



October 10, 2024
REVISED January 27, 2025

Forest Conservation Program Manager
Montgomery County Planning Department
2425 Reddie Drive
Wheaton, MD 20902

Re: ***2811 14th Street NE Gospel Hall, Inc. Church – Variance Request***
Final Forest Conservation Plan No. **F20250170**
Associated Preliminary Plan No. **120250050**

On behalf of our client, Ednor Land, LLC, we are requesting a variance of Section 22A-12.(b)(3)(c) of the Montgomery County Code.

(3) The following trees, shrubs, plants, and specific areas are priority for retention and protection and must be left in an undisturbed condition unless the Planning Board or Planning Director, as appropriate, finds that the applicant qualifies for a variance under Section 22A-21:

- (C) Any tree with a diameter, measured at 4.5 feet above the ground, of:*
- (i) 30 inches or more; or*
 - (ii) 75% or more of the diameter, measured at 4.5 feet above ground, of the current State champion tree of that species.*

Section 5-1611 of the Maryland State Code grants the authority to Montgomery County (local authority) for approval of the variances, and Section 22A-21 Variance, of the Montgomery County Code establishes the criteria to grant a variance.

The Subject Property, 2811 14th Street NE Gospel Hall, Inc. Church is located at 211 Ednor Road, Silver Spring, Maryland (the "**Subject Property**") located in the eastern portion of Montgomery County. The Subject Property is located approximately 2,500' east of Norwood Road, and is zoned RE-2. It currently contains a single-family residential dwelling, accessory dwelling & barn, and previously operated as a horse farm. The Subject Property is identified as Parcel 542 and contains 15.00 acres.

The Subject Property is surrounded by properties that are zoned RE-2 with single-family detached homes, a landscape nursery & Montgomery County M-NCPPC parkland. Preliminary Plan No. 120250050 and Forest Conservation Plan No. F20250170 propose a resubdivision of this existing parcel into 2 lots and a parkland dedication parcel, including the 2,400 square foot existing single-family dwelling, proposed construction of a 10,549 square foot church, associated parking, stormwater management facilities, wells & septic system and underground utilities. The church building proposes to seat 500 parishioners, with 160 proposed surface parking spaces, including six (6) of those spaces being accessible and located closest to the entrance of the building. The proposed use of the Property is Religious Assembly pursuant to Section 59-3.4.10 of the Zoning Ordinance. Religious Assembly is a permitted use in the RE-2 Zone.

This Variance request is submitted as part of Forest Conservation Plan (No. F20250170) and includes the removal of 5 specimen trees over 30"dbh (**Trees #3, 4, 9, 10 & 11**) and impacts to the Critical Root Zones (CRZs) of 2 trees (**Trees #12 & 13**). The request for removal and disturbance of the subject specimen trees is a result of the grading required for construction of the new church buildings and associated parking, but more importantly because they are located within the existing 10' utility easement and impacted by the adjacent proposed 10' maintenance access driveway, both located along the eastern property line, connecting to the cell tower facility located in the rear of the property.

The applicant is requesting a variance to affect the following trees that measures 30" or greater in diameter at breast height (dbh):

Request to remove the following trees:

Tree #3 – 30" & 52" dbh double trunk Sycamore, Fair Condition (located just off subject property on adjacent property, permission letter from owner has been obtained & is provided)

Tree #4 – 34" dbh Pin Oak, Fair Condition

Tree #9 – 38" dbh Pin Oak, Fair Condition

Tree #10 – 36" dbh Pin Oak, Fair Condition (located just off subject property on adjacent property, permission letter from owner has been obtained & is provided)

Tree #11 – 84" dbh Tulip Poplar, Very Poor Condition

<u>TREE #</u>	<u>TREE DBH</u>	<u>COMMON /SCIENTIFIC NAME</u>	<u>% CRZ IMPACTED</u>	<u>TREE CONDITION</u>	<u>REASON OF IMPACTS</u>
3	30" & 52"	Sycamore / Plantus occidentalis	48%	Fair	Ex. cell tower utility easement & prop. access drive construction
4	34"	Pin Oak / Quercus palustris	60%	Fair	Ex. cell tower utility easement & prop. access drive construction
9	38"	Pin Oak / Quercus palustris	58%	Fair	Ex. cell tower utility easement & prop. access drive construction
10	36"	Pin Oak / Quercus palustris	36%	Fair	Ex. cell tower utility easement & prop. access drive construction
11	84"	Tulip Poplar / Liriodendron tulipifera	42%	Very Poor (hollowed out interior)	Ex. cell tower utility easement & prop. access drive construction

