



VARIANCE APPLICATION

THIS APPLICATION MUST BE FILED IN PERSON, IT
CAN NOT BE ACCEPTED BY MAIL

FY2005
Case #: <u>06-039</u>
Date Filed: <u>3/7/06</u>
Meeting Date: <u>3/28/06</u>
Received By: <u>LPBELL</u>
Office Use Only

Variance requested on property located at: 2015 Chambwood Drive (See Exhibit A)

Property Zoned: R-5

Tax Parcel #: 09503239

Property Owner: Joseph W. & Carole H McGirt

Date Existing Structure Erected: 1941

TO THE CHARLOTTE ZONING BOARD OF ADJUSTMENT:

I Joseph W. McGirt, hereby petition the Board of
(name)

Adjustment for a VARIANCE from the literal provisions of the Charlotte Zoning Ordinance because, under the interpretation given to me by the Zoning Administrator, I am prohibited from using the parcel of land described above in a manner shown by the Plot Plan attached to this form. I request a variance from the following provisions of the Zoning Ordinance (cite Section numbers and Code requirements):

see attached

Describe the VARIANCE being requested on the above referenced property:

see attached

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the state enabling act, the Board is required to reach three conclusions as a prerequisite to the issuance of a variance: (a) that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance, (b) that the variance is in harmony with the general purposes and intent of the Ordinance and preserves its spirit, and (c) that in the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. In the following spaces, indicate the facts and the argument you plan to render, in order to convince the Board, to properly determine that each of these three (3) CONCLUSIONS are applicable to this structure and site.

- (a) **THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS IN THE WAY OF CARRYING OUT THE STRICT LETTER OF THE ORDINANCE.** The courts have developed three rules to determine whether, in a particular situation, "practical difficulties or unnecessary hardships" exist. State facts and arguments in support of each of the following:

- (1) **If the property owner/applicant complies with the provisions of the Ordinance, the property owner can secure no reasonable return from, or make no reasonable use of, his property.** (It is not sufficient that failure to grant the variance simply makes the property less valuable.)

- (2) **The hardship of which the Applicant complains results from unique circumstances related to the Applicant's land.** (Note: Hardships common to an entire neighborhood, resulting from overly restrictive zoning regulations, should be referred to the Charlotte-Mecklenburg Planning Commission. Also, unique personal or family hardships are irrelevant since a variance, if granted, runs with the life of the land.)

- (3) The hardship is not the result of the Applicant's own actions.

See attached

- (b) **THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE AND PRESERVES ITS SPIRIT.** (State facts and arguments to show that the requested variance represents the least possible deviation from the letter of the Ordinance to allow a reasonable use of the land; and, that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.)

See attached

- (c) **THE GRANTING OF THE VARIANCE SECURES THE PUBLIC SAFETY AND WELFARE AND DOES SUBSTANTIAL JUSTICE.** (State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the Applicant.)

See attached

Variance Ordinance Provision: 35 feet setback from rear property line (See Survey on Exhibit B).

Variance: We request that we be allowed to add additional square footage to the ground level of our home as shown on Exhibit C .

Factors Relevant to the Issuance of a Variance

(a). Difficulties/Hardships

1. Reasonable Return or Use:

- Our neighbor's huge tree fell on our house on December 15, 2005 (please see newspaper), rendering it uninhabitable. It has been determined that the stairway to the second level does not meet code and can be rebuilt to code by extending the house as requested.
- The house as presently configured allows for only extremely small bedrooms (i.e. Daughter's room is 10 feet 10 inches X 8feet 5 inches), which subtract significantly from reasonable use and resale.
- The neighborhood is undergoing significant transition as homes are being remodeled, enlarged or torn down and rebuilt to maximize size and convenience. Failure to receive the variance will seriously provide a negative economic impact to our home and by extension to the greater Plaza-Midwood neighborhood.

