

Hearing Request Application - Form 1  
Zoning Board of Adjustment  
City of Charlotte

Date Filed: 11/3/10 Case Number: 10-042AD Received by: BPM/ssk

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 **DONEY**

Applicant or Agent's Name: Michael J. Doney

Mailing Address: 2128 West Trade Street

City, State, Zip: Charlotte, NC 28216

Daytime Telephone: 704-819-3944 Home Telephone: 704-819-3944

Interest in this Case (please circle one): Owner Adjacent Owner Other

Property Owner(s) [if other than applicant/agent]: Jamie M. Diehl

Mailing Address: 1528 Duckworth Ave

City, State, Zip: Charlotte, NC 28208

Daytime Telephone: 704-328-1793 Home Telephone: 704-577-7174

Property Address: 1528 Duckworth Ave, Charlotte, NC 28208

Tax Parcel Number: 07101929 Zoning District: R-8

Subdivision Name: Seversville 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.

11/2/10  
Date

Jamie M. Diehl  
Property Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Property Owner

**Administrative Deviation Application - Form 4**  
Zoning Administrator  
City of Charlotte

Date Filed: 11/3/10 Case Number: 10-042AD Fee Collected: 150<sup>00</sup>

Has work started on this project? YES ☒ NO ☐  
If yes, Did you obtain a building permit? YES ☒ NO ☐ If yes, attach a copy.  
Have you received a Notice of Violation for this project? YES ☐ NO ☒ If yes, attach a copy.  
Has this property been rezoned? YES ☐ NO ☒ If yes, Petition Number: \_\_\_\_\_

The requested deviation is for (place an X under the applicable categories):

Yard Requirement	Buffer Requirement	Involves a Heating or Air Conditioning Unit	Other Measurable Requirement	Handicap Ramp or Similar Structure Required by Law
<b>X</b>				

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

Item	Code Section	Code Requirement	Deviation Request
<i>Example</i>	9.205 (1)(g)	45 foot rear yard	35 foot rear yard (10 foot reduction from required)
<b>A</b>	9.205 (1)(f)	5ft side yard	3ft side yard (2ft reduction from required)
<b>B</b>			
<b>C</b>			
<b>D</b>			
<b>E</b>			
<b>F</b>			

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

see attachment

(3) In the following spaces, indicate the facts and the arguments to support your request.

(a) The physical contour of the street, the land, or some other topographical or geographical feature is the basis for a surveying or other inadvertent error.

see attachment

- (b) The physical layout of the land and structures on the land are such that Ordinance requirements cannot be met.

see attachment

- (c) Because of the nature of the abutting property or intervening topographical or geographical features, the application of the Ordinance requirements would not serve a useful purpose.

see attachment

- (d) If an inadvertent error by a City staff member, surveyor, contractor, building inspector or other similar individual is involved please describe the nature of the error and provide the name and contact information for the person who made the error.

see attachment

- (e) The applicant agrees to the measures listed below to mitigate the impact of the requested deviation.

see attachment

- (4) For handicap ramps and other similar structures, please indicate why the improvement is necessary and explain why there is no other feasible location that would comply with the zoning ordinance.

N/A

**Administrative Deviation Application Form 4 – Answers to Questions**

**1528 DUCKWORTH AVENUE, CHARLOTTE, NC 28208 Parcel ID 07101929**

**(2) Please describe why the deviations requested are necessary.**

The owner made every diligent effort at initial construction including pulling building permits and passing a Mecklenburg County Building Inspection to cause the six hundred square foot (600') deck attached to the historic 1933 house to comply with the five foot (5') side yard setback. Inspections and surveys done in connection with the current sale of the subject property reveal that a small portion of the deck does rest within the five foot (5') side yard setback but does not sit any closer to the property line than the existing historic 1933 house. Land cannot be purchased to cause full compliance and removing the deck or a large portion thereof would materially diminish the value of the subject property. Without a variance the subject property remains unmarketable creating an undue hardship. Due to the fact that this is a historic home with a unique and irregular situs and this variance is small in context, this variance request is in harmony with the general purpose and intent of the Ordinance and further preserves its spirit.

