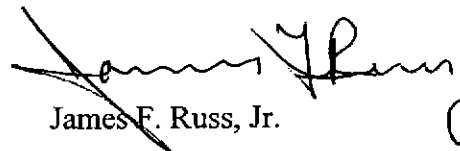
The redesign will allow funeral processions to begin at the east side of the church and process through a covered walkway to the entrance of the sanctuary. Currently, funerals begin at the Douglas Street entrance. The hearse arrives along with the cars in the procession. This oftentimes causes congestion and the shutting down of Douglas Avenue until all of the vehicles in the procession can find space to park. The redesign of the sanctuary will alleviate congestion and the shutting down of Douglas Avenue during funerals and avoids requiring the lifting of the caskets upstairs to the entrance of the church while accommodating handicapped persons with an accessible means of entry to the sanctuary. The sanctuary modification will benefit both the funeral service as well as allowing all parking of funeral attendees in the east parking lot eliminating any disruption to the surrounding neighborhood.

Finally, the redesign will create space for the music ministry by eliminating the Douglas Avenue vestibule. This will allow for a central location of the choir seating and eliminate the choir from obstructing parishioners' view during services.

The redesign of the church at St. Mary's will create a much more traditional and functional church and allow the traditions of Catholic worship to be fully experienced.

Sincerely,

WIEDEL, HUDZIK & RUSS



James F. Russ, Jr.

JFR/brd

Enclosure

C.5.01

Exhibit B

As a resident of Douglas Road, west of St. Mary of Gostyn Parish, I have no opposition to enclosing the existing walkway along Douglas Road.

NAME	ADDRESS	PHONE
Richard Beck	4820 DOUGLAS	968-6183
Timothy Beaudry	4828 Douglas Rd	969-3269
Robert & Shari O'Connor	4800 Douglas Rd	724-0406
Robert & Heidi O'Leary	4812 DOUGLAS	852-6934
Della and Michael Kelly	4806 Douglas	241-3244

ANALYSIS SUMMARY

- A. **FLOOR AREA RATIO:** F.A.R. OF EXISTING AND PROPOSED IS BELOW MAX F.A.R. (0.57 VS. 0.60) WHEN COMPUTED ON THE BASIS OF TOTAL FLOOR OF ALL BUILDINGS AND TOTAL SITE AREA.
- B. **LOT COVERAGE:** LOT COVERAGE OF EXISTING AND PROPOSED IS BELOW THE MAX. COVERAGE ALLOWED (0.32 VS. 0.40) WHEN COMPUTED ON THE BASIS OF TOTAL FOOT PRINT AREA OF ALL BUILDINGS AND TOTAL SITE AREA

ANALYSIS CALCULATION METHODS

- A. **AREA OF PROPERTY:** CALCULATED BY INTECH CONSULTANTS FROM RECENT PROPERTY SURVEY.
- B. **AREA OF BUILDINGS:** CALCULATED FROM DIMENSIONED, SCALED PLAN DRAWINGS PROVIDED BY THE OWNER AND AS-BUILT "FOOTPRINT" DIMENSIONS PROVIDED BY INTECH CONSULTANTS PROPERTY SURVEY.

FLOOR AREA RATIO

A. BUILDING AREAS

1.	<u>CHURCH</u>		
	MAIN FLOOR	12,548	
	BASEMENT	8,100	
	SUBTOTAL		20,648 SF
2.	<u>RECTORY</u>		
	BASEMENT	2,423	
	FIRST FLOOR	2,423	
	SECOND FLOOR	2,975	
	SUBTOTAL		7,821 SF
3.	<u>PARISH CENTER</u>		
	BASEMENT	2,945	
	FIRST FLOOR	2,945	
	SECOND FLOOR	2,945	
	SUBTOTAL		8,835 SF
4.	<u>LIBRARY BUILDING</u>		
	LOWER LEVEL	3,588	
	UPPER LEVEL	3,589	
	SUBTOTAL		7,177 SF
5.	<u>SCHOOL</u>	35,651	
	SUBTOTAL		35,651 SF
6.	<u>CONVENT</u>		1,883 SF
	TOTAL AREA FOR ALL BUILDINGS		82,015 SF

- B. **LAND AREA:** 152,482 SF
- C. **CURRENT FLOOR AREA:** 82,015 SF
- D. **CURRENT F.A.R.:** 0.54
- E. **NET AREA INCREASE IN FLOOR AREA PROPOSED:** CHURCH ADDITION 3,318 SF
GARAGE 648 SF
3,966 SF
- F. **PROPOSED FLOOR AREA:** 85,981 SF
- G. **PROPOSED NEW F.A.R.:** 0.56
- H. **F.A.R. ALLOWED BY ORDINANCE:** 0.60
- I. **MAXIMUM FLOOR AREA ALLOWED:** 91,489 SF
- J. **DIFFERENCE: PROPOSED VS MAX ALLOWED FLOOR AREA (APPROX EQUIVALENT TO EXISTING PARISH CENTER BUILDING):** 6,508 SF