2. Unique Circumstances:

- This home was built in 1941, long before zoning ordinances were in effect. It is also on a corner lot where there is a convergence caused by Tippah Road, the street behind this property. When these zoning regulations were later introduced the 35 feet rear setback went through the middle of the home (please see Exhibit C) in a way that was inequitable and failed to take into consideration how the house sits on the lot, how it fits in the neighborhood and how it lines up with neighboring houses.
- When the building inspector reviewed the tree damage, he noted significant building code violations put into place by the previous owner. One such violation requires the stairwell from the upper level to be extended by approximately 4 feet in order to be in compliance.

3. No actions by us

- The hardship discussed above is caused solely by the early date of construction and the improper upstairs addition built by a former owner and never disclosed to us. In fact the Owners Affidavit signed by the former owner at closing specifically disavows any knowledge of a code violation, which is obviously untrue. The rapid rate of change in our neighborhood and increasing size and quality of the structures is also a factor beyond our control.

(b). Harmony and General Purpose

- The variance will not detract from the character of the neighborhood but will in fact conform more directly to the beauty and charm of Plaza-Midwood.
 - The increase of the ground floor into the setback is quite modest and will make our home more consistent in size with other homes in our neighborhood. The neighbor on our left just completed an addition that resulted in a footprint almost identical to the one we are requesting. Many homes within a block of our property are larger than our request.
 - If the variance is not granted we will be forced to expand to the front of our home, which will cause our house to be out of line with and awkwardly sited in comparison with our neighbors. Our neighbors all view our request as a positive step to help maintain the character of our street and neighborhood and hope we can begin construction soon. They have signed the attached listing as support.
 - The variance requested is only a minimum addition to the existing layout. We are essentially filling in a "hole" along the rear of our home that is not significantly closer to the rear property line than the structure presently existing and grandfathered in under the Code. The bedroom to be expanded on the left rear of the house is consistent with the variance requested to accommodate the stairwell.

(c). Public Safety and Justice

- If our request for variance is denied there will be absolutely no benefit to our neighborhood. Approving the variance will enhance the character and charm of Plaza-Midwood.
 - Limiting the enhancement of a small home in a rapidly improving and expanding neighborhood will have a negative effect on my neighbors. Our existing backyard is fenced in and visually will appear no different if the variance is allowed.
 - If the variance is disallowed and the house is expanded toward Chambwood Drive, there will be a significant reduction in charm and character of the home which will have a negative effect on the neighborhood, not to mention our home will not be lined up with other homes on the street.
- The violation caused in this instance comes directly from the imposition of regulations long after the home was actually built. As constructed the house is a charming bungalow with character that is a symbol of the history and architecture that is Plaza-Midwood. It is only just and right to preserve that character and history by allowing a relatively small variance that will maintain the architectural intent and neighborhood character dating back to the 1940s while adding economic utility and value to all concerned.
- Thank you for your consideration.

I certify that all of the information presented by me in this application is accurate to the best of my knowledge,

Joseph W. McGirt
Printed Name of Appellant

Sherri McGirt
Printed Name of Representative (if any)

2015 Chambwood Drive
Mailing Address

2120 Wellesley
Mailing Address

Charlotte NC 28205
City, State, Zip

Charlotte NC 28207
City, State, Zip

(704) 277-2668 (704) 973-9614
Telephone Number Fax Number

(704) 332-8810
Telephone Number Fax Number

joe.mcgrt@gmail.com
E-Mail Address

smcgrt@mcnair.net
E-Mail Address

Joseph W. McGirt
Signature of Appellant

Represented By (Signature)

IF THE APPELLANT IS NOT THE OWNER OF THE PROPERTY FOR WHICH THE APPEAL IS BEING REQUESTED, indicate the owner's name and address:

Property Owner (If different from Appellant)

Address

City, State & Zip

TYPE OR PRINT below the COMPLETE names, tax parcel numbers, mailing addresses and zip codes for the owners of the adjacent properties, including the properties directly across the street from the property, for which a variance is being requested. (Property ownership information is available at:

