

# NOTICE

## APPLICATION TO SWARTHMORE ZONING HEARING BOARD

The Swarthmore United Methodist Church and the Swarthmore Community Center, as co-applicants, have applied to the Swarthmore Zoning Hearing Board for a use variance to permit the Community Center to operate concomitantly with the church at the church's existing properties at 129 and 131 Park Avenue. Both properties are located in the RB Residential Zoning District.

A public hearing on this matter is scheduled for Tuesday, November 30, 2021, at 7:00 p.m. at Borough Hall, 121 Park Avenue, Swarthmore, Pa, 19081.

Copies of the plan are available at the Swarthmore Public Library and Borough Administrative Offices and on the Borough website ([www.swarthmorepa.org](http://www.swarthmorepa.org)) under the "Public Meeting Notices" tab.

*Jenny Shulbank, Chair*  
Swarthmore Zoning Hearing Board

*If you are a person with a disability and wish to attend this meeting and require an auxiliary aid, service, or other accommodation to participate in the proceedings, please contact Borough Manager Jane Billings at (610) 543-4599 to discuss how the Borough may accommodate your needs.*

FOR OFFICE USE ONLY  
Date Received 10/20/21  
Zoning District RB  
Parcel Number 4300 00892 00

REC'D  
OCT 20 2021  
SWARTHMORE BOROUGH

SWARTHMORE BOROUGH

APPLICATION TO ZONING HEARING BOARD

1. APPLICANT(S) Swarthmore United Methodist Church; Swarthmore Community Center

Address 129 and 131 Park Avenue, Swarthmore, Pennsylvania 19081

Telephone (Day) 610-543-2110 (Evening) 610-543-2110

E-mail pastorswarthmore@gmail.com

2. Attorney (if any) Frannie Reilly

Address 426 W. Lancaster Ave., Suite 110, Devon, Pennsylvania 19333

Telephone 484-329-8036 E-mail freilly@mcneeslaw.com

3. LOCATION OF PROPERTY 129 and 131 Park Avenue, Swarthmore, Pennsylvania 19081

Owners (if different from above; please see instruction) \_\_\_\_\_

Address \_\_\_\_\_

Telephone (Day) \_\_\_\_\_ (Evening) \_\_\_\_\_

4. The proposed project is to:

See attached Narrative to Zoning Hearing Board Application.

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5. Application is made for a variance from the following ordinance and/or section of ordinance:  
See attached Narrative to Zoning Hearing Board Application.

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6. Please complete the following:

Total lot area: 38,332.8 sq. ft.

Lot width: See Narrative ft.

Existing lot coverage: See Narrative sq. ft. See Narrative %

Proposed lot coverage: See Narrative sq. ft. See Narrative %

Existing hardscape coverage: See Narrative sq. ft. See Narrative %

Proposed hardscape coverage: See Narrative sq. ft. See Narrative %

Existing front yard setback: See Narrative ft.

Proposed front yard setback (new construction): See Narrative ft.

Existing rear yard setback: See Narrative ft.

Proposed rear yard setback (new construction): See Narrative ft.

Side 1      Side 2

Existing side yard setbacks: See Narrative ft. See Narrative ft.

Proposed side yard setbacks (new construction): See Narrative ft. See Narrative ft.

7. State facts and/or basis of support of application. Specify applicable hardship(s). Attach additional pages as necessary.

See attached Narrative to Zoning Hearing Board Application.

\* \* \* \* \*

COMMONWEALTH OF PENNSYLVANIA, )

COUNTY OF DELAWARE, ) SS.

Before me, the subscriber, a Notary Public for the Commonwealth of Pennsylvania, residing in Delaware County, personally appeared Elizabeth Carruthers who being duly sworn according to law, doth depose and say: that all the above statements and/or drawings and/or attached plans are true.

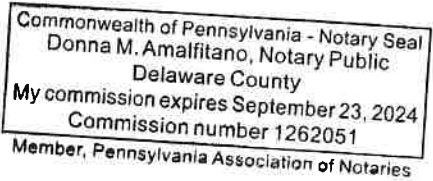
\_\_\_\_\_ and subscribed before me, )

this 19<sup>th</sup> day of October )

A.D. 20 21 )

Swarthmore UMC  
by: Elizabeth Carruthers, Trustee  
Applicant signature

Donna M. Amalfitano  
Notary Public



7. State facts and/or basis of support of application. Specify applicable hardship(s). Attach additional pages as necessary.

See attached Narrative to Zoning Hearing Board Application.

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\_\_\_\_\_  
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\* \* \* \* \*

COMMONWEALTH OF PENNSYLVANIA, )

COUNTY OF DELAWARE, ) SS.