LOT COVERAGE

- A. **FOOTPRINT - ALL BUILDINGS:** 44,413 SF
- B. **PROPOSED LOT COVERAGE (48,379 / 152,482):** 0.32
- C. **LOT COVERAGE ALLOWED BY ORDINANCE (60,993 S.F.):** 0.400

C.5.01

Exhibit C

PRISCO
SERENA
STURM

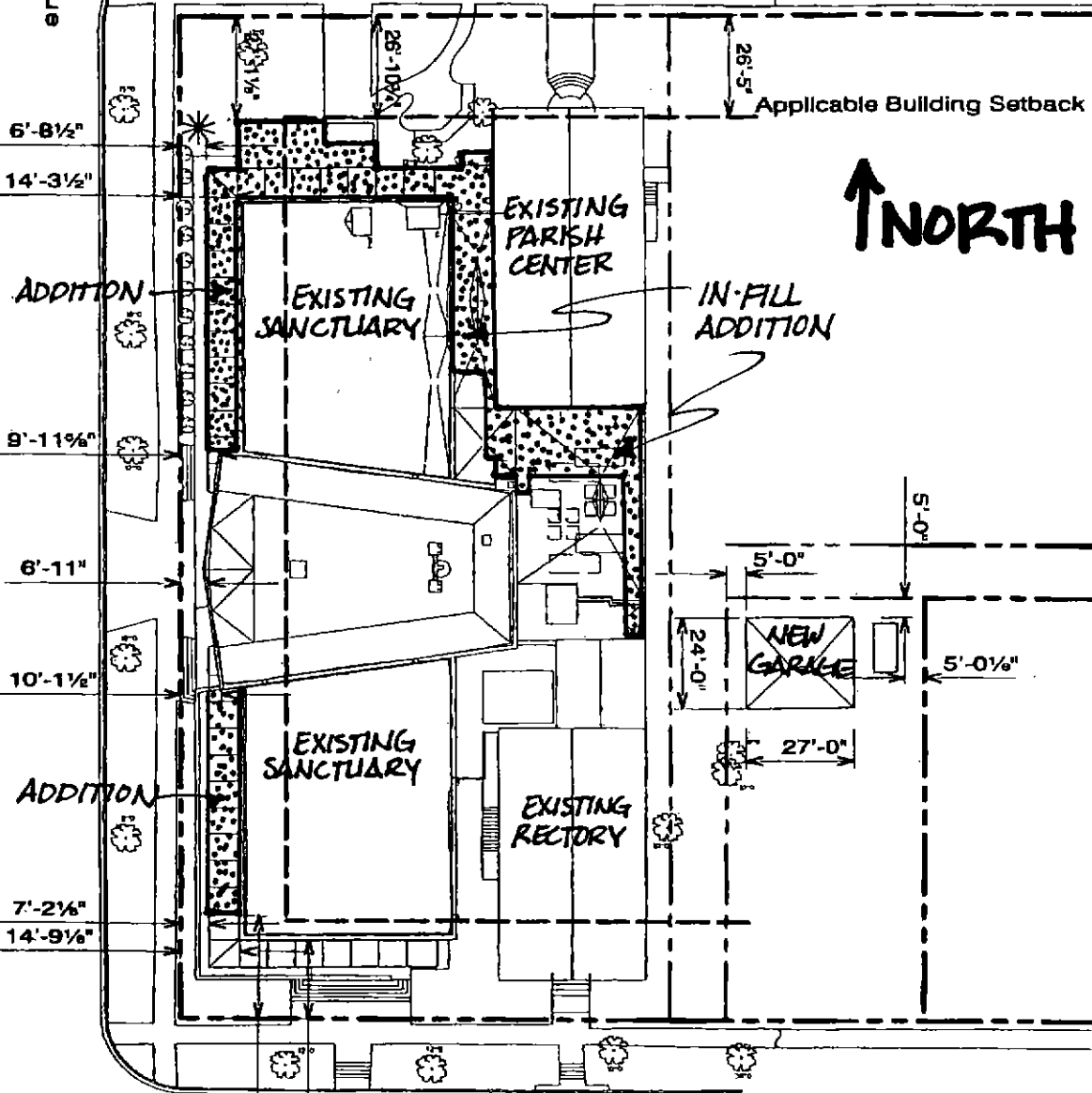
Douglas Avenue

Prairie Avenue

Applicable Building Setback

↑ NORTH

St. Mary of Gossyn Parish - Proposed Site Plan



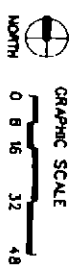
6'-8 1/2"
14'-3 1/2"
9'-11 1/2"
8'-11"
10'-1 1/2"
7'-2 1/2"
14'-9 1/2"

26'-10 1/2"
51 1/2"

