



CERTIFIED MAIL

Bruce Moline
6128 River Cabin Lane
Charlotte, NC 28278

Randy Gager
5915 River Cabin Lane
Charlotte, NC 28278

**RE: APPEAL
5924 River Cabin Lane
CASE NUMBER 10-015**

Dear Gentlemen:

At its meeting on June 29, 2010, the City of Charlotte Zoning Board of Adjustment ("Board") **upheld** the Zoning Administrator's interpretation that: (1) a fence surrounding a wireless communication facility is not required to be 200 feet from an abutting property line and (2) **upheld** the Zoning Administrator's interpretation that the proposed tower meets concealment requirements.

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

1. Bruce Moline and Randy Gager are appealing the interpretation that a proposed wireless communication transmission facility at 5924 River Cabin Lane will meet the requirements of the zoning ordinance.
2. The property is identified as tax parcel 199-561-01.
3. The site is zoned R-3 (residential) and is currently vacant.
4. Radio, telephone, cellular telephone and television masts, towers, antennae and similar structures are permitted in the R-3 district under prescribed conditions.
5. A wireless communication transmission facility has been approved to be constructed at this location.
6. The wireless communication transmission facility will be the principal use and is proposed to exceed the minimum height of 40 feet and therefore is required to have a maximum separation of 200 feet from all abutting property lines (proposed height is 195 feet).
7. A wireless communication transmission facility located in residential districts must be designed in such a manner that it no longer appears to be a wireless communication tower.
8. Per the Ordinance Code Section 12.108(8)(j)(1), the new wireless communication tower is proposed to be designed, constructed or integrated into or as a structure in such a manner that it will be disguised as a tree.
9. Per the Ordinance Code Section 12.504 (4), there is no maximum or minimum distance requirement from residentially zoned property for fences.


10. Per the ordinance (12.504(4), the applicant is proposing to install a fence that will make the facility inaccessible to the public.
11. The lot area for the wireless communication transmission facility is approximately 10,000 sq. ft. (100'x100' not including access drive) and has the capacity to accommodate at least two wireless communications carriers.
12. The facilities equipment building meets or exceeds the requirements as outlined in Section 12.108(f) of the zoning ordinance and Section 9.203 for accessory structures.
13. The proposed fence surrounding the facility is not part of the facility.

Based upon the above findings of fact, the Board concludes that the applicant has failed to meet the requirements of §5.109(1) of the Ordinance, and more specifically:

1. The Zoning Board of Adjustment upholds the interpretation that the proposed wireless communication tower is located more than 200 feet from property line and is designed in such a manner that it no longer appears to be a wireless communication tower.

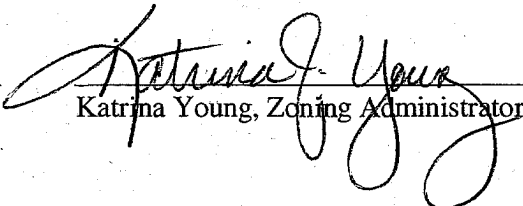
Pursuant to N. C. G. S. Section 160A-388(e), the Board's decision in Case No. 10-015 may be appealed by a petition for review in the nature of *certiorari* to Superior Court within thirty (30) days from the date stated below, which is the date when the decision of the Board was filed in the Planning 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,

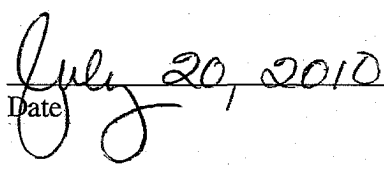


Jeff Davis
Chairperson

DECISION FILED IN THE PLANNING DEPARTMENT:



Katrina Young, Zoning Administrator



Date