



CERTIFIED MAIL

Matthew Kyle and Christy Winters
10307 Barrands Lane
Charlotte, NC 28278

**RE: VARIANCE
1127 WILHAVEN DRIVE
CASE NUMBER 2013-012**

Dear Matthew Kyle and Christy Winters:

At its meeting on April 30, 2013, 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 applicants are Matthew Kyle and Christy Winters (represented by Alan Simonini Homes, LLC).
2. The subject parcel is located at 1127 Willhaven Drive, further identified as tax parcel 185-111-10.
3. The subject parcel's current zoning classification is R-3 (Residential).
4. The subject parcel is located in or adjacent to the FEMA Floodplain, FEMA Floodway, Community Floodplain and Community Encroachment Area.
5. § 9-102(d)1 of the City of Charlotte Floodplain Regulations (CCFR) 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."
6. Dryland Access is defined under CCFR § 9-21 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."
7. Dry Public Street is defined under CCFR § 9-21 as "a public street at the intersection of an existing or proposed driveway where the surface of the pavement is at an elevation above the Community Base Flood Elevation."
8. Willhaven Drive is below the Community Base Flood Elevation along the entire parcel.
9. The subject parcel is currently vacant after a house on the parcel was demolished in 2009 by the previous owner's estate.
10. The house did not have Dryland Access to Willhaven Drive before it was demolished.
11. The Dryland Access requirement went into effect July 1, 2007.
12. The proposed site for a new house and parking on this lot is outside of the floodplain.

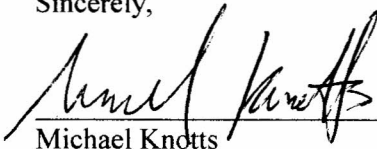
13. The new house has pedestrian access to other dry public streets by way of adjacent parcels, but no easements/agreements exist to ensure permanent pedestrian or vehicular access across adjacent parcels.
14. CCFR § 9-102(d)4.b allows exemptions to the Dryland Access requirement if both the Habitable Building and the access route connecting it to a public street, are located entirely outside the Community Encroachment Area and where the property does not have any access to a Dry Public Street.
15. The subject parcel does not qualify for an exemption because the driveway that will connect the new house to Willhaven Drive will be partially located in the Community Encroachment Area of the Floodplain.
16. Although vehicular access to a new house on the subject parcel would be unsafe during a community based flood on Willhaven Drive, emergency personnel will be able to access the subject parcel from dryland over adjoining properties.
17. The applicant might be in technical violation of the CCFR, but the impact would be a result, too excessive and/or inequitable, and that was not intended by the impact of this particular provision of the CCFR.
18. The Board has considered all of the factors for Consideration and Determination of Completeness under CCFR § 9-85.

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 CCFR § 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,

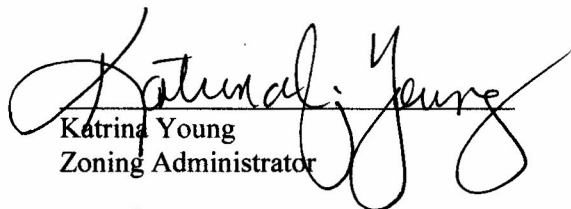


Michael Knotts
Chairperson

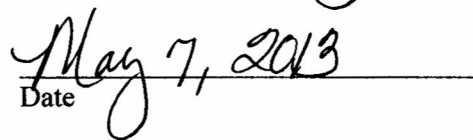
5/7/13

Date

DECISION FILED IN THE PLANNING DEPARTMENT:



Katrina Young
Zoning Administrator



Date