



CITY OF DEWITT

DEWITT CITY HALL · 414 EAST MAIN STREET · DEWITT, MICHIGAN 48820

**Zoning Board of Appeals
414 East Main Street DeWitt Mi
Meeting Agenda
Monday, July 24, 2023
6:00 PM**

Call To Order-Zoning Board of Appeals

Pledge of Allegiance

Public Hearing - 6:00 pm OR as soon thereafter as may be heard. To receive oral comments regarding the application for multiple non-use variance requests submitted by Promise Assembly of God, 206 W Washington St Street, DeWitt MI 48820.

New Business

1. Review 210 W Washington Street application for dimensional non-use variance requests

RECOMMENDED ACTION: The approval or denial of this variance request shall be based on the practical difficulty of complying with the ordinance due to the unique characteristics of the parcel located at 210 West Washington.

The ZBA should deliberate and make a motion to adopt the Resolution to Grant or adopt the Resolution to Deny.

ADJOURNMENT

Official minutes of the ZBA Meetings are available for public inspection at the Clerk's Office, 414 East Main Street, DeWitt, Michigan 48820. The City of DeWitt will provide to individuals with disabilities, reasonable auxiliary aids and services which are needed to fully participate in any meeting provided a 72-hour notice is received by phone or in writing. Contact the City Clerk at 414 East Main Street, DeWitt, Michigan 48820, or by calling (517) 669-2441. POSTED: July 20, 2023.

Staff Report for Zoning Board of Appeals

Agenda Item: NB #1
Meeting Date: July 24, 2023

TO: Zoning Board of Appeals
FROM: Dan Coss, Zoning Administrator
DATE: July 20, 2023
RE: Non-Use Dimensional Variance Requests 210 W Washington Street

FACTS: The owners of 210 West Washington, DeWitt Memorial Association (DMA), have entered into a purchase agreement with Promise Assembly of God to acquire the building located at 210 West Washington.

The DMA has owned the property since the early 1940s and the building's principal use, since construction, has been a Community Building for the duration of that time. The building is comprised of an east half and a west half.

Over the years, several different tenants have occupied a portion of the building, i.e., DeWitt District Library, fitness center, and most recently Promise Assembly of God has been utilizing the west half for Sunday worship services.

Ownership of the building had been retained by the DeWitt Memorial Association since the existence of the building and it has served as their primary location for the affairs of the DMA.

The property is currently zoned R-3 Moderate Density Mixed Residential, which outlines both, community buildings and religious worship service buildings, as separate and distinct special land uses in an R-3 district. The zoning ordinance requires that any time there is a change from one special land use to another special land use the subject property is required to seek approval for the new requested special land use.

In addition, the Zoning Ordinance specifies general and specific requirements for religious worship services. The two (2) specific requirements outlined in Section 78-240 (h) 1-2 in an R-3 District are:

1. The minimum lot area shall be at least thirty thousand (30,000) square feet.
2. No building shall be closer than forty (40) feet to any property line or street right-of-way.

These requirements are specific to dimensional requirements and the Non-Use Variance Application outlines the relief sought and the reasons for seeking relief.

CITY OF DEWITT
APPLICATION FOR NON-USE VARIANCE



RECEIVED

JUN 26 2023

CITY OF DEWITT

City of DeWitt
414 East Main Street
DeWitt, Michigan 48820

All questions must be answered completely.

1. Fee Information:
\$285.00 for all Non-Use Variance Requests

2. Appellant Information:

Name of Appellant : Promise Assembly of God

Appellant's Signature: *Justin S. Covert*

Address of Appellant: 206 W Washington St

City: DeWitt State: MI Zip: 48820

Phone: 517 281-1272 Fax: ()

3. Property Information:

Lot Number: 274 Name of platted subdivision: ASSESSOR'S PLAT NORTH

Legal Description (if metes and bounds):

LOT 274 ASSESSOR'S PLAT-NORTH, CITY OF DEWITT

CITY USE ONLY

Date Received: 6-26-2023 Meeting Date:

Fee Received: 285.00 Receipt Number: 100184702

Approved/Not Approved:

If there are deed restrictions on this property, please attach.

Property Address: 210 W Washington St

Present use of property: The property is currently used for community events and meetings such as birthday and holiday parties, local hobbyist gatherings, etc.

