

BOARD OF ZONING APPEALS
CITY HALL COUNCIL CHAMBERS
Tuesday, March 13, 2018
6:00 p.m.

The regular meeting of the Board of Zoning Appeals was scheduled and held in the Council Chambers of City Hall on March 13, 2018.

1. Chairman Sisson called the meeting to order at 6:04 p.m. and announced, the Board of Zoning Appeals is a Quasi-Judicial body and as such, the latitude for acting on applications is somewhat limited by State Statute and City Ordinance. This meeting is recorded and those appearing before the Board would need to identify themselves, give their address and be sworn in for the record.

Motions made in all meetings are of an affirmative nature and does not necessarily mean that the motion will be approved, but that the language will be of an affirmative nature when the motion is made. Each applicant has the opportunity to withdraw the application up until the time a motion is made. There are limitations as to when an applicant can reapply for the same request once the motion fails.

2. Chairman Sisson requested the roll call. Ms. Regina Gibson called the roll of the Board and established a quorum:

COMMISSIONERS PRESENT: Ms. Jennifer Sisson, Chairman; Mr. Hunter Browndyke, Vice Chairman; Mr. Mike Harless; Ms. Jodie Bowden; and Ms. Rhea Clift

DEVELOPMENT STAFF PRESENT: Mr. Cameron Ross, Economic and Community Development Director; Mr. Joe Nunes, Neighborhood Services Manager; Ms. Sheila Pounder, Planning Division Manager; Ms. Regina Gibson, Administrative Secretary, and Mr. Alan Strain, Attorney.

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3. Approval of Minutes from the January 9, 2018, Meeting.

Mr. Harless moved to approve the Board of Zoning and Appeals minutes of January 9, 2018, as discussed; seconded by Mr. Browndyke, with no further comments or discussions.

ROLL CALL: Mr. Browndyke – Yes; Ms. Clift – Yes; Ms. Bowden – Yes; Mr. Harless – Yes; Chairman Sisson – Yes.

MOTION PASSED

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4. 3645 Forest Hill-Irene Rd – Harvest Church – Approval of a Use on Appeal to Allow an Increase in an Accessory Use (Parking Lot) to an Existing Church in the R District. (Case No. 15-560).

INTRODUCTION:

Case Number: 15-560

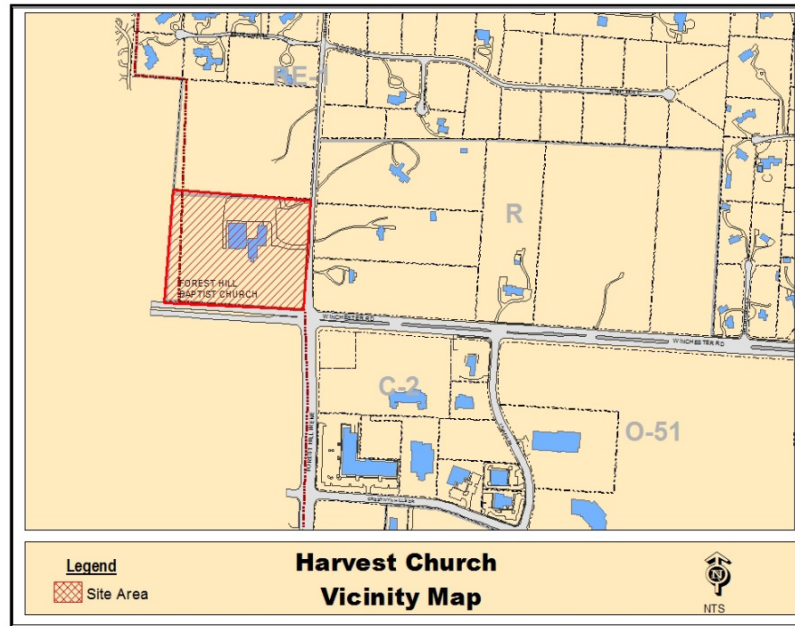
Location: 3645 Forest Hill-Irene Rd. (Harvest Church)

Applicant: Michael Rogers w/ Fisher Arnold

Property Owner: William Garner, Lead Pastor

Zoning District: “R” Low-Density Residential District

Description of Request: 1) Use on appeal to allow an increase in an accessory use (parking lot), and
2) variance to allow parking in the front setback for an existing church in the “R” zoning district



BACKGROUND:

DATE OF ANNEXATION: July 26, 2000, per Ordinance No. 2000-10.

DATE SUBDIVISION APPROVED: Harvest Church final plat, recorded on May 23, 2017. Plat book 272, page 26 (Lot 1).

