

# ZONING HEARING EXAMINER

Application for Zoning Relief

II Centennial Plaza 805 Central Avenue, Suite 500 Cincinnati, Ohio 45202 Monday- Friday 7:30 am- 4 pm 513-352-1559 Boards@cincinnati-oh.gov

Office Use Only Case Number: \_

Hearing Date: \_

Section 1. SUBJECT PROPERTY	
ADDRESS 3739 Eastern Ave	COMMUNITY Columbia Tusculum
PARCEL ID(S) 027-0003-0148	
BASE ZONING CLASSIFICATION CC-M	ZONING OVERLAY (if applicable) Hillside
Non-Residential Project B Re	esidential Project (RCO) One -, Two -, and Three- Family Dwelling

Section 2. APPLICANT				
NAME Allyn M McEwan	_ CONTACT PERSON (if legal entity)			-
ADDRESS 3739 Eastern Ave	CITY Cincinnati	STATE_Ohio	ZIP 45226	
EMAIL	_RELATIONSHIP TO OWNER (if not owne	er)		-
TELEPHONE	_			

Section	3.	OWN	NER
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NAME Allyn M McEwan	_ CONTACT PERSON (if legal entity)			_
ADDRESS 3739 Eastern Ave	CITY Cincinnati	STATE_OH	ZIP_45226	_
EMAIL	_RELATIONSHIP TO OWNER (if not owne	er)		_
TELEPHONE	_			

Section 4. NATURE OF RELIEF REQUESTED. (select all that apply)		
□ Variance □ Use Variance □ Special Exception	Conditional Use	
Expansion or Substitution of Non Conforming Use	Hillside Overlay District Permission	
Urban Design Overlay District Permission	DD District Phased Development Approval	
Saction 5 BRIEF DESCRIPTION OF BRODOSED BROIE	T (Do not write "coo attached" or leave blank. You may	

**Section 5. BRIEF DESCRIPTION OF PROPOSED PROJECT** (*Do not write "see attached" or leave blank. You may attach a longer statement to this application if the space provided is insufficient to describe your proposed project*)

Demolition of an existing single family residence and construction of a new single family residence.

#### Section 6. SUMMARY OF REASONS WHY RELIEF SHOULD BE GRANTED.

You must provide a written statement explaining how the proposed project meets the standards for all relief requested. Separate instructions for preparing this statement are attached. If you fail to follow the instructions for your type of request, your application may be denied.

**Section 7. SIGNATURE.** The undersigned does hereby certify that the information provided in connection with this application is, to the best of his or her knowledge, true and correct.

Print Name Jonathan R. Evans on behalf of applicant Signature Date \_\_\_\_/

#### Section 8. ADDITIONAL DOCUMENTATION SUBMISSION REQUIREMENTS.

Submit three copies and one digital copy of the following documentation. If you fail to complete the application or provide all information requested, your application may be denied.

4	<b>Submit three (3) copies and one (1) digital copy of the documents listed below.</b> *A digital copy is a cd, thumb drive, etc Do not email documents.
4	Denial letter from Zoning Department, or signed letter from a Zoning Plans Examiner.
4	Written statement required in Section 6 of application.
	Applications requesting development permission in a Hillside Overlay District must meet the additional requirements found in Cincinnati Municipal Code 1433-15. Please ensure your application meets these requirements.
4	Survey plats, site plans, or other accurate drawings showing boundaries, dimensions, areas, topography, and frontage of the property involved, as well as the location and dimensions of all structures existing and proposed from the nearest property lines. When landscaping is required by the zoning code, a landscaping plan must also be provided.
4	Plans, architectural drawings, photographs, elevations, specifications, and other detailed information fully depicting the exterior appearance of the existing and proposed construction, including parking and access, exterior lighting, landscaping, and signs involved in the application.
	If the Hamilton County Auditor's official records do not list the applicant or owner as the owner of the property, please provide a lease, contract to purchase, or other agreement demonstrating the applicant or owner's legal basis to seek the relief requested.
	Other documents or information you intend to introduce at the hearing on this application.
4	A list of witnesses and expert witnesses who you expect to testify at the hearing on this application.
4	A non-refundable application fee. The fee must be paid with a check made payable to "City of Cincinnati." Fees are as follows: Use Variances - \$900; Residential Projects (RCO) One -, Two -, and Three- Family Dwelling - \$300; Non-residential Projects (Non-RCO) - \$500.
L To help	avoid delays, it is strongly suggested that you present your application to neighboring property owners

