

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: 3443 Sunnybrook Drive, Charlotte, NC

Tax Parcel Number: 179-051-06 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.

Aug. 22, 2013
Date

The Presbyterian Home at Charlotte, Inc.
By: James O. Myffat
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(1)(d)	40 foot setback	32 foot setback (8 foot reduction from required) *For only an 85 square foot portion and a 60 square foot portion of the setback
B			
C			
D			
E			

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

The property subject to this Application (the "Property") is located at 3443 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 September 28, 2006. 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 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.

The required setback in the R-3 zoning district is 30 feet, and the Home located on the Property complies with this setback requirement. However, under Section 9.505(1)(d) of the Ordinance, the required setback in the Institutional zoning district is 40 feet, and the Home does not comply with the setback from Eastburn Road. More specifically and as depicted on *Exhibit B* attached hereto, an approximately 60 square foot portion of the Home encroaches a maximum of 7.66 feet into the 40 foot setback from Eastburn Road, and an approximately 85 square foot portion of the Home encroaches a maximum of 5.71 feet into the 40 foot setback from Eastburn Road. Accordingly, the Applicant respectfully requests a variance from Section 9.505(1)(d) of the Ordinance to permit those portions of the Home depicted on *Exhibit B* to encroach into the 40 foot setback from Eastburn Road.

The Applicant is required to pursue the requested variance prior to City Council rendering a decision on the rezoning request. If the requested variance is granted, it 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 40 foot setback requirement from Eastburn Road set out in Section 9.505(1)(d) of the Ordinance, then the Applicant will be required to demolish and remove those portions of the Home depicted on *Exhibit B* and to make the necessary repairs and modifications to the Home. This will adversely impact the aesthetics of the Home and its functionality. Moreover, this will reduce the marketability of the Home as an independent living unit, and the purpose of the rezoning request is to provide additional independent living units to meet the growing demand in the Charlotte area.

- (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. When the Home was built, it was located in the R-3 zoning district, which has a 30 foot setback. However, to allow the Home to be used as an independent living unit, the Property must be rezoned to the Institutional zoning district, which has a 40 foot setback. The hardship also results from the fact that the Property is located at the corner of an intersection, which results in two setbacks applying to the Property, the setback from Eastburn Road and the setback from Sunnybrook Drive. It is the setback along the side of the Property, the Eastburn Road setback, into which the Home encroaches.

- (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 zoning district. The hardship is also the result of the fact that two setbacks apply to the Property due to its location at the intersection of two streets.

- (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 variance requested is the least possible deviation from the Ordinance to allow the Home to remain as currently configured and to encroach into the 40 foot setback from Eastburn Road as depicted on *Exhibit B*. If the requested variance is granted, the proposed use of the Home and Property as an independent living unit will not detract from the character of the neighborhood. The encroachments into the 40 foot setback are relatively small, 60 square feet and 85 square feet, and the granting of the variance will not result in a change in the appearance of the Home or the Property as viewed from Eastburn Road or Sunnybrook Drive, or from neighboring properties. The Home is an existing structure, so the granting of the variance will not cause the Home to be located any closer to adjoining streets or neighboring properties than it is currently located. The granting of the variance will enable the Applicant to preserve the aesthetic appeal of the Home and the streetscape along Eastburn Road and Sunnybrook Drive. Additionally, if the variance is granted, the Home will continue to be occupied by a single family, however, it will be a family comprised of a senior couple.

- (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.)