**(3) Indicate the facts and arguments to support your request:**

**(a) The physical contour of the street, the land, or some other topographical or geographical feature is the basis for a surveying or inadvertent error.**

There is over twenty five feet (25') of topographical deviation between the front of the subject property (street side) and the rear of the subject property with multiple elevation drops. The Lot lines are also irregular shaped in that of a parallelogram and do not run perpendicular to the street. The house was built in 1933 and is situated perpendicular to the street with the back right corner of the house sitting on the subject property line. All of the foregoing makes it quite challenging to properly "draw" the applicable lines. When building the deck, every attempt was made to accurately mark the footings to sit at the five foot (5') side yard setback but due to the physical contour of the land, those markings were made incorrectly. Another point to note is that it took three trips with a very experienced, proficient surveyor and those most familiar with the subject property to accurately reflect the applicable lines.

**(b) The physical layout of the land and structures on the land are such that Ordinance requirements cannot be met.**

The deck is of substantial size and rests about twelve feet (12') off of the ground on uneven topography. To reduce the size of the deck to fully comply with the five foot (5') side yard setback would be most infeasible physically given the location of a load bearing beam and door entranceway becoming inoperable as well as greatly diminish the value of the subject property in removing a beautiful granite feature and lines of the vertical improvements built to comply with the pre-code house.

**(c) Because of the nature of the abutting property or intervening topographical or geographical features, the application of the Ordinance requirements would not serve a useful purpose.**

The abutting property has a stone block retaining wall and a privacy fence bordering the property. Thus, the granting of the variance would not hinder said abutting property owner's use and enjoyment of its property.

**(d) If an inadvertent error by a City staff member, surveyor, contractor, building inspector, or other similar individual is involved please describe the nature of the error and provide the name and contact information for the person who made the error.**

The owner of the subject property hired contractor Tom Coveney to build the deck. A Mecklenburg County building permit was pulled which stated the required five foot (5') side yard setback. The Contractor used the property markers to establish where the lines of the deck should be drawn and the footers for the deck should be poured to stay within the required five foot (5') side yard setback. Due to the intervening topographical contour of the land, the determining of the side yard buffer was made incorrectly but was not noticeable for several years until it was just revealed during the current sale of the property. An effort was made to locate Tom Coveney's contact information, but it is believed that he now resides in Canada and no longer does business in the United States.

**(e) The applicant agrees to the measures listed below to mitigate the impact of the requested deviation.**

The owner is willing to cause construction renovations to comply as much as feasible. Attached is a survey reflecting the measures that will be taken to remove a portion of the deck to make it sit three feet (3') from the property line. This encroachment into the setback will not be closer than the existing improvements of the subject house. Also, the abutting property's owner has seen this plan and has no objection.

Mecklenburg County  
Land Use and Environmental Services  
P.O. Box 31097  
700 N Tryon St  
Charlotte, NC 28231-1097  
(704) 336-3830



Permit: **B1503652**  
Issue Date: July 19, 2005

## Building Permit

### One/Two Family

#### Property

Address: 1528 DUCKWORTH AVE  
Subdivision:

Parcel: 07101929 Lot: Block:  
Tax Jurisdiction: CHARLOTTE

#### Site Details

Land Area (sq. ft.): Parking Required: Front Street:

Lot

Corner: N Through: N Irregular: N

Minimum Setbacks (ft.)

Front: Left: 5 Right: 5 Rear: 20

#### Project

Project Number: 137532

Occupancy Type: R3 \* RESIDENTIAL - SINGLE FAM

Project Name: RES DECK ADDITION

Contract Cost: \$6,000

USDC: 434 - Housekeeping Buildings (additions, chimneys, conv,

Mobile Home: Year/Make:

Serial Number:

Heated Area:

Unheated Area:

Deck Area: 600 sq. ft.