24'-0"
27'-0"

21'-4 3/8"
27'-8"

Wilson Street



SEATING	
EXISTING :	PEWS - 392 LOOSE CHAIRS - 55 TOTAL CHAIRS - 1048
PROPOSED :	PEWS - 823 LOOSE CHAIRS - 225 TOTAL CHAIRS - 1048
TOTAL ADDITIONAL SQ. FOOTAGE +3878	
ACCESSORY GARAGE 648	
SQUARE FOOTAGE	
EXISTING CHURCH	11,280
SANCTUARY	1,990
NARTHEX	1,940
SUPPORT	9,120
PARISH CENTER	8,520
RECTORY	8,520
PROPOSED	
SANCTUARY	11,810
NARTHEX	2,100
SUPPORT	2,530
PARISH CENTER	8,120
RECTORY	8,520

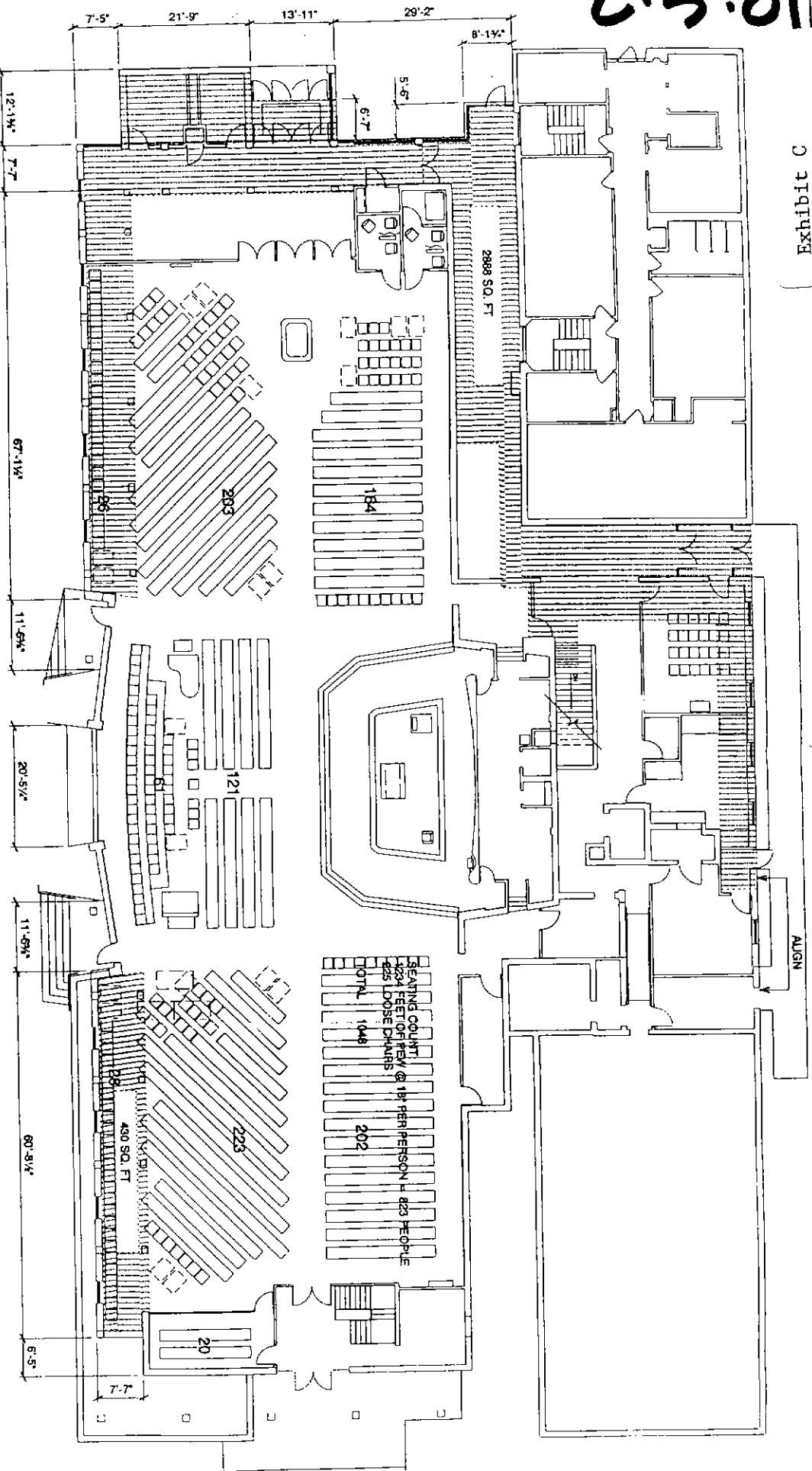
ZONING

C.S.01

Exhibit C

PRISCO
SERENA
STURM

St. Mary of Gostyn Parish - Proposed Plan



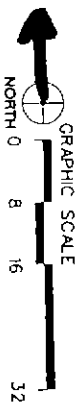
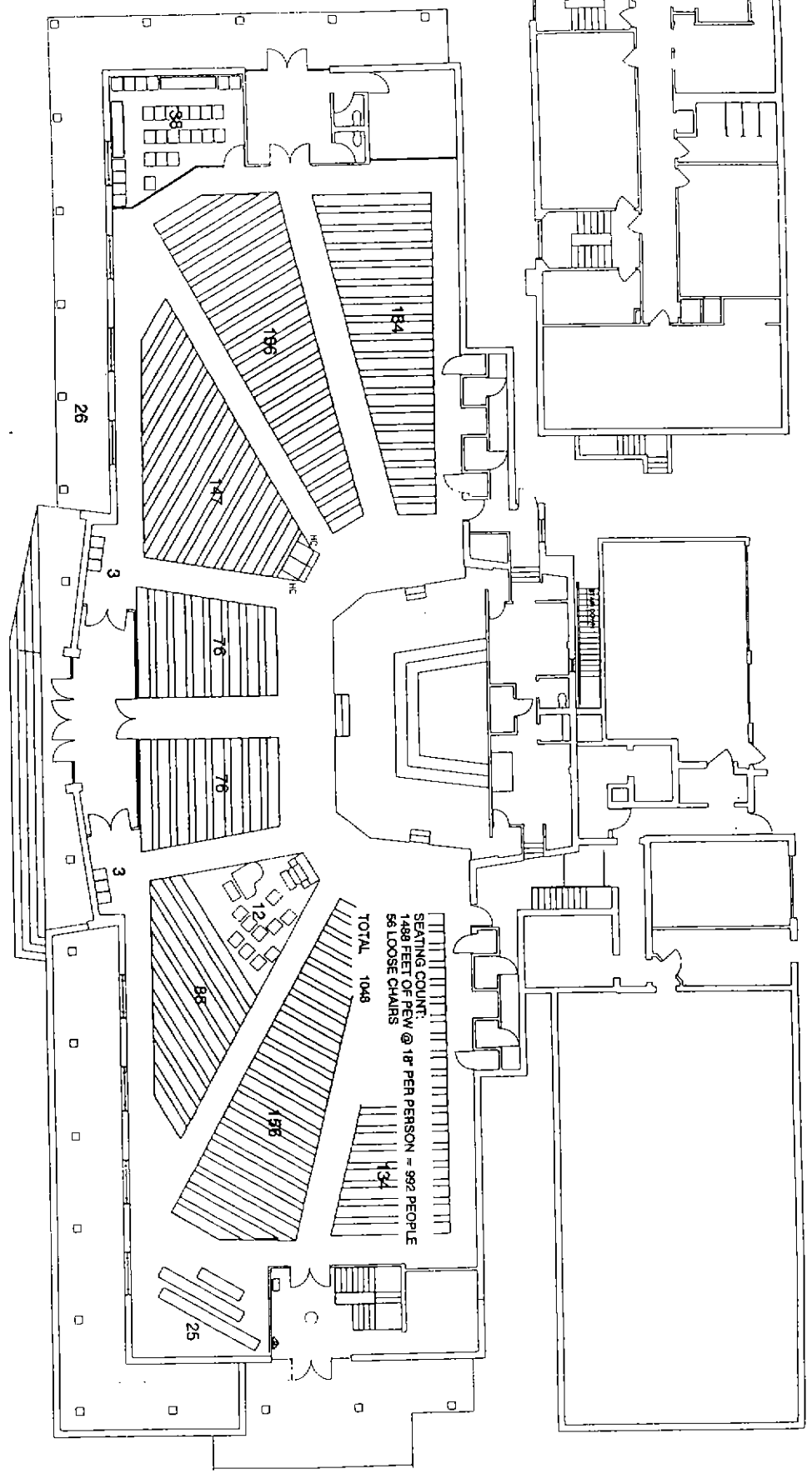
ZONES