DATE PRINCIPAL STRUCTURE APPROVED/BUILT: 1998. Expansion 2017.

PREVIOUS USE ON APPEAL AND VARIANCE REQUESTS:

- May 13, 2014: Use on Appeal to expand church’s parking lot (approved)
- January 12, 2016: Use on Appeal to expand church building (approved)

HISTORY:

The property was annexed into the City of Germantown on July 26, 2000, as part of the annexation of a 1,450-acre area in the vicinity of Forest Hill-Irene Rd. and Winchester Rd. The property was originally the site of Forest Hill Baptist Church that was built in 1998, according to the Shelby County Assessor Records. Additions and alterations to the existing educational building for the church were approved as Project Development Contract #47 in 1980. The BZA approved on May 13, 2014, a Use on Appeal for the expansion of the church’s parking lot. A second Use on Appeal was approved by the BZA on January 12, 2016, for expansion of the church building. The church property was purchased by Harvest Church, who was using the facilities together with Forest Hill Baptist Church. On June 7, 2016, the Planning Commission approved a revised preliminary and final site plan for the expansion of the church facilities. On July 27, 2016, the Design Review Commission approved the revised preliminary and final site plan. On April 24, 2017, development contract #1195 was approved by the Board of Mayor and Alderman for the church expansion work.

DISCUSSION:

1. USE ON APPEAL REQUEST:

SPECIFIC SECTION OF ZONING ORDINANCE: The request for Use On Appeal is based on Section 23-228 of the Zoning Ordinance, which states, in part, that “Philanthropic or religious institutions; places of worship; public, private or parochial schools offering general educational courses; municipal, county,

state or federal uses; public utilities, golf courses; private and country clubs; parks and playgrounds; cultural activities “shall be permitted [in the “R” Residential Zoning District] by the Board of Zoning Appeals,” provided that the use requested is to be located on a route designated as either a major street or collector street on the official major road plan, and that the requirements set forth in Article II, Division 4 (General Exceptions), and Article II, Division 2 (Board of Zoning Appeals), of the Zoning Ordinance, are met. Any additional use or expansion of an existing Use on Appeal requires approval from the BZA. The request to increase the size of the surface parking lot is an expansion of the existing use on appeal.

Article II, Division 2 describes the project characteristics the Board of Zoning Appeals must review in its deliberations on the use: 1) whether or not the approval will impair an adequate supply of light and air to adjacent property, 2) will it unreasonably increase the congestion of public streets, 3) increase the danger of fire and endanger public safety; 4) or in any other way impair the public health, safety, comfort or welfare of the inhabitants of the city. Further consideration may relate to screening, landscaping, location or other conditions necessary to protect property in the vicinity of the subject site.

APPLICANT’S JUSTIFICATION: The applicant states that Harvest Church has experienced significant growth recently. The Harvest Church congregation exceeds the capacity of the sanctuary and meets in the fellowship hall. Based on current attendance figures, an additional 157 parking spaces are needed. Per the parking requirements for places of worship, outlined in §23-235, the number of required parking spaces for Harvest Church is 260 parking spaces. Currently, 547 parking spaces are provided on the site. With an additional 157 parking spaces, the total number would be 704 parking spaces. See the application letter of explanation for additional information.

2. *VARIANCE REQUEST:*

SPECIFIC SECTIONS OF ZONING ORDINANCE: The specific request is approval of a variance from the following section of the Code of Ordinances: §23-235(a): “*Parking requirements.* “Off-street parking spaces required in the R district under this section shall be provided on the same lot, parcel or tract as the principal building, but not in any portion of the required front yard.”

NATURE OF VARIANCE REQUESTED: Planning Division staff review identified this variance, necessitated by the proposed layout of the proposed parking lot expansion. The front yard setback on this property is 40’, per §23-232(1)(a). The proposed parking lot expansion is 30’ from the front property line. The specific variance request is to allow surface parking to encroach 10’ into the required 40’ front yard setback for the parking lot expansion at Harvest Church. The previously approved site plan identified a 20’ landscape buffer in front of the surface parking lot, in addition to the 40’ front yard setback. With the proposed location of the surface parking lot 30’ from the front property line, the previously required 20’ landscape buffer would be eliminated.

APPLICANT’S JUSTIFICATION: The applicant indicates that the reason for the location of the proposed location of the parking lot expansion is due to drainage patterns on the site. Locating a parking lot expansion on the eastern portion property would be challenging.