#### Owner

Name: JAMIE M. DIEHL  
Phone: (704) 577-7174

Address: 1528 DUCKWORTH AV  
CHARLOTTE, NC 28208

#### Trade Details

##### Electrical

Total Amps: 0 Number of Circuits: 0 Connections at 120 Volts: 0 Connections Over 120 Volts: 0

Service Type: Existing Utility Company:

##### Mechanical

No. of Gas Connections: 0 No. of Appliances: 0 Utility Company:

Heating/Cooling:

##### Plumbing

No. of Fixtures: 0 No. of Appliances: 0

##### Utilities

Type of Service: Existing

	Public Meter/Connection		Private Service	
	Individual	Master	Individual	Community
Water/Well:	No	No	No	No
Sewer/Septic:	No	No	No	No

This permit will expire if work either has not started within 6 months or is discontinued for a period of 12 months.  
No credit or refund will be given unless applied for within 120 days after a permit has expired.

Mecklenburg County  
Land Use and Environmental Services  
P.O. Box 31097  
700 N Tryon St  
Charlotte, NC 28231-1097  
(704) 336-3830



Permit: **B1503652**  
Issue Date: July 19, 2005

## Building Permit

### One/Two Family

#### Contractors

<b>Building Contractor</b>	JAMIE DIEHL	Contractor ID:
Phone:		License # :
Address:	1528 DUCKWORTH AV CHARLOTTE, North Carolina	Contract Cost: \$ 6,000
		Home Owner: Yes
		Permit Number: <b>B1503652</b>

#### Fees

Permit Fee:	\$68.81	Fax Fee:	\$0.00	Fast Track Fee:	\$0.00
Double Fee:	\$0.00	Home Owner Recovery Fund:	\$0.00	Fee Adjustment:	\$0.00
Fire Damage Fee:	\$0.00	NESHAP Fee:	\$0.00	Total Fee:	\$68.81
Permit Fee Type: Construction		Charge To Account: No			

#### Miscellaneous

Entry Date: 07/19/2005 08:47 am	Entered By: Gladney, Annette
Issue Date: 07/19/2005	Issued By: Schmauch, Hubert
Special Inspections: n/a	

#### Remarks

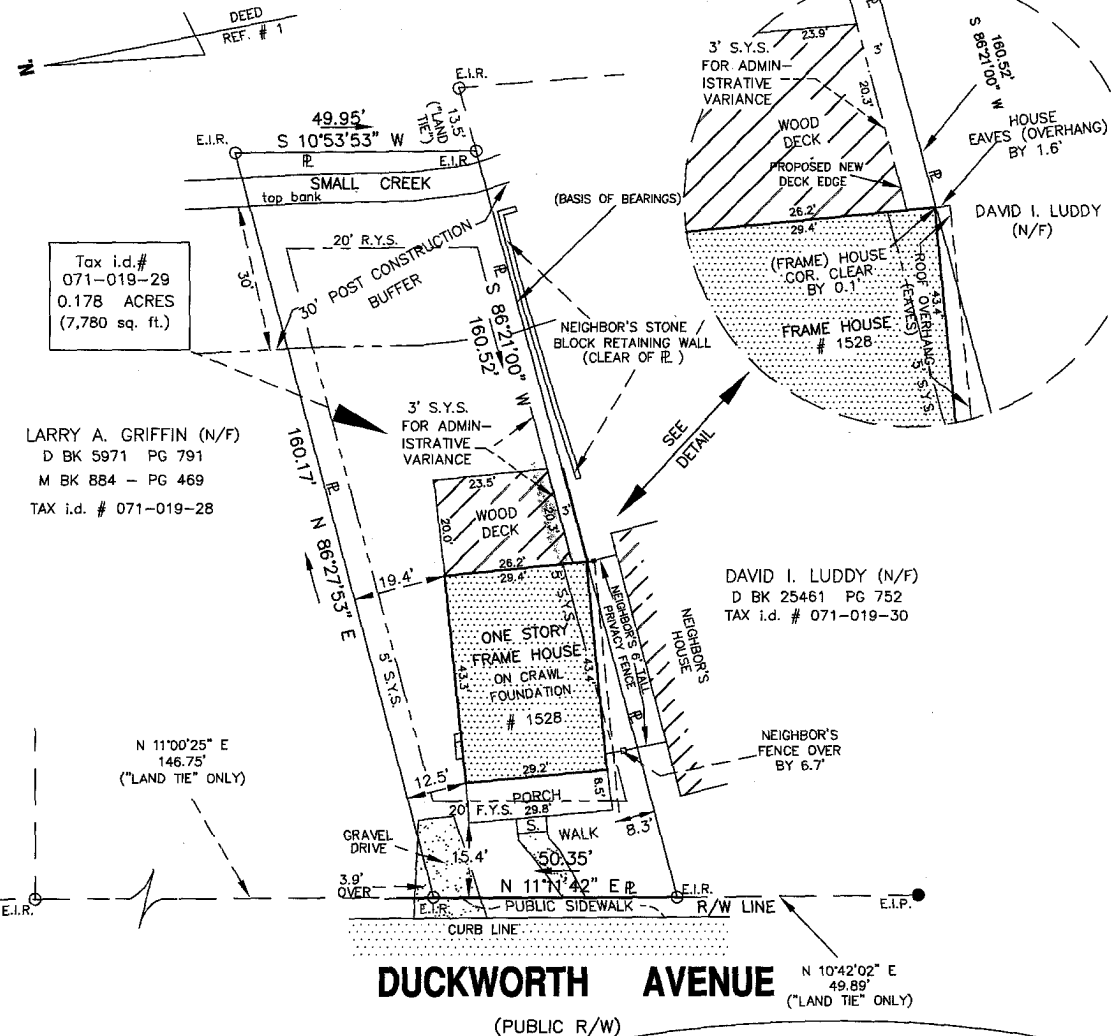
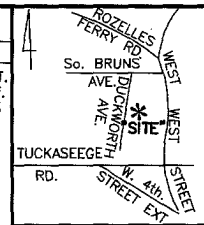
*This permit will expire if work either has not started within 6 months or is discontinued for a period of 12 months.  
No credit or refund will be given unless applied for within 120 days after a permit has expired.*

