STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF YORK	CASE NO. 2023-CP46-01467
Midway Baptist Church of York, PLAINTIFF, v. County of York, DEFENDANT.	**ORDER** **Rules 52(b) and 59(e), SCRCP**

This matter came before me for a hearing on upon motion by the Defendant ("County or Defendant") to reconsider my order filed on June 25, 2025. ("Order").

"[O]ur rules contemplate two basic situations in which a party should consider filing a Rule 59(e) motion. A party may wish to file such a motion when [he] believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. A party must file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review." *Elam v. S.C. Dep't of Transp*., 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004). In addition, "upon motion of a party … the court may amend its findings or make additional findings and may amend the judgment accordingly. Rule 52(b), SCRCP.

At the heart of this controversy is the County's decision to change certain classrooms from an Assembly A-3 occupancy to an Educational Group-E occupancy. In my Order, I did not conduct the two-step analysis as set out by our Supreme Court in *Kiawah Dev. Partners, II v. S.C. Dep't of Health & Envtl. Control*. 411 S.C. 16, 32, 766 S.E.2d 707,717 (2014) ("Interpreting and applying statutes and regulations administered by an agency is a two-step process".). The trial court must first determine if the code's language speaks directly upon the issue, and if so, the court must apply the clear meaning of the code. *Id.* If the language is ambiguous or silent on the issue, the trial court must defer to the agency's interpretation, if its decision is worthy of deference. *Id.* at 33. A trial court "will defer to an agency's interpretation of a statute or regulation unless it is arbitrary, capricious, or manifestly contrary to the [regulation]. *Doe v. Keel*, 440 S.C. 427, 431, 892 S.E.2d 282, 284 (2023).

Based upon the foregoing, I amend my conclusions, and make additional findings. The additional findings of fact include the testimony of the County's Building Official, Jamie Catoe ("Catoe") and Deputy Building Official Jennifer Culver ("Culver") not included in the prior order.

FINDINGS AND CONCLUSIONS

Section 305.1 of the South Carolina Building Code ("code") provides that an Educational Group E occupancy "includes, among others, the use of a building or structure, or a portion thereof, by six or more persons at any one time for educational purposes through the 12th grade". This language clearly includes the Academy, which will use classrooms to provide education involving K-12th grade of more than 5 persons.

Following section 305.1 is section 305.1.1, entitled "Accessory to Places of Religious Worship". It provides that "[r]eligious educational rooms and religious auditoriums, which are accessory to *places of religious worship* in accordance with Section 303.1.4 and have *occupant loads* of less than 100 per room or space, shall be classified as Group A-3 occupancies". (emphasis not added). Section 303.1.4 mirrors this language and provides that "[a]ccessory religious educational rooms and religious auditoriums with *occupant loads* of less than 100 per room or space are not considered separate occupancies". (emphasis not added). The language of both sections clearly set forth three requirements: (1) religious educational room; (2) accessory to a place of religious worship; with an (3) occupant load of less than 100 persons per room. If the exceptions apply, the occupancy is not considered a separate occupancy and shall be designated as A-3.

My order first addressed whether the subject rooms met the occupant load requirement. Occupant load is defined in the code under section 202 as "[t]he number of persons for which the *means of egress* of a building or portion thereof is designed". (emphasis not added). The evidence presented by Plaintiff is that the Academy would operate within this limit. The Defendant did not contest that this is Plaintiff's intent.

Next, the order addressed whether the subject rooms were "accessory to a place of religious worship". The code defines a place of religious worship as "[a] building or portion thereof intended for the performance of religious services". The building code defines an accessory occupancy in section 508.2 as an occupancy that is "ancillary to the main occupancy of the building or portion thereof". The term ancillary is not defined in the code.