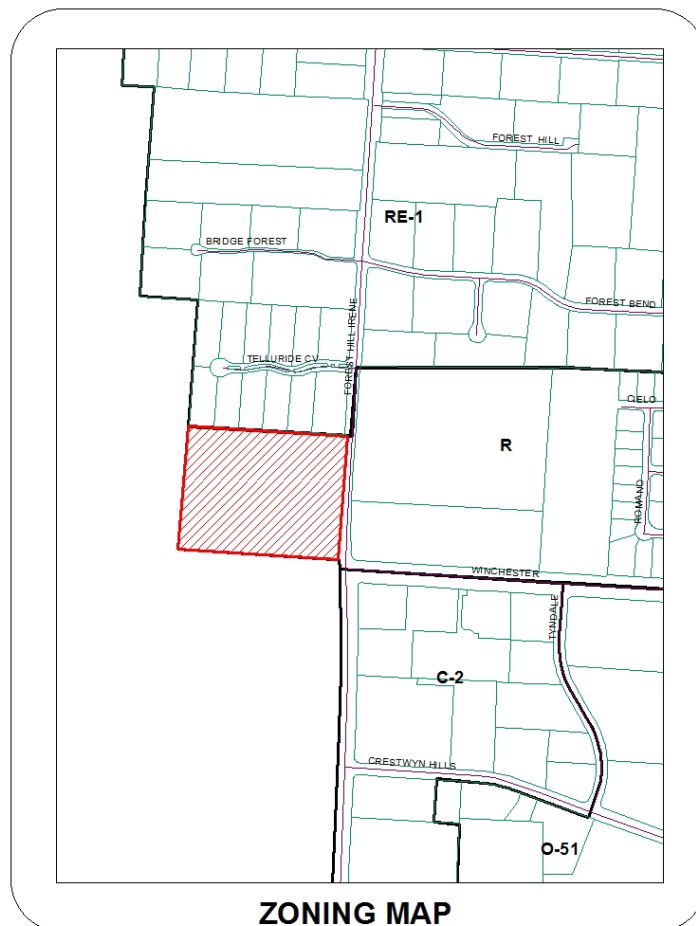
STAFF COMMENTS:

1. In an interdepartmental, pre-application review, the following was required to be provided with the parking lot expansion request: 1) a parking utilization study, and 2) details on how drainage will be accommodated since the current inlets cannot handle the capacity. At a pre-application meeting, the applicant provided drone video footage of a typical Sunday; however, a parking utilization study has not been submitted as part of this application. The applicant stated that drainage plans would be provided as part of the Planning Commission application.

2. Planning Division staff requested that the applicant explore other options to accommodate the parking need, such as a possible parking garage on the rear, northwestern parcel in the City of Memphis, a parking agreement with the neighboring Southwind Cove commercial center to the west, or adding another weekend service to accommodate the growing congregation. Information on those different options has not been provided by the applicant.
3. The Planning Division has received two calls from neighboring residents, concerned about the impact of the proposed parking lot expansion.
4. If the use on appeal and variance are approved, the applicant must submit a revised final site plan to the Planning Commission and then revised final site, landscaping and lighting plans to Design Review Commission for their review.
5. If the use on appeal and variance are approved, the 20' landscaping screen around the perimeter of the parking area shall be exclusive of the front yard setback.
6. Within 30 days of the Board's action, the unpermitted ground-mounted signs shall be removed from the property.

PROPOSED MOTION 1: To approve a Use on Appeal to allow an increase in an accessory use (parking lot) by 157 parking spaces for Harvest Church at 3645 Forest Hill Irene Rd., subject to the Board's discussion, staff comments and the site plan submitted with the application.

PROPOSED MOTION 2: To approve a variance to allow surface parking to encroach 10' into the required 40' front yard setback for Harvest Church at 3645 Forest Hill Irene Rd., subject to the Board's discussion, staff comments and the site plan submitted with the application.



AERIAL PHOTO





PRE-APPLICATION (T.A.C.) MEETING NOTES

Meeting Date: October 9, 2017

Development Name: Harvest Church (3645 Forest Hill Irene Rd.) –
Parking Lot Expansion(Revised Site Plan)

Michael Rogers - Agent/Representative [APPLICANT RESPONSES ON PAGE 2](#)

Staff Comments:

Planning:

1. Provide 50' buffer along Winchester Rd., which matches the buffer at the property to the west. This buffer includes curb, sidewalk and landscaping. The entire frontage of the Harvest Church site should extend this, including the sidewalk.
2. Create parking "rooms." Get more creative and distribute the parking around the site in nodes, or even consider a parking deck.
3. Existing site plan. The following information is missing from the existing site plan:
 - a. Show all trailers/containers on the existing site plan, and provide an estimated time of removal.
 - i. How many parking spaces are these occupying?
 - b. Landscaping buffer around parking lot.
4. Provide signage on-site so that auxillary parking lot off of Southwind Park Cove is being utilized.
 - a. No parking signs shall be installed on the grass, especially on eastern portion of site where people have been parking.
 - b. Consider golf carts/shuttles to transport people from auxillary parking lot to church.