Before me, the subscriber, a Notary Public for the Commonwealth of Pennsylvania, residing in Delaware County, personally appeared Linton D. Stables III who being duly Sworn according to law, doth depose and say: that all the above statements and/or drawings and/or attached plans are true.

\_\_\_\_\_ and subscribed before me, )

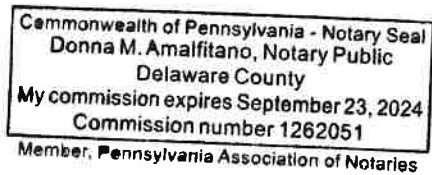
this 19<sup>th</sup> day of October )

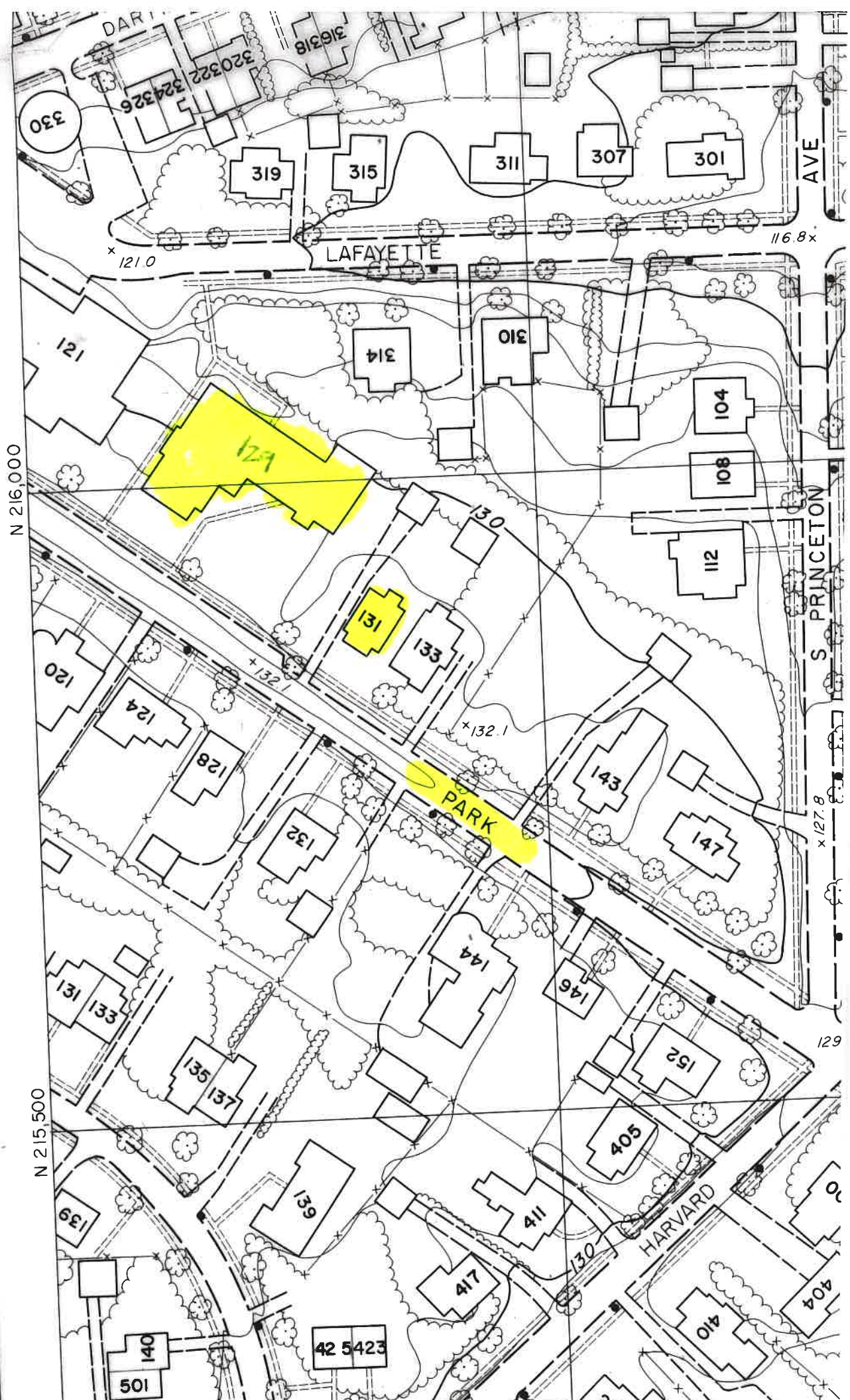
A.D. 20 21 )