C-5-01

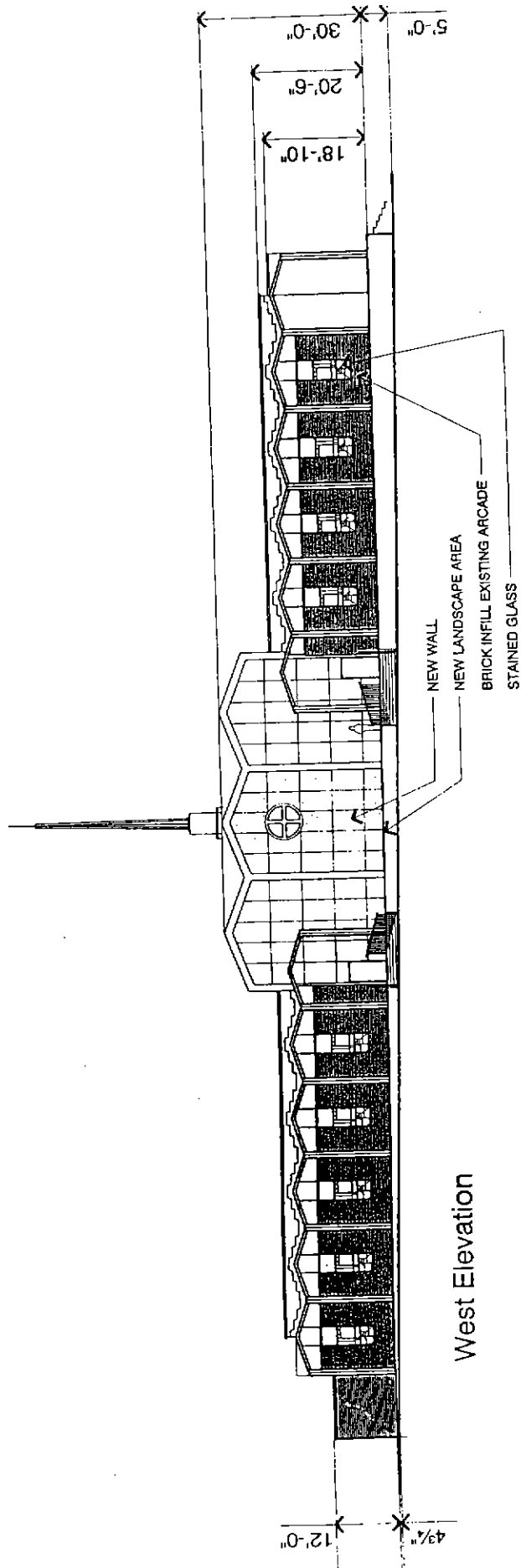
Exhibit C

PRISCO
SERENA
STURM

St. Mary of Gostyn Parish - Existing Plan

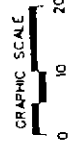


ZONE4



West Elevation

St. Mary of Gostyn Parish - Proposed Elevations



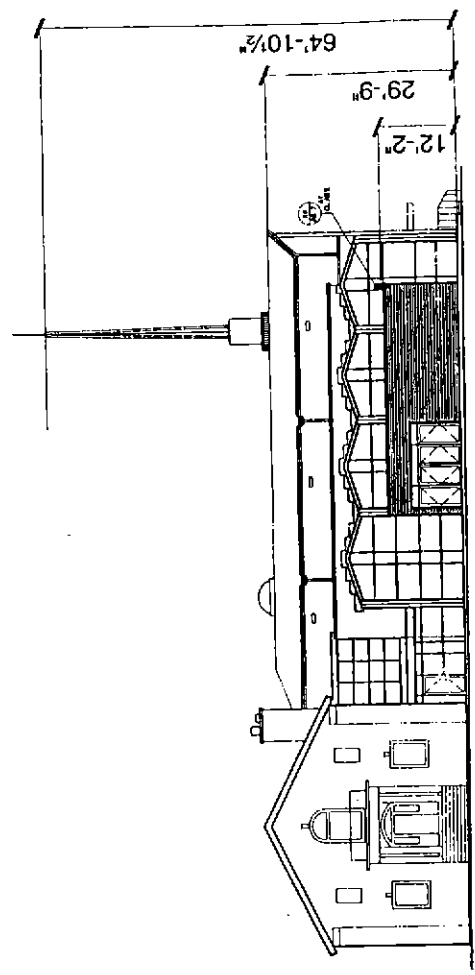
ZONE Z

PRISCO
SERENA
SITURAM

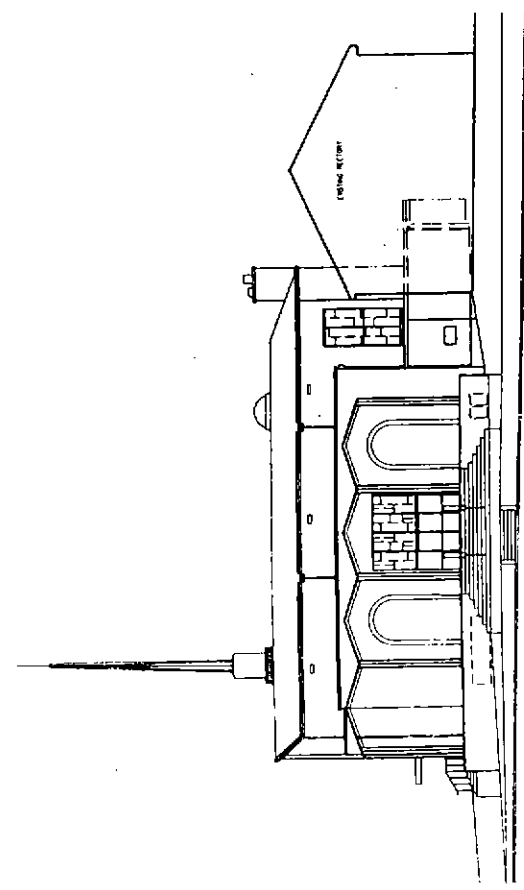
ARCHITECTS
P.C.