Property is zoned: R-3

4. Non-Use Variance:

<i>Site Development Requirements</i>	<i>Zoning Ordinance Requires</i>	<i>Owner Requests</i>
Lot Width	_____	_____
Lot Area	_____	_____
Front Yard Setback	<u>40'</u>	<u>7'</u>
Side Yard Setback	<u>40'</u>	<u>27'</u>
Rear Yard Setback	_____	_____
Floor Area	_____	_____
Maximum Height	_____	_____

Parking and Loading

Number of Parking Spaces	_____	_____
Number of Loading Spaces	_____	_____

Advertising Signs

Maximum Display Area	_____	_____
Maximum Sign Height	_____	_____
Minimum Setback	_____	_____
Maximum Number of Signs	_____	_____

State exactly what is intended to be done on, or with, the subject property, which necessitates a variance from the Zoning Ordinance.

APPLICANT WOULD LIKE TO UTILIZE PROPERTY FOR RELIGIOUS WORSHIP

SERVICES. APPLICANT WAS RECENTLY GRANTED CONDITIONAL APPROVAL

FROM PLANNING COMMISSION FOR THIS USE CONTIGENT ON ZBA APPROVAL

OF NON-USE (SETBACK) VARIANCE (EXISTING BUILDING DOES NOT MEET

CURRENT ORDINANCE SETBACKS ON TWO SIDES).

Describe the characteristics of your property which you believe requires the granting of a variance (include dimensional information).

Too Narrow Elevation Soil
 Too Small Slope Substance
 Too Shallow Shape Other, Specify

EXISTING BUILDING WAS CONSTRUCTED IN 1940's AND DOES NOT MEET

CURRENT 40' MINIMUM SETBACKS (ON TWO SIDES) FOR CHURCH FACILITIES.

EXISTING FRONT SETBACK IS APPROXIMATELY 7'.

EXISTING EAST SETBACK IS APPROXIMATELY 27' - 28'.

5. Justification for the granting of the variance. The applicant must show that strict application of the Zoning Ordinance would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Ordinance. To assist the Board of Appeals in making a decision about the request, please provide answers to each of the following questions:

a. Can the property in question be used in a manner permitted by the Zoning Ordinance if a variance is not granted? Yes No

If no, what unnecessary hardship will result if the variance is not granted?
While use of the property is possible without variance, current owner would like to sell property to applicant, who can only use property if variance is granted.

b. Are the conditions on your property the result of a man-made change (such as the relocation of a street)? Yes No

If yes, please describe. **Property was platted and building was constructed prior to establishment of current zoning ordinance and building does not meet setbacks established after construction.**

c. Will the strict application of the terms of the Zoning Ordinance deny use of the property for any purpose to which it is reasonably adapted?
 Yes No

If yes, please describe. **Current ordinance setback requirements, if applied, would not allow applicant to utilize property as worship facility.**

- d. Is the variance applied for due to unique circumstances present on your property or to general conditions in the area? Yes No

If yes, please describe. _____

Existing building was constructed prior to current ordinances, similar to existing school building across street, which also conflicts with zoning.

- e. Is the variance requested in the minimum amount necessary to allow the development of the property or to overcome the practical difficulty?

Yes No

If yes, please describe.

Property was developed in 1940's. Applicant is only requesting variance to extent required to allow current conditions to be maintained while allowing proposed worship facility use on site.

6. Please provide responses to the following statements as justification why you believe the variance should be granted.

- a. The variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by the other properties in the same zoning district and in the vicinity of the subject property.
Applicant intends to use facility on more consistent basis than existing community rental use, better utilizing and supporting facility maintenance and preservation than existing use. Similar intensity uses and buildings, such as Fuerstenau school, are present nearby.

- b. The variance, if granted, will not be detrimental to adjacent properties and the surrounding neighborhood.

The variance, if granted, will maintain existing conditions on site while allowing for use of the property as a worship facility, with similar noise, traffic and occupant loads to existing facility use.

- c. The practical difficulty causing the need for the variance request was not created by the action of the applicant.

Existing facility was constructed prior to current ordinance establishment. Applicant has not constructed or affected conditions on site and is not proposing any modifications to existing facility or site.

An application shall not be accepted as complete until all required materials are provided and the submittal is deemed complete by the City by way of signature.

