

IN THE MATTER OF : BEFORE THE  
CALVARY ASSEMBLY OF GOD : HOWARD COUNTY  
Petitioner : BOARD OF APPEALS  
: HEARING EXAMINER  
: BA Case No. 13-037N

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**DECISION AND ORDER**

On March 10, 2014, 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 Calvary Assembly of God (Petitioner) to expand an approved nonconforming use for a religious Facility by adding a temporary 24'x38' modular building in an RC-DEO (Resource Conservation: Density Exchange Option) Zoning District, filed pursuant to Section 129.0.E of the Howard County Zoning Regulations (the "Zoning Regulations").

Petitioner certified to compliance with the notice, posting and advertising requirements of the Howard County Code. The Hearing Examiner viewed the property as required by the Hearing Examiner Rules of Procedure.

The Petitioner was not represented by counsel. Jesse Reed and Loren Fetty testified in favor of the petition. No one appeared in opposition to the petition.

**A Preliminary Matter**

At the outset of the proceeding, Petitioner introduced into evidence Exhibit 1, an Amended Nonconforming Use Plan (Amended Plan) intended to respond to agency comments in the Technical Staff Report (TSR). The Amended Plan depicts the location of the proposed

modular building, 62 parking spaces, the distance between the proposed structure, the eastern property line and the nearest dwelling and the location of trees along the driveway. Pursuant to Hearing Examiner Rules 9.4 and 9.5, the Hearing Examiner determined the exhibit amendment was not substantive and could be admitted.

### FINDINGS OF FACT

Based upon the preponderance of evidence presented at the hearing, the Hearing Examiner finds as follows:

1. Property Identification. The subject property is located in the 4<sup>th</sup> Election District on the north side of Long Corner Road about 400 feet west of Florence Road. It is identified as Tax Map 6, Grid 11, Parcel 166, Lot 5 and is also known as 1134 Long Corner Road (the Property).

2. Zoning History and Description. The irregularly shaped Property is the site of a 3,500-s.f. one-story brick sanctuary building located in the southern portion of the Property. In the northeasterly section is a parsonage building. A 17-foot loop driveway with several parking spaces fronts the church and there is a large parking lot to the west of the church. The parsonage is accessed from a driveway on the north end of the parking lot. The northern portion of the site is wooded and there is a row of trees and other vegetation along the side property lines.

3. Vicinal Properties. Vicinal properties are zoned RC-DEO. The northern property is a 55-acre farm accessed from a driveway along the Property's west lot line. Each property to the west, south and east are improved with single-family detached dwellings.

4. Roads. Long Corner Road has two travel lanes within an ultimate 50-foot right of way

and a posted speed limit of 30 MPH.

5. Water and Sewer Service. The Property is served by private well and septic.
6. General Plan. PlanHOWARD2030 designates the Property as "Established Communities" on the Designated Place Type Map. The Transportation Map depicts Shaker Drive as a Major Collector.
7. Zoning History. The Board of Appeals in BOA Case No. 95-69N on April 30, 1996 confirmed a Nonconforming Use for a Religious Facility on petition by the Faith Tabernacle Assembly of God, with conditions.
8. Proposed Expansion. Petitioner requests approval to enlarge the Religious Facility by adding a temporary 24'x38' modular building to the site for meeting space. According to the Amended Plan, the building would sit 20 feet east of the main building, 56 feet from the eastern Property line and 263 feet from the nearest dwelling.
9. Jesse Reed testified that the Petitioner would like to keep the temporary building for two years. He also discussed his conversations with county staff about their TSR agency comments, explaining to them that the modular building will not accommodate any new use. Rather, existing meetings/activities already held in the main building will be moved to the modular building. No increase in attendance is anticipated.

#### CONCLUSIONS OF LAW

Pursuant to Section 129.0.E, the Hearing Authority may authorize the extension or enlargement of a nonconforming use or the alteration of a structure containing a nonconforming use, with or without conditions, provided the Petitioner demonstrates

compliance with five standards. Based on the testimony and evidence, the Hearing Examiner concludes the proposed temporary addition complies with these standards and is therefore granting the petition.

**a. That any changes or additions to the activities taking place in connection with the nonconforming use will not change the use in any substantial way;**

The proposed expansion would continue the use of the Property as a Religious Facility, in conformance with Section 129.0.E.1.a.

**b. That an enlargement may not exceed 100 percent of the gross floor area of structures or 100 percent of the gross acreage in the case of nonconforming land, above that which legally existed at the time the use first became nonconforming;**

The main church building is 3,500-s.f. Through BOA Case No. 95-69N, the use was expanded through the inclusion of the 875-s.f. dwelling on the site, a 25% total increase in gross floor area. The current proposal would expand the use by about 912-s.f., bringing the total expansion square footage to 1,787-s.f., an increase of the church building area of about 51%, in conformance with Section 129.0.E.1.b.

**c. That the outdoor land area occupied by a nonconforming use may be enlarged only to provide additional parking area;**

No outdoor land area occupied by the nonconforming use will be enlarged, in compliance with Section 129.0.E.1.c.

**d. That an enlargement would not cause a violation of the bulk regulations for the zoning district in which the property is located;**

The enlargement will not result in a violation of the bulk regulations, in accordance with Section 129.0.E.1.d.

**e. That the extension, enlargement or structural alteration would not cause an adverse effect on vicinal properties.**

The expansion is well separated from vicinal residential lots and buffered by from the nearest residence by trees and other vegetation. It is a wholly indoor use. While some noise may occur when parishioners walk from the church to the modular building, trees and existing vegetation will buffer the use. Subject to the condition that no trees along the eastern lot line be removed, the petition complies with 129.0.E.1.e.

**ORDER**

Based upon the foregoing, it is this **20<sup>th</sup> Day of March 2014**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That the petition of Calvary Assembly of God (Petitioner) to expand an approved nonconforming use for a religious Facility by adding a temporary 24'x38' modular building in an RC-DEO (Resource Conservation: Density Exchange Option) Zoning District, is **GRANTED**.

**Provided**, however, that:

1. The Nonconforming Use shall be conducted in conformance with and shall apply only to the Religious Facility as described in the petition and depicted on the Amended Plan (Exhibit 1) and not to another activates, uses, or structures on the Property.
2. No trees along the eastern Property line shall be removed.
3. The use of the temporary modular building is approved for two years.
4. Petitioner shall obtain all necessary permits.

**HOWARD COUNTY BOARD OF APPEALS  
HEARING EXAMINER**



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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.