

**Hearing Request Application - Form 1**  
Zoning Board of Adjustment  
City of Charlotte

Date Filed: August 23, 2013 Case Number: 13-\_\_\_\_\_

Received by: \_\_\_\_\_

**Instructions**

This form must be filled out completely. Please attach the appropriate additional form depending on your request type along with required information as outlined in the appropriate checklist. Please type or print legibly. All property owners must sign and consent to this application, attach additional sheets if necessary. If the applicant is not the owner, the owners must sign the Designation of Agent section at the bottom of this form.

**The Applicant Hereby** (check all that apply):

- Requests a variance from the provisions of the Zoning Ordinance as stated on Form 2
- Appeals the determination of a zoning official as stated on Form 3
- Requests an administrative deviation as stated on Form 4

**Applicant or Agent's Name:** The Presbyterian Home at Charlotte, Inc. c/o John Carmichael

Mailing Address: 101 North Tryon Street, Suite 1900

City, State, Zip: Charlotte, NC 28246

Daytime Telephone: 704-377-8341 Home Telephone: \_\_\_\_\_

Interest in this Case (please circle one):      Owner      Adjacent Owner      Other

**Property Owner(s)** [if other than applicant/agent]: The Presbyterian Home at Charlotte, Inc.

Mailing Address: 5100 Sharon Road

City, State, Zip: Charlotte, NC 28210

Daytime Telephone: 704-553-3709 Home Telephone: \_\_\_\_\_

**Property Address:** 3429 Sunnybrook Drive, Charlotte, NC

Tax Parcel Number: 179-051-04 Zoning District: R-3/Seeking Institutional (CD) zoning

Subdivision Name: Fairmeadows Conditional District:      YES      **NO**

**Applicant Certification and Designation of Agent**

I (we) certify that the information in this application, the attached form(s) and documents submitted by me (us) as part of this application are true and correct. In the event any information given is found to be false, any decision rendered may be revoked at any time. I (we) hereby appoint the person named above as my (our) agent to represent me (us) in this application and all proceedings related to it. I (we) further certify to have received, read and acknowledged the information and requirements outlined in this packet.

The Presbyterian Home at Charlotte, Inc.

8-23-13  
Date

By: Anna O. Moffat, CEO  
Property Owner

**Hearing Request Application - Form 2**  
 Zoning Board of Adjustment  
 City of Charlotte

Date Filed August 23, 2013

Case Number: 13-

Fee Collected: \_\_\_\_\_

Has work started on this project? YES  NO

If yes, did you obtain a building permit? YES  NO  If yes, attach a copy.

Have you received a Notice of Violation for this project? YES  NO  If yes, attach a copy.

Has this property been rezoned? YES  NO  If yes, Petition Number: \_\_\_\_\_

(1) What zoning ordinance section numbers are you seeking a variance from? Please list each section, the requirement and the requested variance.

Item	Code Section	Code Requirement	Variance Request
<i>Example</i>	<i>9.205(1)(g)</i>	<i>45 foot rear yard</i>	<i>35 foot rear yard (10 foot reduction from required)</i>
A	9.505(2)	Must comply with buffer requirements of Chapter 12, Part 3	Eliminate 50 foot Class C buffer to preserve existing residential structure
B	12.302(3) and Tables 12.302(a) and (b)	50 foot Class C buffer	Eliminate 50 foot Class C buffer to preserve existing residential structure
C	9.505(1)(e)	20 foot side yard	11 foot side yard (9 foot reduction)
D			
E			

(2) Please describe why the variances requested are necessary.

The property subject to this Application (the "Property") is located at 3429 Sunnybrook Drive, which is located in close proximity to the intersection of Eastburn Road and Sharon Road. The Presbyterian Home at Charlotte, Inc. (the "Applicant") acquired the Property on May 13, 2011. The Property contains a one story detached single family home (the "Home"), and the Property is currently zoned R-3. The Property is more particularly depicted on *Exhibit A* attached hereto.