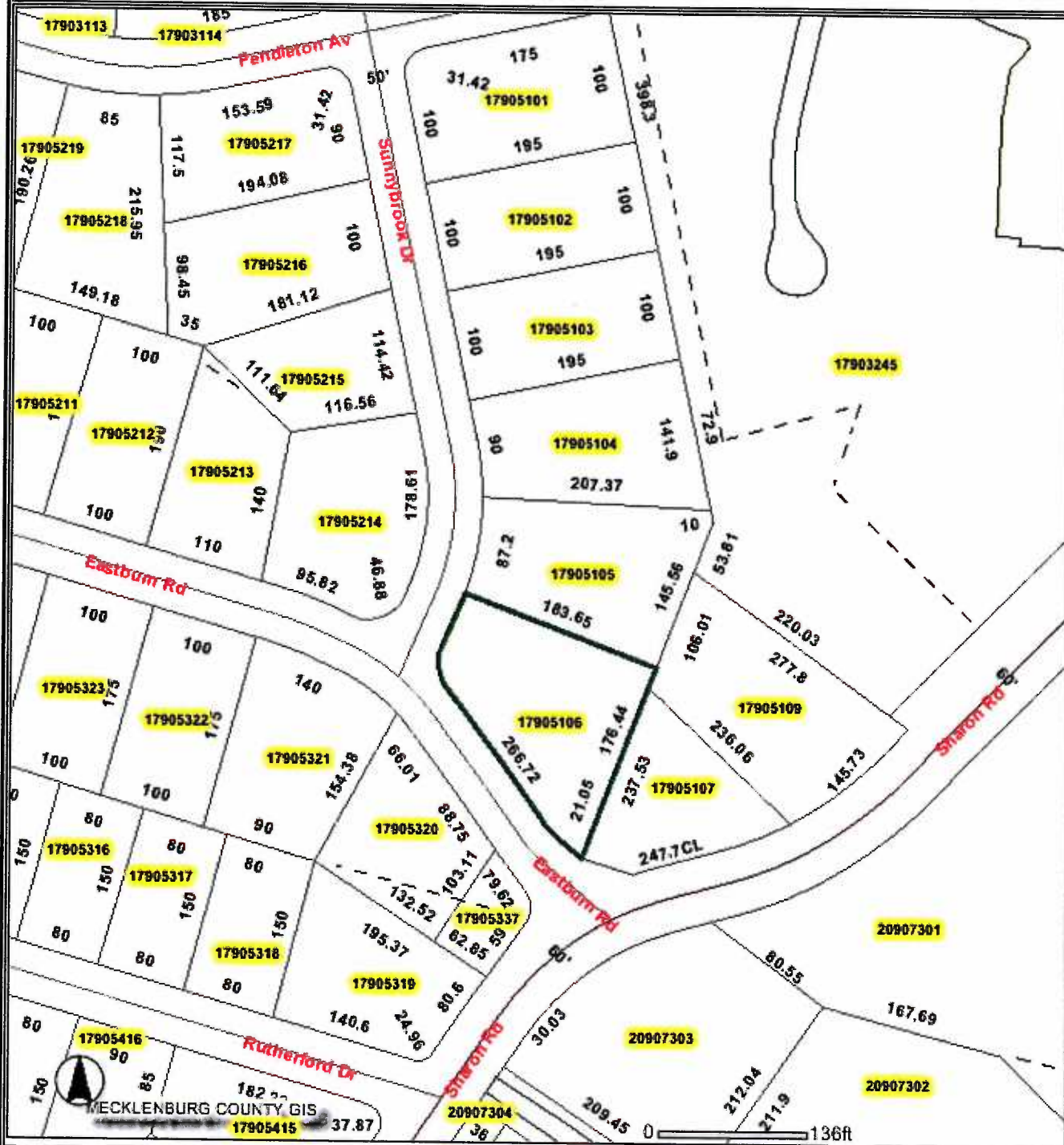
If the requested variance is denied, the Applicant will be harmed without any benefit to the public in the Applicant's view. If the requested variance is denied, the Applicant will be required to demolish and remove portions of the Home. This would be an expensive undertaking and it would adversely impact the aesthetics and functionality of the Home and the marketability of the Home as an independent living unit. The denial of the requested variance will not benefit the public because the variance request is relatively small, and because the granting of the variance will not cause a change in the appearance of the Home or

the Property or cause the Home to be located any closer to adjoining streets or neighboring properties than it is currently located. In short, there would be no physical impact on the surrounding environment. Additionally, the Home would continue to be occupied by a single family, however, the family would be comprised of a senior couple.