Signed: *Janet S. Conant*

Date: 6/26/23

City Use Only

Date of Public Hearing: _____

Date letters sent to parties of interest/property owners: _____

Date Public Notice published in DeWitt-Bath Review: _____

CITY OF DEWITT
414 E MAIN STREET
DEWITT MI 48820
(517) 669-2441
WWW.DEWITTM.I.ORG

DATE 06/26/2023
RECEIVED OF PROMISE ASSEMBLY OF GOD
TOTAL RECEIVED: 285.00

RECEIPT #: 100184702
CASHIER: PAUL

COMMENTS:
VARIANCE APP

DESCRIPTION	AMOUNT
VARIA 206 W WASHINGTON APP VARIANC	285.00
101-000-613.000	285.00
Tendered: Checks 1745	285.00

**CITY OF DEWITT
CLINTON COUNTY, MICHIGAN**

**RESOLUTION GRANTING THE VARIANCE
REQUEST REGARDING 210 WEST WASHINGTON STREET**

At a meeting of the City of Dewitt Zoning Board of Appeals, held in the City Hall, Clinton County, Michigan, on July 24, 2023:

PRESENT: _____

ABSENT: _____

The following Preamble and Resolution were offered by _____ and supported by _____.

WHEREAS, the Michigan Zoning Enabling Act, MCL 125.3101 *et seq.*, as amended, and the City of DeWitt Zoning Ordinance (the “Zoning Ordinance”) authorizes the Zoning Board of Appeals (“ZBA”) to consider requests for non-use variances; and

WHEREAS, the Applicants, Promise Assembly of God (the “Applicants”), the property applicants of 210 West Washington Street (the “Property”), have submitted a non-use variance request (the “Application”) for the purposes of a special land use in an existing building that would violate the setback requirements of the Property; and

WHEREAS, the Property is zoned R-3, Moderate Density Mixed Residential, which has a setback requirement of forty (40) feet from any lot line or right-of-way under Section 78-240 of the Zoning Ordinance; and

WHEREAS, the existing building on the Property sits seven (7) feet from the southern property line and twenty-seven (27) feet from the eastern property line, and the building is in current operation as a community service building which has the same setback requirement; and

WHEREAS, the Applicants have based their request upon the arguments made within the Application.

THEREFORE, be it resolved by the Zoning Board of Appeals of the City of DeWitt, Clinton County, Michigan, as follows:

1. The ZBA **GRANTS** the non-use variance request to allow the Applicants to operate a special land use religious worship service at 210 West Washington Street:

- A. There are exceptional or extraordinary circumstances or conditions applying to the property in question that do not apply generally to other properties in the same zoning district.
- B. Compliance with the setback requirements would unreasonably prevent the use of the property. Granting the non-use variance would do substantial justice to the Applicants and such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity.
- C. That the requested variance will not be significantly detrimental to adjacent property and the surrounding neighborhood or interfere with or discourage the appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.
- D. That the granting of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the City.
- E. The immediate practical difficulty causing the need for the variance request was not self-created by the Applicants.

2. The ZBA directs the Secretary to send notice to the Applicants of the decision of the ZBA, including a copy of this Resolution.

3. Any and all resolutions, motions or decisions of the ZBA that are in conflict with this Resolution are hereby repealed.

ADOPTED:

YEAS: _____

NAYS: _____

STATE OF MICHIGAN)
)
COUNTY OF CLINTON)

I, the undersigned, the duly qualified and acting Secretary of the Zoning Board of Appeals of the City of DeWitt, Clinton County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the City Zoning Board Appeals of said City at a meeting held on July 24, 2023.

Secretary

32566:00001:5024627-1

**CITY OF DEWITT
CLINTON COUNTY, MICHIGAN**

**RESOLUTION DENYING THE DIMENSIONAL VARIANCE
REQUEST REGARDING 210 WEST WASHINGTON STREET**

At a meeting of the City of DeWitt Zoning Board of Appeals, held in the City Hall,
Clinton County, Michigan, on July 24, 2023:

PRESENT: _____

ABSENT: _____

The following Preamble and Resolution were offered by _____ and
supported by _____.

