

ERECTED INTO A TOWNSHIP IN 1733
TOWNSHIP OF WORCESTER
AT THE CENTER POINT OF MONTGOMERY COUNTY
PENNSYLVANIA

RECEIVED
▶ JAN 27 2023 ◀
RECEIVED

1721 Valley Forge Road
P.O. Box 767
Worcester, PA 19490

Phone (610) 584-1410
Fax (610) 584-8901

THIS SECTION COMPLETED ONLY BY TOWNSHIP:

APPEAL NO. : _____ DATE FILED: _____, 20____

APPLICATION: BOARD OF SUPERVISORS
 ZONING HEARING BOARD

1. Date of Application: January 27, 2023

2. Classification of Appeal (Check one or more, if applicable):
 - a. Appeal from the Zoning Officer's Determination
 - b. Request for Variance
 - c. Request for Special Exception
 - d. Challenges to the Validity of Zoning Ordinance or Map
 - e. Request for Conditional Use Hearing
 - f. Request for Amendment to Zoning Map
 - g. Request for Zoning Ordinance Amendment
 - h. Request for a Curative Amendment
 - i. Request for other relief within the Jurisdiction of the Zoning Hearing Board as established in Section 909.1(a) of the Pennsylvania Municipalities Code

3. Applicant: Fairview Village Seventh Day Adventist Church
 - a. Name: Pennsylvania Conference Association of Seventh-Day Adventists
 - b. Mailing address: Please use attorney's address
P.O. Box 241, Norristown PA 19401
 - c. Telephone number: Please use attorney's telephone number
 - d. State whether owner of legal title, owner of equitable title, or tenant with the permission of owner legal title: _____ **(REQUIRED)**
Please attach Deed to prove ownership, an Agreement of Sale to prove equitable ownership, or an Affidavit allowing Tenant to apply for necessary relief.

4. Applicant's attorney, if any:
 - a. Name: M. Joseph Clement, Esq.
 - b. Address: 460 Norristown Road, Suite 110, Blue Bell, PA 19422
 - c. Telephone number: 610.825.8400

5. Property Details:

- a. Present Zoning Classification: AGR
- b. Present Land Use: Primarily a Place of Worship/Church
- c. Location (Street Address):
3235 Germantown Pike / 1010 Kriebel Mill Road
- d. Parcel #: 67-00-01396-00-4
- e. Lot Dimensions:
 - (1) Area: Approximately 14.49 acres
 - (2) Frontage: Approx. 1145 ft. (Kriebel Mill) and 665 ft. (Germantown)
 - (3) Depth: Approx. Avg. 600 ft. (Kriebel Mill) and 980 ft. (Germantown)
- f. Circle all that apply in regards to the above specified property:
Public Water Public Sewer

Private Well

Private Septic

- g. Size, construction, and use of existing improvements; use of land, if unimproved: **(Please submit as an attachment)**

6. Proposed Use(s):

- a. Proposed use(s) and construction: Please provide size, construction and proposed use(s). **(Please submit as an attachment)**

7. Legal grounds for appeal (Cite specific sections of Pennsylvania Municipalities Planning Code, Zoning Ordinance, Subdivision Regulations, and/ or other Acts or Ordinances). All sections that apply must be listed in which relief is required and an explanation provided. **(Please submit as an attachment)**

8. Has any previous appeal been filed concerning the subject matter of this appeal?
 Yes No

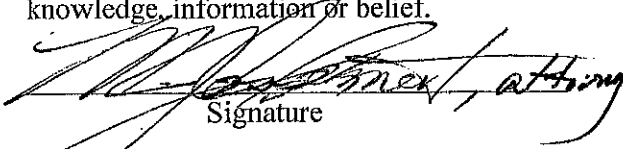
If yes: specify: **(Please submit as an attachment)**

9. Challenges please list requested issues of fact or interpretation:
(Please submit as an attachment)

10. Worcester Township to provide the list of names and addresses of properties situated in the vicinity of the subject property as per Township Code Section 150-224

CERTIFICATION

I (We) hereby certify that the above information is true and correct to the best of my (our) knowledge, information or belief.


Signature

M. Joseph Clement, Esq., attorney of record
Printed Name

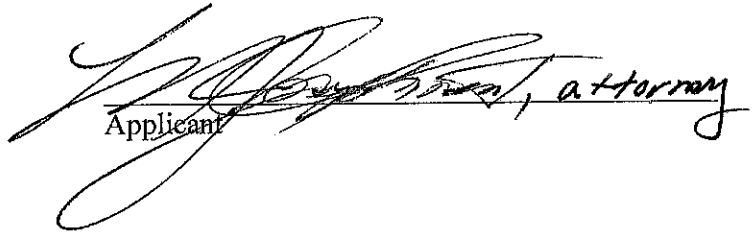
Signature

Printed Name

COMMONWEALTH OF PENNSYLVANIA:


COUNTY OF _____ : SS

The undersigned, being duly sworn according to law, deposes and says the he/she is the above names applicant, that he/she is authorized to and does take this affidavit on behalf of the owner, and foregoing facts are true and correct.


Applicant

Applicant

Sworn to and subscribed before me this 27th day of January, 2023



Notary Public

Commonwealth of Pennsylvania - Notary Seal
Ana Hernandez, Notary Public
Montgomery County
My commission expires November 18, 2025
Commission number 1410789
Member, Pennsylvania Association of Notaries

Date Received: _____

Zoning Officer

Addendum to the Zoning Hearing Board

3235 Germantown Pike

Applicants, (individually and collectively "Applicant") Fairview Village Seventh Day Adventist Church ("Occupant") and the Pennsylvania Conference Association of Seventh-Day Adventists ("Owner"), by and through their undersigned counsel, respectfully request the following relief from the Worcester Township Zoning Hearing Board ("ZHB") in connection with the use of the property located at 3235 Germantown Pike, Worcester Township, Montgomery County, Pennsylvania ("Property").

The Property is an approximately 14.49 acre parcel located at the corner of Germantown Pike and Kriebel Mill Road. Methacton High School is directly across Kriebel Mill Road from the Property. The Property is located in the Township's AGR – Agricultural District.

The Property is improved with a main structure (primarily comprised of a sanctuary, offices, classrooms and fellowship hall), parking lot improvements and outbuilding. The primary use of the Property is as a place of worship, Sabbath (Sunday) School, and gathering place for the congregation of the Fairview Village Seventh Church. Occupant holds services on Sunday mornings, activities throughout the day on Sunday, a mid-week prayer meeting (currently on Wednesday evenings), bible studies, and various activities throughout the week. In addition to Sunday morning services, weekend activities are generally scheduled throughout the day. Activities during the work week are scheduled to occur in the evening. Occupant's use of the Property pre-dates the applicable provisions of the Township's Zoning Code ("Code"). Owner as been title owner of the Property since the early 1970's.

Several years ago, Applicant was approached by a members of the community who sought Applicant's approval to use the parking lot on the Property as an "overflow" parking lot for Methacton High School. To be clear, the request to use the parking lot on the Property came from a parent of a school student and not Methacton School District. Applicant agreed to allow the use of the parking lot for such purpose subject to certain terms and conditions. Thereafter, the accessory "overflow" parking lot use occurred on the Property, without issue or interruption to Occupants other uses of the Property. However, at some point, the Township's zoning officer determined that the parking lot use of the Property is not permitted, by right, under the provisions of the Township's AGR Agricultural Zoning District.

Applicant, and members of the community, are seeking approval from the ZHB to allow parking on the property by Methacton High School students, faculty, staff, visitors and personnel at the discretion of Applicant. This parking use of the Property would primarily occur during normal school hours throughout the school year; but may also occur when events are held on the Methacton High School property after school hours at the discretion of Applicant.

The Code defines an "accessory use" as a "use customarily incidental and subordinate to the principal use of land or a building or other structure on a lot or portion thereof located on the same lot with such principal use." Applicant respectfully submits that an overflow/shared parking use of the Property is customarily incidental and subordinate to Occupant's use of the Property. It is common for church parking lots to be used for shared parking and overflow parking uses because the primary hours of operation of a church usually are opposite of traditional business hours of operation. Applicant respectfully submits that the fact individuals are parking on the Property to access or attend school or an event on the high school's property

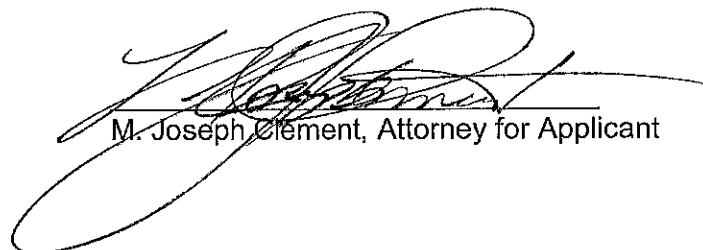
is irrelevant. Therefore, Applicant respectfully request the Zoning Hearing Board to interpret the Code to allow the proposed parking use of the Property as an accessory use.

In the alternative, to the extent that the ZHB determines that the proposed overflow/shared parking use of the Property does not meet the Code's definition of accessory use because the principal use is somehow the high school (use which is not on the Property), Applicant respectfully requests a variance from the definition of accessory use to allow for the proposed overflow/shared parking use of the Property to be an accessory use to an off-site use. Applicant submits that it's requested variance is a "hybrid variance". Pennsylvania courts have described a variance from a requirement in the zoning ordinance that contains both dimensional and use elements as a "hybrid variance." See, Pohlig Builders, LLC v. Zoning Hearing Bd., 25 A.3d 1260 (Pa. Cmwlth. 2011). Like dimensional variances, hybrid variances are subject to the relaxed quantum of proof of unnecessary hardship under Hertzberg.

In the alternative, Applicant respectfully requests a variance from Code Section 150-11 to allow an shared/overflow parking lot use on the Property in addition to the Applicant's current use of the Property.

Applicant respectfully submits that there are unique physical circumstances or conditions, including irregularity, of lot size or shape, or exceptional topographical or other physical conditions peculiar to the Property and the school property; and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located. Further, because of such physical circumstances or conditions, there is no possibility that the Property can be developed in strict conformity with the provisions of the Code and that the authorization of a variance is therefore necessary to enable the reasonable use of the Property. Moreover, such unnecessary hardship has not been created by Applicant; and, the proposed use will not alter the essential character of the neighborhood or district in which the Property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare. In fact, granting the variance will benefit public safety and welfare by help to address and alleviate the unsafe conditions caused student drivers parking in other areas (primarily along Germantown Pike and Anvil Drive) and the unsafe circumstances created by students walking along Germantown Pike or trespassing across private property from these remote parking locations to the high school. Finally, the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the applicable provisions of the Code in issue.

Respectfully Submitted,



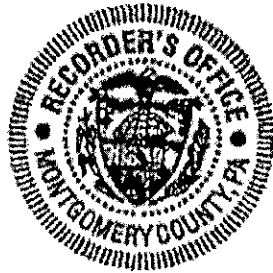
M. Joseph Clement, Attorney for Applicant

RECORDER OF DEEDS
MONTGOMERY COUNTY PENNSYLVANIA

Jeanne Sorg

One Montgomery Plaza
Swede and Alry Streets ~ Suite 303
P.O. Box 311 ~ Norristown, PA 19404
Office: (610) 278-3289 ~ Fax (610) 278-3869

I hereby certify that the following is a true and correct
copy of the original document
recorded in Montgomery County, PA



Jeanne Sorg

Jeanne Sorg, Recorder of Deeds



000007

HAY-16-73 00 No. 92 DEEDS 907
Printed by Vee & Lukens Co., Philadelphia

7.00

This Indenture Made the

day of *May* in the year of our Lord one thousand nine hundred and *Seventy Three* Between

