

STANDARD VARIANCE APPLICATION FORM (Continued)

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Calendar number 3422

Contact information: Date submitted _____

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BRIEF SUMMARY OF VARIANCE REQUEST

Variances are requested from side and rear set-backs on property at 2765 (Parcel 68616017) Fairmount Boulevard. The property is currently owned and occupied by Fairmount Presbyterian Church which is physically located on adjacent property at 2757 Fairmount Boulevard.

The Church desires to sell the 2765 Fairmount Boulevard property as a residential property. Over the years, the church has developed parking and common areas that encroach on the 2765 property lines. Separate lot re-subdivision and conditional use permit applications are being filed concurrent with this BZA Variance Application requesting revisions to the property lines to accommodate the existing church parking lot and reduce encroachments between the two properties to the maximum extent practical. Further mitigation of set-back encroachments would result in practical difficulty on the 2765 property by reducing parking and turn-around apron area between the existing garage and rear property line.

Variances requested:

- Rear set-back at northeast property line abutting 2757 Fairmount Boulevard: variance from 3' minimum set-back for pavement from rear property line.
- Side set-back at front of property abutting 2757 Fairmount Boulevard: variance from 3' minimum set-back for pavement from side property line.

STATEMENT OF PRACTICAL DIFFICULTY

A. *Explain special conditions or circumstances peculiar to the land or structures that are different from other properties in zoning district:*

The property at 2765 Fairmount Boulevard is a single family residence formerly used by the Church as a manse or pastor's residence. The Church desires to sell the 2765 property. Over the years, the Church has expanded its on-site parking area on the adjacent 2757 Fairmount Boulevard such that the lot now encroaches on the rear property line of the 2765 property. There is currently a paved driveway connecting adjacent parking areas on the two properties. The church is also filing a lot re-subdivision

application with the Planning Commission requesting a revision to the 2765 rear property line that will move the line to southwest at least 3' beyond the limit of the existing church parking lot. Pavement will be modified to provide at least a 3' vegetation buffer from the church's paved parking lot on the 2757 property to the edge of pavement on the 2765 property. The proposed property line will be concurrent with the edge of pavement on the 2765 property.

The 2765 property is different from other properties in the Zoning District because the rear portion of the property is part of the existing parking lot for Fairmount Presbyterian Church at 2757 Fairmount Boulevard. For over 40 years these two properties have had integrated use for church functions. The church no longer has any use for the residence on the 2765 property. Subdividing the 2765 property to accommodate the existing church parking lot while continuing to provide adequate parking and turn-around apron space and garage access on the 2765 property will meet the needs of both properties. Maximizing turn-around apron size on the 2765 property by maintaining pavement to the property line provides the most flexible access to the existing garage on the property.

B. Explain how the property in question would not yield a reasonable return or there could not be any beneficial use of the property without the variance.

Without the requested variance to rear set-back for the 2765 property, it would be necessary to remove additional pavement along the property line and replace this with vegetation. The resulting distance from the existing garage to edge of pavement would be less than 30 feet, reducing turning radius and impairing access to the garage. Allowing pavement to the property line in this case would mitigate this impairment.

An alternative would be to move the property line to the northeast to provide adequate garage access plus an additional 3-ft vegetation buffer on the 2765 property. This would require modification of several parking spaces in the church parking lot. Reducing on-lot parking spaces would not be beneficial to the Church and would add to on-street parking congestion on Sunday mornings and during special events at the Church. For further discussion of parking lot issues and conditions on the church property please see the Zoning Variance Application and Conditional Use Application for the 2757 property that were filed concurrent with this application. Granting this variance will facilitate the sale of the 2765 property, eliminating the need for further consideration of any other alternatives and leading to the most beneficial use of both the 2757 and 2765 properties.

C. Explain whether the variance is insubstantial

The requested variance results in an encroachment only on the church property at 2757 Fairmount Boulevard and does not encroach on any other abutting properties. The variance would permit that driveway pavement for the 2765 property encroach on the paved church parking lot. As such, the requested variance is insubstantial to the extent that it does not result in any hardship or negative impact to abutting properties.

Explain whether the variance is the minimum necessary to make possible the reasonable use of the land:

The proposed variance maximizes beneficial use of the 2765 property with minimum impact on the neighborhood. The Church has elected to revise the property line between the properties along the 2765 driveway to minimize the need for a variance at this location. The revised side yard property line increases buffer space at the rear of the 2765 property providing accommodation for snow plowing from the adjacent turn-around apron area. This mitigates the impact of the variance to rear set-back that would allow pavement to the rear property line. As such, the requested variance is the minimum necessary to result in maximum beneficial use of the 2765 property.

D. Explain whether the essential character of the neighborhood would be substantially altered or adjoining properties would suffer a substantial detriment as a result of the variance.

The proposed variance will allow the church to return the 2765 property to residential use and maximize beneficial use of the residence to the benefit of the neighborhood. No adjoining properties would suffer any detriment as a result of the requested variance, and the essential character of the neighborhood is maintained and would not be altered in any way. Granting the variance to side/rear set-back between the properties ensures that the 2765 property will be able to be offered for sale and that the church will need to consider no other alternative disposition of the property. There are no structures proposed to be built within the area of requested variances, and the minimum encroachment that maximizes beneficial use has been requested. Granting the variances will result in substantial overall enhancement of the property which ultimately enhances the essential character of the entire neighborhood.

E. Explain whether the variance would adversely affect the delivery of governmental service (e.g., water, sewer, garbage).

The variance will have no impact to the delivery of any governmental services.

F. Did the applicant purchase the property without knowledge of the zoning restriction?

The 2765 property was not purchased, but was donated to the church. The Church is knowledgeable of zoning restrictions and changes to zoning rules over the many years the Church has occupied the 2765 property.

G. Explain whether the special conditions or circumstances (listed in response to Question A above) were a result of actions of the owner.

The condition that exists with adjoining parking areas at the rear/side property line between the 2765 and 2757 properties is the result of the Church's construction and periodic reconfiguration of its on-lot parking lot.

H. Demonstrate whether the applicant's predicament feasibly can be resolved through a method other than a variance (e.g., a zone-conforming but unworkable example).

In the case of the requested rear set-back variance for the 2765 property, the alternative would be reducing the parking area so that sufficient rear building set-back can be provided and sufficient set-back from the pavement on both properties can be provided. This would significantly reduce parking and as discussed previously, would not be beneficial to the church or the neighborhood.

I. Explain whether the spirit and intent behind the zoning requirement would be observed and/or substantial justice done by granting the variance.

Granting the requested variance will allow the Church to make the best use of the 2765 property. The opportunity to return the 2765 property to residential use helps to maintain the essential character of the neighborhood, which is probably the primary spirit and intent behind the zoning requirements. Maintaining on-site parking quantity on the adjacent Church property is consistent with the intent of zoning requirements and benefits the neighborhood by reducing the impact of on-street parking. The requested variance does not encroach on any adjoining properties and will maintain or improve all buffers between the Church property and adjoining buildings.

J. Explain whether the granting of the variance requested will or will not confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

Granting of the requested variance will not confer any special privileges that are not available to any other lands, structures, or buildings in the same district.