

D.C. Court Blocks Church Plan To Sell Property for Condos

St. Patrick's Episcopal Loses Variance Fight

By Ann Mariano
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The D.C. Court of Appeals has ruled that St. Patrick's Episcopal Church cannot sell its property at the intersection of Reservoir and Foxhall roads NW to a condominium developer for \$1.16 million.

St. Patrick's is deeply in debt from construction of a new church across from Mount Vernon College, and church officials say they desperately need the proceeds from the sale of their old church at Foxhall and Reservoir. Nonetheless, the Rev. James Steen, St. Patrick's rector, said the church does not plan to argue the case again before the Board of Zoning Adjustment, as the recent court decision would permit.

"We plan to market the property as it is," said the Rev. James Steen, St. Patrick's rector. "We don't want to drag this out. . . ."

The court decision was a victory for the Foxhall Community Citizens Association, which fought the St. Patrick's sale for two years. Residents argued that converting the church building to condominiums would change the character of the neighborhood and create traffic and parking congestion.

When the zoning appeals board granted the church a variance two years ago that would have permitted developer Daniel O'Donoghue to build 21 condos in the 59-year-old building, the citizens group took the case to the appeals court.

O'Donoghue had signed a sales contract for the property, with the purchase contingent on receiving city permission for a zoning change.

Church attorneys argued that St. Patrick's needed the variance because the church would suffer "exceptional and undue hardship" if it could not sell the property for a satisfactory price.

St. Patrick's decided to erect a new church because the old building was expensive to maintain, needed "costly renovation" and could not be expanded, and thus "would not satisfy the future needs of the congregation," church lawyers told the appeals court.

Because of a series of additions to the three-story brick building in the 1950s and '60s, the old church "now has seven different levels of odd configuration," making the structure difficult to sell for a price high enough to meet church needs, the attorneys said.

Present zoning would permit construction of up to 11 town houses, making the property worth about \$500,000 to a developer, Haviland Abbott, a member of a real estate brokerage firm, said in testimony before the court. O'Donoghue planned to incorporate the shell of the church in the condo project.

The citizens association argued that "St. Patrick's manufactured its own hardship through misconceived additions to its original building," a court document said. The judges agreed, saying the church's hard-

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old story:
child kills
parents; pleads
for forgiveness
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Court Blocks Church On Plan to Sell Land

ST. PATRICK'S, From E1

ship was "self-imposed" and could not be "a basis for a use variance."

D.C. law empowers the Board of Zoning Adjustment to grant a variance when a "strict application" of regulations "would result in peculiar and exceptional practical difficulties or undue hardship" for a property owner.

St. Patrick's built its new church in 1985 at a cost of \$5 million, of which about \$3.5 million was for construction. A building at the site, 4700 Whitehaven Pkwy. NW, was incorporated into the church project for the St. Patrick's school, which enrolls students from nursery level through sixth grade.

The church needs proceeds from the sale to help repay a debt of more than \$2 million, Steen said in an interview. Lack of income from the old church, which has been boarded up for nearly two years, has been a financial drain on the congregation, he said.

Several developers who would build town houses on the site have made offers, Steen said, but he would not say how much. In addition to religious structures and town houses, current zoning would allow use of the site for embassy residences.

Robert J. Siciliano, president of the citizens association at the time the case was appealed, said the

group was "very pleased" with the court ruling.

"But we're not gloating. We didn't want this to go to litigation," said Siciliano, adding that residents "were willing to talk" with St. Patrick's leaders and the developer about "something more in scale . . . with the neighborhood, something that would be architecturally polite."

"A town house development would be excellent [on the site] if it is compatible" with the English tudor style of the surrounding homes, he said.

The appeals court decision "was one of the few instances when a citizens' association has been able to raise the money and bring a challenge against a well-heeled opponent," said William A. Dobrovir, the association's attorney.

A ruling in favor of the church would have set a precedent under which owners could get variances merely by saying they could make more money from their property if they received zoning changes, Dobrovir said.

Attorney Whayne S. Quin, who represented the church, disagreed. The decision "changes the law in D.C. in some respects," Quin said. If a person bought property knowing that it was unusable at the time of purchase, the buyer could never make a case for a zoning change, and "that amounts to confiscation."

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