Linton D. Stables III

Applicant signature

Donna M. Amalfitano  
Notary Public





N 216,000

N 215,500

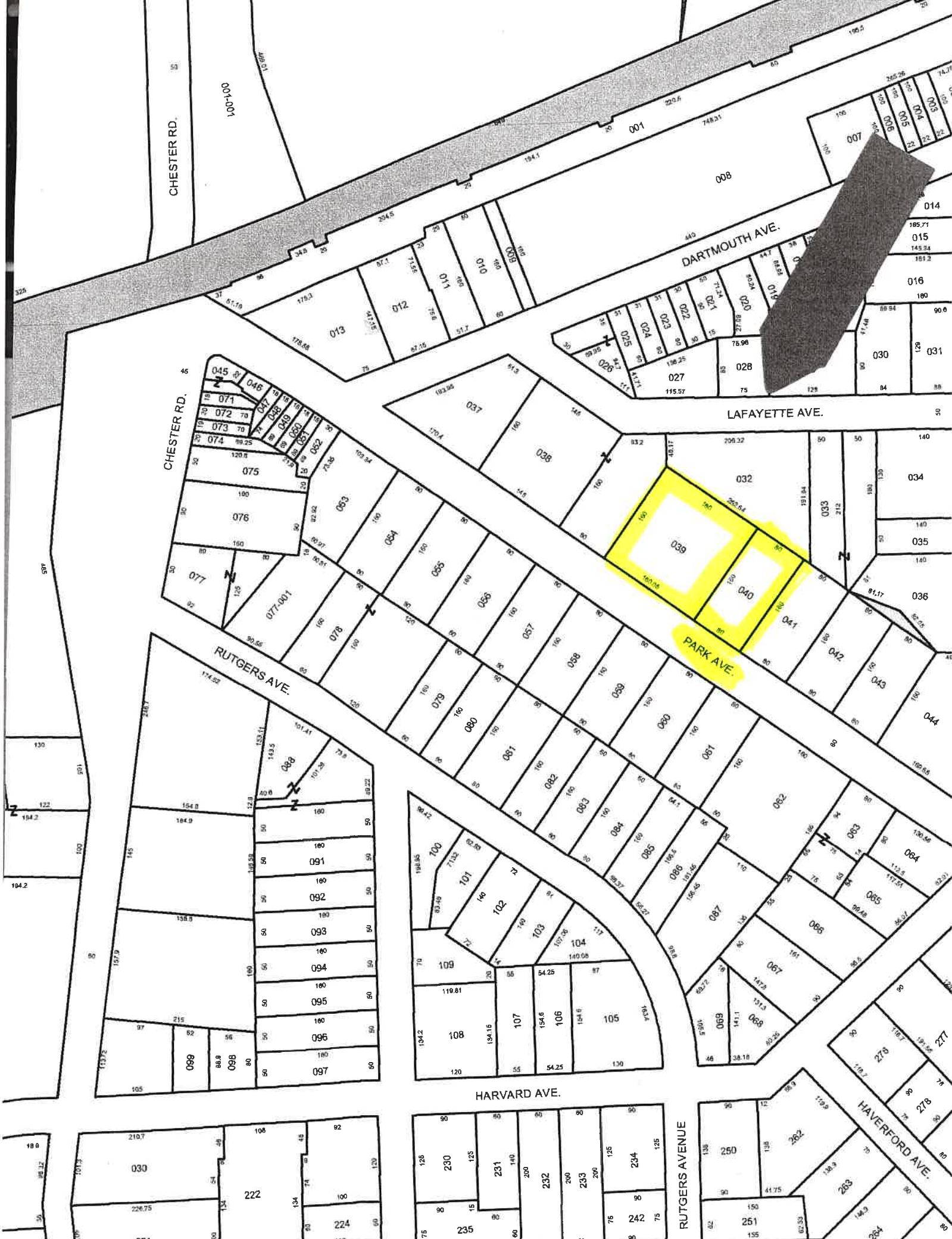
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S PRINCETON

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DARTMOUTH AVE.

LAFAYETTE AVE.

RUTGERS AVE.

PARK AVE.

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**Narrative to Zoning Hearing Board Application  
129 and 131 Park Avenue  
Swarthmore Borough, Pennsylvania**

**I. INTRODUCTION**

Swarthmore United Methodist Church (“Swarthmore UMC”) is the record owner of two lots located in Swarthmore Borough (“Borough”), Delaware County, Pennsylvania. The lots are identified by Delaware County Parcel ID Nos. 43-0000-89-200 and ~~43~~-0000-89-300, and are commonly known as 129 and 131 Park Avenue (collectively, “Property”). The Swarthmore Community Center (“Community Center”) is a non-profit organization that provides a space for community events. Swarthmore UMC and the Community Center (collectively, “Applicants”) are co-applicants for this Application.