To help avoid delays, it is strongly suggested that you present your application to neighboring property owners and any interested neighborhood community groups prior to the hearing on your application. This will give you a prior opportunity to address your neighbors' concerns or objections and can facilitate the approval of your application.

# INSTRUCTIONS FOR APPLICATIONS REQUESTING A VARIANCE

Applicants requesting a variance must demonstrate through credible testimony, documentary evidence or written statements how their proposed project meets the standards outlined in Cincinnati Municipal Code 1445-13 <u>AND</u> Cincinnati Municipal Code 1445-15. Applications that are not supported by testimony, documentary evidence or written statements are subject to disapproval.

As required by Section 6 of the Zoning Hearing Examiner Application, applicants must provide a written statement explaining how their proposed project meets the following standards for a variance:

1. To meet the standard outlined in Cincinnati Municipal Code 1445-13, an applicant must show that the proposed project "is in the public interest." A list of factors considered by the Zoning Hearing Examiner to determine whether the proposed project "is in the public interest" is found in Cincinnati Municipal Code 1445-13.

- 2. To meet the standard outlined in Cincinnati Municipal Code 1445-15, an applicant must show:
  - a. neither the owner nor any of its predecessors caused the nonconformity requiring a variance; **and**
  - b. how the project meets either of the following conditions:
    - special circumstances or conditions pertaining to the subject property cause the strict application of the zoning code to be unreasonable and would result in practical difficulties; <u>or</u>
    - ii. a variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by owners of other properties in the same district or vicinity.

### INSTRUCTIONS FOR APPLICATIONS REQUESTING A USE VARIANCE

Applicants requesting a use variance must demonstrate through "<u>CLEAR AND CONVINCING</u> <u>EVIDENCE</u>" in the form of credible testimony, documentary evidence or written statements how their proposed project meets the standards outlined in Cincinnati Municipal Code 1445-13 <u>AND</u> Cincinnati Municipal Code 1445-16. Applications that are not supported by testimony, documentary evidence or written statements are subject to disapproval.

As required by Section 6 of the Zoning Hearing Examiner Application, applicants must provide a written statement explaining how their proposed project meets the following standards for a use variance:

1. To meet the standard outlined in Cincinnati Municipal Code 1445-13, an applicant must show that the proposed project "is in the public interest." A list of factors considered by the Zoning Hearing Examiner to determine whether the proposed project "is in the public interest" is found in Cincinnati Municipal Code 1445-13.

- To meet the standard outlined in Cincinnati Municipal Code 1445-16, an applicant must show that the applicant will suffer unnecessary hardship if strict compliance with the terms of the Code is required. An applicant can show this by providing <u>clear and</u> <u>convincing evidence</u> demonstrating <u>all</u> of the following criteria are met:
  - a. the property cannot be put to any economically viable use under any of the permitted uses in the zoning district;
  - b. the variance requested stems from a condition that is unique to the property at issue and not ordinarily found in the same zone or district;
  - c. the hardship condition is not created by actions of the applicant;
  - d. the granting of the variance will not adversely affect the rights of adjacent property owners or residents;
  - e. the granting of the variance will not adversely affect the community character, public health, safety or general welfare;
  - f. the variance will be consistent with the general spirit and intent of the zoning code; and
  - g. The variance sought is the minimum that will afford relief to the applicant.

## INSTRUCTIONS FOR APPLICATIONS REQUESTING A SPECIAL EXCEPTION

Applicants requesting a special exception must demonstrate through credible testimony, documentary evidence or written statements how their proposed project meets the standards outlined in Cincinnati Municipal Code 1445-13 <u>AND</u> Cincinnati Municipal Code 1445-19. Applications that are not supported by testimony, documentary evidence or written statements are subject to disapproval.

