

IN THE MATTER OF : BEFORE THE  
  
**MT. GREGORY UNITED METHODIST CHURCH** : HOWARD COUNTY  
Petitioner : BOARD OF APPEALS  
: HEARING EXAMINER  
: BA Case No. 17-023C

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**DECISION AND ORDER**

On December 4, 2017, 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 Mt. Gregory United Methodist Church (Petitioner) to expand an existing religious facility through the addition of an open-air pavilion, in an RC-DEO (Rural Conservation: Density Exchange Option) Zoning District, filed pursuant to §§ 131.0.J and 131.0.N.42 of the Howard County Zoning Regulations (HCZR).

Petitioner certified to compliance with the notice and posting requirements of the Howard County Code. The Hearing Examiner viewed the subject property as required by the Hearing Examiner Rules of Procedure. Charles Dorsey appeared for the hearing and testified. No one appeared in opposition to the petition.

**FINDINGS OF FACT**

Based upon the evidence of record, the Hearing Examiner finds the following facts:

1. Property Identification. The subject property is located on the east side of MD 97 (Woodbine Road) about 100 feet south of Millers Mill Road and comprises two parcels, the 3.69-acre Parcel 130, and the 0.137-acre Parcel 193. It is referenced as Tax Map 14, Grids 5 & 11, Parcels 130 & 193, and known as 2325 MD 97 (the Property).

2. Property Description. The smaller Parcel 193 has frontage on MD 97 and is the site of the existing church (religious facility), a frame building generally centered on the MD 97 frontage. Parcel 130 surrounds Parcel 193 on the north, east, and south sides. Current improvements are located on the Property's highest elevation. From here, the site drops in elevation to the north, east, and south. A wooded buffer runs along the north and south property lines and a portion of the east property line. Two driveways on either side of the church provide access. The driveway near the southern boundary leads to a gravel parking lot. The internal drive aisle narrows and continues behind the church to a gravel and paved driveway near the Property's northern boundary. On the church's north side is a large gravel parking lot.

The church is listed on the Howard County Historic Sites Inventory as HO-276, Mt. Gregory United Methodist Church and the cornerstone shows the date August 4, 1898. The church having been built around the turn of the nineteenth century, it predates the first, 1948 zoning regulations of Howard County.

3. Vicinal Properties. Adjacent properties are zoned RC-DEO. Parcel 36 on the north, east, and south sides of the Property is encumbered with an agricultural preservation easement and it is used for agricultural fields. Beyond Parcel 36, Lot 1 of Parcel 25 is unimproved and Lot 2 is improved with a single family-detached dwelling located relatively close to MD 97 and about 360 feet from the existing church. Across MD 97 to the southwest, are the Western Regional Park and the Glenwood Library. To the west, across MD 97, the parcels are each improved with a single-family detached dwelling. The northwest property across MD 97 is

improved with a two-story single-family detached dwelling located close to MD 97.

4. Roads. MD 97 has two travel lanes, wide paved shoulders, and about 42 feet of paving within an existing 80' ROW. The posted speed limit south of the Property is 45MPH and 50MPH north of the Property. The sight distance from both driveways is 1000'+ to the south and about 200-300' to the north.

5. Water and Sewer Service. The Property is served by private water and sewer.

6. The General Plan. The Property is designated "Rural Resource" on the PlanHOWARD2030 Designated Place Types Map. MD 97 is depicted as a Minor Arterial Road on the PlanHOWARD2030 Functional Road Classification Map.

7. Zoning History. Petitioner has received four conditional use/special exception approvals for a religious facility.

BA-00-38E. Petitioner: Mt. Gregory United Methodist Church. Special Exception for a religious facility to replace an existing church granted July 24, 2001 (since lapsed).

BA-05-016C. Petitioner: Mt. Gregory United Methodist Church. Conditional Use for a religious facility to replace an existing church granted November 3, 2005 (since lapsed).

BA-08-029C. Petitioner: Mt. Gregory United Methodist Church. Conditional Use for a religious facility to replace an existing church granted, February 4, 2009 (since lapsed).

BA-15-007C&V. Petitioner: Mt. Gregory United Methodist Church. Conditional Use for meeting room addition, including ADA accessibility into existing sanctuary & restrooms granted, June 18, 2015.

WP-16-117. Petitioner: Mt. Gregory United Methodist Church. DPZ granted a waiver from Subdivision Regulations § 16.155(a)(3), which requires approval of a site development plan for conditional uses, which include exterior site improvement on June 14, 2016.

8. The Requested Conditional Use Expansion. Petitioner is seeking approval to expand a religious facility through the addition of a 15'-high, 24'x40', 960sf open-air pavilion to be located about 25 feet behind the church. The pavilion would be used on weekends, May through September, for church services and religious activities.

**CONCLUSIONS OF LAW**

Based upon the evidence of record, the Hearing Examiner concludes as follows.

**I. HCZR § 131.0.J. Enlargement or Alterations**

The Hearing Authority may permit the enlargement or alteration of any existing use which is permitted by Conditional Use in the specified districts under the provisions of these regulations, provided that in evaluating the enlargement or alteration, the Hearing Authority shall make all of the required findings applicable to the entire Conditional Use.

