

CASE# C15-2014-0170  
ROW# 11248723  
TAX# 0219010123  
(TRADV)

CITY OF AUSTIN  
APPLICATION TO BOARD OF ADJUSTMENT  
GENERAL VARIANCE/PARKING VARIANCE

**WARNING: Filing of this appeal stops all affected construction activity.**

PLEASE: APPLICATION MUST BE TYPED WITH ALL REQUESTED INFORMATION COMPLETED.

STREET ADDRESS: 32nd Street and Wabash

LEGAL DESCRIPTION: Subdivision - See attached Exhibit "A"

Lot(s) \_\_\_\_\_ Block \_\_\_\_\_ Outlot \_\_\_\_\_ Division \_\_\_\_\_

I/We Jeffrey S. Howard ~~on behalf of myself/ourselves~~ as authorized agent for  
the Daughters of Charity Ministries, Inc. and St. Andrew's Episcopal School  
affirm that on Nov. 5 2014,

hereby apply for a hearing before the Board of Adjustment for consideration to:

(check appropriate items below and state what portion of the Land Development Code you are seeking a variance from)

ERECT  ATTACH  COMPLETE  REMODEL  MAINTAIN

Applicant seeks a variance from Section 25-2-832 to allow a private school site to be located on a street that has a paved width of less than 40 feet.

in a MF-2-NP\* district.

(zoning district) \* Note: A zoning application to LO-MU-CO is currently pending.

NOTE: The Board must determine the existence of, sufficiency of and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional support documents.

**VARIANCE FINDINGS: I contend that my entitlement to the requested variance is based on the following findings (see page 5 of application for explanation of findings):**

**REASONABLE USE:**

1. The zoning regulations applicable to the property do not allow for a reasonable use because:

See attached Exhibit "B"

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**HARDSHIP:**

2. (a) The hardship for which the variance is requested is unique to the property in that:

See attached Exhibit "B"

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- (b) The hardship is not general to the area in which the property is located because:

See attached Exhibit "B"

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**AREA CHARACTER:**

3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

See attached Exhibit "B"

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**PARKING:** (Additional criteria for parking variances only.)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed Section 479 of Chapter 25-6 with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonable require strict or literal interpretation and enforcement of the specific regulation because:

N/A

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2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

N/A

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

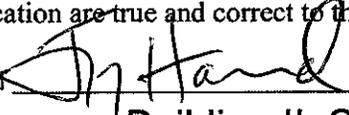
N/A

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

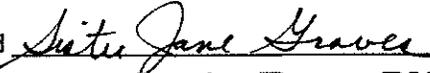
N/A

**NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.**

**APPLICANT CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed  Mail Address 901 S. MoPac Expwy.  
Building II, Ste. 225, Ausitn, Texas 78746  
City, State & Zip  
Printed Jeffrey S. Howard Phone 512-328-2008 Date 11/5/2014

**OWNERS CERTIFICATE** – I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Signed  Mail Address 1018 W. 31st Street  
Austin, Texas 78705  
City, State & Zip  
Printed Daughters of Charity Ministries, Inc. Phone 314-561-4607 Date 11/5/2014

**32<sup>nd</sup> Street & Wabash Variance Request**

**EXHIBIT "A"**  
**Legal Description**

The property that is the subject of this variance request is comprised of two tracts more particularly described as follows:

**Tract One (Daughters of Charity):**

Lot 1-A, Amended Plat of Lots 1 and 2, Block 1, Martha E. Whitten Addition and Lot 1, Seton Medical Center Addition No. 4, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Plat Book 95, Page 344 of the Plat Records of Travis County, Texas.

**Tract Two (St. Andrew's Episcopal School):**

Lot 4, Block 1, Martha E. Whitten Addition, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Plat Book 2, Page 198 of the Plat Records of Travis County, Texas;

Lot 2, Block 1, Seton Medical Center Addition No. 4, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Plat Book 83, Page 143B of the Plat Records of Travis County, Texas; and

Lot 2-A, Amended Plat of Lots 1 and 2, Block 1, Martha E. Whitten Addition and Lot 1, Seton Medical Center Addition No. 4, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Plat Book 95, Page 344 of the Plat Records of Travis County, Texas.