The Applicant owns and operates a continuing care retirement community known as Sharon Towers on an approximately 24.80 acre parcel of land that adjoins the Property (the "Campus"). The Campus is zoned Institutional (CD). Sharon Towers offers independent living units, assisted living units and skilled nursing and home care services, as well as numerous amenities, activities and other services. The independent living units include apartment style units and single family cottage style units. Sharon Towers has served the Charlotte community since 1969.

To meet the growing demand for independent living units in the Charlotte area, the Applicant desires to develop additional apartment style independent living units on the Campus, to incorporate five adjoining parcels of land into the Campus, including the Property, and to allow the Home located on the Property to remain and be devoted to a single family cottage style independent living unit. To have the ability to

accomplish the foregoing, an amendment to the approved conditional rezoning plan for the Campus must be obtained by the Applicant, and the five adjoining parcels of land, including the Property, must be rezoned from the R-3 zoning district to the Institutional (CD) zoning district because independent living units are not a permitted use in the R-3 zoning district.

The Applicant filed a Rezoning Application and a conditional rezoning plan with the Charlotte-Mecklenburg Planning Department on June 24, 2013 (Rezoning Application No. 2013-071), pursuant to which it is requesting that the approved conditional rezoning plan for the Campus be amended to allow the development of additional apartment style independent living units and the five adjoining parcels of land, including the Property, be rezoned from the R-3 zoning district to the Institutional (CD) zoning district. The Public Hearing on the rezoning request is scheduled for September 16, 2013, and City Council is scheduled to make a decision on the rezoning request on October 21, 2013.

Because the Property abuts a lot located in the R-3 zoning district and the lot is devoted to a single family use, a 50 foot Class C buffer will be required to be established along the northern property line of the Property if it is rezoned to the Institutional (CD) zoning district as more particularly depicted on *Exhibit B* attached hereto. Additionally, if the Property is rezoned to the Institutional (CD) zoning district, a 20 foot side yard will be required to be established along the northern property line of the Property as more particularly depicted on *Exhibit B*. As seen on *Exhibit B*, if the Property is rezoned to the Institutional (CD) zoning district, the Home located on the Property will encroach into 50 foot Class C buffer, and the Home will encroach into the 20 foot side yard. Therefore, the Home will be required to be demolished.

The Applicant desires to maintain the Home located on the Property and to utilize it for a single family cottage style independent living unit if the Property is rezoned to the Institutional (CD) zoning district. The Applicant believes that maintaining the Home on the Property will preserve the streetscape along Sunnybrook Drive and provide additional screening of the Campus from Sunnybrook Drive and neighboring properties. Certain area residents have advised the Applicant that they agree with the Applicant's view and they have requested that the Applicant file this variance request. Accordingly, the Applicant respectfully requests a variance from Section 9.505(2), Section 12.302(3) and Tables 12.302(a) and (b) of the Ordinance to eliminate the 50 foot Class C buffer, and a variance from Section 9.505(1)(e) of the Ordinance to reduce the required side yard from 20 feet to 11 feet.

The Applicant is required to pursue the requested variances prior to City Council rendering a decision on the rezoning request. If the requested variances are granted, they would be effective only if the rezoning request is ultimately approved by City Council.

(3) THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS IN THE WAY OF CARRYING OUT THE STRICT LETTER OF THE ORDINANCE. The courts have developed three rules to determine whether, in a particular situation, "practical difficulties or unnecessary hardships" exist. State facts and arguments in support of each of the following:

- (a) If the property owner/applicant complies with the provisions of the Ordinance, the property owner can secure no reasonable return from, or make no reasonable use of his property. (It is not sufficient that failure to grant the variance simply makes the property less valuable.)

