



**CERTIFIED MAIL**

Lill Cutchin Wiley  
3940 Amyington Drive  
Charlotte, NC 28226

**RE: VARIANCE  
5520 PROVIDENCE ROAD  
CASE NUMBER 2015-037**

Dear Lill Cutchin Wiley:

At its meeting July 28, 2015, the City of Charlotte Zoning Board of Adjustment ("Board") **denied** three variances:

1. An 11 foot variance from the required 45 foot rear yard to allow a newly constructed single family home to remain 34 feet from the rear property line.
2. Allow a deck to encroach 39% into the depth of the required rear yard (a maximum 25% encroachment is allowed).
3. Allow a deck to extend 71% of the width of the dwelling at the rear building line (50% of the width is allowed).

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

1. The applicant is Lill Cutchin Wiley (Represented by Robert L. Brandon).
2. The proposed site is located at 5520 Providence Road, further identified as tax parcel 187-251-01.
3. The property is zoned R-3 (Single Family Residential).
4. Per Section 9.205(1)(g) of the Zoning Ordinance, the required rear yard is 45 feet for a residential building within the R-3 zoning district.
5. A building permit was obtained in December, 2013, to construct a single family dwelling on the subject property.
6. The plot plan for the permit application indicated a 45 foot rear yard along the western property line abutting tax parcel 187-251-05.
7. A survey submitted by the applicant reveals that: (1) the principal structure encroaches into the required rear yard and (2) the deck exceeds the allowed width and extension encroachment into the required rear yard.
8. Mecklenburg County Code Enforcement does not measure setbacks and required yards on all single family home inspections. When there appears to be an encroachment, Code Enforcement inspectors will request a survey of the foundation. The Code Enforcement inspector did not request a survey of the foundation for this subject property during their inspection.
9. The rear property line runs at an angle along a declining grade into a heavily wooded area to the southwestern property corner.
10. Per Code Section 12.106(1), no principal building or principal structure shall be located within any setback or yard required by these regulations except as provided in this Section and elsewhere in these regulations.

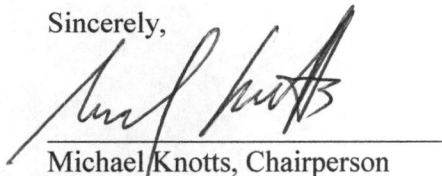
11. Per Code Section 12.106(3)(b), decks attached to the principal structure shall not encroach into the rear yard more than 25% of the depth of the required rear yard.
12. Per Code Section 12.106(3)(c), decks attached to the principal structure shall not be more than 50% of the width of the dwelling at the rear building line.
13. The applicant is requesting the following three variances:
  - a. Eleven (11) feet from the required 45 foot rear yard to allow a newly constructed single family home to remain 34 feet from the rear property line.
  - b. Allow the attached deck to encroach 6.15 feet beyond the allowed 11.25 feet (25% of the required rear yard) into the required rear yard. This equates to a 39% encroachment into the required rear yard.
  - c. Allow the attached deck to have a width 13.2 feet greater than the allowed 30.9 feet (50% of the width of the dwelling at the rear building line). This equates to 71% of the width of the dwelling at the rear building line.
14. The applicant has attempted to purchase additional land from the abutting property owner west of the subject site but was denied by the current property owner.
15. The applicant could attempt to rezone the property to a district that would reduce the required rear yard requirement.
16. The hardship is not peculiar to the Applicant's property but a result of the location of the foundation.
17. Granting the variance would be in direct conflict with the Ordinance.
18. There no hardship that is the result of the City Zoning Ordinance.

**Based upon the above findings of fact, the Board concludes that the applicant has not met the standards set forth in North Carolina General Statutes § 160A-388, and more specifically:**

1. Unnecessary hardship would not result from the strict application of the Ordinance.
2. The hardship is not result from conditions that are peculiar to the property (location, size or topography).
3. The hardship results from actions taken by the applicant or the property owner.
4. The requested variance is not consistent with the spirit, purpose, and intent of the Zoning Ordinance, in that the public safety is not secured and substantial justice is not achieved.

Pursuant to N. C. G. S. Section 160A-388(e2), the Board's decision in Case No. 2015-037 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.

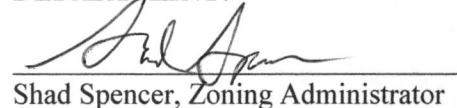
Sincerely,



Michael Knotts, Chairperson

8/17/15  
Date

**DECISION FILED IN THE PLANNING  
DEPARTMENT:**



Shad Spencer, Zoning Administrator

8/18/15  
Date

Cc: Robert Brandon, Agent