**LEGEND:**

R/W	RIGHT OF WAY	M. BK.	(RECORDED) MAP BK & PG
NIR	NEW IRON REBAR	D. BK.	DEED BK & PG
N/F	NOW OR FORMERLY	P.D.E.	PUBLIC DRAIN E'S.M.T
E.I.R.	EXIST. IRON REBAR	M.B.S.L.	MIN. BUILDING SETBACK LINE (FROM RECORD PLAT)
E.I.P.	EXIST. IRON PIPE	O.P.L.	OVERHEAD POWER LINE
△	CALC. POINT ONLY (NO POINT SET)	P.	PORCH
S.	STOOP	C.	CHIMNEY
ℓ	PROPERTY LINE	U.P.	UTILITY POLE
□	FENCE		NOT TO SCALE
⊠	H.V.A.C. UNIT		FEET
LA	LENGTH OF ARC		

**CHAR-MECK. ZONING: R-8**

SETBACKS	REQUIREMENTS	AREA
FRONT = 20 FT. (F.Y.S.)		FRONTAGE = 40 FT.
SIDES = 5 FT. (S.Y.S.)		AREA = 3,500 s.f.
REAR = 20 FT. (R.Y.S.)		OPEN SPACE=50 %

**DUCKWORTH AVENUE**

(PUBLIC R/W)

**PURPOSE STATEMENT**

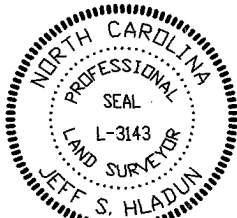
- 1.- THE PURPOSE OF THIS MAP IS TO SHOW THE 2 FT. ADMINISTRATIVE VARIANCE BEING APPLIED FOR THE CURRENT DECK. PROPOSED NEW EDGE OF DECK TO BE 3 FT. FROM R. AT EACH END. (CURRENT EDGE NOT SHOWN HERE).

**REFERENCES:**

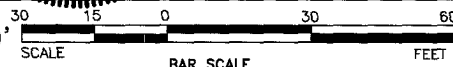
- 1.- RECORD PLAT- NONE
- 2.- DEED-RECORDED IN D BK 15512, PG 888. (DIEHL)
- 3.- CURRENT SURVEY BY THIS OFFICE DATED OCT. 25, 2010. (SURVEY SHOWS EXISTING CONDITIONS OF DECK)

**GENERAL NOTES:**

1. DIMENSIONS SHOWN ARE IN FEET (FT.) & DECIMAL PARTS OF A FT. (').  
(ex: 0.5' = 6 inches / 0.75' = 9 inches / 1.0' = 12 inches).