As required by Section 6 of the Zoning Hearing Examiner Application, applicants must provide a written statement explaining how their proposed project meets the following standards for a special exception:

1. To meet the standard outlined in Cincinnati Municipal Code 1445-13, an applicant must show that the proposed project "is in the public interest." A list of factors considered by the Zoning Hearing Examiner to determine whether the proposed project "is in the public interest" is found in Cincinnati Municipal Code 1445-13.

- 2. To meet the standard outlined in Cincinnati Municipal Code 1445-19, an applicant must demonstrate <u>all</u> of the following:
  - a. the zoning code allows for a special exception in the district in which the property is located;
  - b. the proposed project meets any special standards for the specific special exception requested; **and**
  - c. the proposed project will meet <u>all</u> of the following standards:
    - i. be consistent with the purposes of the zoning code and the district where the use is located.
    - ii. not substantially diminish or impair the value of property within the neighborhood in which it is located.
    - iii. not have an adverse effect on the character of the area or the public health, safety and general welfare, and be constructed, arranged and operated so as to be compatible with the use and development of neighboring property in accord with applicable district regulations.
    - iv. comply with all other standards imposed on it by this zoning code.

## INSTRUCTIONS FOR APPLICATIONS REQUESTING AN EXPANSION OR SUBSTITUTION OF A NONCONFORMING USE

Applicants requesting an expansion or substitution of a nonconforming use must demonstrate through credible testimony, documentary evidence or written statements how their proposed project meets the standards outlined in Cincinnati Municipal Code 1445-13 <u>AND</u> Cincinnati Municipal Code 1447-17. Applications that are not supported by testimony, documentary evidence or written statements are subject to disapproval.

As required by Section 6 of the Zoning Hearing Examiner Application, applicants must provide a written statement explaining how their proposed project meets the following standards for an expansion or substitution of a nonconforming use:

- To meet the standard outlined in Cincinnati Municipal Code 1447-17, an applicant must demonstrate how the proposed project relates to <u>one or more</u> of the following standards:
  - a. consistency with the general purposes and intent of the zoning code;
  - b. promotion of the safe and efficient use of land;
  - c. compatibility with other adjacent land uses and buildings existing in the surrounding area;
  - d. consistency with the purposes of the zoning district in which the use is located and does not negatively impact the value of surrounding property; or
  - e. location in a building that is specially equipped or structurally designed for that use.

## INSTRUCTIONS FOR APPLICATIONS REQUESTING DEVELOPMENT PERMISSION IN A HILLSIDE OVERLAY DISTRICT

Applicants requesting development permission in a Hillside Overlay District must demonstrate through credible testimony, documentary evidence or written statements how their proposed project meets the standards outlined in Cincinnati Municipal Code 1433-19 <u>AND</u> Cincinnati Municipal Code 1433-23. Applications that are not supported by testimony, documentary evidence or written statements are subject to disapproval.

As required by Section 6 of the Zoning Hearing Examiner Application, applicants must provide a written statement explaining how their proposed project meets the following standards for development permission in a Hillside Overlay District:

1. To meet the standard outlined in Cincinnati Municipal Code 1445-119, an applicant must demonstrate whether the proposed project complies will all base development requirements for a Hillside Overlay District. The list of base development requirements is found in Cincinnati Municipal Code 1433-19.

### <u>AND</u>

2. To meet the standard outlined in Cincinnati Municipal Code 1433-19, an applicant must demonstrate how the proposed project complies will all base development requirements for a Hillside Overlay District. The list of base development requirements is found in Cincinnati Municipal Code 1433-19.

### <u>AND</u>

3. To meet the standard outlined in Cincinnati Municipal Code 1433-23, an applicant must demonstrate the proposed project is in harmony with adjacent buildings and the hillside environment. A list of standards considered by the Zoning Hearing Examiner to determine whether the proposed project the proposed project is in harmony with adjacent buildings and the hillside environment is found in Cincinnati Municipal Code 1433-23.