The Property is located within the Borough’s RB Residential District (“RB District”) and is improved with a church building (“Church”) operated by Swarthmore UMC for religious, educational, charitable, and other community and philanthropic purposes. Applicants are seeking a variance from the Borough of Swarthmore Zoning Ordinance, as amended (“Zoning Ordinance”), to permit the Community Center to operate a philanthropic use on the Property concomitantly with Swarthmore UMC’s existing use.

**II. BACKGROUND**

**a. RB District**

Section 1248.02 permits residential uses and uses accessory to residential uses by right in the RB District. It also permits several uses by special exception or conditional use in the RB District, including residential conversions from a single-family dwelling to a two-family dwelling, family day-care home facilities, wireless communication facilities, bed and breakfast establishments, certain home-based businesses, family/caregiver suites, and senior cooperative housing. Section 1248.02 prohibits “churches”, “religious institutions”, and “philanthropic uses” in the RB District.

**b. The Property & Swarthmore United Methodist Church**

Swarthmore UMC acquired the Property in 1919. An aerial view and photograph of the Property are attached hereto as Exhibit A. The Property is approximately 0.88 acres and is in the RB District. It abuts residential uses in the RB District to the east and north and the Swarthmore Public Library to the west. Also on the Property’s block to the west are the Swarthmore Farmers Market, a public parking lot, and the Borough’s downtown area, including dozens of commercial uses. Abutting the Property to the south is Park Avenue. On the other side of Park Avenue are residential uses in the Borough’s RC Residential District.

The oldest part of the Church on the Property is a Gothic Revival Building dating back to 1893. In 1925, an addition was constructed that includes classrooms and a larger sanctuary.



Swarthmore UMC expanded the sanctuary in 1963. The footprint of the Church is approximately 6,784 square feet and it covers approximately 27% of the Property's surface area, although, the total area of the Church is much larger. In general, Swarthmore UMC has utilized the Property for religious and philanthropic purposes since acquiring it. Those uses are not permitted in the RB District. However, because the Property has been used for those purposes since 1893, Swarthmore UMC's existing use is permitted as a lawfully preexisting nonconforming use.

In addition to more common religious occurrences such as worship, Sunday School, weddings, and funerals, other examples of how Swarthmore UMC uses the Property include hosting speaker series, community meetings, and celebrations of the arts, among other, similar community activities. Swarthmore UMC also engages with the community in several educational and philanthropic ways. For example, Swarthmore UMC is involved with Heeding God's Call to End Gun Violence, Reconciling Ministries Network LGBTQ+ Justice, an immigration clinic to help provide pro-bono legal services, the Grace Cafe Food Ministry, the Appalachian Service Project, Haiti Mission, and by engaging to resolve racial injustice issues. Swarthmore UMC's meetings and work for the foregoing educational and philanthropic programs often occurs at the Property. Similarly, Swarthmore UMC permits the public to rent its facilities for meetings. Finally, Swarthmore UMC has used the Property as a place for its members and the community to enjoy each other's company through shared meals, recreational activities, and other events.

Although Swarthmore UMC has flourished at the Property for over 100 years, Swarthmore UMC does not always require use of the entire Property. As a result, Swarthmore UMC wishes to lease the Property to the Community Center for use during times that do not interfere with Swarthmore UMC's use. As described below, the Community Center's proposed use is generally consistent with Swarthmore UMC's long-existing use of the Property. However, because "philanthropic uses" are not permitted in the RB District, Applicants are seeking a variance to permit that use on behalf of the Community Center.<sup>1</sup>

### **c. The Swarthmore Community Center**

The Community Center is a non-profit organization that provides a space for the community to engage in a broad range of educational, recreational, charitable, and networking activities. The Community Center facilitates programs and community events to fit the needs and desires of the local community. For example, the Community Center intends to host programs for yoga and meditation; nutrition and cooking classes; food insecurity programs; dance, theatre, and writing classes; Senior Citizens Association activities; and youth programs and service trips. The Community Center will also organize a variety of free activities on the Property's lawn, family game and movie nights, and musical performances to bring the community together. In addition, the Applicants will continue to provide space for community organizations and groups to host meetings on the Property and inside the Church.