WHEREAS, the Michigan Zoning Enabling Act, MCL 125.3101 *et seq.*, as amended, and
the City of DeWitt Zoning Ordinance (the “Zoning Ordinance”) authorizes the Zoning Board of
Appeals (“ZBA”) to consider requests for non-use variances; and

WHEREAS, the Applicants, Promise Assembly of God (the “Applicants”), the property
applicants of 210 West Washington Street (the “Property”), have submitted a non-use variance
request (the “Application”) for the purposes of a special land use in an existing building that
would violate the setback requirements of the Property; and

WHEREAS, the Property is zoned R-3, Moderate Density Mixed Residential, which has
a setback requirement of forty (40) feet from any lot line or right-of-way under Section 78-240 of
the Zoning Ordinance; and

WHEREAS, the existing building on the Property sits seven (7) feet from the southern property line and twenty-seven (27) feet from the eastern property line, and the building is in current operation as a community service building which has the same setback requirement; and

WHEREAS, the existing use is a legal non-conforming use and complies with the Zoning Ordinance; and

WHEREAS, the Application requests a thirty-three (33) foot variance, which would result in a seven (7) foot setback from the southern lot line, and a twenty-seven (27) foot variance from the eastern lot line, which would result in a thirteen (13) setback, making the building useable for religious worship services; and

WHEREAS, the Applicants acknowledge that the Property can be used in a manner permitted by the Zoning Ordinance and strict application of the Zoning Ordinance will not deny use of the Property; and

WHEREAS, the side yard setback distance is set such that emergency vehicles have adequate space to access properties, prevent the discharge of storm water onto neighboring properties and prevent fire hazards; and

WHEREAS, the Applicants have based their request upon the arguments made within the Application.

THEREFORE, be it resolved by the Zoning Board of Appeals of the City of DeWitt, Clinton County, Michigan, as follows:

1. The ZBA **DENIES** the non-use variance request to allow the Applicants to operate a special land use religious worship service at 210 West Washington Street in a location which violates the setback requirements for such structures. The variance request does not meet all of the required standards of the Zoning Ordinance (Section 78-585(e)(2)) for the following reasons:

- A. *Extraordinary Circumstances.* The condition giving rise to the variance request is not unique to the Property and is consistent with the zoning district. The Property dimensions and shape are consistent with other properties on Main Street. There are no exceptional topographic conditions or extraordinary aspects of the land or structures on the Property or the land or structures of adjoining properties. There are no aspects of the existing Property and the conditions upon it that meet the standard for a variance under the Zoning Ordinance.
 - B. *Practical Difficulty/Substantial Justice.* The Applicants’ request is not based on “practical difficulty” as defined by the Zoning Ordinance. The Applicants admit that they are not prevented from the use of their property without a variance. The Applicants continue to have “enjoyment of a substantial property right” when compared to other properties in the R-3 zoning district. Further, the proposed location of the detached accessory structure could be shifted toward the rear property line and the west property line, which would resolve the issues expressed by the Applicants while meeting all of the required setbacks.
2. The ZBA directs the Secretary to send notice to the Applicants of the decision of

the ZBA, including a copy of this Resolution.

3. Any and all resolutions, motions or decisions of the ZBA that are in conflict with this Resolution are hereby repealed, but only to the extent to give this Resolution full force and effect.

ADOPTED:

YEAS: _____

NAYS: _____

STATE OF MICHIGAN)
)
 COUNTY OF CLINTON)

I, the undersigned, the duly qualified and acting Secretary of the Zoning Board of Appeals of the City of DeWitt, Clinton County, Michigan, DO HEREBY CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the City Zoning Board Appeals of said City at a meeting held on July 24, 2023.

 Secretary



CITY OF DEWITT

DEWITT CITY HALL · 414 EAST MAIN STREET · DEWITT, MICHIGAN 48820

July 6, 2023

Dear Resident:

In accordance with the Michigan Zoning Enabling Act, Act 33 of 2006, as amended, the Zoning Board of Appeals (ZBA) of the City of DeWitt will hold a public hearing on **Monday, July 24, 2023, at 6:00 p.m. in the Council Chambers at DeWitt City Hall, 414 East Main Street, DeWitt, MI**, to review a Non-Use Variance Request for the property at 210 West Washington.

The applicant has requested a setback variance, from 40-feet to 7-feet and 27-feet, for an existing building that is seeking a Special Land Use permit for religious worship services.

The ZBA will review current standards to determine if the applicant's request shall be granted or denied.

The City is notifying all property owners within 300 feet of the property, but any resident is welcome to attend the public hearing. All interested persons in attendance at the public hearing will be given the opportunity to be heard. Any person who needs special accommodations to participate in the public hearing must notify the City Clerk at least one (1) week prior to the scheduled hearing. Any questions or comments about the variance request can be directed to the City Hall at (517) 669-2441 prior to the public hearing.

