



CERTIFIED MAIL

**Scott Shelton
16421 Tulloch Road
Charlotte, NC 28278**

**RE: VARIANCE
16421 TULLOCH ROAD
CASE NUMBER 2015-053**

Dear Scott Shelton:

At its meeting on October 27, 2015, the City of Charlotte Zoning Board of Adjustment ("Board") **denied** the following two variances to allow an existing accessory structure to remain at its current location:

1. allow an accessory structure in the established setback in a residential zoning district and
2. a 3.6 variance from the required 5 foot side yard.

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

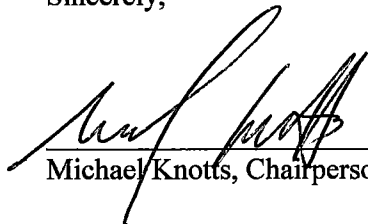
1. The applicant is Scott Shelton (Represented by John Richardson Jr.).
2. The subject site is located at 16421 Tulloch Road, further identified as tax parcel 217-232-44.
3. The subject parcel is zoned R-5 (Single Family Residential).
4. The site is located in the Lower Lake Wylie Watershed Overlay - Critical Area.
5. Per Code Section 10.708, no permanent structure shall be allowed within the 50 foot watershed buffer except water dependent structures.
6. The principal structure was built in 2013, and is located approximately 52.2 feet from the full pond elevation of the lake. The established rear building line of the principal structure is not within the 50 foot watershed water quality buffer as shown the survey by Ben M. Flowe & Son dated April 28, 2014.
7. Per Code Section 12.106(2)(a), no accessory structure shall be located within any established setback in any residential district.
8. Code Section 9.205(1)(f) requires a minimum side yard of 5 feet for the subject R-5 zoned property.
9. The applicant is seeking a variance to allow an existing accessory structure to remain within the established setback and to reduce the required side yard by 3.6 feet to allow the accessory structure to remain 1.4 feet from the side property line.
10. The property has a moderate to steep slope within the side yards extending from the established setback towards the lake.
11. The applicant has other options and could move the accessory structure out of the established setback and required side yard to be compliant without the need for a variance.

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. 2015-053 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

11/20/15

Date

**DECISION FILED IN THE PLANNING
DEPARTMENT:**



Shad Spencer, Zoning Administrator

11/24/15

Date

Cc: John Richardson, Jr., Agent