

IN THE MATTER OF : BEFORE THE

**Chesapeake Conference Association of** : HOWARD COUNTY  
**Seventh-day Adventists** :

Petitioner : BOARD OF APPEALS

: HEARING EXAMINER

: Case No. BA-21- 023C

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**DECISION AND ORDER**

On December 9, 2021, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, heard the petition of Chesapeake Conference Association of Seventh-day Adventists, Petitioner, for a Conditional Use to enlarge an existing Religious Facility in a RR-DEO (Rural Conservation: Density Exchange Option) Zoning District, filed pursuant to Section 131.0.N.42 of the Howard County Zoning Regulations (the "Zoning Regulations"). This request is for an expansion of an existing conditional use for structures used primarily for religious activities granted in 1990 in BA-89-41E.

The Petitioner provided certification that notice of the hearing was advertised and certified that the property was posted as required by the Howard County Code. I viewed the property as required by the Hearing Examiner Rules of Procedure.

The Petitioner was not represented by counsel. Frank Manalansan and Zacharias James testified in support of the petition. No one appeared in opposition to the petition.

**FINDINGS OF FACT**

Based upon the preponderance of the evidence presented at the hearing, I find the following facts:

A. **Property.** The subject property, known as 12350 Hall Shop Road, Highland, Maryland, is referenced on Tax Map 40; Grid 6; Parcel 165 (the "Property"). The Property, which consists of 17.5 acres and is trapezoid in shape, is zoned RR-DEO and is the site of an existing religious facility. The southwest portion contains approximately 2.2 acres of forest in which a stream and floodplain are located. The site rises from an elevation of 466 feet at the northwest corner to 484 feet at the driveway entrance to Hall Shop Road.

B. **Vicinal properties.** To the north, south, east and west are RR-DEO zoned parcels improved by single-family detached dwellings.

C. **Roads.** Hall Shop Road has two lanes plus a westbound right-turn lane for the church driveway within a 52-foot right-of-way. The speed limit is 35 miles per hour. In 2018, the State Highway traffic count was 1361 Average Annual Daily Trips on Hall Shop Road.

D. **Water and Sewer Service.** The property is located outside the Metropolitan Area and Public Service Area and is served by private well and septic.

E. **General Plan.** The Property is designated Low Density Development on the Designated Place Types Map of PlanHoward 2030. Hall Shop Road is a major collector.

F. **Zoning History.** In BA-89-41E, the Board of Appeals on April 24, 1990, granted Valley Brook Community Church a special exception for a religious facility.

G. **Proposal.** The Petitioner proposes to enlarge the existing religious facility by constructing a separate 2,720 square foot multipurpose building for various activities relating to the approved use. Meetings with 25 to 40 attendees will occur on Friday and Saturday evenings twice per month. The new building would replace a mobile structure currently being used for these purposes.

## CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, I conclude as follows:

**General Criteria for Conditional Uses (Section 131.0.B of the Howard County Zoning Regulations).**

- 1. The proposed Conditional Use plan will be in harmony with the land uses and policies in the Howard County General Plan which can be related to the proposed use.**

PlanHoward 2030 policies are not directly related to Conditional Use requests for Religious Facilities. However, religious facilities are generally compatible with both residential and commercial areas and in particular with the land uses in the RR zoning district.

*Thus, the proposed use will be in harmony with the Howard County General Plan and PlanHoward 2030.*

- 2. The nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site are such that the overall intensity and scale of the use(s) are appropriate for the site.**

The current facility was approved in 1990 and the Petitioner proposes a minor expansion - a 2,720 square foot multi-purpose building to be used for various activities. The 17.5-acre property exceeds the three-acre lot size requirement for new religious facilities. Religious facilities approved through a special exception are exempt from the minimum lot size requirement. All conditional use criteria and bulk regulations are met. The Functional Road Classification Map of PlanHoward 2030 shows Hall Shop Road as a major collector, which is appropriate for the type and number of vehicles associated with a religious facility.

*Therefore, the nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site are such that the*

*overall intensity and scale of the use is appropriate for the site.*

- 3. The impact of adverse effects such as, but not limited to, noise, dust, fumes, odors, intensity of lighting, vibrations, hazards or other physical conditions will not be greater at the proposed site than it would generally be elsewhere in the same zoning district or other similar zoning district.**

Any assessment of a proposed conditional use under these criteria initially recognizes that virtually every human activity has the potential for adverse impact. The test is not whether the proposed uses would have an adverse impact on the neighborhood, but rather whether there are facts and circumstances showing the particular use proposed at the particular location would have any adverse effects greater than those inherently associated with such a conditional use irrespective of its location within the zone. *People's Counsel for Baltimore County v. Loyola College in Maryland*, 406 Md. 54, 956 A.2d 166 (2008); *Schultz v. Pritts*, 291 Md. I, 432 A.2d 1319 (1981); *Mossburg v. Montgomery County*, 107 Md. App. I, 666 A.2d 1253 (1995).

There was no evidence of adverse effects such as dust, fumes, odors, vibrations, or hazards. The proposed multi-purpose building will be located within the original use area approved through BA-89-41E. This building will be located 616 feet from the public road and over 400 feet to the closest residence.

Petitioner has met its burden of presenting sufficient evidence under Section 131.B.0.2 of the Zoning Regulations to establish this proposed use will not have adverse effects on vicinal properties beyond those ordinarily associated with a structure used primarily for religious activities in an RR zoning district.

