



CERTIFIED MAIL

FBD Properties II, LLC
Attn: Sarah Belk, Member Manager
444 Eastover Road
Charlotte, NC 28207

**RE: VARIANCE
2925 WESTFIELD ROAD
CASE NUMBER 2016-026**

Dear FBD Properties II, LLC:

At its meeting on May 31, 2016, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** two variances:

1. a variance from the required dryland access to allow construction of a residence on a lot that does not have dryland access.
2. a 10 foot variance from the required 40 foot rear yard.

The Board based its decision for Variance Request #1 on the following findings of fact:

1. The applicant is FBD Properties II, LLC (Represented by North State Capital Partners).
2. The property is located at 2925 Westfield Road, further identified as tax parcel 151-142-03.
3. The subject parcel's current zoning classification is R-4 (single family residential).
4. According to Mecklenburg County records, the existing single family home on the subject property was constructed in 1949.
5. Sections 9-102(d)1 and 9-102(d)3 of the City of Charlotte Floodplain Regulations 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. If Dryland Access cannot be obtained, a Variance to the requirement for Dryland Access may be granted by the Board of Adjustment."
6. Dryland Access is defined as "a gravel, paved or concrete access route, at least 12' wide, which is above the Community Base Flood Elevation and connects a Habitable Building to a Dry Public Street."
7. Dry Public Street is defined as "a public street at the intersection of a proposed driveway where the surface of the pavement is at an elevation above the Community Base Flood Elevation."
8. Per the applicant, elevation of the existing public roadway at the subject residential parcel is below the Community Base Flood Elevation.
9. The driveway for the existing home is below the Community Base Flood Elevation.
10. The property does not have "Dryland Access".

11. A dryland access variance is required for the redevelopment of the subject property. The redevelopment includes the removal of an existing non-compliant home and construction of a new compliant home.
12. The existing house is not compliant with City of Charlotte's Floodplain Regulations. The finished floor of the existing house is 1.0' below the flood protection elevation of 613.6'.
13. The lowest adjacent grade is 3' below the FEMA base flood elevation (612.5').
14. The Flood Protection Elevation (Community Base Flood Elevation +1) at this location is 613.6'.
15. The existing house will be demolished and replaced with a new compliant house on this parcel.
16. A "No-Rise" study depicting the proposed fill on the lot has been submitted by the property owner and is pending approval by Mecklenburg County Storm Water Services.
17. The proposed house will be at less risk from flooding than the existing house.
18. FEMA Flood Insurance will be required.

Conditions:

- i. Floodplain Development Permit Application must be submitted Mecklenburg County Storm Water Permitting and Compliance Department. Any variation from the approved flood study will require another review.
- ii. No work shall commence until a Floodplain Development Permit is issued by Mecklenburg County Storm Water Permitting and Compliance Department.
- iii. New structure must be a single family home. Structures such as Duplexes, Multifamily & other Non-Single - Family Habitable Buildings will not be supported.
- iv. The driveway for the new structure must meet Section 9-102(d)4.b. of the City of Charlotte's Floodplain Regulations.
- v. The new structure must meet Section 9-102 of the City of Charlotte's Floodplain Regulations.

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 Section 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.

The Board based its decision for Variance Request #2 on the following findings of fact:

1. The applicant is FBD Properties II, LLC (Represented by North State Capital Partners).
2. The property is located at 2925 Westfield Road, further identified as tax parcel 151-142-03.
3. The subject parcel's current zoning classification is R-4 (single family residential).
4. According to Mecklenburg County records, the existing single family home on the subject property was constructed in 1949.
5. The applicant is seeking a 10 foot variance from the required 40 foot rear yard to allow for the construction of a new structure.
6. Code Section 9.205(1)(g) of the Zoning Ordinance requires a minimum rear yard of 40 feet.
7. The existing structure proposed to be demolished is nonconforming and encroaches into the required rear yard approximately 19.7'.
8. The depth of the lot is 115.92 feet along the longest side of the property and 100.73' along the shortest side of the property. The majority of the lots within the surrounding area are between 150 - 225 feet of deep.
9. Granting the variance will not alter the essential character of the area.
10. Granting the variance will not adversely affect adjacent or contiguous properties.
11. The hardship is unique to the property because of the shape of the property.

Conclusion of Law:

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.

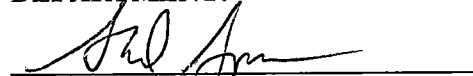
Sincerely,


Paul Arena, Chairperson

6/4/16
Date

Cc: North State Capital Partners

**DECISION FILED IN THE PLANNING
DEPARTMENT:**


Shad Spencer, Zoning Administrator

6/7/16
Date