



Joseph V. Polk
Represented by Gary C. Pennington, on behalf of Eco-Site, LLC
4320 Sugarstone Lane, Apartment 233
Charlotte, NC 28269

RE: VARIANCE
2519 Boulder Lane
CASE NUMBER 2017-038

To Whom It May Concern:

At its meeting on November 28, 2017, the City of Charlotte Zoning Board of Adjustment ("Board") **denied** variances requesting ranging from up to 143.2 feet from the 200 foot separation requirement between wireless communications transmission facilities and any abutting property within residentially zoned districts per Section 12.108 (7) and 12.108 (8) of the Zoning ordinance.

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

1. The applicant is Joseph V. Polk (Represented by Gary C. Pennington, on behalf of Eco-Site, LLC).
2. The subject site is located at 2519 Boulder Lane, further identified as tax parcel 041-185-04.
3. The property is zoned R-4 (single family district).
4. The site comprises of approximately 1.14 acres per Mecklenburg County Real Estate information.
5. Per Code Section 9.203(17), wireless communication transmission facilities/cellular telephone towers are permitted within all single family zoning districts subject to the regulations of subsection 12.108(7) or 12.108(8).
6. Per Code Section 12.108(7), radio, television, and similar towers when located on a lot in or abutting a residential district must be located at least 200 feet from all abutting property lines.
7. Per Code Section 12.108(8), wireless communications transmission facilities are permitted as a principal use on a lot. If the facility is above 40 feet in height and is located on a lot in or adjacent to a residential district, the facility must comply with Code Section 12.108(7).
8. Per Code Section 12.108(8)(a), wireless communications transmission facilities are permitted in any zoning district as an ancillary or secondary use. For lots in or adjacent to a residential district, wireless communications facilities may be constructed over 40 feet in height provided that the minimum setback, side and rear yards adjacent to the residentially zoned property are increased by one foot for each one foot of facility height in excess of 40 feet, up to a maximum required separation of 200 feet.
9. The applicant is proposing to develop a wireless communications transmission facility up to 160' in height as a principal use within the R-4 single family residential zoning district on the subject lot identified as lot 11 on Block 1 of Map Book 149 for the Boulder Terrace subdivision.
10. The proposed principal wireless communications transmission facility located on a lot in and adjacent to residential districts requires a 200 foot separation from all abutting property lines.

11. The applicant is seeking variances ranging up to 143.2 feet from the 200 foot separation requirement between wireless communications transmission facilities and any abutting property within residentially zoned districts per Section 12.108 (7) and 12.108 (8) of the Zoning ordinance.
12. The variance is large in context and at its greatest deviation is over 70% less than the require 200' separation.
13. Per Code Section 12.108, the height limitations which include those for wireless communication transmission facilities are established to allow maximum development potential without adversely impacting the character of established single family neighborhoods and ensuring the development respects and complements the surrounding development.
14. Granting the variance will alter the essential character of the neighborhood.
15. Granting the variance will adversely affect adjacent or contiguous properties.
16. No hardship is created as a result of the Charlotte Zoning Ordinance nor do the City's regulations unreasonably discriminate among providers of functionally equivalent services. Wireless Communication transmission facilities are permitted as a principal or ancillary use in all zoning districts per the provisions found in Code Sections 12.108(7) and 12.108(8).
17. Unnecessary hardship would not result from the strict application of the Ordinance. The subject property can be developed with a single family residential dwelling or other uses permitted within the R-4 zoning district.
18. There are no conditions that are peculiar to the property. The size and topography of the subject property is common to the neighborhood.
19. The hardship results from actions taken by the applicant.
20. There are other alternatives within the general area to develop a wireless communication transmission facility in order for T-Mobile and up to three additional wireless providers to provide adequate coverage and capacity. Examples of alternatives include:
 - a. Combining contiguous vacant parcels to the subject site such that the 200 foot separation can be met for the proposed wireless communication transmission facility as a principal use. This could include combining tax parcels 041-183-16, 041-185-02, 03, 04, and 15.
 - b. Develop the wireless communication transmission facility as an ancillary use to the institutional/school uses located approximately 400 feet north of the subject site on tax parcel 041-201-01 or located approximately 500 feet south of the site on tax parcel 041-183-15.

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.

If any permits are required, please make sure the variance case number is referenced on the permit application and/or site plan. Section 5.111 of the Zoning Ordinance 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.

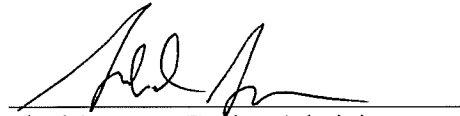
Sincerely,



Rick Sanderson, Acting Chairperson

12/1/17
Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**



Shad Spencer, Zoning Administrator

12/12/17
Date