Engineering:

1. Parking utilization study required, including programming calendar (eg, what are the high peak times for the parking lot usage).
 - a. Service times for both churches
 - b. Study parking lot capacity and provide counts for a minimum of 4 Sundays, including a 1st Sunday of the month. Include % of spaces occupied.
 - c. What are other peak utilization times?
2. Circulation plan required.
3. Sidewalk extension. Sidewalk needs to be extended along Winchester Rd., to match property to the west.
4. Consider proposed apartment complex across the street. What parking/circulation/traffic impacts will that have on this site?
 - a. A complete traffic study would allow for more thorough consideration of this request.
5. Should a parking lot expansion be approved, this would be new fees and a new development contract.

Stormwater

1. Drainage. Provide details on how drainage will be accommodated with excess pavement on this site.
 - a. Current inlets can't handle current capacity.

Public Services:

Police:

Neighborhood Services:

City Fire Marshal:

1. Fire hydrants every 300', including in parking lot
2. Roadways into parking lots need to be 26' wide and 24' unobstructed.
3. Provide fire truck route templates.

Planning

- 1) The Offices of Southwind have a 30' buffer along Winchester Road, however the right-of-way line is 20' behind the curb, so the distance from the Winchester curb to the parking curb is 50'. We are proposing the same 30' buffer width, but the proposed parking lot curb is 53'+ from the Winchester curb. I have included with this submittal one copy of Sheet 4 of the Final Plat for the Offices of Southwind.
- 2) Due to the existing layout and the natural, drainage ditch combined with trying to save trees, there is limited options for adding parking. We could have added some on the east side of the drainage swale near the intersection, but we prefer to keep the parking as far away from Forest Hill - Irene Road as possible. A parking deck would be far more costly than a non-profit could be able to undertake.
- 3) Existing conditions plan included with this submittal, with note on timing of removal of temporary buildings.
- 4) Parking signs are not necessary, as the church members are fully aware that parking is available on the off-lot as well as in the "off-site" lease office space adjacent to the primary church property. This is obvious from the fact that every Sunday all of these parking spaces are being used. I am not sure if golf carts are being used to shuttle individuals from the auxillary parking lot or not, but I suspect the church understand if their is such a need. Those spaces are being used every Sunday, and still there is not sufficient parking spaces for the number of attendees.

Engineering

- 1) We feel a study is not necessary; included in the submittal disk is a video of a drone flying over the church on two different Sundays, which shows the parking lot at capacity. In addition to this, the church is still shuttling people from the Tournament Trails office building parking further west on Winchester Road.
- 2) The proposed site plan has adequate circulation for emergency vehicles; with the Site Plan application we will provide a Circulation Plan that shows the emergency vehicle turning travel paths for confirmation.
- 3) We show the public sidewalk being extended along Winchester Road.
- 4) Honestly, the suggestion that the church could approach residential owners to use their parking spaces on Sunday mornings is totally unreasonable. What will the actual residents do with their vehicles while church members use their parking spaces? I highly doubt the owner of the apartments would consider allowing a church to use the apartment lot parking due to his own tenants needs and the liabilities associated with such.
- 5) Understood.