Request to impact the critical root zones of the following trees:

Tree #12 – 52" dbh Tulip Poplar, Poor Condition (located just off subject property on adjacent property)

Tree #13 – 36" dbh Tulip Poplar, Good Condition (located just off subject property on adjacent property)

<u>TREE #</u>	<u>TREE DBH</u>	<u>COMMON /SCIENTIFIC NAME</u>	<u>% CRZ IMPACTED</u>	<u>TREE CONDITION</u>	<u>REASON OF IMPACTS</u>
12	52"	Tulip Poplar / Liriodendron tulipifera	16%	Poor	Ex. cell tower utility easement & prop. access drive construction
13	36"	Tulip Poplar / Liriodendron tulipifera	1.5%	Good	Ex. cell tower utility easement & prop. access drive construction

Section 22A-21 (b) lists the criteria for the granting of the variance requested herein. The following narrative explains how the requested variance is justified under the set of circumstances described above.

1. Describe the special conditions peculiar to the property which would cause the unwarranted hardship:

Due to the modifications to the site that include construction of a new church building, associated parking, storm water management, wells & septic fields and underground utilities, significant site disturbance will be required. Given their locations, the specimen trees and the critical root zones will have a significant impact on the proposed improvements to the site.

Removal of Trees #3, 4, 9, 10 & 11:

The removal of these trees could not be avoided because they are located along the eastern property, within the existing 10' utility easement to the cell tower and adjacent to the proposed 10' cell tower maintenance access driveway.

Impacting Critical Root Zones (CRZ) of Trees #12 & 13:

Trees #12 & 13 are all located on the adjacent property, and will be impacted with 16% & 1.5% of the CRZ being disturbed respectively, by the construction associated with the proposed development, mainly the existing 10' utility easement & proposed 10' maintenance access driveway to the cell tower.

If the applicant were denied the variance to remove and impact the aforementioned specimen trees and therefore denied the ability to develop this site as designed, it would be an unwarranted hardship on the owner and force the development closer to the Northwest Branch & associated environmental buffers, causing more & unnecessary disturbance of those environmentally sensitive areas. The project focuses the proposed development on the higher elevations of the property, closer to the eastern property line.

2. Describe how enforcement of these rules will deprive the landowner of rights commonly enjoyed by others in similar areas:

Not granting the variance would cause undue hardship on the applicant because the development would be significantly limited and force the development closer to the Northwest Branch and associated environmental buffers, causing more & unnecessary disturbance of those environmentally sensitive areas. By denial of a Variance, it will deprive the landowner of significant and reasonable use on the property as allowed in the zone and as shown in the Master Plan. Granting of the variance will ultimately allow the Property to be developed in a safe and efficient manner similar to other developments in the community.

3. Verify that State water quality standards will not be violated or that a measurable degradation in water quality will not occur as a result of the granting of the variance:

The variance will not violate state water quality standards or cause measurable degradation in water quality. All proposed land development activities will require sediment control and/or storm water management plan approvals by Montgomery County. The approved SWM Concept will confirm that the goals and objective of the current state and county water quality standards have been met for the proposed development, on site.

4. Provide any other information appropriate to support the request:

The applicant has taken the care to locate the proposed development on the higher elevations of the property on the eastern side of the property and further away from the Northwest Branch & associated environmental buffers. Unfortunately, this impacts the aforementioned specimen trees located along the eastern property line. This location contains an existing 10' utility easement & proposed 10' maintenance access driveway, both connecting to the existing cell tower facility located in the rear of the property. The Applicant believes that the information set forth above is adequate to justify the requested variance to remove and impact specimen trees on the Subject Property. Furthermore, the Applicant's request for a variance complies with the "minimum criteria" of Section 22A-21 (d) for the following reasons:

1. This Applicant will receive no special privileges or benefits by the granting of the requested variance that would not be available to any other applicant.
2. The variance request is not based on conditions or circumstances which result from the actions of the applicant. The applicant did not create the existing site conditions, including the random location of the specimen trees.
3. The variance is not based on a condition relating to the land or building use, either permitted or nonconforming on a neighboring property.
4. Loss of the requested trees will not violate State water quality standards or cause measurable degradation in water quality.

If you have any further questions or concerns, please do not hesitate to contact me.

Sincerely,

Thomas S. Zyla

Thomas S. Zyla, RLA