



CERTIFIED MAIL

Raphael K. Basisa
5100 Amity Place
Charlotte, NC 28212

**RE: VARIANCE
1801 PARKER DRIVE
CASE NUMBER 2016-010**

Dear Raphael K. Basisa:

At its meeting on February 23, 2016, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** a variance to reduce the setback from 200 feet to 90 feet on the East; 75 feet on the South; 20 feet on the West and 30 feet on the North and **denied** a variance to eliminate the concealment measures for wireless communication towers located in or within 400 feet of a residential zoning district.

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

1. The applicant is RKB Real Estate Holdings, LLC (Represented by Raphael K. Basisa).
2. The proposed site is located at 1801 Parker Drive, further identified as tax parcel 117-022-26.
3. The property is zoned R-22MF (multi-family residential) and is currently vacant.
4. The applicant is proposing to locate a wireless communications transmission facility on the site.
5. Per Code Section 9.3303(23), cell tower are permitted subject to subsections 12.108(7) and 12.108(8).
6. Per Code Subsection 12.108(7), if a wireless communication tower is located on a lot in or abutting a residential district, it must be located at least 200 feet from all abutting property lines.
7. Per Code Subsection 12.108(8), a wireless communication transmission facility located in a residential district shall conform to the concealment standards of Subsection 12.108(8)(j).
8. Per Code Subsection 12.108(8)(j), all new wireless communication transmission facilities located in or within 400 feet of a residential zoning district must be designed, constructed or integrated into or as a structure in such a manner that it no longer appears to be a wireless communication tower.
9. The applicant is requesting variances from the following two (2) Zoning Ordinance provisions to allow a wireless communication tower to be constructed as a principal use within a residential zoning district:
 1. Variance requests ranging between 100 feet to 180 feet from the required 200 foot separation from abutting property lines when located within a residential zoning district to allow the structure to be between 100 feet to 20 feet from the abutting property lines.
 2. To eliminate the concealment measures for wireless communication towers located in or within 400 feet of a residential zoning district.
10. The property is across the street from property zoned I-2, that is currently used for heavy industrial uses and is incomplete with residential uses on this property.
11. The applicant has owned the property for 15 years.

12. The applicant has considered numerous options for the use of the property permitted under zoning. This is the only feasible option.
13. The concealment measure requirement is standard for all wireless communication towers located in or within 400 feet of residentially zoned property. A variance from this requirement would be inconsistent with the spirit, purpose, and intent of the Zoning Ordinance.
14. While the abutting property south of the subject site received preliminary subdivision plan approval in 2006 to allow for the development of an 85-lot single-family subdivision, this subject property remains vacant and the subdivision plan approval has expired.
15. The hardship is not a result of the actions of the applicant's actions.

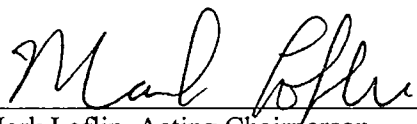
Based upon the above findings of fact, the Board concludes that the applicant has met the standards set forth in North Carolina General Statutes § 160A-388, and more specifically:

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

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.

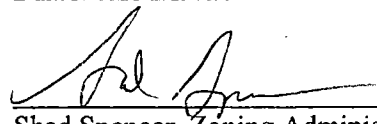
Pursuant to N. C. G. S. Section 160A-388(e2), the Board's decision in Case No. 2016-010 may be appealed by a petition for review in the nature of *certiorari* to Superior Court within thirty (30) days from the date stated below, which is the date when the decision of the Board was filed in the Planning 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,


Mark Loflin, Acting Chairperson

3-1-16
Date

**DECISION FILED IN THE PLANNING
DEPARTMENT:**


Shad Spencer, Zoning Administrator

3/2/16
Date