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<sup>1</sup> Swarthmore UMC initially believed a variance would not be necessary because the proposed use is generally consistent with several aspects of Swarthmore UMC's historic use of the Property. However, Borough Staff requested that Swarthmore UMC apply for a variance because the Community Center will be using a significant portion of the Property and because such use will not always be in collaboration with Swarthmore UMC.

The Community Center does not intend to construct or install any substantial additions or new buildings and Applicants intend to coordinate use of the Property in a manner that avoids overlap between the two uses. For example, the Community Center will not hold large events during worship, weddings, etc. Therefore, given the similarities between the Community Center's proposed use and Swarthmore UMC's historic use of the Property, the Community Center's proposed use merely supplements what Swarthmore UMC already has been providing for the benefit of the neighborhood and the Borough's residents.

### III. REQUEST FOR RELIEF

Section 1248.02 of the Zoning Ordinance prohibits "philanthropic uses" in the RB District. Chapter 1242 of the Zoning Ordinance and Section 910.2 of the Pennsylvania Municipalities Planning Code provide that the Swarthmore Borough Zoning Hearing Board ("Board") may grant a variance from provisions of the Zoning Ordinance "provided that [certain] findings are made where relevant in a given case." (Emphasis added). Therefore, to the extent deemed necessary by the Board, Applicants are requesting a variance from Section 1248.02 of the Zoning Ordinance to permit a "philanthropic use" on the Property.

As described above, the Property has unique physical circumstances and conditions that prohibit reasonable development of the Property in conformance with the Zoning Ordinance. Most notable are the existing improvements on the Property. The Church is a very large and very old stone structure with classrooms and a sanctuary. Given its design and approximately 6,784 square-foot footprint, and even larger overall area, redevelopment of the Church for residential purposes or other uses permitted by the Zoning Ordinance in the RB District would be impractical if not impossible. Despite the Property being in the RB District, the age of this historic Church and its unique Gothic Revival architecture, size, and design, clearly have precluded redevelopment of the Property in a manner permitted in the RB District. This lack of development is evidence of the extent of Applicants' unnecessary hardship. Applicants did not create this hardship because Applicants did not initiate the use or construct the original portion of the Church in 1893. Furthermore, the final addition to the Church was constructed in 1963, thirteen years before the Borough established the RB District in 1976.

Applicants assert that the Property cannot be used for any purpose permitted in the RB District and, if the Board accepts the assertion as being accurate, then granting the variance is warranted. However, that assertion is just one path by which Applicants can establish that the variance is warranted. Even if the Board determines that the Property could be used for other permitted purposes, Applicants still are entitled to the variance. The Pennsylvania Supreme Court

"...has repeatedly made clear that in establishing hardship, an applicant for a variance is *not required* to show that the property at issue is valueless without the variance or that the property cannot be used for any permitted purpose. On several occasions, we have reversed the Commonwealth Court when it relied on such a standard for unnecessary hardship in reversing the grant of a variance. Showing that the property at issue is 'valueless' unless the requested variance is granted 'is but one way to reach a finding of unnecessary hardship; it is not the only factor nor the conclusive factor in resolving a variance request.' Rather, 'multiple factors are

to be taken into account when assessing whether unnecessary hardship has been established.”

*Marshall v. City of Phila.*, 97 A.3d 323, 330 (Pa. 2014) (quoting *Hertzberg v. Zoning Bd. of Adjustment of the City of Pittsburgh*, 721 A.2d 43, 48 (Pa. 1998)).

Here, the Community Center’s proposed use is generally consistent with Swarthmore UMC’s use of the Property over the last 100 years. The proposed use is merely an extension of what Swarthmore UMC already is doing. Moreover, the proposed use enhances and benefits the neighborhood and provides programming and support for the residents of the Borough. Finally, the proposed use and existing use will not overlap in a manner that increases the intensity of the use beyond Swarthmore UMC’s historic use of the Property.

Therefore, authorizing the requested variance will not alter the essential character of the RB District in which the Property is located. Rather, the variance will permit the use of an existing building (i.e., the Church) that is consistent with Swarthmore UMC’s preexisting lawfully nonconforming use. Additionally, the requested variance will not alter the design or physical appearance of the Church or the Property because the Community Center does not intend to construct or install any substantial additions or new buildings.

Finally, because Applicants are requesting a use variance, the requested relief represents the minimum variance that will afford relief and the least modification of the regulation in issue. *See Paganico v. Zoning Hearing Bd. of the Municipality of Penn Hills*, 277 A.3d 949, 953-54 (Pa. Commw. Ct. 2020).

#### **IV. CONCLUSION**

For the foregoing reasons, Applicants respectfully request that the Board grant the requested relief.

# EXHIBIT A

## Photographs of Church