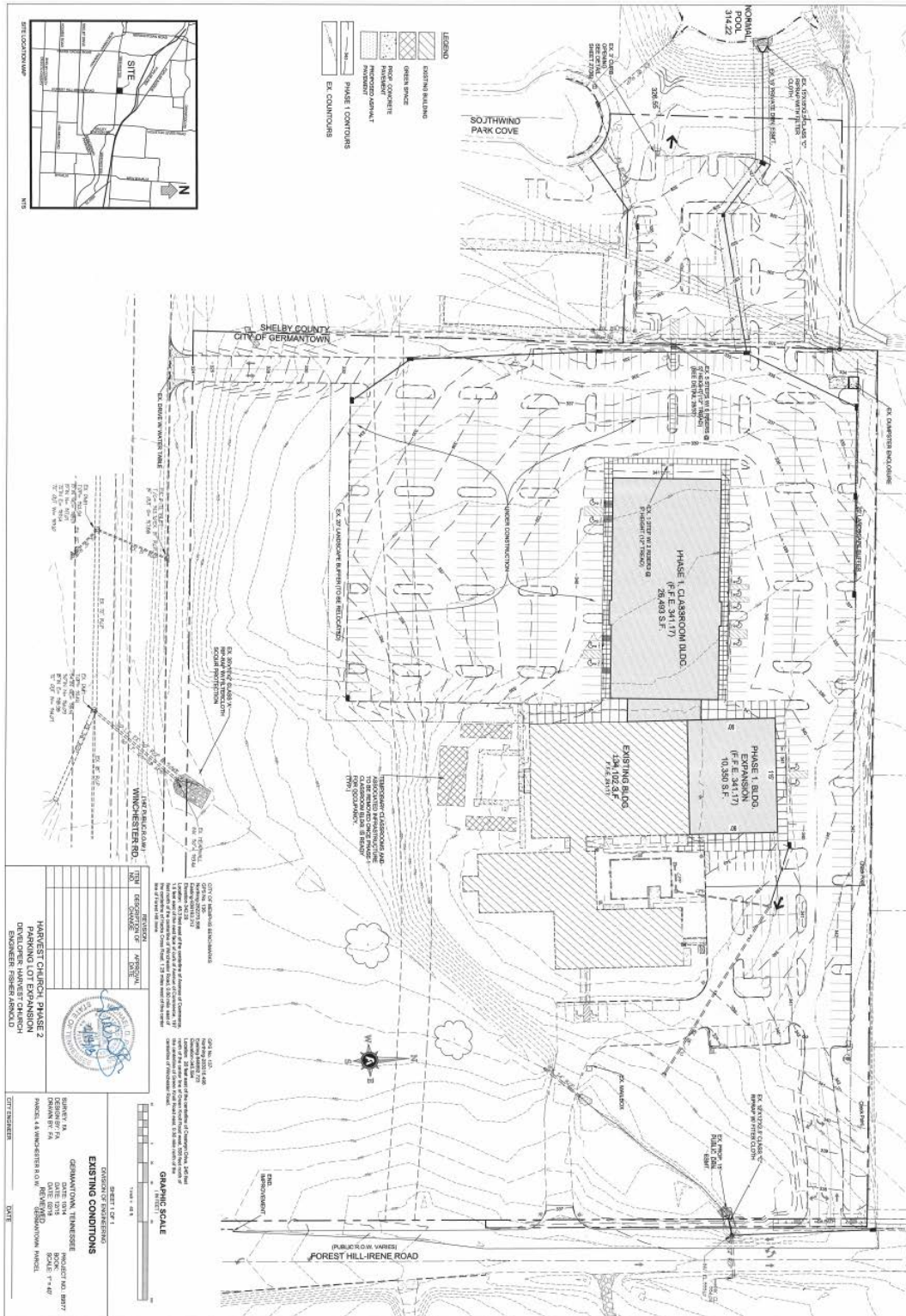
Stormwater

- 1) With the Site Plan application we will include a Grading & Drainage Plan. Additional inlets will be added as necessary and the headwall at the upstream end of the public drainage will be modified to restrict outflow, with the low are used as detention.