<http://meckcama.co.mecklenburg.nc.us/relookup/> or
<http://mcmf.co.mecklenburg.nc.us:3007/cics/txre/txre00i>

ADJACENT PROPERTY OWNERS:

1. Jan Kery + P. Wesley Sturgis Tax Parcel # 09503114
2026 Chambwood Dr. 28205
ph: (704) 377-4103
2. Joyce + David Love Tax Parcel # 09503238
2001 Chambwood Dr.
Charlotte NC 28205
ph 704 375-1263
3. Nancy Smith Tax Parcel # 09503236
2020 Tippih Ave
Charlotte NC 28205
904.335.0604
4. SUE FAILE Tax Parcel # 09503236
2022 Tippih Ave
Charlotte, NC 28205
5. JANE KUNZ Tax Parcel # 09503236
2022 Tippih Ave
Charlotte NC 28205
6. Thomas "Chip" Watson Tax Parcel # 095032⁴⁰~~36~~
2023 Chambwood Dr.
Charlotte, NC 28205
(704) 3607-3039
7. (Sarah) Lynn Kenelley Tax Parcel # 09503115
2022 Chambwood Drive
Charlotte NC 28205
704 376-3375
8. Tim Furr Tax Parcel # 09503237
Apt 222
4545 Connecticut Ave NW
Washington DC 20008
9. _____ Tax Parcel # _____