*Therefore, the impact of adverse effects will not be greater at the proposed site than it would generally be elsewhere in the RR zoning district.*

- 4. The location, nature and height of structures, walls or fences, and the nature and extent of the existing and/or proposed landscaping on the site are such that the use will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than it would generally elsewhere in the same zoning district or other similar zoning districts.**

The one-story building complies with the 34 foot height maximum in the RR zoning district and is located 128 feet from the closest property line. The Petitioner is not proposing any new vegetation. The existing wooded areas on the west and south portions of the Property will screen the proposed building from adjacent properties and Hall Shop Road.

*Therefore, the expansion will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than it would generally elsewhere in the same zoning district or other similar zoning districts.*

- 5. The number of parking spaces will be appropriate to serve the particular use. Parking areas, loading areas, driveways and refuse areas will be appropriately located and buffered or screened from public roads and residential uses to minimize adverse impacts on adjacent properties.**

Pursuant to Section 133.0 of the Howard County Zoning Regulations, the off-street parking requirement for religious facilities is 10 spaces per 1,000 square feet of assembly area. The Petitioner is not proposing to increase the assembly area, so no additional parking is required. The refuse area, loading areas, and driveways will not change.

*Thus, the number of parking spaces will be appropriate to serve the particular use. Parking areas, loading areas, driveways and refuse areas will be appropriately located and buffered or screened from public roads and residential uses to minimize adverse impacts on adjacent properties.*

- 6. The ingress and egress drives will provide safe access with adequate sight distance, based on actual conditions, and with adequate acceleration and deceleration lanes where appropriate. For proposed Conditional Use sites which have driveway access that is shared with other residential properties, the proposed Conditional Use will not adversely impact the convenience or safety of shared use of the driveway.**

The existing ingress/egress drive from Hall Shop Road was approved through SDP-95-004 and no changes are proposed. The site distance on Hall Shop Road is over 300 feet in both directions. According to the American Association of State Highway and Transportation Official (AASHTO) guidelines, based on an estimated stopping sight distance of 250 feet for a car going 35 miles per hour, the proposed access point on Hall Shop Road appears to provide safe access with adequate stopping sight distance. The development will not share a driveway with other residential properties.

*Thus, I find that this criterion has been met.*

- 7. The proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere.**

The proposed structure is located approximately 100 feet from an existing wetland buffer, 130 feet from an existing stream buffer and over 200 feet from an existing stream that are located on the southwest portion of the site. Therefore, the proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere.

*Therefore, the proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere.*

**8. The proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere.**

The closest historic site (HO-920) is over 2,000 feet to the southwest of the subject property.

*Therefore, the proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere.*

**B. Evaluation of the petition according to Section 131.0.N.42 (Specific Criteria for Religious Facility Uses)**

**1. Lot coverage shall not exceed 25% of the site.**

The existing religious facility was previously approved through BA-89-41E and is therefore exempt from this requirement. The total lot coverage will be approximately 21,000 square feet or 2.7% of the 17.5-acre property.

*This criterion is met.*

**2. Structures may be erected to a greater height than permitted in the district in which it is located, provided that the front, side and rear setbacks shall be increased one foot for each foot by which such structure exceeds the height limitation.**

The proposed building is within the 34-foot height maximum.

*This criterion does not apply.*

**3. The access to the facility shall not be on a driveway or private road shared with other uses.**

Access to the facility is not shared with any other uses.

*This criterion is met.*

**4. The Hearing Authority may approve parking facilities which are accessory to a religious facility, and are located on a separate lot, but do not meet the location requirements of Section 133. O.B. 4.d of the parking regulations by**

**being separated from the religious facility by a public street, if the Hearing Authority finds that the accessory parking facility complies with the following criteria.**

- a. The accessory parking facility is not separated from the lot containing the principal use by an arterial highway of any category.**
- b. A pedestrian street crossing connecting the accessory parking facility lot to the principal use lot is provided and is made clearly noticeable to drivers by means of both pavement marking and signs.**
- c. The pedestrian street crossing is safe, based upon such factors as, but not limited to traffic volume at the times(s) of the use of the accessory parking facility; practical traffic speeds; sight distance; length of the crossing; and adequate markings and signage.**
- d. The entire pedestrian pathway from the accessory parking facility to the principal religious facility is a durable, paved, no-step path.**

*The existing parking lot is not on a separate lot; therefore, this criterion does not apply.*

### **ORDER**

Based upon the foregoing, it is this 11th day of January 2022, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That the petition of Chesapeake Conference Association of Seventh-day Adventists to expand an existing Conditional Use originally granted in BA-89-41E to enlarge an existing Religious Facility in a RR-DEO (Rural Conservation: Density Exchange Option) Zoning District by constructing a separate 2,720 square foot multipurpose building, filed pursuant to Section 131.0.N.42 of the Howard County Zoning Regulations, is hereby **GRANTED**.

Provided, however, that the conditional uses shall be conducted in conformance with and shall apply only to the uses described in the petition and depicted on the Conditional Use Plan dated July 13, 2021, and not to any other activities or uses.

[signature next page]

**HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER**

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Katherine L. Taylor

Date Mailed: \_\_\_\_\_

**NOTICE:** A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising.