

**Addendum to Zoning Hearing Board Application Abington Township
for
New Life Presbyterian Church, Glenside, PA**

6. State briefly the reasons for which the proposed improvements or use does not meet the requirements of the Zoning Ordinance, and the nature of relief you are seeking:

The proposed building addition is to a nonconforming church building located on the southeast corner of Easton and Jenkintown Roads in Glenside. The new addition will be constructed slightly further into the already nonconforming front yard and will require a several dimensional and yard encroachment variances. The ordinance also calls for ten street trees and street furniture along Easton Road. Further, the ordinance raises landscape issues in the parking lot for which the applicant is seeking a variance.

7. List the specific section of the Zoning Ordinance upon which the application for a variance or special exception is based:

A. Variance requested for the following landscape issues:

1. Street Trees (Easton Road, 10 trees) 2402.B.2.c.
2. Street furniture along Easton Road, 2502.

B. Variance requested for the following front yard encroachment issues:

1. Dimensional Requirements, minimum front yard depth in CS is 150 feet. 902 Fig 9.4, and Minimum Yard Dimensions for Places of Worship, 2103.E. Use E-13A
2. Non-conforming structure, 1907, the addition to a nonconforming structure can be no closer to the front property line than the existing nonconforming structure.
3. Principal building or structure, 2601.O.1, No principal building may be located in the set back.
4. Projection into yards, 2601.O.4.h, No principal building shall project into a yard.

C. Variance requested for the Building Cover, Sec 2103.E. Fig. 21.9.

This section of Ordinance reduces the allowable building coverage to 10% Existing cover is non-conforming at 16.6%. The proposed additional will increase the non-conformity to 17.9% or 1,340 S.F.

8. Describe in detail the grounds for the appeal, or the reasons both in law and in fact for the granting of the variance or special exception, describing in detail the nature of the unique circumstances, and the specific hardship justifying your request for approval of the application.

The property has numerous nonconforming conditions, including the location of the building, setbacks, etc. These conditions, along with other factors, prohibit strict compliance with the Ordinance.

The proposed addition is intended to be as compliant as possible given the current nonconforming building. The dimensional variances regarding the front yard are de minimis.

The property is presently improved with overhead power lines and underground utilities, which would make it difficult to plant large trees along Easton Road.

Granting the variance is in harmony with the general purpose and intent of the Zoning Hearing Board and is not injurious to the neighborhood or public welfare.

The improvements will beautify the building and improve the character of the neighborhood. Granting the variance will not change the already nonconforming use.

In 1998, the Pennsylvania Supreme Court, in its seminal opinion of *Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh*, 721 A.2d 43 (Pa. 1998), announced a less stringent standard for the granting of dimensional variances, which include relief from setback, minimum lot size, and building height requirements. In *Hertzberg*, the court stated:

We now hold that in determining whether unnecessary hardship has been established, courts should examine whether the variance sought is use or dimensional. To justify the grant of a dimensional variance, courts may consider multiple factors, including the economic detriment to the applicant if the variance is denied, the financial hardship created

by any work necessary to bring the building into strict compliance with the zoning requirements and the characteristics of the surrounding neighborhood. To hold otherwise would prohibit the rehabilitation of neighborhoods by precluding an applicant who wishes to renovate a building in a blighted area from obtaining the necessary variances.

Although not statutorily authorized by the MPC, zoning hearing boards may also grant de minimis variances, which are very minor deviations from the dimensional provisions of a zoning ordinance where rigid compliance is not necessary to protect the public concerns inherent in the zoning ordinance. There is no set of criteria upon which de minimis variances are granted; instead, they are evaluated according to the particular circumstances of each request for relief.

Finally, the Religious Land Use and Institutionalized Persons Act prohibits the implementation of any land use regulation that imposes a "substantial burden" on the religious exercise of a person or religious assembly or institution except where justified by a "compelling governmental interest" that the government pursues in the least restrictive way possible.

Applicant requests leave to present other testimony at the hearing to support its request for a variance.

Respectfully submitted,



DAVID G. ENNIS, ESQ.
Attorney for New Life Church