



August 15, 2023

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

Re: HBKY Metmiq Ethiopian Orthodox Tewahedo Church– Variance Request
 Final Forest Conservation Plan No. F20230140
 Preliminary Plan No. 120230080

On behalf of our client, HBKY Metmiq Ethiopian Orthodox Tewahedo Church, 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, HBKY Metmiq Ethiopian Orthodox Church is located at 4115 Muncaster Mill Road, Rockville, Maryland (the "**Subject Property**"), is generally in the eastern portion of Montgomery County, and is 600' Northwest of Norbeck Road, on Muncaster Mill Road. The Subject Property is zoned RE-1, contains several buildings that serve the existing Ethiopian Orthodox Church and contains a gross tract area of approximately 5.41 acres. The Subject Property is identified as Parcel P805, P867, P868, P915 and also includes an existing private driveway parcel.

The Subject Property is surrounded by properties that are zoned RE-1 with single-family detached homes and other institutional facilities. Preliminary Plan No. 120230080 and Forest Conservation Plan No. F20230140 propose a resubdivision of the existing parcels into 1 lot, and

includes the proposed construction of a new 20,000 square foot religious institutional building, new stormwater management facilities, modifications to circulation, parking and underground utilities. The proposed primary church sanctuary building is intended to seat 450 patrons, with 142 proposed surface parking spaces provide throughout the site, with five (5) of those spaces being accessible and equally distributed around the Property.

HBKY Church owns and currently operates from the same Property by using a small 48-seat capacity sanctuary, which does not accommodate even a portion of the current Church membership, and certainly does not allow the Church to plan for the future. The Applicant proposes to retain three existing buildings on the Property: The existing parsonage along Muncaster Mill Road, and the existing church building and an existing accessory building, both near the rear of Parcel 867, all of which are currently being used and are proposed for continued use. An existing garage attached to the current parsonage structure is planned to be demolished in order to meet setback requirements. The existing and 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-1 Zone.

This Variance request is submitted as part of Forest Conservation Plan (No. F20230140) and includes the removal of 3 specimen trees over 30" dbh (Tree #3, 7, & 8) and impacts to Trees #5, 16, 22, 24, 25 & 26. The request for removal and disturbance of the subject specimen trees is a result of the new church building, parking and access modifications, combined with the required grading for installation of utilities and the associated stormwater management. Onsite Variance Trees that are located outside of the existing Forested areas that are planned to be removed, will be mitigated for on site.

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 – 32" dbh Silver Maple, Fair Condition
- Tree #7 – 40.5" dbh American Elm, Fair Condition
- Tree #8 – 30" dbh Black Walnut, Fair Condition

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

- Tree #5 – 30" & 32" dbh Bigtooth Aspen, Fair Condition (This is a potential County Champion Tree Multi-stem, Double trunk less than 4')
- Tree #16 – 30" dbh Tulip Poplar, Good Condition
- Tree #22 – 36" dbh Tulip Poplar, Good Condition
- Tree #24 – 54" dbh Tulip Poplar, Good Condition
- Tree #25 – 40" dbh Tulip Poplar, Good Condition
- Tree #26 – 44" dbh Red Maple, Good Condition

TREE #	TREE TYPE	% DISTURBED	REASON
5	Bigtooth Aspen 30" dbh & 32" dbh	21%	Sidewalk & Access Drive Construction
16	Tulip Poplar 30" dbh	5%	Sidewalk Construction & Grading
22	Tulip Poplar 36" dbh	3%	Storm Drain Outfall construction
24	Tulip Poplar 54" dbh	17%	Driveway modifications
25	Tulip Poplar 40" dbh	22%	Driveway modifications
26	Red Maple 44" dbh	29%	Driveway modifications

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:

The proposed modifications to the site have been carefully designed in coordination with Planning Staff during the Development Review of Concept Plan No. 520220320. It was recommended that the church be located at the front of the property close to the existing building frontages while attempting to save any significant existing trees, and that the parking be located in the rear of the property. Due to the modifications to the site; that include construction of a new church building, open space areas, storm water management, and topographic alterations, significant site activity 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, 7 & 8:

The removal of Tree #3 could not be avoided because it is located adjacent to the existing PUE where the root zones will be disturbed for utility installation, in addition to the proposed sidewalk construction. The removal of Tree #7 & 8 could not be avoided due to the location of the proposed church.

Impacting Critical Root Zones (CRZ) of Tree #5, 16, 22, 24-26:

Tree #5 is a potential county champion tree and will be impacted on along the outer perimeter of CRZ for construction of the access road, sidewalk, and grading required for the fire access area driveway apron. Tree #16 will be disturbed along a portion of the outer CRZ for sidewalk construction. A portion of the outer CRZ of Tree #22 will be disturbed for construction required to install the storm drain outfall. Tree # 24, 25 & 26 will be disturbed on one side of

their CRZ's for construction of the access road. Prior to construction, root pruning, temporary tree protection fencing and signage, and other protective measures deemed necessary by the arborist will be employed to minimize the effects of construction.

If the applicant were denied the variance to impact specimen trees and therefore denied the ability to develop this site, it would be an unwarranted hardship on the owner not to allow the site to be developed in a manner which aligns with the goals established in the 2005 Olney Master Plan which encourages retention of existing zoning and uses for developable properties.

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

The proposed modifications to the site have been carefully designed in coordination with Planning Staff during the Development Review of Concept Plan No. 520220320. It was recommended that the church be located at the front of the property close to the existing building frontages while attempting to save any significant existing trees, and that the parking be located in the rear of the property. Denial of a variance would keep the applicant from developing the property through means, which fulfill the county's goal of retaining existing zoning and uses as well as transitioning the proposed development more successfully into the surrounding community.

Not granting the variance would cause undue hardship on the applicant because development would be significantly limited or not possible, and therefore will deny the applicant ability to fully implement the goals of the Approved Master Plan. 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 great care to locate the development per the recommendations from Planning Staff while trying to maximize usage of existing utility lines and minimize disturbance to the significant and specimen trees. 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,

Kevin Foster

Kevin Foster, RLA, AICP