



**CERTIFIED MAIL**

James R. and Gwendolyn Miller  
8812 Nations Ford Road  
Charlotte, NC 28217

**RE: VARIANCE  
8812 Nations Ford Road  
CASE NUMBER 11-012**

Dear Mr. and Mrs. Miller:

At its meeting on April 26, 2011, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** three variances: (1) a 3 foot variance to allow a fence located in the setback to be erected to a height of 8 feet, (2) a 3 foot 3 inch variance to allow a fence to be erected to a height of 9 feet 3 inches in the required side yard and (3) a 4 foot variance to allow the fence post to be above the maximum height.

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

1. The applicants are James R. and Gwendolyn Miller.
2. The proposed site is located at 8812 Nations Ford Road, further identified as tax parcel 167-209-25.
3. The subject parcel is zoned R-4 (Residential District).
4. A residential structure that was built around 1972 currently occupies this location.
5. The adjacent commercial building was built around 1971.
6. The applicant has installed a wood fence that violates the residential district standards for a fence in the setback and side yard.
7. Code Section 12.406 provides that fences or walls in residential districts shall be no greater than 5 feet above grade in the required setback and no greater than 6 feet above grade in the required side yard.
8. The applicant's fence located in the setback is 3 feet higher than the required 5 foot standard and the fence located in the side yard is 3 feet 3 inches higher than the required 6 foot standard for a fence in a residential district.
9. Code Section 12.406(5) provides that fence posts may extend up to 2 feet above the maximum height limit.
10. The applicant's fence posts extend 3 to 4 feet above what is required by the ordinance.
11. If the residential property were to have been developed under today's standards, the residential property would be responsible for providing a minimum of 50 percent of the required buffer specified for the more intensive use.
12. In accordance with Code Section 12.302(8), the width of the buffer could be reduced with a fence.
13. The minimum height of the fence would be 6 feet per section 1302(8)(b).

14. The applicant may be in technical violation of the City Zoning Ordinance; however, the intent of the ordinance is being met by providing a buffer between unlike uses.
15. The character of the neighborhood will not be altered if the variance is granted, because the fence helps to protect the residential use from the existing and future commercial use.
16. The applicant's property is situated slightly higher than the adjacent commercial site.
17. Testimony was heard from a police officer as well as the applicant that numerous incidents of criminal activities occur adjacent to the property.
18. There was testimony that the original wooden fence separating the two uses was removed.

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

1. The variance is in harmony with the general purpose and intent of the Ordinance and further preserves its spirit.
2. Granting the variance will not adversely affect adjacent or contiguous properties.
3. In granting the variance, the public safety and welfare have been assured.

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.

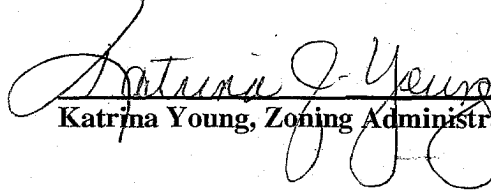
Sincerely,

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

**DECISION FILED IN THE PLANNING DEPARTMENT:**

Date

May 26, 2011

  
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Katrina Young, Zoning Administrator