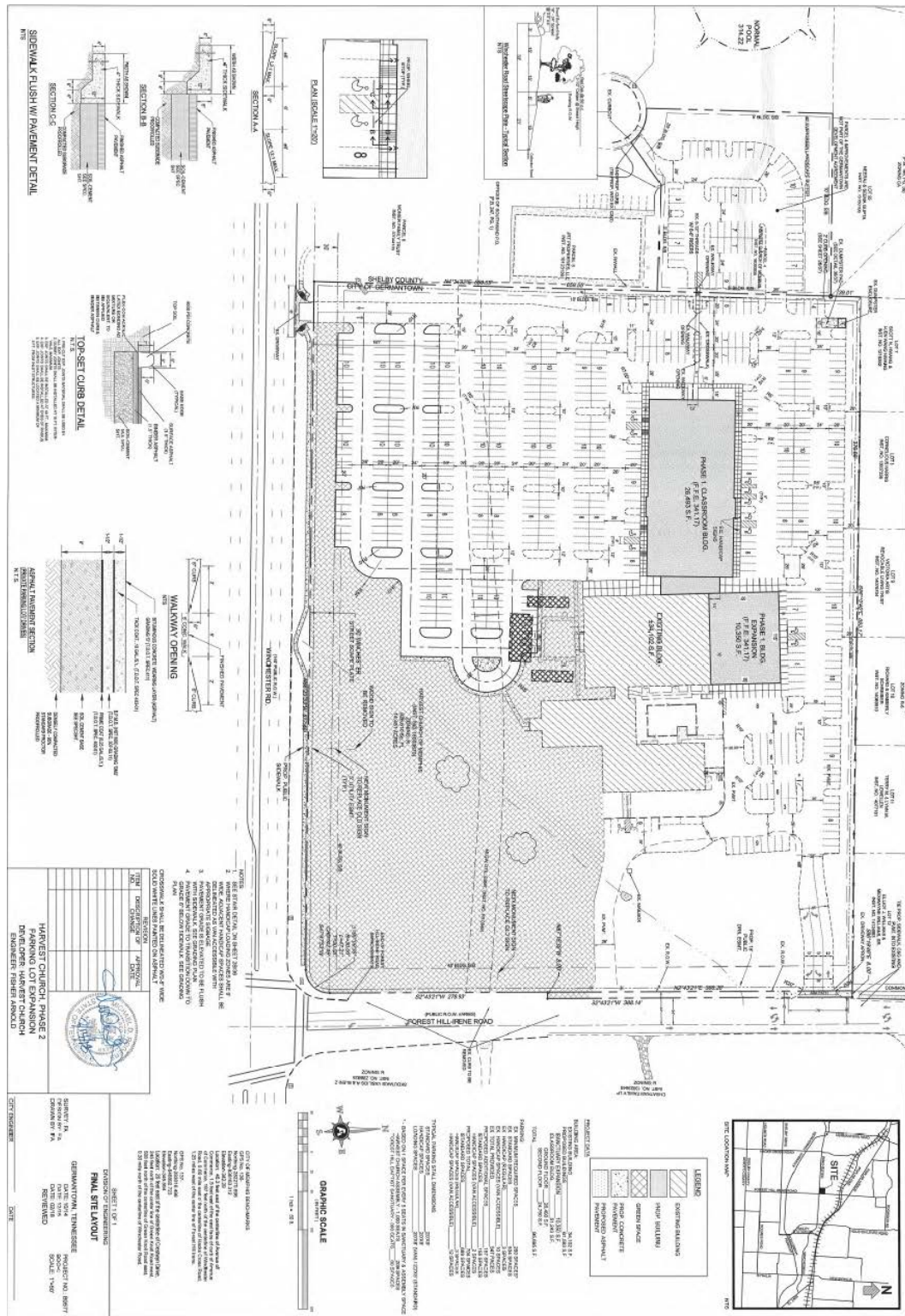
City Fire Marshal

- 1) Will provide with Site Plan application.
- 2) 26' roads are provided where required.
- 3) Will provide with Site Plan application; the proposed layout does have sufficient turning movement for emergency vehicles.

ORIGINALLY APPROVED SITE PLAN
 (see the enlarged plan in agenda packet)



PROPOSED SITE PLAN
 (see enlarged plan in agenda packet)





February 14, 2018

Ms. Shelia Pounder, Planning Manager
Department of Economic & Community Development
City of Germantown
1920 S. Germantown Road
Germantown, Tennessee 38138

**RE: Harvest Church – Parking Lot Expansion
Board of Zoning Appeals Application**

Dear Shelia:

As you are aware from our pre-application submittal and meeting, the continued growth of Harvest Church has increased the need for additional parking. As construction continues with the new classroom addition and expansion of the existing sanctuary for Harvest Church, the church has realized they will need more parking than what was proposed with this addition. The additional parking associated with the on-going construction of the addition is already in place and being used, however the church is still having to accommodate off-site parking to meet the parking demands of the congregation. There are not any plans to expand the church facility at this time, but the church would like to expand the parking area. While we feel the expansion of parking is an allowed accessory use associated with the approved use on appeal church use for this site, at the request of staff we are hereby submitting a Board of Zoning Appeal (BZA) application for a Use on Appeal for additional parking. We are proposing to add an additional one hundred fifty-seven (157) parking spaces, increasing the overall total parking spaces to seven hundred four (704) spaces.

In association with this BZA application, please find attached this cover letter with five (5) copies of the BZA application form, the pre-application TAC comments with responses, full-sized prints of the following parking expansion drawings: Existing Conditions and Final Site Layout, and Sheet 4 of the Offices of Southwind Final Plat, which shows the existing Winchester Road streetscape buffer for the property immediately west of the church. Additionally, please find a check made payable to the City of Germantown in the amount of \$300 for the BZA application fee, a vicinity map with notification labels, and a CD with electronic copies of the submitted material.