If the Applicant is required to comply with the above described buffer and side yard requirements, then the existing Home located on the Property will be required to be demolished as depicted on *Exhibit B* if the Property is rezoned to the Institutional (CD) zoning district. This will prevent the Applicant from utilizing the home as a single family cottage style independent living unit occupied by a senior family, and it will transform the streetscape along Sunnybrook Drive, which is a residential street with single family homes. The existing Home also helps to screen the Campus from Sunnybrook Drive and nearby

properties. Area residents who live on Sunnybrook Drive have advised the Applicant that if the Property is rezoned, they would prefer that the Home remain on the Property rather than the Applicant establishing the required 50 foot Class C buffer and the 20 foot side yard. This will preserve the streetscape along Sunnybrook Drive.

- (b) The hardship of which the Applicant complains results from unique circumstances related to the Applicant's land. (Note: Hardships common to an entire neighborhood, resulting from overly restrictive zoning regulations, should be referred to the Charlotte-Mecklenburg Planning Commission. Also, unique personal or family hardships are irrelevant since a variance, if granted, runs with the life of the land.)

The hardship of which the Applicant complains results from the difficulties associated with converting an existing Home located in the R-3 zoning district to an independent living unit that would be part of a continuing care retirement community. The hardship also results from the width of the lot, which prevents the Applicant from maintaining the Home on the Property and establishing the required buffer and side yard.

- (c) The hardship is not the result of the Applicant's own actions.

The hardship is the result of the relevant requirements of the Ordinance and the challenges that arise when converting an existing Home located in the R-3 zoning district to an independent living unit that would be part of a continuing care retirement community located in the Institutional (CD) zoning district. The hardship also results from the Applicant's desire to accommodate the expressed preference of area residents that the Home be maintained on the Property.

- (4) THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE AND PRESERVES ITS SPIRIT. (State facts and arguments to show that the requested variance represents the least possible deviation from the letter of the Ordinance to allow a reasonable use of the land; and, that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.)