## 32<sup>nd</sup> Street & Wabash Variance Request

### EXHIBIT "B" Findings of Fact

#### 1. Reasonable Use

St. Andrew's School proposes to use the property that is the subject of this variance (which is comprised of both property it currently owns and the adjacent property currently owned by the Daughters of Charity) (the "Site") for private school use, specifically a kindergarten. St. Andrew's has operated a private school (but not a kindergarten) on the property across Wabash Street from the Site and on 31<sup>st</sup> Street for 57 years, since 1957. The school has elected to add a kindergarten in order to enhance its educational programs and mission. However, at this time there is no room on the current Lower School Campus for a kindergarten. The school would, therefore, like to use the Site to locate a kindergarten. It currently owns the majority of the Site which is used as faculty parking. Although the Site is currently used by the school and is part of its campus, it is not currently being used as a private school.

**Using the Site (which is located across Wabash from the school's current lower school campus and is part of the school campus) as kindergarten is a reasonable use of the Site.** However, 31<sup>st</sup> Street, Wabash Street, and 32<sup>nd</sup> Street all have a pavement width of less than 40 feet. The pavement width of 32<sup>nd</sup> Street, which is planned to be the entrance for the kindergarten, is approximately 37 feet. Therefore, Section 25-2-832 of Code, which requires a minimum pavement width of 40 feet, would prevent the reasonable use of the Site by the school for a kindergarten.

#### 2. Hardship

32<sup>nd</sup> Street between Lamar and Wabash is approximately 37 feet in pavement width, just 3 feet short of the requirement in Section 25-2-832. 32<sup>nd</sup> Street is also less 500 feet long from Lamar west to its end at Wabash and is fully developed on both sides of the street. Besides the school parking lot, only 2 other sites (a Randolph Brooks Credit Union and the Seton League House) have access to 32<sup>nd</sup> Street and those other sites also have access directly on Lamar. As a result, 32<sup>nd</sup> Street is very low traffic and a 40 foot pavement width is not necessary to accommodate a small kindergarten. In addition, widening 32<sup>nd</sup> Street to 40 feet all the way to Lamar is not feasible because such widening would require the relocation of underground and overhead utilities and storm inlets and the possible removal of large trees. Such widening would also interfere with the existing driveways and parking lot layouts of the other 2 sites.

**The hardship created by Section 25-2-832 is unique to the property because** (i) 32<sup>nd</sup> Street is already fully developed, (ii) there are existing trees, utilities, storm sewer facilities, driveways and parking areas along 32<sup>nd</sup> Street that would prevent widening without relocation and/ or removal, (iii) this section 32<sup>nd</sup> Street is short with low traffic that is already being utilized by the school which has been in this area for 57 years, (iv) the other sites are not used for school use and are not subject to the requirement, and (v) if the Site were adjacent to the main school campus, a variance would not be needed; however, the Site is separated from the main school campus by the very short Wabash Street.

### **3. Area Character**

The school proposes to use both its existing parking lot on 32<sup>nd</sup> Street (for both parking and drop-off) and the existing Daughters of Charity building on 31<sup>st</sup> Street (for classroom and administrative offices) for the kindergarten. The school has been operating in this area since 1957 and is currently using a majority of the Site as part of its campus, even though instruction is not currently occurring on the Site. As a result, use of the Site by the school for kindergarten does not alter the character of the area. In fact, the use of Site for private school use instead of some other use that does not have to comply with 25-2-832 actually preserves the character of the area.

In addition, use of the Site for private school use will not impair the adjacent credit union because it has access on Lamar and the additional traffic created by the kindergarten on 32<sup>nd</sup> street will be minimal. The adjacent tract on 31<sup>st</sup> street will also not be impaired because the school proposes to prohibit access from the Site to 31<sup>st</sup> street, directing traffic instead to 32<sup>nd</sup> street.

Finally, the use of the Site as a private school will not impair the purposes of the regulations of the zoning district in which the property is located. Section 25-3-832 does not involve site development regulations applicable to a particular zoning district. None of the zoning districts applicable to the Property require a minimum street pavement width. In addition, the minimum pavement width in Section 25-2-832 does not apply to or prevent the other commercial and residential uses that are both in the area and allowed by the zoning district. Therefore, granting a variance from 25-2-832 in this case will not impair the purposes of these zoning districts.