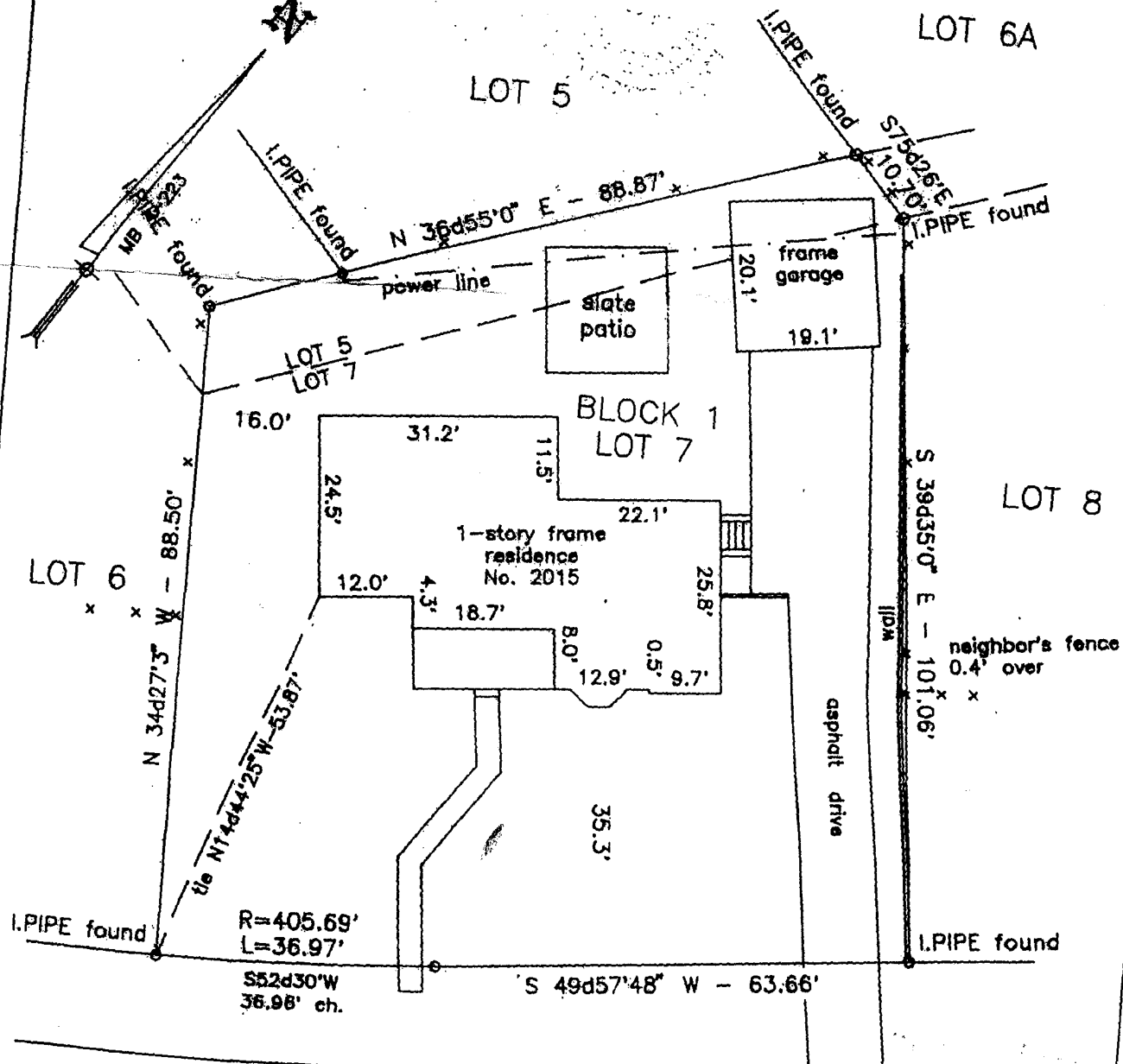
10. _____ Tax Parcel # _____

These persons, including the Appellant and the representative, will be notified in writing of the time and place of the hearing. (Attach additional sheet if necessary).

