



Mark Daley  
414 Heflin Street  
Charlotte, NC 28205

**RE: VARIANCE  
433 Skyland Avenue  
CASE NUMBER 2018-034**

To Whom It May Concern:

At its meeting on May 29, 2018, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** a 13 foot variance from the 40 foot minimum lot width requirement in the R-22MF zoning district to allow for the existing illegally created lot to be deemed conforming and to allow for the site to be developed with a single family dwelling.

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

1. The applicant is Mark Daley.
2. The subject site is located at 433 Skyland Avenue, further identified as tax parcel 157-012-23.
3. The subject parcel's current zoning classification is R-22MF (multi-family residential).
4. Detached single family dwellings are permitted in the R-22MF zoning district.
5. Per Code Section 9.305(1)(d), the minimum lot width is 40 feet for a detached dwelling within the R-22MF zoning district.
6. The lot is currently vacant.
7. The subject property was originally part of a larger tax parcel identified as "Parcel 5" in Deed Book 5416 Page 0802 acquired by the City of Charlotte from Motion, Inc. in 1987.
8. The original boundary of the above mentioned "Parcel 5" was subdivided in 1994 by the City of Charlotte.
9. Approximately half of the parcel was granted to the owner of the abutting tax parcel to the north in 1994 and the other half of the parcel (i.e. subject site) was granted to the owner of the abutting tax parcel (Grier Heights Economic Foundation, Inc.) to the south in 1996.
10. Based on the map attached to the deed, it appears the intent was for the two halves to be combined with the abutting tax parcels.
11. Each half of the original "Parcel 5" did not comply with the minimum lot width requirement of the R-22MF zoning designation. Each half had an approximate lot width of 27.5 feet. Therefore, as individual lots of record, they would be considered illegal lots since they did not comply with the development standards of the R-22MF zoning district at the time they were established.
12. The northern half of the original "Parcel 5" was combined with the abutting parcel to the north in 2007 by Deed Book 22541 Pages 24-27 and is currently identified as tax parcel 157-012-69.
13. The southern half of the original "Parcel 5" (i.e. subject site) has not been combined with the abutting parcel to the south (tax parcel 157-012-54).
14. Grier Heights Economic Foundation, Inc. maintained ownership of the subject site (tax parcel 157-012-23) and the abutting parcel to the south (tax parcel 157-012-54) until 2005 when the two properties were sold to JRA Property & Land Management, LLC.

15. In 2007, tax parcel 157-012-54 was sold to Lance A. Powell, and tax parcels 157-012-54 and 157-012-69 were no longer under the same ownership.
16. JRA Property & Land Management, LLC maintained ownership of the subject property (tax parcel 157-012-23) until July, 2016 when it was sold to Mark and Magdalena Daley.
17. No building permit is allowed to be issued for this subject property due to the parcel not meeting the development standards in place at the time the parcel was created. Therefore, unnecessary hardship would result from the strict application of the ordinance.
18. The hardship resulted from the previous ownership entities failing to combine the subject property (tax parcel 157-012-23) with the abutting parcel (tax parcel 157-012-54) to the South when they were under the same ownership.
19. The hardship did not result from actions taken by the applicant. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
20. The subject site has a lot width of 27.49 feet along Skyland Avenue.
21. The applicant is requesting a 13 foot variance from the 40 foot minimum lot width requirement in the R-22MF zoning district to allow for the existing illegally created lot to be deemed conforming and to allow for the site to be developed with a detached single family dwelling.
22. The property is peculiar or oddly shaped due to the narrow lot width.

**Condition:**


1. Development shall be no further South than the property line having a course of S34°00'32"W.
2. Development on the property shall be at least 98.81 feet from the Skyland Avenue and comply with the required 5 foot side yard.
3. The property line between tax parcel 157-012-23 and tax parcel 157-012-54 shall be used to measure the distance from Skyland Avenue.
4. Government Exhibit #10 is incorporated into this decision and used as a reference.

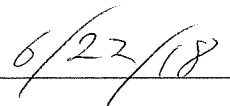
**Based upon the above findings of fact, the Board concludes that the applicant has met the standards set forth in North Carolina General Statutes § 160A-388, and more specifically:**

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.