1"=30'

FOR **JOSEPH M. SEPKO, IV** MARRIED (PROPOSED PURCHASER)**LEGAL LOCATION**

**PARCEL OF LAND**  
(metes and bounds description)  
**CITY OF CHARLOTTE**  
**MECKLENBURG Co., No. CAROLINA**

STREET ADDRESS 1528 DUCKWORTH AVE., CHARLOTTE

RECORD OWNER JAMIE M. DIEHL

**JEFF HLADUN**  
**LAND SURVEYOR**

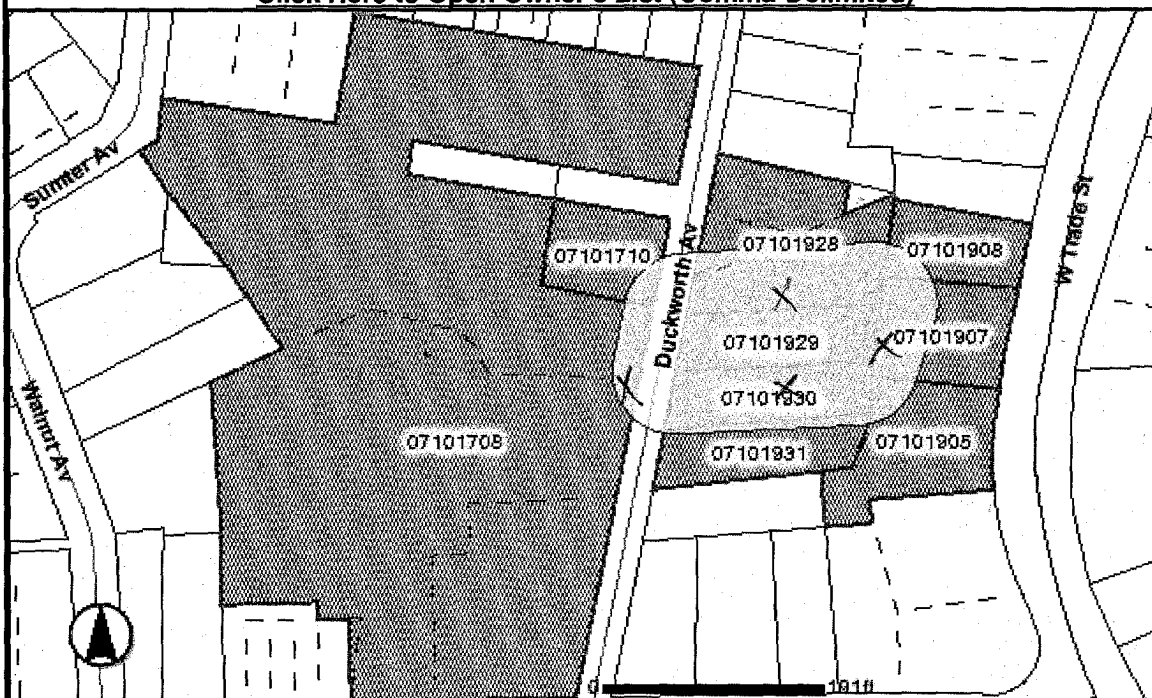
5848 LEBANON ROAD  
CHARLOTTE, NC 28227  
Ph. (704) 900-8152  
FAX (704) 900-8152

FILE # 2105752.00  
MAP DATE: OCT. 30, 2010  
TAX I.D. No. 071-019-29  
DISK # cd # 3 .DWG  
email: "hladunsurveying@carolina.rr.com"



**Mecklenburg County, NC POLARIS**  
**Property Ownership Land Records Information System**  
**Adjoining Owner's Report**  
 Buffer Distance: 55 Feet  
 11/3/2010 1:51:44 PM

[Click Here to Open Owner's List \(Comma-Delimited\)](#)



This map is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.

