

Hearing Request Application - Form 1

Zoning Board of Adjustment

City of Charlotte

12-24-08 A10:13

Date Filed: 12/24/08

Case Number: 09-004

Received by: BGM

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: Maurice Wren – V.P. of Construction Mattamy Homes/Charlotte

Mailing Address: 2401 Whitehall Park Dr. #700

City, State, Zip: Charlotte, NC 28273

Daytime Telephone: 704-375-9373

Home Telephone: _____

Interest in this Case (please circle one):

Owner

Adjacent Owner

Other

Property Owner(s) [if other than applicant/agent]: Mattamy Homes

Mailing Address: 2401 Whitehall Park Dr. #700

City, State, Zip: Charlotte, NC 28273

Daytime Telephone: 704-375-9373

Home Telephone: _____

Property Address: 13214 Reunion Street Charlotte, NC 28278

Tax Parcel Number: 21918314

Zoning District: R-3 Cluster

Subdivision Name: Reunion

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.

12/23/08
Date

FOR MATTAMY HOMES.
VP OPERATIONS
Property Owner

Date

Variance Application - Form 2
Zoning Board of Adjustment
City of Charlotte

12-24-08 A10:13 IN

Date Filed: _____

Case Number: _____

Fee Collected:

Has work started on this project?
 If yes, Did you obtain a building permit?
 Have you received a Notice of Violation
 for this project?
 Has this property been rezoned?

YES ☒ NO ☐
 YES ☒ NO ☐
 YES ☐ NO ☒
 YES ☐ NO ☒

If yes, attach a copy.

If yes, attach a copy.

If yes, Petition Number: _____

(1) What zoning ordinance section numbers are you seeking a variance from? Please list each section, the requirement and the requested variance.

Item	Code Section	Code Requirement	Variance Request
<i>Example</i>	<i>9.205 (1)(g)</i>	<i>45 foot rear yard</i>	<i>35 foot rear yard (10 foot reduction from required)</i>
A	9.205 (4)(B)	20 foot front yard	17 foot front yard(three foot reduction from required)
B			
C			
D			
E			

(2) Please describe why the variances requested are necessary.

The front porch of this home was constructed over the minimum required setback.

(3) 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:

(a) 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.)

The porch is a vital part of the structural integrity of the home, as well as the roof. All of the other homes in this community have a front porch and the removal of the porch would adversely affect the appearance of the community and would not be in harmony with the intent of the community.

(b) 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 Department. Also, unique personal or family hardships are irrelevant since a variance, if granted, runs with the life of the land.)

The property suffers from a severe slope in the back yard and while the surveyor that placed this home is not a part
of this variance application, it can be reasonably assumed that his intent was to preserve the grading and lot drainage
plan designed for this lot. The current location of this home allows for the natural flow of water around the
property so as not to adversely affect the lots adjacent to the parcel in question.

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

This hardship was created by a Licensed Professional Surveyor no longer contracted by Mattamy Homes. His actions
were not malicious, however the location of this home is a direct result of his ineffectiveness to place the home
within the required setbacks. As stated before, Mattamy Homes was not notified of this encroachment until one
day prior to the closing date of December 23, 2008. The certificate of occupancy was issued on October 7, 2008
and the home was place on the market by Mattamy Homes under the assumption that all of the required zoning
Criteria had been met as represented by the Certificate of Occupancy as well as the permit report which found no zoning
violations at the time of the C.O. being issued.

(4) 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.)

The intent of the ordinance is to maintain a minimum parking area from the back of the sidewalk in the community
of no less than twenty(20) feet as outlined in section 12.206(3) “Development Standards for Off-Street Parking, Driveways, and Garages”
This home exceeds the minimum requirement for this part of the ordinance.

(5) 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.)

The public safety will not be adversely affected by the granting of this variance. There is no obstruction of or to any
facilities or utilities that may need to be accessed in the event of an emergency. Furthermore, the rest of the
community will be affected by the removal of the porch and will cause greater harm over perceived loss of property
value to the rest of the current and future homeowners of this community.