If you are unable to attend written comments can be submitted to the City Administrator, dcoss@dewittmi.gov, by Friday, July 21, 2023 at 4 PM and will be entered in to the official record at the meeting on July 24, 2023.

The application and additional materials may be viewed at the DeWitt City Hall, 414 East Main Street.

Sincerely,

Daniel Coss
City Administrator

City of DeWitt Zoning Board of Appeals Non-Use Variance: 210 W. Washington St. – Place of Worship

Applicant:	Promise Assembly of God
Project:	Place of Worship
Address:	210 W. Washington Street, DeWitt, MI 48507
Date:	July 24, 2023
Request:	Non-Use Variance

OVERVIEW



Figure 1: Aerial View + Zoning

The proposed project is a place of worship in an existing building. The site is zoned R-3, where “churches, temples, and other places of worship or public assembly” are permitted by special land use.

Section 78-240(h) of the City of DeWitt Zoning Ordinance articulates the specific requirements for “churches, temples, and other places of worship or public assembly,” and the existing building does not meet the criteria that “no building shall be located closer than 40 ft. to any property line or street right-of-way.” The site does not meet the requirement for the side setback on the east side of the property (24 ft), nor to the ROW in front of the building (27 ft).

The project went before the City of DeWitt Planning Commission on Thursday, June 22, 2023. The

Planning Commission recommended approval of the special land use for a place of worship to the City of DeWitt City Council and approved the site plan, contingent upon a non-use variance approval for the 40-ft. setback requirement from the Zoning Board of Appeals (ZBA).

NON-USE VARIANCE REQUESTS

A variance is a land use tool that provides some relief to the landowner when a proposed alteration to a property cannot comply with the existing zoning ordinance due to external factors. For a variance to be granted, requests for a “non-use” variance must adhere to the terms outlined in the report, based on the criteria in Section 78-583(e). A non-use variance may be allowed by the ZBA only in cases where there is *reasonable evidence of practical difficulty* in the official record of the hearing and that all of the following conditions are met.

Analysis of Standards

Article XXII. Section 78-585(e). Powers and Duties.

Criteria	Finding	Assessment
<p>Extraordinary circumstances. That the condition or situation of the specific parcel of property or the intended use of such property for which the variance is sought is unique to that property and not commonly present in the general vicinity or in the zone district. The applicant must prove that there are certain features or conditions of the land that are not generally applicable throughout the zone and that these features make it impossible to earn a reasonable return without some adjustment. Such unique conditions or situations include:</p> <ol style="list-style-type: none"> Exceptional narrowness, shallowness, or shape of a specific property on the effective date of the ordinance from which this chapter is derived. Exceptional topographic conditions or other extraordinary situation on the land, building or structure. The use or development of the property immediately adjoining the property in question. Any other physical situation on the land, building or structure deemed by the ZBA to be extraordinary. 	<p>None of these conditions apply to this property; however, this is an existing structure that is not increasing in its nonconformity. Sections 78-356 and 78-357 state that nonconforming sites shall be continued to be permitted as long as changes do not increase nonconformity.</p>	<p>Met</p>
<p>Practical difficulty/substantial justice. Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, density, or other dimensional provisions, would unreasonably prevent the use of the property. Granting of a requested variance or appeal would do substantial justice to the applicant as well as to other property owners in the district and such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. The possibility of increased financial return shall not of itself be deemed sufficient to warrant a variance.</p>	<p>The owner would be unreasonably prevented from the use of his property without a variance as the property owner would not be permitted to conduct any business in the existing structure because of the setback violation.</p>	<p>Met</p>
<p>Impact of surrounding neighborhood. The nonuse variance will not be significantly detrimental to adjacent property and the surrounding neighborhood or interfere with or discourage appropriate development, continued use, or value of adjacent properties and the surrounding neighborhood.</p>	<p>The building is existing and was previously used for an assembly use.</p>	<p>Met</p>
<p>Public safety and welfare. The granting of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase</p>	<p>The building is existing and will not change.</p>	<p>Met</p>

Criteria	Finding	Assessment
the danger of fire or endanger the public safety, comfort, morals or welfare of the inhabitants of the city.		
Not self-created. The immediate practical difficulty causing the need for the variance request was not self-created by the applicant.	The building is existing.	Met

Recommendation

The approval or denial of this variance request shall be based on compliance with all of the criteria discussed above based on Section 78-583(e) of the City of Dewitt’s Zoning Ordinance.