Exhibit A



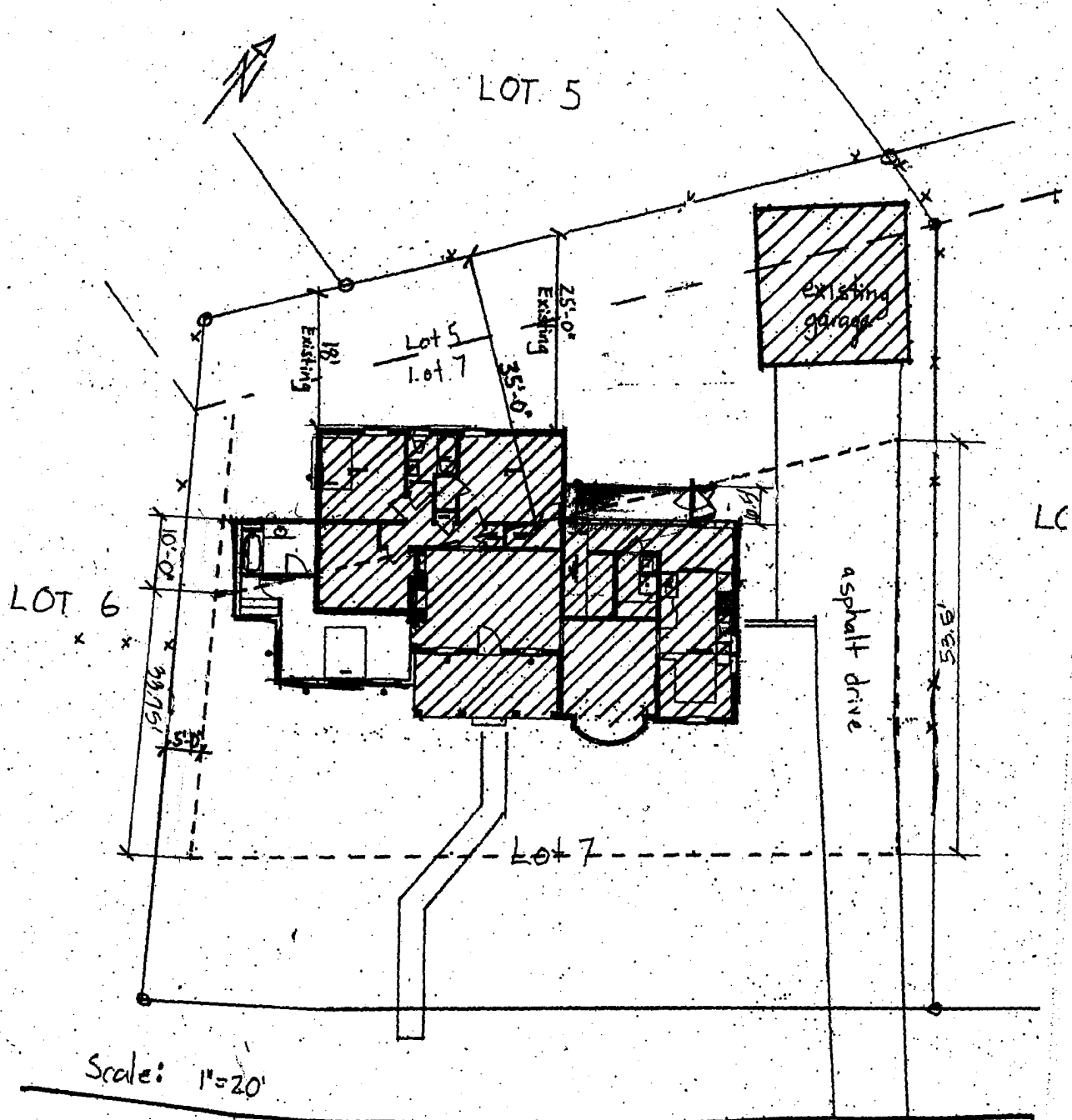
Exhibit B
Andrew G. Zoutewelle



Chambwood Drive 50'

PHYSICAL SURVEY OF
 LOT 7 & Part of 5 BLOCK 1 CHAMBWOOD
 CHARLOTTE, MECKLENBURG COUNTY, N.C.
 ALEXANDRA A. LONGSTREET
 Description taken from MB 4-223 and DB 3080-16
 Scale 1" = 20'
 ANDREW G. ZOUTEWELLE, L-3098
 April 29, 1991

Exhibit C



Chambwood Drive

Brace for fog, refrozen roads during morning rush hour



PATRICK SCHNEIDER - pschneider@charlotteobserver.com

Charlotte firefighters work the scene where a tree over 75 feet tall fell into a home on Chambwood Drive in the Plaza-Midwood neighborhood early Thursday morning. The owner of the home was inside at the time, but was not injured.

1 killed as storm rips lines, trees

BY STEVE LYTTLE
AND JEN ARONOFF
slyttle@charlotteobserver.com
jaronoff@charlotteobserver.com

Motorists, police and road crews from Charlotte to the mountains were braced today for a dangerously slick and foggy morning rush hour.

A storm that socked the region Thursday with freezing rain left more than 450,000 Carolinas customers without power. By late Thursday, about 7,000 Mecklenburg customers still had no electricity, Duke Power said.

A 58-year-old Kannapolis man died when a tree fell on his house. In Charlotte, at least six trees fell on homes and busi-

nesses. Emergency workers around the region responded to hundreds of fender-benders on slick roads and highways.

Forecasters predicted temperatures in the upper 20s overnight would chill the air with ice crystals to create freezing fog – and again make the morning drive treacherous. Midday should bring a reprieve, with temperatures reaching into at least the mid-40s.

SEE STORM | 3A

More Coverage

2A | Tips for driving on ice.

3A | Tree smashes into house, killing man.

6 a.m.: Upper 20s

Black ice and fog make driving treacherous.

Noon: Mid-40s

Mostly sunny and milder. Ice should melt.

5 p.m.: Near 40

Partly cloudy with dry pavement.

COMING UP Another winter system will develop along the Gulf Coast Saturday and skirt the Carolinas on Sunday. With unseasonably cold temperatures continuing through the weekend, a mix of snow and rain could develop across the area on Sunday.