CHARLOTTE CODE

PART 2: SINGLE FAMILY DISTRICTS

- (4) Special subdivision lot and yard requirements. The following provisions apply to any residential subdivision of 10 or more lots approved on or after the effective date of these regulations:
- (a) The minimum lot size of any lots within a subdivision may be reduced by 10%, provided that the average size of all lots is at least equal to the minimum lot size for the zoning district, and the total number of lots does not exceed the number that would be allowed if all lots were the minimum size for the zoning district. Other lot size reductions may be applicable, subject to Section 12.105 and subsection (5) of this Section;
 - (b) Development on each lot need not meet the minimum setback requirement for the district in which such lot is located, if the average setback of all lots along a street within a subdivision meet the minimum setback requirement for the district. In no event, shall a structure be located any closer than 20 feet to the right-of-way. The setback for each lot shall be shown on the final plat;
 - (c) The minimum side yard may be reduced for a principal building or structure to 5 feet, provided a minimum building separation is maintained between the principal buildings or structures on adjoining lots that is equal to at least two times the minimum side yard required for the district;
 - (d) A zero lot line, z-lots, and angled z-lots may be permitted where the building line is on one side of the lot line in a residential district used for single family detached dwellings, provided that:
 - (i) Any wall constructed on the side lot line must be a solid windowless wall. If there is an offset of the wall from the lot line of more than 6 inches, the offset must be at least 6 feet;
 - (ii) The minimum building separation between the sides of adjacent dwellings shall be at least two times the minimum side yard required for the district;
 - (iii) A 5-foot maintenance easement and a maximum eave encroachment of 2 feet within the maintenance easement must be established in the deed restrictions and covenants of the adjoining lot. This will provide ready access to the lot line wall at reasonable periods of the day for normal maintenance;
 - (iv) Preliminary subdivision plans submitted to the Planning Commission must indicate the proposed location and configuration of dwellings, driveways and parking arrangements for each lot. A draft of the proposed encroachment and maintenance easements must be submitted for review;

CHARLOTTE CODE

PART 2: OFF-STREET PARKING AND LOADING

Driveways and Parking Pads	Driveways and parking pads shall have a minimum length of 20', measured from the back of the sidewalk, or back of the right-of-way, whichever is greater. Driveways can be installed across the required setback and yard areas, and shall be as nearly perpendicular to the street right-of-way as possible. Driveways and parking pads shall be improved*. Individual driveways or shared driveways shall have a maximum width at any one point of 20'. <i>Driveways for individual garages may be used to meet a portion of the required parking if they are a maximum of 20' wide and at least 20' in length.</i>	Driveways and parking pads shall have a minimum length of 20', measured from the back of the sidewalk, or back of the right-of-way, whichever is greater. Driveways can be installed across the required setback and yard areas, and shall be as nearly perpendicular to the street right-of-way as possible. Driveways and parking pads shall be improved*. Individual driveways or shared driveways shall have a maximum width at any one point of 20'. <i>Driveways for individual garages may be used to meet a portion of the required parking if they are a maximum of 20' wide and at least 20' in length.</i>	Driveways can be installed across the required setback and yard areas, and shall be as nearly perpendicular to the street right-of-way as possible.
Garages	Minimum setback of 20', or the district setback, whichever is greater. Setbacks are measured from the back of sidewalk or back of right-of-way, whichever is greater.	Minimum setback of 20', or the district setback, whichever is greater. Setbacks are measured from the back of sidewalk or back of right-of-way, whichever is greater.	N/A

* For the purposes of this section, "improved" means surfaced with concrete, asphalt, gravel, or any other material commonly used for the parking of vehicles, but not including grass or dirt.
(Petition No. 2007-102, § 12.206(3), 09/17/07)

- (4) This Section shall not apply to the MUDD, PED, TOD-R, TOD-E, TOD-M, TOD-RO, TOD-EO, TOD-MO, TS, UI, UMUD, and UR districts established in these regulations.
(Petition 2004-128, § 12.206(4), 2/21/05)

Section 12.207. Parking barriers.

THIS IS TO CERTIFY THAT ON THE 23RD DAY OF DECEMBER, 2008, I SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE TITLE LINES AND THE WALLS OF THE BUILDINGS IF ANY ARE SHOWN HEREON. THIS SURVEY DOES NOT INTEND TO MEET GS47-30 RECORDING REQUIREMENTS.

DSK JL145 (MATTGEO3)
RN21

SIGNED


T. ANSON JENKINS NCPLS L-4608