**II. General Criteria for Conditional Uses (§ 131.0.B)**

HCZR §§ 131.0.B.1-3 require the Hearing Authority to evaluate a proposed Conditional Use through the application of three standards, harmony with the General Plan, overall intensity and scale of use and adverse impacts.

**A. Harmony and Intensity of Use (§§ 131.0.B.1 & .2)**

**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.**

There are no policies in the General Plan that can be related to the proposed expansion. The religious facility is a 100+-year institutional use in the RC-DEO zoning district and part of the historical fabric of Howard County's rural community.

**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 proposed 24'x40', 960sf open-air pavilion is a low intensity use and will not change the intensity of use, only the relocation of religious activities at certain times of the year.

**B. Adverse Impacts (§ 131.0.B.3)**

Unlike § 131.0.B.1, which concerns the proposed use's harmony or compatibility with the General Plan, or § 131.0.B.2, which concerns the on-site effects of the proposed use, compatibility of the proposed use with the neighborhood is measured under § 131.0.B.3's six off-site, "adverse effect" criteria: (a) physical conditions; (b) structures and landscaping; (c) parking areas and loading; (d) access; (e) environmentally sensitive areas; and (f) historic sites. Inherent in the assessment of a proposed Conditional Use under these criteria is the recognition that virtually every human activity has the potential for adverse impact. The assessment therefore accepts some level of such impact in light of the beneficial purposes the zoning body has determined to be inherent in the use. Thus, the question in the matter before the Hearing Examiner is not whether the proposed use would have adverse effects in an RC-DEO district. The proper question is whether there are facts and circumstances showing the particular use proposed at the particular location would have any adverse effects above and beyond those inherently associated with such a special exception [conditional] use irrespective of its location within the applicable zones. *People's Counsel for Baltimore County v. Loyola College in Maryland*, 406 Md. 54, 956 A.2d 166 (2008); *Schultz v. Pritts*, 291 Md. 1, 432 A.2d 1319 (1981); *Mossburg v. Montgomery County*, 107 Md. App. 1, 666 A.2d 1253 (1995).

For the reasons stated below, and as conditioned, the Petitioner has met its burden of presenting sufficient evidence under HCZR §131.0.B.3 to establish the proposed pavilion will not have adverse effects on vicinal properties beyond those ordinarily associated with a religious facility in the RC-DEO zoning district.

**a. 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 be greater at the proposed site than it would generally be elsewhere in the same zoning district or other similar zoning districts.**

There is no evidence of any atypical adverse effects on vicinal properties from noise, dust, fumes, odors, intensity of lighting or hazards, or other physical conditions.

**b. 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.**

No new walls or fences are proposed. The 960sf open space pavilion would be located behind the church. The church, existing landscaping, and distance will buffer the use. The proposed structure is a modest expansion of a long-existing religious facility and will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than elsewhere in the same zoning district.

**c. 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.**

No loading or refuse areas are proposed. Pursuant to HCZR § 133.0, the off-street parking requirement for religious facilities is based on the assembly area. Because the proposed pavilion is not considered assembly area, but rather an extension of church activities already existing onsite, no additional parking is required or proposed. The parking lot locations depicted on the Conditional Use Plan were approved through WP-16-117.

**d. 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 drives have operated safely for many years.

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

A stream runs along a portion of the southern common lot line but the distance between the proposed structure and use should have no greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere.

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

This criterion concerns off-site historic sites. There are none in the vicinity.

**III. Specific Criteria for Religious Facilities, Structures and Land Used Primarily for Religious**

**Activities (§ 131.0.N.42)**

**a. The minimum lot size in the RC and RR Districts is three acres and the minimum lot size in the other districts is one acre, however, existing religious facilities previously approved as a Special Exception or a Conditional Use are exempted from this requirement. Lot coverage shall not exceed 25% of the lot area.**

The religious facility Property is 3.827 acres, which exceeds the three-acre minimum lot size for RC zoned properties. The lot coverage would be well below 25%, in compliance with § 131.0.N.42.a.

**b. 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 open-air pavilion would be 15 feet in height, less than the 25' maximum height limit for accessory structures in the RC-DEO zoning district. The petition complies with § 131.0.N.42.b.

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

No shared access is proposed, in compliance with § 131.0.N.42.c.

**d. 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 133.0.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:**

**(1) The accessory parking facility is not separated from the lot containing the principal use by an arterial highway of any category.**

**(2) 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**

**(3) 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.**

**(4) The entire pedestrian pathway from the accessory parking facility to the principal religious facility is a durable, paved, no-step path.**

This standard does not apply, as no parking facilities on a separate lot are proposed.

**ORDER**

Based upon the foregoing, it is this **2<sup>nd</sup> day of January 2018**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That the Petition of Mt. Gregory United Methodist Church to expand an existing religious facility through the addition of an 960sf open-air pavilion, in an RC-DEO (Rural Conservation: Density Exchange Option) zoning district, is hereby **GRANTED**;

**Provided, however, that:**

1. The use and structure shall be conducted in conformance with the Conditional Use Petition and Plan.
2. Petitioner shall comply with all applicable federal, state, and county laws and regulations.
3. Petitioner shall obtain all necessary building permits

**HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER**

  
\_\_\_\_\_  
Michele L. LeFaivre

**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 the hearing.