\*\*\*Please note that applications requesting development permission in a Hillside Overlay District must meet the additional requirements found in Cincinnati Municipal Code 1433-15. Please ensure your application meets these requirements.

# INSTRUCTIONS FOR APPLICATIONS REQUESTING DEVELOPMENT PERMISSION IN AN URBAN DESIGN OVERLAY DISTRICT

Applicants requesting development permission in an Urban Design Overlay District must demonstrate through credible testimony, documentary evidence or written statements how their proposed project meets the standards outlined in Cincinnati Municipal Code 1437-09. Applications that are not supported by testimony, documentary evidence or written statements are subject to disapproval.

As required by Section 6 of the Zoning Hearing Examiner Application, applicants must provide a written statement explaining how their proposed project meets the following standards for development permission in an Urban Design Overlay District:

1. To meet the standard outlined in Cincinnati Municipal Code 1437-09, an applicant must demonstrate how the proposed project complies will the standards found in Cincinnati Municipal Code 1437-09 that apply to the particular district in which the proposed project will be located.

# INSTRUCTIONS FOR APPLICATIONS REQUESTING APPROVAL FOR A DD DISTRICT PHASED DEVELOPMENT

Applicants requesting approval for a DD District Phased Development must provide all information required by Cincinnati Municipal Code 1411-45.

As required by Section 6 of the Zoning Hearing Examiner Application, applicants must provide a written statement explaining how their proposed project meets the following standards for approval of a DD District Phased Development:

- 1. For projects that intend to phase development by first erecting a building and then enlarging that building or erecting one or more additional buildings or both, the applicant must:
  - a. provide a site master plan to the Zoning Hearing Examiner. The site master plan must be a schematic of the intended development of the entire site showing the locations, uses, heights and gross floor areas of every building. The master plan must contain such other information as necessary to determine whether the intended development conforms to the requirements of this zoning code. The master plan may be amended from time to time, provided any amended master plan be filed with the Zoning Hearing Examiner; and
  - a. comply with all other applicable requirements set forth in Cincinnati Municipal Code 1411-45.

## INSTRUCTIONS FOR APPLICATIONS REQUESTING CONDITIONAL USE APPROVAL

Applicants requesting approval a conditional use approval must demonstrate through credible testimony, documentary evidence or written statements how their proposed project meets the standards outlined in Cincinnati Municipal Code 1445-13 <u>AND</u> Cincinnati Municipal Code 1445-05 and 1445-21. Applications that are not supported by testimony, documentary evidence or written statements are subject to disapproval.

As required by Section 6 of the Zoning Hearing Examiner Application, applicants must provide a written statement explaining how their proposed project meets the following standards for a conditional use approval:

1. To meet the standard outlined in Cincinnati Municipal Code 1445-13, an applicant must show that the proposed project "is in the public interest." A list of factors considered by the Zoning Hearing Examiner to determine whether the proposed project "is in the public interest" is found in Cincinnati Municipal Code 1445-13.

- 2. To meet the standard outlined in Cincinnati Municipal Code 1445-05 and 1445-21, an applicant must show:
  - a. the conditional use is specifically listed in the applicable zoning district use regulations;
  - b. the project meets any limitations specifically listed in the applicable zoning district use regulations; **and**
  - c. the project's location, design, configuration and special impact on the area will prevent or limit potential adverse effects on the immediate neighborhood

## INSTRUCTIONS FOR APPLICATIONS REQUESTING A USE PERMIT

Applicants requesting approval Use Permit must demonstrate through credible testimony, documentary evidence, or written statements how their proposed project meets the standards outlined in Cincinnati Municipal Code 1445-13 <u>AND</u> Cincinnati Municipal Code 1445-05 and 1445-21. Applicants that are not supported by testimony, documentary evidence, or written statements may be denied.