9180 Crestwyn Hills Drive
Memphis, TN 38125

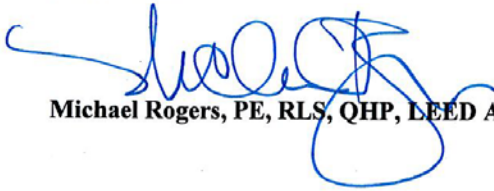
901.748.1811
Fax: 901.748.3115
Toll Free: 1.888.583.9724

www.fisherarnold.com

Ms. Shelia Pounder
October 5, 2017
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We look forward to working with staff on this proposed parking expansion. If you have any questions or need additional information, please let us know.

Sincerely,
Fisher Arnold



Michael Rogers, PE, RLS, QHP, LEED AP BD+C, CPESC

Attachments

Cc: Mr. Bill Garner, Harvest Church
Mr. Spence Ray, McNeil Investments



CITY OF GERMANTOWN TENNESSEE

1930 South Germantown Road • Germantown, Tennessee 38138-2815
Phone (901) 757-7200 Fax (901) 757-7292 www.germantown-tn.gov

Date Received: _____
Received By: _____

BOARD OF ZONING APPEALS OFFICIAL APPLICATION FORM

1. Date of Application: 02/14/18
2. Action Requested (Circle one): Variance Use on Appeal Interpretation
3. Address of property where action is requested: 3645 Forest Hill - Irene Road
4. Briefly explain the specific action requested (e.g. "variance from required front yard setback in an "R" zoning district", or "variance to allow fencing to exceed six feet in height"):
Approval to expand parking for an existing church which has already received approval of use on appeal per BZA action on January 12, 2016.

5. Name of person submitting this request: Michael Rogers
6. Is this person the (circle one): Property Owner Agent/Representative Attorney
7. Address of person submitting request: Fisher Arnold - 9180 Crestwyn Hills Drive - Memphis, TN 38125

8. Telephone Number of person submitting request: (901) 748-1811
9. Email Address of person submitting request: mrogers@fisherarnold.com
11. Name and address of all property owner(s): 3645 Forest Hill - Irene Road - Germantown, TN 38138

12. In the space below, describe the reasons for submitting the identified request. **Include in the explanation the reason(s) why there is not another solution or why it cannot be accomplished in compliance with the Ordinance.** Attach additional sheets if necessary.
Due to the growing size of the congregation for Harvest Church, the existing parking is not sufficient to meet the demand for parking on Sunday mornings.

PLEASE NOTE: THE INFORMATION LISTED BELOW MUST BE PROVIDED OR YOUR APPLICATION MAY BE DEEMED INCOMPLETE

13. If a **variance is requested**, provide the following required information below to best of your ability.

The Board of Zoning Appeals has the following powers: (Section 23-49)

Where, by reason of *exceptional narrowness, shallowness or shape* of a specific piece of property or by reason of *exceptional topographic conditions* or *other extraordinary and exceptional situation or condition of such piece of property*, the strict application of any provision of this chapter would result in *peculiar and exceptional practical difficulties* to or *undue hardship upon the owner* of such property, to authorize upon appeal relating to the property a variance from such strict application so as to relieve such difficulties or hardship, provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter. *Financial disadvantage to the property owner is not sufficient proof of hardship.* [Emphasis added]

This application for a variance is based on the condition(s) checked below (check all that applies):

No Variance is requested.

1. **Condition of property:**

Exceptional narrowness, shallowness, or shape
(Describe in the box below if checked)

Exceptional topographic conditions
(Describe in the box below if checked)

_____ Other extraordinary and exceptional situation or condition of the piece of property
(Describe in the box below if checked)

2. **Resulting in:**

_____ Peculiar and exceptional practical difficulties
(Describe in the box below if checked)

_____ Undue hardship upon the owner
(Describe in the box below if checked)

BZA Application
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14. Ownership Shares in Project (if applicable).

A. If the owner of the land which is the subject of this Application (including all owners, lessees and developers) is a for-profit entity, i.e. individual, sole proprietor, general partnership, limited partnership, corporation, limited liability company, R.E.I.T., a trust, or any other form of for-profit business entity or a non-profit entity, the authorized representative of the Owner must list below the respective names and business or home addresses of all persons or entities which own 10% or more of the ownership interests in the Owner. (If another business entity owns 10% or more of the ownership interests in the Owner, all persons owning a 10% or more interest in such last mentioned entity must be identified by name and business or home address.) (If a trust owns a 10% or more interest in the Owner, all beneficiaries of 10% or more of the trust assets must be identified by name and business or home address.) The amount of ownership interest does not have to be disclosed.