In my order, I used section 508.2 to determine whether the subject rooms were accessory to a place of religious worship. The County proceeded likewise in making its decision. Culver testified that she approved defining accessory to places of religious worship as ancillary to the main building or portion thereof. Culver's testimony also defined an A-3 accessory occupancy as religious education associated with the religious uses of the church and the religious functions of the church in the manner that the code defines place of religious worship. Her testimony also explained that ancillary under an A-3 included a classroom for church purposes. Catoe testified that an A-3 occupancy includes religious education associated with the principle use.

I amend my conclusions in my prior order regarding this requirement, and now defer to the County's interpretation: accessory to a place of religious worship means associated with the principle use of the church, functions of the church, or church purpose. The County decided that the Academy was not an accessory use. I discuss later why I do not defer to this decision.

Last, the exceptions require the space be a religious educational room. This phrase is not defined in the code, and it was not defined or explained by Catoe or Culver. Instead, both repeatedly referred to *religious education*. Catoe testified that A-3 allows for *religious education*. He testified that the current use of the area is an A-3 occupancy because it is *religious education*. Culver likewise testified that an A-3 occupancy allows *religious education*, and confirmed that the current use was A-3. She also testified that County officials considered what constituted *religious education* in this process.

I amend my conclusions in my prior order regarding this requirement, and now defer to the County's interpretation: a religious educational room is synonymous with religious education or a room used for that purpose.

Religious education is not defined in the code. Despite not being able to define religious education, Catoe and Culver were able determine what it included; Sunday school or bible study, but not the Academy. When questioned why the Academy did not constitute religious education, Catoe testified that he did not believe it was, but rather it was education with religious values applied. His testimony also described the Academy's curriculum as educational classes with religion being taught, faith-based, and K-12 with a religious based curriculum. So, Catoe has determined that religious education does not include classes that teach the religion, its values, faith and practices. This makes no sense, and provides no basis for his or Culver's decision to distinguish Plaintiff's Sunday school or bible study from the Academy.

Moreover, Plaintiff has proven that the Academy provides religious education that is accessory to the church. As shown by the testimony of Plaintiff's witnesses and the documentary evidence of its curriculum, students will pray, read scripture, discuss their faith, and participate in religious activities, similar to church services, Sunday school, or bible study. The fact that students will also be educated in secular subjects such as math and English, does not negate that the Academy's curriculum furthers, promotes, supports and is associated with the purpose of the church; the gathering of persons for religious worship. Additionally, the rooms will continue to be used for education (Sunday school and bible study) that Catoe and Culver have determined qualifies as A-3.

Furthermore, the testimony of the County officials demonstrate that because they were unable to develop an understanding of what they meant by religious education, they decided to fall back on section 305.1; thus, ignoring the exceptions. Catoe testified that he decided that Educational was the best fit because the Academy would be a K-12 of 6 or more students. Culver testified that the decision to designate the rooms used by the Academy as Educational was not based upon what the Academy was teaching, but the definition of K-12 in section 305.1. Culver testified that it was not based upon *what* they were teaching, but that they *were* teaching. Yet, she testified that religious education involves teaching. She also testified that if it meets the education requirements, it is a change in occupancy.

Based on the foregoing, I find and conclude that the County's determination that the use of the rooms by the Academy does not qualify as religious education or an accessory use of the church, and its decision that said use does not fall within the exceptions provided by sections 305.1.1 ad 303.1.4, is arbitrary and capricious, and not worthy of deference.

THEREFORE, IT IS ORDERED that Defendant's motion is denied. The matter regarding attorney's fees as raised by Plaintiff will be determined after a separate hearing. My order remains that the rooms shall be classified as an A-3 occupancy while the Academy remains in compliance with the occupant load set out in sections 305.1.1 and 303.1.4.

IT IS SO ORDERED.

Judge's Signature Page to Follow

York Common Pleas

Case Caption: Midway Baptist Church Of York VS York County Of

Case Number: 2023CP4601467

Type: Master/Order/Other

So Ordered

s/ Teasa K. Weaver 3084