



CERTIFIED MAIL

Ryan and Christina Cole
3217 Westfield Road
Charlotte, NC 28209

**RE: VARIANCE
3217 Westfield Road
CASE NUMBER 09-012**

Dear Mr. and Mrs. Cole:

At its meeting on March 31, 2009, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** a variance from the required dryland access to allow construction of a residence on a lot that does not have dryland access.

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

1. The applicant is Ryan & Christina A. Cole (represented by Guy P. Peters, PE).
2. The existing site is located at 3217 Westfield Road, further identified as tax parcel 175-177-17.
3. The subject parcel current zoning classification is R-5 (Residential).
4. The site is located in the FEMA Floodplain.
5. The existing structure was constructed 1945.
6. The applicant is proposing to construct a new single-family structure that will meet other City of Charlotte Floodplain Regulations building requirements.
7. Based on City of Charlotte Floodplain Regulations, the site does not have dryland access.
8. Section 9-102, (a) 5 of the City of Charlotte Floodplain Regulations states that *"Dryland Access must be provided to new or Substantially Improved Habitable Buildings according to the following criteria: Dryland Access is required if any portion of either the Habitable Building or vehicular access route, connecting the Habitable Building to a public street, is within the Floodplain. If Dryland Access cannot be obtained, A Variance to the requirement for Dryland Access may be granted by the Board of Adjustment."*
9. Dryland Access is defined as *"a gravel, paved or concrete access route, at least 12' wide, which is above the Community Base Flood Elevation and connects an Habitable Building to a Dry Public Street."*
10. Dry Public Street is defined as *"a public street at the intersection of a proposed driveway where the surface of the pavement is at an elevation above the Community Base Flood Elevation."*
11. An old house will be demolished and replaced with a new house on the lot.
12. The driveway to the old house is below the level of the Community Base Flood Elevation.
13. Westfield Road at the driveway connection is below the Community Base Flood Elevation.
14. The property does not have "Dryland Access".
15. The Flood Protection Elevation (Community Base Flood Elevation + 1') at this location is 610.5'.
16. The elevation of the lowest floor of the old house is 609.0'.
17. The floor of the old house would be inundated by 0.5' of water during a Community Base Flood.
18. The elevation of the lowest adjacent grade at the old house is 606.8'.
19. The crawl space of the old house would have 2.7' of water inside it during a Community Base Flood.

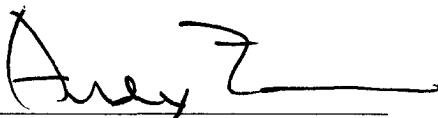
20. The ground at the new house will be filled to an elevation of 609.5. There will be no crawl space or living space flooding in the new house.
21. The new house will be at less risk from flooding than the old house.
22. FEMA Flood Insurance should not be required if the lot is filled and the house constructed to the proposed elevations.
23. The occupancy permit will not be approved until a professional land surveyor certifies the house is constructed to the required elevations.
24. A "No-Rise" study depicting the proposed fill on the lot will be submitted by the property owner and approved by Mecklenburg County Storm Water Services prior to issuing a permit.
25. Mecklenburg County Storm Water Services supports granting of the variance.

Based upon the above findings of fact, the Board concludes that the applicant has met each of the three standards stated in §9-87 of the Floodplain Regulations, and more specifically:

1. There was a showing of good and sufficient cause to grant the variance.
2. There was a determination that failure to grant the variance would result in exceptional hardship.
3. There was a determination that granting the variance will not result in increased flood heights (unless the requirements of Section 9-102(a)(6) are met), additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances.

All applicable permits must be obtained from the Planning Department, which has been notified of this decision. The Ordinance §5.111, provides that unless otherwise specified by the Board, any decision of the Board granting a variance shall automatically expire if a permit or a certificate of occupancy pertaining to the need for the variance is not obtained within two (2) years from the date of the meeting of the Board at which the Board rendered its decision.

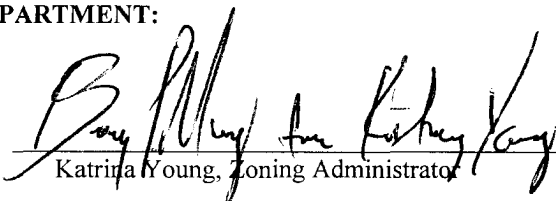
Sincerely,



Andrew Zoutewelle
Chairperson

cc. Guy P. Peters, PE

DECISION FILED IN THE PLANNING DEPARTMENT:

Date 4/29/09 

Katrina Young, Zoning Administrator