C-5-01

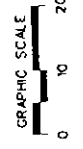
Exhibit C



North Elevation



South Elevation



ZONE 9

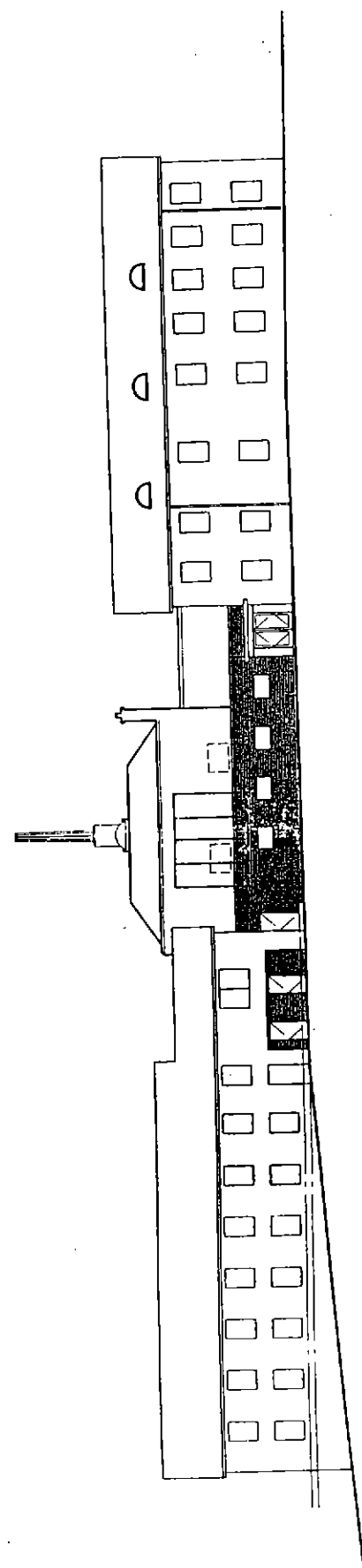
St. Mary of Gostyn Parish - Proposed Elevations

PRISCO
SERENA
STURM

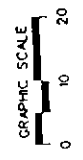


C-5-01

Exhibit C



East Elevation



ZONE 10

St. Mary of Gostyn Parish - Proposed Elevations

PRISCO
SERENA
STURM

ARCHITECTS
P.C.

PUBLIC HEARING:

C-5-01 A petition seeking the approval of an amendment to a Special Use for Saint Mary of Gostyn's Catholic Church including a request to reduce the setback requirement for the proposed addition. The property is located on the east side of Douglas Road between Prairie and Wilson Avenues, commonly known as 4744 Douglas Road, Downers Grove, Illinois; Roman Catholic Diocese of Joliet, Owner; James F. Russ, Jr., Attorney/Petitioner

FINDINGS:

1. St. Mary's Catholic Church, which is located on the east side of Douglas Road between Wilson Avenue on the south and Prairie Avenue on the north, is seeking approval of an amendment to their existing Special Use. This petition is being pursued so that St. Mary's may make an addition to their existing church sanctuary structure. In addition, the Church is proposing to construct a three car garage which is to be located to the east of the Church sanctuary and immediately south of the southwest corner of the parking lot.

The petitioner's proposal calls for an expansion to the east, north and west of the existing Church's sanctuary. The proposed addition will, if approved, increase the total floor area of the church by approximately 3,318 square feet. The expansions include building elements that will increase the east to west width of the sanctuary, an expansion at the north end of the sanctuary in order to provide for a ground floor handicapped washroom facility and to improve the circulation and building access functions in the area adjacent to the Prairie Avenue entrance to the church.

There is also a proposed expansion to the east of the sanctuary involving a small chapel for daytime use and an improvement which essentially in-fills the area between the Church's sanctuary and the Church's Parish Center building that is being proposed in order to permit parishioners protected access/egress to the parking lot located to the east of the sanctuary.

2. Specifically, the petitioner's proposal is to increase the north to south dimension of the building by a dimension ranging between 7 feet 7 inches (7.58 feet) to a dimension of 19 feet 8 3/8 inches (19.69 feet). This proposed addition will project to a point approximately 26 feet 10 3/4 inches (26.90 feet) south of the south line of Prairie Avenue.

The petition also proposes to expand the width of the church by 7 feet 7 inches (7.58 feet) as measured from the Church's current west wall. This proposal involves the expansion of the sanctuary under the area currently occupied by the arcade roof that runs along the west side of the church on either side of the Douglas Road entrance to the sanctuary. If approved, the setback along the west side of the sanctuary to the Douglas Road right of way will range between 6 feet 8 1/2 inches (6.71 feet) as measured at the northwest corner of the proposed addition to 7 feet 2 1/8 inches (7.18 feet) as measured at the southwest corner of the addition.

