



March 18, 2020

Braxton County BOE
Sutton, WV

ORAL ARGUMENTS BEGIN AT 10:00 AM

Case No. 2

City of Morgantown vs.) Calvary Baptist Church, No. 18-1134

Background:

Calvary Baptist Church owns a 2.43 acre lot in Morgantown containing the church building, the church's parking lot, and an unimproved area of land. The Church wants to convey the unimproved land to be used in a commercial development. In order for the lot to be used as intended, the lot must be rezoned for commercial use, which will increase the value of the lot. In 2016, the Church submitted an application to subdivide the lot and an application to rezone the lot to the City of Morgantown. The City conditionally approved the subdivision application, but denied the rezoning application. The Church then filed an action in the circuit court seeking to compel the City to approve its rezoning application. The circuit court determined that because other nearby properties are already being used for commercial purpose, the City's denial of the Church's rezoning application was unconstitutional.

Argument of Petitioner (City of Morgantown):

The residential zoning classification presently applied to the property is based upon a community planning process which identified the area as residential. The area surrounding the property continues to be primarily residential, and the Church's potential financial gain upon sale of the unimproved portion of the lot does not invalidate the residential zoning ordinance.

Argument of Respondent (Calvary Baptist Church):

The circuit court correctly determined that the City's denial of the Church's rezoning application was unconstitutional because there are other nearby commercial properties. Given the nature of the property at issue and the surrounding properties, the City's denial was arbitrary and unreasonable.