



CERTIFIED MAIL

James E. Harris
5301 Baker Drive
Charlotte, NC 28209

**RE: VARIANCE
5301 BAKER DRIVE
CASE NUMBER 12-028**

Dear James Harris:

At its meeting on July 31, 2012, the City of Charlotte Zoning Board of Adjustment (“Board”) **denied** a variance to allow a 27 foot variance from the required 40 foot rear yard to allow an existing deck to be replaced and repaired.

The Board based its decision on the following findings of fact:

1. The applicant is James E Harris (Represented by Lundberg Windows & Siding Inc.)
2. The proposed site is located at 5301 Baker Drive, further identified as tax parcel 171-112-01.
3. The subject parcel’s current zoning classification is R-4 (Residential).
4. The applicant is requesting a variance to replace, repair, and expand an existing deck that encroaches into the required rear yard.
5. According to real estate lookup records, in 1958, a 4x4 terrace was constructed, and in 1993 a 12x12 deck was built.
6. Per code section 7.103(1) normal repair and maintenance may be performed to allow the continuation of nonconforming structures.
7. Per code section 7.103(5) a nonconforming structure may be expanded, without bringing the nonconforming structure into conformity with these regulations, only if the part of the structure to be expanded and the area of the lot into which the expansion is taking place are both brought into conformity with the requirements of these regulations.
8. The hardship is personal in that the applicant desires to expand a nonconforming structure which encroaches into the required rear yard.
9. There is no evidence of hardship or special conditions peculiar to the property.
10. The hardship is a result of the applicant’s desire to expand a nonconforming structure.

Based upon the above findings of fact, the Board concludes that the applicant has failed to meet the three standards stated in §5.108(1) of the Ordinance, and more specifically:

1. No practical difficulties or unnecessary hardship exist because:
 - a. The difficulty or hardship is a result of action of the owner of the property.
 - b. The difficulty or hardship is not peculiar to the property in question.

- c. The difficulty or hardship resulting from the application of these regulations would not prevent the owner from securing a reasonable return or making a reasonable use of the property.
2. The spirit of the regulations will be observed by denying the variance.

Pursuant to N. C. G. S. Section 160A-388(e2), the Board's decision in Case No. 12-028 may be appealed by a petition for review in the nature of *certiorari* to Superior Court within thirty (30) days from the date stated below, which is the date when the decision of the Board was filed in the Planning Department/Zoning Administration Division, or within thirty (30) days after receipt of the decision by an aggrieved party who filed a written request for such copy with the Clerk to the Board at the time of the hearing of the case, whichever is later.

Sincerely,



Randy Fink
Chairperson

8/24/2012

Date

DECISION FILED IN THE PLANNING DEPARTMENT:

August 28, 2012

Date



Katrina Young, Zoning Administrator