Along the south side of the Church, the setback of the new addition will measure 27 feet 8 inches (27.67 feet) north of the north line of the Wilson Street property line. The in-fill addition, the area between the current Church sanctuary building and the Parish Hall, is as depicted on the submitted drawings and is so located that all yard requirements will be met or exceeded.

With respect to the proposed garage, the Church's plan indicates that they desire to construct a 24 foot by 27 foot, three car garage which will take its access via the alley right of way located to the west of it. The proposed garage will be setback 5 feet each from the north and west property lines and will be approximately 18 feet west of the easterly property line. The site plan also depicts a 10 foot by 16 foot concrete pad area to be located to the east of the proposed garage. This pad site will be used to store the trash containers for the Church.

According to the petitioner's statement, the proposed addition to the west side of the sanctuary is necessary in order to provide adequate floor space to conduct several religious functions such as baptisms, funerals and other aspects of the Roman Catholic faith which are currently limited due to certain existing building constraints. The Church feels that it needs to make the building modifications without having to reduce the current seating capacity of the sanctuary. A statement outlining the petitioner's position and why they believe that approval of the proposed petition including the need for relief from the applicable setback requirements along the Douglas Road frontage of the subject property has been attached to the material that has been submitted with this petition.

3. The area in which the subject property is located is zoned R-4, single family residential. This zoning district has a minimum front yard setback requirement of 25 feet plus one foot for each foot of building height above 20 feet. With a calculated building height consistent with the definition and regulations pertaining to building height that is contained within the Village's Zoning Ordinance, the Church is required to provide minimum front yard setbacks for the proposed Church sanctuary additions of 26 feet 5 inches (26.42 feet). This setback obligation applies to each of the Prairie Avenue, Douglas Road and Wilson Street front yards. Although the proposed new construction meets the applicable setback obligations along the Prairie Avenue and the Wilson Street front yards, the setback of the addition along the Douglas Avenue frontage of the property falls short between 19.71 feet or 74.60% and 19.24 feet or 72.82% less than the applicable minimum setback.
4. In light of some recent litigation and certain changes in the State Statutes pertaining to Churches and how they may be regulated by governmental entities, the Village has recently amended certain provisions of the Zoning Ordinance. Specifically, the Village Council adopted Ordinance #4317 on July 17, 2001, which amended the definition section of the Zoning Ordinance by adding specific definitions for Church, Church School and Exercise of Religion. Additionally, the adoption of the Ordinance amended the provision of the Zoning Ordinance with the establishment of Section 28-1020, Churches.

This section establishes first that churches shall be constructed, maintained and operated in conformance with applicable zoning regulations. It goes on to provide that "...the Lot and Bulk regulations set forth in Article IX may be modified in the event, but only to the extent that, the Council determines that strict compliance substantially burdens the exercise of religion." Section 28-1020 provides a list of the procedures and conditions necessary for the Board and Village Council to make a determination and to approve relief from the Lot and Bulk provisions, if a positive determination is made under measures and standards as such are detailed under this section of the Zoning Ordinance.

As St. Mary's desires to make certain additions and modifications to their Church sanctuary and as the proposed expansion to the west does not meet the setback requirements that would be otherwise apply, St. Mary's, through its attorney, has in addition to the normal Special Use drawings and other required materials also filed a request for relief from the applicable setback standards as is authorized under the provisions of Section 28-1020 of the Zoning Ordinance.

It should be noted that the amount of setback relief that is necessary in order for the Church to modify their sanctuary, in the form they have determined to be necessary, exceeds the amount of setback relief that may be considered under the standard setback variation provisions which are contained under Section 28-1802(b) of the Zoning Ordinance. The provisions of this section limit the amount of a variation regarding the reduction of a yard requirement to no more than 50% of the applicable Zoning Ordinance standards.

The proposed request has been made by the petitioner on the basis that the Church's compliance with the applicable standard setback requirement would in this particular case substantially burden St. Mary's exercise of religion. A letter from the petitioner has been included for the Board's consideration which explains the general nature of the proposed addition and contains a statement which outlines the Church's reasons for requesting consideration to be permitted to make the proposed modification to the Church's sanctuary with a lesser setback from the Church's Douglas Road property line than is required by the Zoning Ordinance.

5. The proposed additions, both to the Church's sanctuary and the new freestanding garage, will result in an increase to the total floor area including all church owned buildings of 3,966 square feet to 85,981 square feet. This will, if approved, result in a new total floor area ratio of 0.5639 which is less than the maximum 0.60 floor area ratio applicable to permitted non-residential uses within the underlying R-4, single family residential zoning district.