ROBERT TRUCKSESS, EXECUTOR OF THE LAST WILL AND TESTAMENT OF MARY J. TRUCKSESS, DECEASED

of the one part, Grantor and PENNSYLVANIA CONFERENCE ASSOCIATION OF SEVENTH DAY ADVENTISTS, INC.

of the other part, Grantee.
Witnesseth, That the said Grantor for and in consideration of the sum of FIFTY THOUSAND (\$50,000.00) DOLLARS lawful money of the United States of America, unto him well and truly paid by the said Grantee at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, released and confirmed, and by these presents does

confirm unto the said Grantee its successors grant, bargain, sell, alien, release and Assigns,

ALL THAT CERTAIN lot or piece of ground, situate in the Township of Worcester, County of Montgomery, Commonwealth of Pennsylvania, described in accordance with a survey and plan thereof made for Robert Trucksess by Donald H. Bohurr, Civil Engineer and Surveyor, Norristown, Pa., dated January 2, 1973 and revised April 17, 1973 as follows, to wit:

BEGINNING at a point of intersection of the center line of Germantown Pike, Fifty feet wide, with the center line of Kriebel Mill Road, thirty three feet wide; thence along the center line of Kriebel Mill Road North thirty nine degrees, two minutes, thirty seconds East One thousand sixty seven and sixty two one-hundredths feet to a point, a corner of land of Samuel Detviler; thence along said land and by land of Sylvester Rodenbaugh South forty nine degrees East Six hundred twenty five and thirty two one-hundredths feet to a point, a corner of Parcel No. 2 on said plan; thence along Parcel No. 2, South thirty eight degrees, thirty minutes West Eight hundred sixty and seventy five one-hundredths feet to a point in the center line of Germantown Pike; thence along the center line of said Pike, the two following courses and distances (1) North fifty six degrees, fifty minutes West Three hundred thirteen and ninety one one-hundredths feet to a point (2) North seventy six degrees, thirty one minutes West Three hundred fifty five and sixty seven one-hundredths feet to the first mentioned point and place of beginning. BEING Parcel No. 1 on said Plan.

BEING part of the same premises which Dorothy M. Clok, single woman by Indenture bearing date the 10th day of June A.D. 1929 and recorded at Norristown in the Office for the Recording of Deeds, in and for the County of Montgomery on the 11th day of June A.D. 1929 in Deed Book No. 1081 page 507 etc., granted and conveyed unto David L. Trucksess and Mary J. Trucksess, his wife, in fee.

REALLY TRANS 17
STATE # 550.00
LOCAL # 500.00
PER *Amey*



AND the said David L. Truckess departed t his life on or about November 7, 1929, whereby title to the within described premises vested solely in Mary J. Truckess, surviving widow, by right of survivorship.

AND the said Mary J. Truckess being so thereof seized departed this life on or about May 30, 1971 having first made and published her last Will and Testament bearing date June 9, 1960, and codicil thereto dated January 5, 1965, and since her decease duly proven before the Register of Wills of Montgomery County at Norristown, Pa. on June 7, 1971 and registered in Reel No. 296 page 140 wherein she appointed her son, Robert Truckess by the name of Robert G. Truckess, as Executor.

AND Letters Testamentary were duly granted by the Register of Wills aforesaid on June 7, 1971 unto Robert Truckess.

Together with all and singular improvements, ways, streets, alleys, passages, waters, water-courses, rights, liberties, privileges, hereditaments and appurtenances whatsoever thereunto belonging, or in any wise appertaining, and the reversions and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, use, trust, property, possession, claim and demand whatsoever of her, the late Mary J. Truckess, at and immediately before the time of her decease, in law, equity, or otherwise howsoever, of, in, and to the same and every part thereof.

