



**CERTIFIED MAIL**

Hickory Grove Church of God  
725 East 35<sup>th</sup> Street  
Charlotte, NC 28205

**RE: VARIANCE  
5431 HICKORY GROVE ROAD  
CASE NUMBER 2014-018**

Dear Hickory Grove Church of God:

At its meeting on April 29, 2014, the City of Charlotte Zoning Board of Adjustment ("Board"):

- (i) **granted** a variance request, subject to conditions, along the western boundary of the property, which is also adjacent to the eastern boundary of a property located at 5401 Hickory Grove Road and further identified as tax parcel 099-273-21 ("Craig Property"); and,
- (ii) **denied** a variance request along the southern boundary of the property, which is also adjacent to the northern boundary of the Craig Property.

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

1. The applicant is Charter School Capital, Inc. (Represented by John Carmichael).
2. The property is currently owned by Hickory Grove Church of God and is under a purchase agreement with the applicant.
3. The proposed site is located 5431 Hickory Grove Road, further identified as tax parcel 099-273-02.
4. The property is zoned R-3 (Single-family District).
5. A one story building currently occupies the site which was constructed in 1980 and is used as a religious institution.
6. The applicant's property is more than ten acres and therefore requires a 75 foot Class "B" buffer.
7. When the religious institution was originally constructed in 1980, buffers were not required by the Zoning Ordinance. Due to the fact that no buffers were provided and the current Zoning Ordinance requires a class C buffer between the existing "medium intensity" institutional use and the abutting single family use, the subject site is considered legally nonconforming.
8. The applicant is proposing to change use of the subject site to a charter school which will serve grades through high school. A high school is considered a "high intensity" institutional use and requires a class B buffer when abutting a single family use. Therefore, the change of use increases the intensity of the subject site and requires compliance with the current buffer provisions within the Zoning Ordinance.
9. Per Code Section 12.302(3), Buffer requirements include a minimum distance separation from the property line and required planting of trees and shrubs within the buffer. The minimum buffer requirements, which are based on the size of the lot are in accordance with Table 12.302(b).

10. The applicant is seeking a variance to the 75-foot class B buffer required between a "high intensity" institutional use and an abutting single family use. The specific modifications to the buffer include:
  - a. Reducing the width by distances ranging from 53'- 3" to 66'- 4" and
  - b. Modify the planting requirements as depicted on the applicant's exhibits.
11. The proposed change of use will bring the subject site more into conformity with the buffer section of the Zoning Ordinance than its current condition.
12. The applicant is proposing to install a 6-foot tall wooden fence along the western and southern boundaries of the church in accordance with the zoning ordinance.
13. Granting the variance will not alter the essential character of the area.
14. Granting the variance will not adversely affect adjacent or contiguous properties.

**Conditions:**

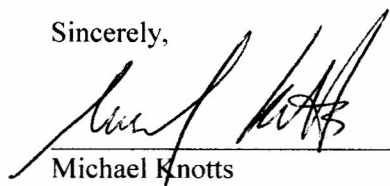
1. The fence installed on the western boundary of the property near the Craig Property's eastern boundary must meet the criteria of Code Section 12.303(2)(a).
2. The variance is only for use of the property as an elementary/secondary school or a religious institution.
3. Within the area encompassing the variance, the existing driveway access shall not be used by buses.

**Based upon the above findings of fact, the Board concludes that the applicant has met the standards set forth in North Carolina General Statutes § 160A-388, and more specifically:**

1. Unnecessary hardships would result from the strict application of these regulations.
2. The hardship did not result from actions taken by the applicant or the property owner but from conditions that are peculiar to the property
3. By granting the variance, the public safety is secured and substantial justice is achieved.
4. The variance is in harmony with the general purpose and intent of the Zoning Ordinance and preserves its spirit.

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.

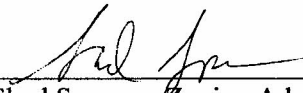
Sincerely,

  
\_\_\_\_\_  
Michael Knotts  
Chairperson

5/9/14  
\_\_\_\_\_  
Date

**DECISION FILED IN THE PLANNING DEPARTMENT:**

5/12/2014  
Date

  
\_\_\_\_\_  
Shad Spencer, Zoning Administrator

Cc: Charter School Capital, Inc. (c/o John Carmichael)