The proposed addition will increase the total ground coverage (footprint area) of all buildings from 44,413 square feet to 48,379 square feet which is an increase of 3,966 square feet. This lot coverage is equal to 31.67% which is less than the 40% maximum permitted land area coverage applicable to churches.

With respect to parking, the Church currently has a total seating capacity of 1,065. Based upon the parking requirement of one space per three seats in the main auditorium, there are supposed to be a minimum of 355 off-street parking spaces. The church currently has 175 off-street parking spaces and therefore has a current parking legal non-conformity of 180 parking spaces. The proposed modifications to the Church will not result in a change in the number of seats as located in the main sanctuary and, therefore, will not change the Church's obligations with respect to the provision of parking spaces.

6. The provisions of Section 28-1902 of the Zoning Ordinance provide that "The Village Council may authorize a special use by ordinance provided the evidence presented is such as to establish the following:
- (i) That the proposed use at that particular location requested is necessary or desirable to provide a service or facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community.
 - (ii) That such use will not, under the circumstances of the particular case, be detrimental to the public health, safety, morals, or general welfare of persons residing or working in the vicinity or injurious to property values or improvements in the vicinity.
 - (iii) That the proposed use will comply with the regulations specified in this Zoning Ordinance for the district in which the proposed use is to be located.
 - (iv) That it is one of the special uses specifically listed for the district in which it is to be located."

The Board should also give appropriate consideration to Section 28-1020 of the Zoning Ordinance regarding churches. A copy of Section 28-1020 has been attached for the Board's consideration of this petition.

CONCLUSION:

The proposed amendment to St. Mary's Catholic Church special use has been filed under the provision of the recently amended Section 28-1020 of the Zoning Ordinance. Specifically, the petitioner has, through their attorney, filed a letter of opinion which establishes the Church's position on how they believe that the denial of the proposed modifications to the Church's sanctuary, including the reduction of the setback area located between the west wall of the modified Church structure and the Douglas Road property line, would as applied to this Church, "substantially burden the exercise of religion".

It should be noted that the proposed setback along Douglas Road will range between 6.71 feet and 7.18 feet with such reduction being equal to a reduction ranging between 74.60% and 72.82% of the minimum applicable required front yard setback. In its review of the petitioner's proposal, the Zoning Board of Appeals should, in addition to reviewing the Standards for

Approval of a Special Use as such standards are outlined under Section 28-1902 of the Zoning Ordinance, also give consideration and provide comments and recommendations to the Village Council, as appropriate, regarding the petitioner's submittal for relief from the applicable setback obligations according to the standards for providing such relief which are contained in Section 28-1020 (b) and (c) of the Zoning Ordinance.

KJR:amd
Attachments
11/29/01

Zoning Ordinance Section 28-1020

28-1020. Churches.

- (a) Where permitted as a special use, and except as provided herein, churches shall be constructed, maintained and operated in conformance with applicable zoning regulations. Provided, and except as otherwise expressly set forth in this Zoning Code, the Lot and Bulk regulations set forth in Article XI may be modified in the event, but only to the extent that, the Council determines that strict compliance substantially burdens the exercise of religion. Provided, no modification shall be permitted to the extent that the Council determines that application of the burden (i) is in furtherance of a compelling governmental interest and (ii) is the least restrictive means of furthering that compelling governmental interest.
- (b) In the event such a substantial burden is claimed, the applicant for a church special use shall submit materials and evidence as to the following:
 - (1) Describe the alleged burden in detail, including why such burden is of such a substantial nature so as to justify modification of the zoning regulations.
 - (2) Describe efforts employed by the applicant to avoid or reduce the burden.
 - (3) Describe the minimal modification requested to avoid or reduce the burden.
 - (4) Describe any adverse impacts of the requested modification on the area involved and efforts to reduce such impact.
 - (5) Such other items as the applicant may deem relevant or as requested by the Director, the Board or the Council related to the alleged burden or requested modification.
- (c) In the event it is determined that there is a substantial burden, and that the regulation at issue is not in furtherance of a compelling governmental interest or is not the least restrictive means of furthering that compelling governmental interest, the Board may recommend and the Council may authorize modification of the Lot and Bulk provisions of Article XI, subject to the following:
 - (1) The modification shall be the minimal adjustment needed so that the regulation no longer substantially burdens the exercise of religion. Provided, the regulation shall not be modified to the extent that it is in furtherance of a compelling governmental interest and is also the least restrictive means of furthering that compelling governmental interest.
 - (2) The modification shall be permitted only to the extent that and for the period of time that, the structure is used for a church. A covenant shall be recorded with the Office of the DuPage County Recorder of Deeds, in a form acceptable to Village Attorney, providing that the modification will be brought into compliance with the affected regulation in the event the property ceases to be used as a church. The Village shall have the right to refuse to issue, or to revoke an occupancy permit for the structure in the event it is not used as a church unless and until such compliance is achieved.
 - (3) Such conditions and restrictions may be imposed as appropriate to mitigate any adverse impact of the modification.