00073850 PC 56

To have and to hold the said lot of piece of ground,

hereditaments and
promises hereby granted, or mentioned and intended so to be, with the appurtenances, unto
the said Grantee its successors and Assigns, to and for the only
proper use and behoof of the said Grantee its successors
and Assigns forever.

And the said ROBERT TRUCKSESS, EXECUTOR OF THE LAST WILL AND TESTAMENT OF

MARY J. TRUCKSESS, DECEASED in as by these presents covenant, grant and agree
to and with the said Grantee its successors and Assigns, that
he the said ROBERT TRUCKSESS, EXECUTOR OF THE LAST WILL AND TESTAMENT OF
MARY J. TRUCKSESS, DECEASED

has not done, committed, or knowingly or willingly suffered to be done or committed,
any act, matter or thing whatsoever whereby the Premises hereby granted or any part
thereof, is, are, shall, or may be impeached, charged or incumbered, in title, charge, estate,
or otherwise howsoever.

In Witness Whereof, the said ROBERT TRUCKSESS, EXECUTOR OF THE LAST WILL AND
TESTAMENT OF MARY J. TRUCKSESS, DECEASED, has hereunto set his hand and seal. Dat ed
the day and year first above written.

Sealed and delivered
IN THE PRESENCE OF US
Charles J. Bennett

Robert Trucksess (SEAL)
ROBERT TRUCKSESS, EXECUTOR OF THE LAST WILL
AND TESTAMENT OF MARY J. TRUCKSESS, DECEASED

XX
COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF *Mechanic* } SS

On the *25* day of *MAY* A. D. 19*73*, before me
the subscriber, a Notary Public, in and for the Commonwealth of Pennsylvania,
residing at _____ personally appeared
the above named ROBERT TRUCKSESS, EXECUTOR OF THE LAST WILL AND TESTAMENT OF MARY J.
TRUCKSESS, DECEASED,
and in due form of law acknowledged the above Submitter to be his
act and deed, and desired the same might be recorded as such.

Witness my hand and notarial seal the day and year aforesaid.
Robert G. Healy
ROBERT G. HEALY, NOTARY PUBLIC
HARRISBURG, MONTG. CO.
MY COMMISSION EXPIRES 2-25-75

ON THE _____ day of _____ Anno Domini 19____, before me, the
subscriber,

personally appeared _____
who being duly _____ according to law, says that he was personally present at the execution of the within Indenture
and saw the common or corporate seal of the said Corporation duly affixed thereto; that the seal so affixed is the common or
corporate seal of the said Corporation; that the said Indenture was duly sealed and delivered by
of the said Corporation as and for the act and deed of the said Corporation of the uses and purposes
therein mentioned,

and that the names of this _____ as _____ and of _____
of the said Corporation, subscribed to the within Indenture in
attestation of its due execution and delivery, are in their and each of their respective handwritings,
and subscribed before me, the day and year
aforesaid. Witness my hand and seal.

The residence of the within-named Grantee is Germania Pike or Kaibel
On behalf of said Grantee Mill Ad, Worcester

50
6.50

Deed

THE LIFE-INSURANCE CORPORATION
OF PENNSYLVANIA 374, 310-N

CL: MAY 14 11 41 AM '73

ROBERT TRUCKESS, EXECUTOR OF THE
LAST WILL AND TESTAMENT OF MARY J.
TRUCKESS, DECEASED

TO

PENNSYLVANIA CONFERENCE ASSOCIATION
OF SEVENTH DAY ADVENTISTS

No. 24
The Life Insurance Co.
Philadelphia

PREMISES:
TOWNSHIP OF WORCESTER,
COUNTY OF MONTGOMERY,
COMMONWEALTH OF PENNSYLVANIA.

MLT

P 51246

Recorded in the Office for Recording of Deeds, in and for Montgomery County
in Deed Book No. 3850 page 55 &c.
Witness my hand and seal of Office this 16th day of
May Anno Domini 19 73

Sullivan J. Asher Jr.
...Recorder

BOOK 3850 PG 58