Owner/President or Equivalent: _____
Signature: _____

Persons or Entities* Owning
10% or More of the Ownership
Interests of the Owner:

Name	Business or Home Address
_____	_____
_____	_____

*See language in parenthesis above.

B. Not-for-Profit Entities. If the applicant submitting the Application (including all owners, lessees and developers) is a not-for-profit entity, the authorized representative of the Applicant must list below the name and business or home address of the President (or equivalent chief executive officer) and the members of its board of directors:

Applicant: Harvest Church of Memphis
Address: 3645 Forest Hill - Irene Road - Germantown, TN 38138
Authorized Signature for Applicant: _____

President or Equivalent
Chief Executive Officer: William L. Garner
Signature:  _____

Members of the Board of Directors of the Applicant:

Name	Business or Home Address
_____	_____
<u>Kennon Vaughan</u>	<u>4863 Lorece Avenue - Memphis, TN 38117</u>
<u>Steve Winstead</u>	<u>1558 Marcey Pointe Lane - Memphis, TN 38120</u>
<u>William L. Garner</u>	<u>3080 Laurinburg Circle - Germantown, TN 38138</u>

BZA Application
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15. **Certification**

All applicable parties shown below must sign the application:

Sign the following statement and indicate owner, agent or attorney.

I, William L. [Signature], (property owner), attest to the best of my knowledge that the items submitted above are correct and accurate.

I, [Signature], (agent or attorney), attest to the best of my knowledge that the items submitted above are correct and accurate.

Note that approval of the application is based upon information provided herein and any change in this information including any change in ownership interests of the subject real property, after filing the application may result in reconsideration of any approval.

The Applicant/Property Owner/Lessee acknowledges and agrees that if the developer of a project is not the owner of the subject real property, the owner/lessee and developer shall be required to join in the project development contract with the City and the obligations of the project development contract shall be the joint and several obligations of the developer, owner, and lessee.

BOARD DISCUSSION:

Mr. Michael Rogers w/Fisher Arnold and Mr. Spence Ray explained due to the church's growth they are requesting this use on appeal to allow them to increase the parking lot by 157 parking spaces. They began with 150 members in September 2014, today they have 1100, and they would love to see it rise to 2,000 or more by the year 2022. If they were to outgrow the worship capacity of this church, the plans would be to that plant new churches rather than grow this church to a mega church. They are in the process of studying this option now. They believe the approval of the 157 parking spaces will allow them to fully use the existing facilities. If they were to outgrow the capacity of the two-morning services that they now have, verses a building a new sanctuary, the church would move to a third service.

Mr. Harless explained that by them growing that fast and if they are not able to add additional churches, then the additional parking spaces of 100-150 parking spaces are not going to take care of another 700-800 members. A lot of churches in Germantown have the same situation with parking and have gone to additional services in order to meet their needs.

Ms. Sisson asked the applicant to speak on the existence of a shared parking agreement for the use of the parking spaces on the commercial properties adjacent to the west of the site and, although a landscape plan was not submitted with the application, to explain what is planned along Winchester Road.

Mr. Browndyke asked if the church would consider eliminating about 28 parking spaces along the Winchester Road frontage and would that be detrimental to the plan. The applicant responded that would not be possible and still meet their needs.

Approximately 40 people were present and stood in favor of this motion.

Ms. Lisa Hawkins spoke against this application. Her property joins the church's property and feels the construction of this property has been a nightmare for her. She and her neighbors no longer have any privacy. Construction continues past 9 pm at night. She requests that the church consider building a 12-ft wall in order to give privacy for the residents that live in that area.

After much discussion, Chairman Sisson called for a vote.

Mr. Browndyke moved to approve a Use on Appeal to allow an increase in an accessory use (parking lot) by 157 parking spaces for Harvest Church at 3645 Forest Hill Irene Rd., subject to the Board's discussion, staff comments and the site plan submitted with the application, seconded by Ms. Bowden.

ROLL CALL: Mr. Harless, No, because I am not sure the church has really investigated and planned further. The church growth is phenomenal, the church is doing great, but before long you will have to look at a third service at a minimum and I don't think this additional parking at this point will be needed; Mr. Browndyke – No; Ms. Clift – No; Ms. Bowden – No; Chairman Sisson – No, for the reasons previously stated. Given that the first motion has failed then the second motion becomes unnecessary.

MOTION FAILED

ADJOURNMENT

There being no further business, comments, or questions by the Commission, the Chairman adjourned the meeting at 7:04 p.m.