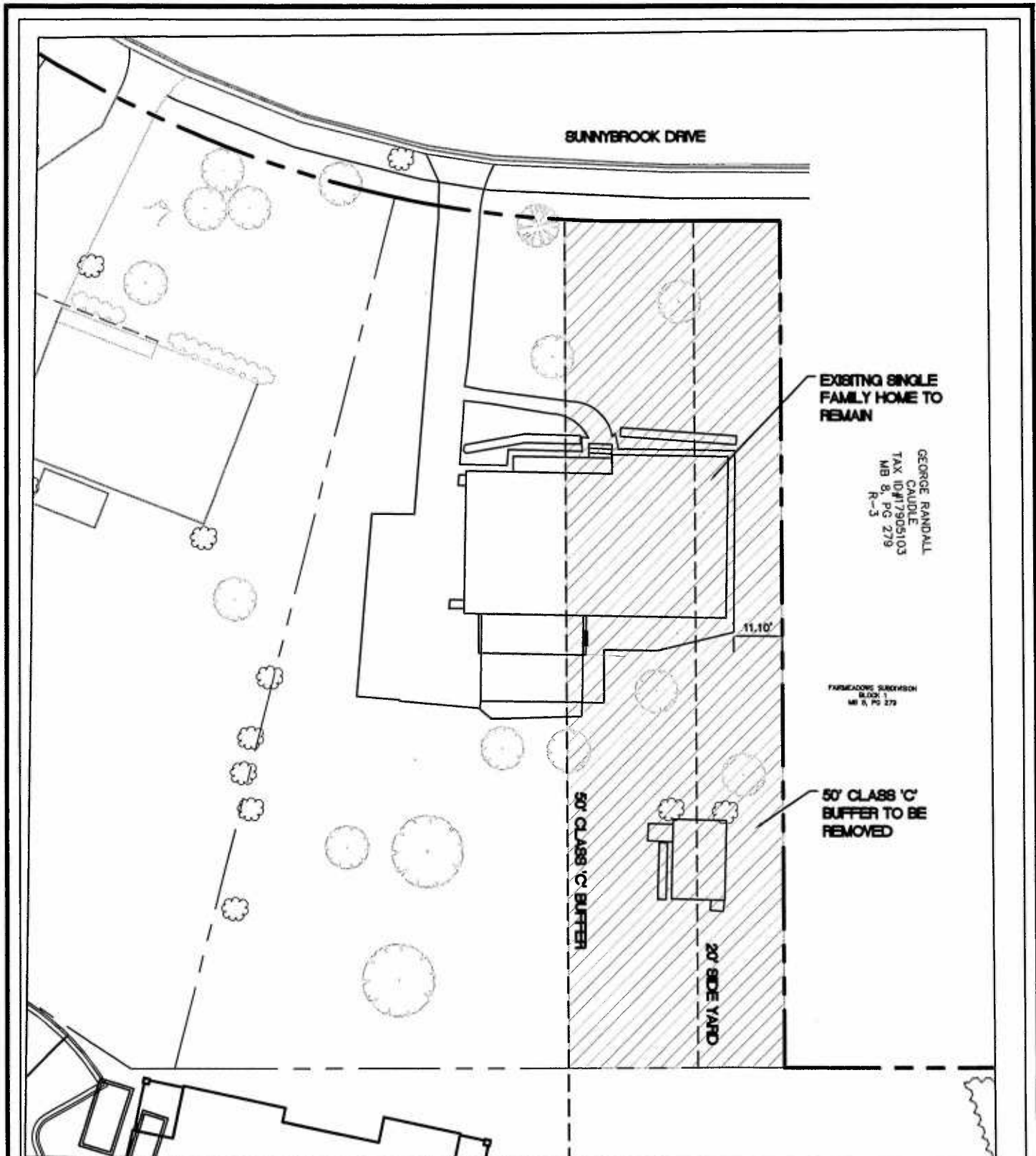
The variances requested are the least possible deviations from the Ordinance to allow the Home to remain as currently configured and to encroach into the required buffer and the required side yard. If the requested variances are granted, the proposed use of the Home and Property as an independent living unit will not detract from the character of the neighborhood. The granting of the requested variances will preserve the existing Home located on the Property and the existing streetscape along Sunnybrook Drive. Therefore, the appearance of the Property from Sunnybrook Drive and the look and feel of Sunnybrook Drive will not be altered if the requested variances are granted. Moreover, the Home is an existing structure, so the granting of the variances will not cause the Home to be located any closer to adjoining streets or neighboring properties than it is currently located. Additionally, if the variances are granted, the Home will continue to be occupied by a single family. In short, the granting of the requested variances will essentially maintain the status quo in terms of the physical appearance of the Property and Sunnybrook Drive, and the Home provides effective screening of the Campus from Sunnybrook Drive

and nearby properties. Finally, since the Home would continue to be occupied by a single family, the use of the Home would be compatible with the use of the neighboring lot, thereby eliminating the need for the buffer or the 20 foot side yard.

- (5) THE GRANTING OF THE VARIANCE SECURES THE PUBLIC SAFETY AND WELFARE AND DOES SUBSTANTIAL JUSTICE. (State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the Applicant.)

If the requested variances are denied, the Applicant will be harmed without any benefit to the public in the Applicant's view. If the requested variances are denied, the Applicant will be required to demolish the Home and to establish the buffer and the 20 foot side yard. This would prevent the Applicant from utilizing the home as an independent living unit. It would also result in a change to the streetscape along Sunnybrook Drive, which is contrary to the wishes of area residents. Additionally, the Home helps to screen the Campus from Sunnybrook Drive and neighboring properties. Therefore, the Applicant does not believe that there is any benefit to the public resulting from the denial of the requested variances.





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PROJECT #

**SHARON TOWERS VARIANCE EXHIBIT  
REMOVAL OF 50' CLASS 'C' BUFFER  
AND REDUCTION IN REQUIRED SIDE YARD**  
CHARLOTTE, NC

Project No: 13016 Ref No:

Scale: 1" =

Drawn By:

Checked By:

**EXHIBIT**

**B**