

Appeal

Hearing Request Application - Form 1
Zoning Board of Adjustment
City of Charlotte

Date Filed: 1/13/2012

Case Number: 12 - 004

Received by: Sonda Kennedy
ZBA Clerk

Instructions

This form must be filed out completely. Please attach the appropriate additional form depending on your request type along with required information as outlined in the appropriate checklist. Please type or print legibly. All property owners must sign and consent to this application, attach additional sheets if necessary. If the applicant is not the owner, the owners must sign the Designation of Agent section at the bottom of this form.

The Applicant Hereby (check all that apply):

- ☐ Requests a variance from the provisions of the zoning ordinance as stated on Form 2
☒ Appeals the determination of a zoning official as stated on Form 3
☐ Requests an administrative deviation as stated on Form 4

Applicant or Agent's Name: Richard B. Fennell and Jon P. Carroll

Mailing Address: James, McElroy & Diehl, P.A., 600 South College Street

City, State, Zip: Charlotte, NC 28202

Daytime Telephone: (704) 372-9870 Home Telephone: N/A

Interest in this Case (please circle one): Owner Adjacent Owner Other

Property Owner(s) [if other than applicant/agent]: The Schnider Group, LLC

Mailing Address: The Schnider Group, LLC

City, State, Zip: P.O. Box 38470, Charlotte, NC 28278

Daytime Telephone: _____ Home Telephone: _____

Property Address: 10762 Traymore Lane, Charlotte, NC 28278

Tax Parcel Number: 19938132 Zoning District: R5

Subdivision Name: _____ Conditional District: YES NO

Applicant Certification and Designation of Agent

I (we) certify that the information in this application, the attached form(s) and documents submitted by me (us) as part of this application are true and correct. In the event any information given is found to be false, any decision rendered may be revoked at any time. I (we) hereby appoint the person named above as my (our) agent to represent me (us) in this application and all proceedings related to it. I (we) further certify to have received, read and acknowledged the information and requirements outlined in this packet.

1/13/2012
Date

Date

[Signature]
Property Owner

[Signature]
Property Owner

Appeal Application - Form 3
Zoning Board of Adjustment
City of Charlotte

Date Filed: 1/13/2012

Case Number: _____

Fee Collected: \$150.00

Has work started on this project? YES ☐ NO ☒ **Work already completed.**
If yes, Did you obtain a building permit? YES ☐ NO ☐ If yes, attach a copy.
Have you received a Notice of Violation for this project? YES ☒ NO ☐ If yes, attach a copy.
Has this property been rezoned? YES ☐ NO ☒ If yes, Petition Number: _____

(1) What zoning ordinance section numbers do you allege were applied in error? Please list each section, the requirement and the requested variance.

Item	Code Section	Code Requirement
<i>Example</i>	<i>9.205 (1)(g)</i>	<i>45 foot rear yard</i>
A	10.706(1)(a)(i)	20% Maximum Allowable Built Upon Area ("B.U.") requirement
B	10.708(1)(a)	50' minimum buffer from Lake Wylie
C		
D		
E		

(2) Please describe why you feel the code sections listed above were applied in error. Tell the Board what you feel is the appropriate application of each code section.

(a) Code Section 10.706(1)(a)(i)

A. Photographs showing the walkway are attached hereto as Exhibit A. Applicant does not believe that it violated the 20% maximum B.U. requirement. The Notice of Violation does not contain any calculation sufficient to support the inspector's belief that a violation occurred. Applicant has engaged the services of Andrew Zoutewelle to complete an updated survey of the property that contains impervious calculations to determine if a violation has, in fact, occurred. Mr. Zoutewelle believes the survey will be completed by January 17, 2012. Applicant will supplement this application with the survey when it is received. Additionally, the walkway was not constructed of poured concrete or asphalt. Rather, it is constructed of stone pavers. It is not impervious within the meaning of the definition of B.U. in Part 7 of the Charlotte Code (p. 10-61) and, therefore, should not be included in the B.U. calculation. The Notice of Violation also does not identify the Zoning Code Inspector's calculation of B.U. for the subject property. Nor does it state how the Zoning Code Inspector determined that there was a violation.

(b) Code Section 10.708(1)(a)

B. The Notice of Violation alleges that applicant's walkway encroaches into a S.W.I.M buffer and "must be removed." However, because the buffer at issue is a S.W.I.M. buffer, Part 8 of the Charlotte Code (not Part 7) is applicable. Under Part 8 of the Code, removal is not required if the owner implements approved mitigation techniques. Section 12.806 of the Code provides that mitigation "shall allow the property owner or other entity the opportunity to disturb a buffer, provided that steps are taken to offset the buffer loss." Applicant is willing to implement appropriate mitigation techniques, as set forth in Section 12.806(4) and (5), that will offset the buffer loss caused by the walkway.

EXHIBIT A







Code Enforcement Division
Southwest Service Area
4150 Wilkinson Blvd.
Charlotte NC 28208



12/16/2011

LLC THE SCHNIDER GROUP
PO BOX 38470
CHARLOTTE NC 28278

ZONING NOTICE OF VIOLATION

Case Number: Z20110053841 Document # 3623

Property Address: 10762 TRAYMORE LN CHARLOTTE NC
28278

Zoning Classification: R-5

Tax Parcel No.: 19938132

Compliance Date: 1/11/2012

Violation Summary:

Sidewalk located inside 50' required S.W.I.M. buffer area must be removed. The Lower Lake Wylie Watershed Critical Area requirement of 20% maximum built upon area has been violated and must be corrected. Please contact my office and the Mecklenburg County Water Quality office to resolve this matter.

IMMEDIATELY CORRECT THE VIOLATION. If the violation is not corrected and there is no appeal to the Zoning Board of Adjustment, the Division reserves the right to exercise any one of the following REMEDIES: REVOCATION OF A CERTIFICATION OF OCCUPANCY making continued occupancy unlawful, issuing a CITATION, if unpaid and a judgment could become a LIEN on the property, seeking of an INJUNCTION, or the issuance of a CRIMINAL SUMMONS.

The Zoning Board of Adjustment is empowered to rule on the interpretation of the Zoning Ordinance and to grant variances when a difficulty or hardship exists. Appeals will not be heard by the Board unless application is properly filed in the Zoning Administrator's office within thirty (30) days of the date of this Notice of Violation. Once the deadline has passed, your right of appeal is forfeited. Forms are available in this office and online at <http://www.charmeck.org/city/charlotte/planning/AboutUs/Pages/FeesApplications.aspx>.

If you have any questions as to what is required by this Notice, please contact me at the number below.

MARK GRIFFIN

Zoning Code Inspector
(704)398-6762
mgriffin@ci.charlotte.nc.us