Parcel ID	Owner Name	Mailing Address	City	State	ZIP	Legal Description	Deed Book	Deed Page	Land Area
07101708	INC NEW BETHEL CHURCH MINISTRIES	1520 LITTLE ROCK RD	CHARLOTTE	NC	28214	M4-143 & M332-415	19235	283	4.17 AC
07101710	SOLUTIONS LLC INNOVATIVE INVESTMENTS	1122 DREWSBURY CT	SMYRNA	GA	30080	P1 M4-143	18061	391	1 LT
07101905	PERRY J WELCH AND SHERRI ANN	1521 W TRADE ST	CHARLOTTE	NC	28216-5545	L3 & 4 & P2 M722-591	09654	210	0.374 AC
07101907	GRIFFIN BROTHERS ACQUISITIONS	19141 WEST CATAWBA AVE	CORNELIUS	NC	28031	P5 & 6 M722-591	25629	667	0.23 AC
07101908	GRIFFIN BROTHERS ACQUISITIONS	19141 WEST CATAWBA AVE	CORNELIUS	NC	28031	L7 M722-591	25629	667	0.17 AC
07101928	LARRY A GRIFFIN	19109 W CATAWBA AVE #200	CORNELIUS	NC	28031	L1 P2 M884-469	05971	791	1 LT
07101929	JAMIE M DIEHL	1528 DUCKWORTH AV	CHARLOTTE	NC	28218	NA	15512	888	1 LT
07101930	DAVID I LUDDY	1524 DUCKWORTH AVE	CHARLOTTE	NC	28208	NA	25461	752	1 LT
07101931	LARRY LATTER AND MARILYN E LATTER	1518 DUCKWORTH AVE	CHARLOTTE	NC	28208-4315	L6 M4-161	08765	707	1 LT

"PARCEL\_ID", "OWNER\_NAME", "MAILING\_ADDRESS", "CITY", "STATE", "ZIP\_CODE", "PROPERTY\_ADDRESS", "LEGAL DESCRIPTION", "DEED BOOK", "DEED PAGE", "LAND A  
 "07101708", "INC NEW BETHEL CHURCH MINISTRIES", "1520 LITTLE ROCK RD", "CHARLOTTE", "NC", "28214", "200 WESLEY HEIGHTS WY CHARLOTTE", "M4-143 & M332  
 "07101710", "SOLUTIONS LLC INNOVATIVE INVESTMENTS", "1122 DREWSBURY CT", "SMYRNA", "GA", "30080", "1529 DUCKWORTH AV CHARLOTTE", "P1 M4-143", "18061  
 "07101905", "PERRY J WELCH AND SHERRI ANN", "1521 W TRADE ST", "CHARLOTTE", "NC", "28216-5545", "1521 W TRADE ST CHARLOTTE", "L3 & P2 M722-591", "  
 "07101907", "GRIFFIN BROTHERS ACQUISITIONS", "19141 WEST CATAWBA AVE", "CORNELIUS", "NC", "28031", "1527 W TRADE ST CHARLOTTE", "P5 & 6 M722-591", "2  
 "07101908", "GRIFFIN BROTHERS ACQUISITIONS", "19141 WEST CATAWBA AVE", "CORNELIUS", "NC", "28031", "1531 W TRADE ST CHARLOTTE", "L7 M722-591", "2562  
 "07101928", "LARRY A GRIFFIN", "19109 W CATAWBA AVE #200", "CORNELIUS", "NC", "28031", "1530 DUCKWORTH AV CHARLOTTE", "L1 P2 M884-469", "05971", "791  
 "07101929", "JAMIE M DIEHL", "1528 DUCKWORTH AV", "CHARLOTTE", "NC", "28218", "1528 DUCKWORTH AV CHARLOTTE", "NA", "15512", "888", "1 LT"  
 "07101930", "DAVID I LUDDY", "1524 DUCKWORTH AVE", "CHARLOTTE", "NC", "28208", "1524 DUCKWORTH AV CHARLOTTE", "NA", "25461", "752", "1 LT"  
 "07101931", "LARRY LATTER AND MARILYN E LATTER", "1518 DUCKWORTH AVE", "CHARLOTTE", "NC", "28208-4315", "1518 DUCKWORTH AV CHARLOTTE", "L6 M4-161",