As required by Section 6 of the Zoning Hearing Examiner Application, applicants must provide a written statement explaining how their proposed project meets the following standards a Use Permit:

1. To meet the standard outlined in Cincinnati Municipal Code 1445-13, an applicant must show that the proposed project "is in the public interest." A list of factors considered by the Zoning Hearing Examiner to determine whether the proposed project "is in the public interest" is found in Cincinnati Municipal Code 1445-13.

- 2. To meet the standard outlined in Cincinnati Municipal Code 1445-05 and 1445-21, an applicant must show:
  - a. the Use Permit is specifically listed in the applicable transect zone use table;
  - b. the project meets any limitations specifically listed in the applicable transect zone regulations; **and**
  - c. the project's location, design, configuration, and special impact on the area will prevent or limit potential adverse effects on the immediate neighborhood



February 6, 2018

Kasandra Maynes City of Cincinnati

Re: 3739 Eastern Ave Conditional Use Approval

Attached, please find the following in connection with the above referenced project:

- Construction plans, dated February 6, 2018
- Sample architectural drawing that reflect the intent of the development
- \$300 application fee
- This letter containing the required section 6 statement

#### **Brief summary of project**

Project involves the development of six (6) single family residential lots on approximately 0.55 acres of property located in a hillside district and SF-2 zoning (see attached plans for details).

#### Section 6 Statement – Section 1445-13 General Standards; Public Interest

- a) The proposed structure is a conditional use in the underlying zoning.
- b) Traffic will not be impacted by the proposed single family use of the property, as it is replacing an existing, similar single family use.
- c) The proposed use will not have any negative light, noise, or visual impacts on adjacent properties.
- d) The proposed use does not require any landscaping buffers or barriers.
- e) The proposed use is residential, so there will be no hours of operation.
- f) The proposed use is compatible with the neighborhood, as there are many single family residences around the subject property, including multiple adjoining properties to the NW.
- g) Access to the property will not be adversely effected by the new structure.
- h) The new structure will significantly enhance the appearance of the property.
- i) The increased value of the property will increase the values of surrounding properties, therefore creating economic benefits and increased tax revenue.

#### Section 6 Statement – Section 1445-05 Purpose of Conditional Uses

a.) The proposed single family use of the property will have no adverse impacts on the neighborhood or adjoining property owners, as the proposed use is replacing an existing single family use. Single family properties are located throughout the subject property area, including multiple adjoining properties to the NW.

#### Section 6 Statement – Section 1445-21 Standards for Conditional Uses

a) The use of single family is listed as a conditional use under CC-M zoning.

### List of possible witnesses at hearing:

- Jonathan Evans, Evans Engineering
- Matthew Kirsch, Architect
- Mark Zaring, Mark Bradley Homes

Should you require any additional information or have any questions, please do not hesitate to contact me at 513-321-2168

Best regards,

Jodha R Can

Jonathan R. Evans, P.E.



Date: Jan. 19, 2018 Location: 3739 Eastern Request: Zoning Relief Analysis Zoning District: CC-M

Applicant Name: Jonathon Evans

Dear Sir or Madam:

I have received and reviewed the subject project for compliance with the Zoning Code of the City of Cincinnati, and it will require relief from the Zoning Hearing Examiner for the following items:

• As per Section 1409-07 a conditional use approval is needed for the proposed residential use on the first floor in the CC-M district. Please submit for a conditional use approval to the zoning hearing office.

If you have any questions regarding the submission of your Zoning Hearing and the required documents, please contact Kasandra Maynes at 513-352-1559 or visit <u>www.cincinnati-oh.gov/boards and select Zoning Hearing Examiner</u>.

If you decide to revise your plans to meet the Zoning Code, you may apply for a building permit **<u>in person</u>** to the Buildings & Inspections Department at 805 Central Avenue, Suite 500. You **<u>must</u>** provide 3 copies of your plans.

You may also contact me at the information listed below with zoning questions, concerns or to make an appointment.

Please include a copy of this letter with your zoning application.

Sincerely,

Weston Munzel Zoning Plans Examiner



















