

HUDDLESTON & HUDDLESTON

**ATTORNEYS AT LAW
CLARKE HOUSE
98 WEST JEFFERSON STREET
POST OFFICE BOX 9
FRANKLIN, INDIANA 46131**

STEPHEN LEE HUDDLESTON
MARTHA E. McQUEEN
DUSTIN DANIEL HUDDLESTON*
REGISTERED CIVIL MEDIATOR

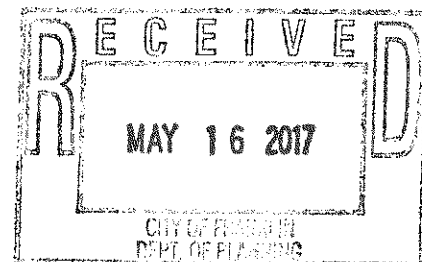
TELEPHONE (317) 736-5121
FAX (317) 736-5137

*Also Admitted in Florida

May 16, 2017

HAND DELIVERED

Franklin Department of Planning and Engineering
Attn: Ms. Joanna Myers, Senior Planner
70 East Monroe Street
Franklin, IN 46131



**Re: Emmanuel Church of Greenwood, Inc.
Application for Variance
My File No. 16-058**

Dear Ms. Myers:

As attorney for Applicant, Emmanuel Church of Greenwood, Inc., enclosed please find the following:

1. Application for Variance
2. Filing Fee (\$200);
3. Three (3) paper copies of the proposed Site Plan
4. Three (3) paper copies of the proposed Landscaping Plan
5. Three (3) copies of Vicinity map
6. Affidavit & Consent of Property Owner – John E. Grimmer Living Trust, Dated September 10, 1996
7. Corporate Warranty Deed – John E. Grimmer Living Trust, Dated September 10, 1996
8. A CD containing #3 – 5 in electronic format.

Statement of Intent

This letter will serve as the Statement of Intent, as required by Article 11 Chapter 3 Section (A)(2) of the City of Franklin Zoning Ordinance (“Zoning Ordinance”) describing the details of the variance being requested and stating how the request is consistent with the required findings of fact.

Applicant has entered into an agreement to purchase 14.164 acres from the John E. Grimmer Living Trust Dated September 10, 1996 (“Church Property”) for purposes of constructing a church on the Church Property.

Applicant is seeking a variance from developmental standards to allow red jade crabapple trees to count towards the required landscaping within the 20-foot wide Buffer Yard located along the Church Property’s south property line, even though it is not listed in the “Qualifying Broad Leaf/Deciduous Trees” table beginning on page 7-61 of the Zoning Ordinance.

Statutory Findings of Fact

1. **The approval will not be injurious to the public health, safety, morals, and general welfare of the community**, because the red jade crabapple trees are ornamental and small in size. The approval will enhance safety, because the smaller trees will not interfere with Duke Energy’s overhead transmission lines that carry 69,000 volts of power across the property.

Section 7.16(A)(6) states that “[i]n no instance shall any tree listed on the Non-Qualifying Trees table on page 7-63 be used to meet any landscaping requirements of this Ordinance.” The red jade crabapple tree is not listed on the table of Non-Qualifying Trees found on page 7-63 of the Zoning Ordinance.

2. **The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner**, because the trees are aesthetically attractive. The red jade crabapple trees are not known to be invasive.

Edward F. Gilman, with the University of Florida, IFAS Extension, wrote a summary entitled “Malus x ‘Red Jade’ ‘Red Jade’ Crabapple” that was originally published in 1999 and subsequently reviewed in February 2014 explaining that this

species of tree is “[p]opular around overhead power lines due to their small stature ...” Mr. Gilman wrote that “a row of crabapples along each side of the street or median strip can ‘make’ a neighborhood.”

Duke Energy has approved the red jade crabapple tree for a site in Fishers, Indiana.

- 3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property,** because the zoning ordinance requires trees to be planted where Duke Energy has a utility easement and overhead transmission lines.

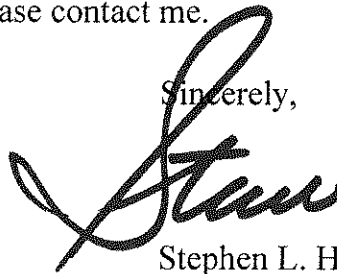
Applicant sought and obtained Duke Energy’s approval of the type of tree that could be planted within Duke Energy’s easement. Duke Energy would not allow trees that exceeded fifteen feet (15’) in height at maturity within its utility easement.

All of the trees listed on Franklin’s table of Qualifying Broad Leaf / Deciduous Trees table found at pages 7-61 and 7-62 exceed fifteen feet (15’) in height at maturity.

Applicant’s variance request balances Duke Energy’s utility easement interests and the City of Franklin’s interest to “benefit the public welfare through improved aesthetics and the reduction of storm water run-off, glare, and heat buildup.” (Zoning Ordinance, p. 7-56).

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve", with a large, stylized initial "S" that loops around the rest of the name.

Stephen L. Huddleston

SLH/mm
Enclosures