



**CERTIFIED MAIL**

Ryan Cairnes  
5400 Farmbrook Dr  
Charlotte, NC 28210

**RE: APPEAL  
5400 FARMBROOK DRIVE  
CASE NUMBER 11-003**

Dear Mr. Cairnes:

At its meeting on February 22, 2011, the City of Charlotte Zoning Board of Adjustment ("Board") **upheld** the Zoning Administrator's decision that Code Section 12.108(7) of the City of Charlotte Zoning Ordinance applies to amateur radio towers.

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

1. The applicant, Ryan Cairnes, represented by Attorney Larry J. Ford, is appealing Zoning Violation letter #2010502318.
2. The property is located at 5400 Farmbrook Drive, further identified as tax parcel 171-165-20.
3. The site is zoned R-4 (residential).
4. The applicant applied for and obtained a Zoning Use Permit from the City on August 06, 2010, for an amateur radio tower.
5. Radio tower is listed as a permitted use under prescribed conditions in a single-family district.
6. Radio towers below 40 feet in height have no placement restrictions in single-family districts.
7. Radio towers above 40 feet in height must be located 200 feet from all abutting property lines if located in or abutting a residential district per Section 12.108(7).
8. The applicant's tower is 72 feet in height when fully extended and 28 feet from the nearest property line.
9. Amateur radio antennae as listed in Section 12.108(6) are separate from radio towers and are permitted as accessory uses.
10. Per Code Section 12.108(6), television, amateur radio operators, and similar antennas, which extend above the height limit, may be separated from any abutting property line by one foot for every two feet in height above the permitted height.
11. In early September 2010, neighboring property owners complained to City Officials that the applicant's tower was too tall and not in compliance with the Zoning Ordinance.
12. Zoning Enforcement officials determined that the tower was in compliance with Section 12.108(6).
13. The Zoning Administrator interprets the Zoning Ordinance per Section 3.501(12).
14. Upon reviewing the matter, the Zoning Administrator determined that Section 12.108(7) would apply to the applicant's radio tower.
15. The Zoning Administrator's written interpretation was entered on November 10, 2010.

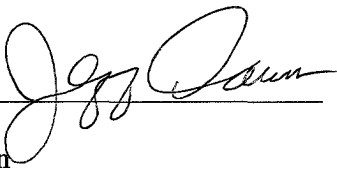
16. The applicant was issued a Zoning Violation Letter from the City on November 24, 2010, which stated that the radio tower was in violation of the separation requirements per Section 12.108(7) of the zoning ordinance.
17. On December 23, 2010, the applicant filed an appeal of the notice of violation issued on November 24, 2010.

**Based upon the above findings of fact, the Board concludes that the applicant has failed to meet the three standards stated in §5.108(1) of the Ordinance, and more specifically:**

The Zoning Board of Adjustment upholds the Zoning Administrator's decision that a radio tower exceeding 40 feet in height in a residential district must meet the 200 foot separation requirement of Section 12.108(7).

Pursuant to N. C. G. S. Section 160A-388(e), the Board's decision in Case No. 11-003 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.

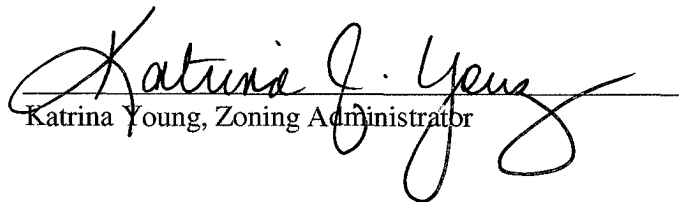
Sincerely,

  
\_\_\_\_\_  
Jeff Davis  
Chairperson

Cc: Larry Ford, Attorney  
William Morine  
Tim O'Rourke  
Robert Burton

**DECISION FILED IN THE PLANNING DEPARTMENT:**

March 10, 2011  
Date

  
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Katrina Young, Zoning Administrator