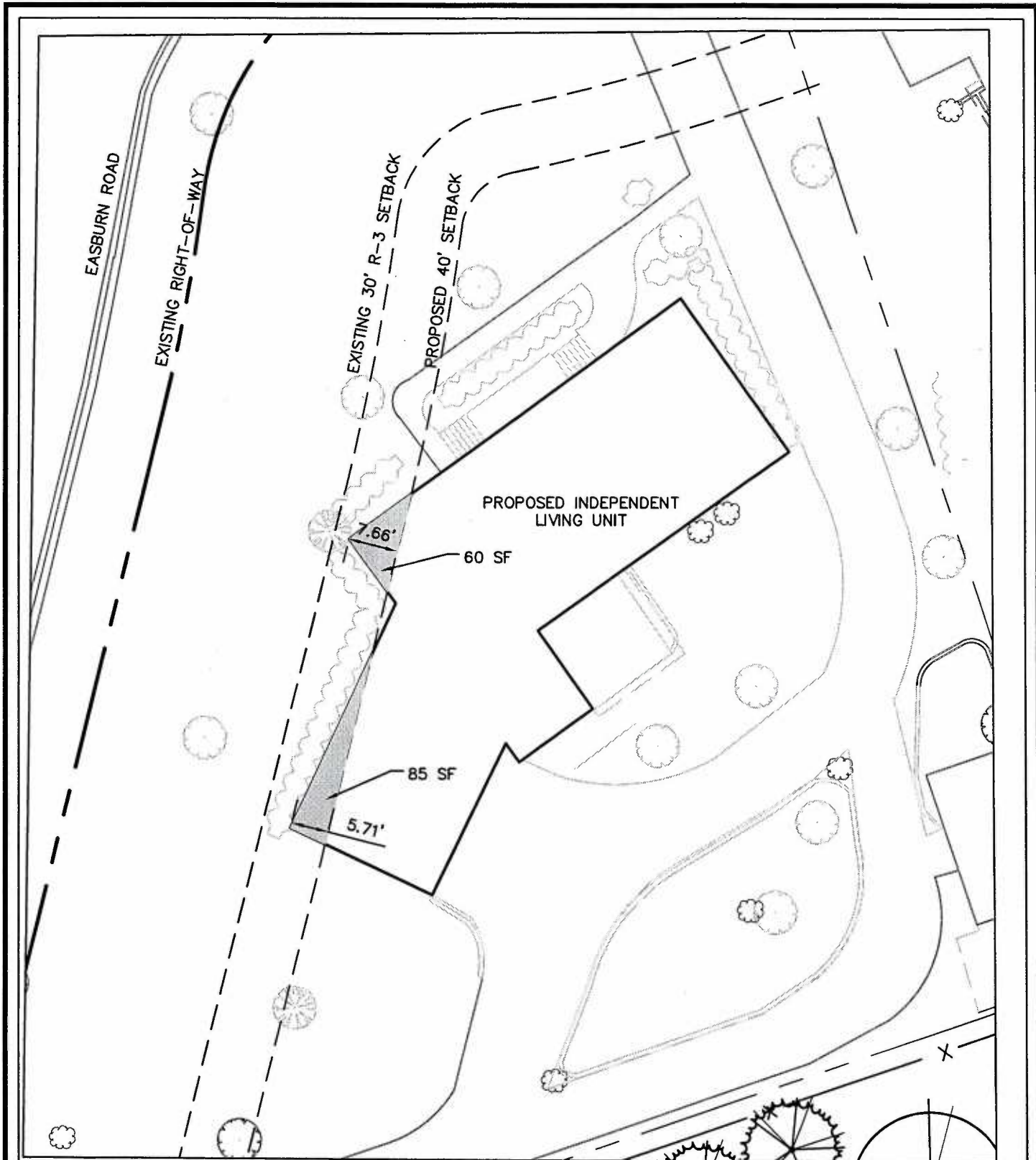
Mecklenburg County, North Carolina
POLARIS
 Property Ownership Land Records Information System

Date Printed: Thu Aug 22 10:01:41 EDT 2013

Exhibit A



This map is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.



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PROJECT #

SHARON TOWERS
EXHIBIT 1-SETBACK ENCROACHMENT
OF INDEPENDENT LIVING UNIT
CHARLOTTE, NC

Project No: 13016

Ref No: --

Scale: 1" =

Drawn By: R

Checked By: R

tabbler

EXHIBIT

B