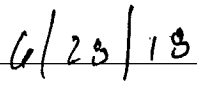
Sincerely,

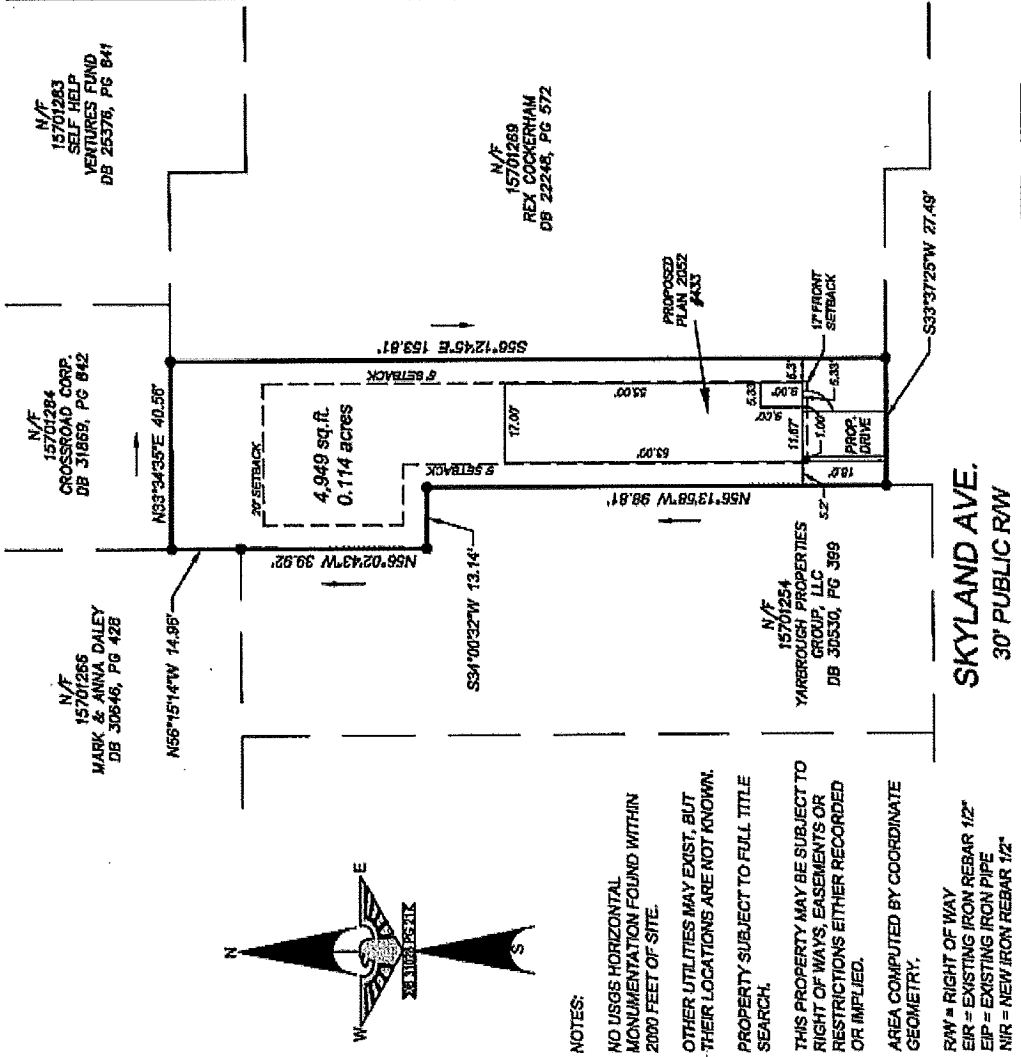
  
\_\_\_\_\_  
Paul Arena, Chairperson

  
\_\_\_\_\_  
Date

**DECISION FILED IN THE  
PLANNING DEPARTMENT:**

  
\_\_\_\_\_  
Shad Spencer, Zoning Administrator

  
\_\_\_\_\_  
Date



**NOTES:**

NO USGS HORIZONTAL MONUMENTATION FOUND WITHIN 2000 FEET OF SITE.

OTHER UTILITIES MAY EXIST, BUT THEIR LOCATIONS ARE NOT KNOWN.

PROPERTY SUBJECT TO FULL TITLE SEARCH.

THIS PROPERTY MAY BE SUBJECT TO RIGHT OF WAYS, EASEMENTS OR RESTRICTIONS EITHER RECORDED OR IMPLIED.

AREA COMPUTED BY COORDINATE GEOMETRY.

R/W = RIGHT OF WAY  
EIR = EXISTING IRON REBAR 1/2"  
EIP = EXISTING IRON PIPE  
NIR = NEW IRON REBAR 1/2"

TAX# 15701223  
ZONING = R-22MF

THIS SURVEY IS OF AN EXISTING PARCEL OF LAND.

**FLOOD NOTE:**  
THE SUBJECT PROPERTY SHOWN HEREON DOES NOT LIE IN A SPECIAL FLOOD HAZARD AREA PER F.E.M.A. 3710458300K, DATED FEBRUARY 19, 2014.



2013A Van Buren Ave.  
Indian Trail, NC 28079  
(704) 882-4222  
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**PLOT PLAN**

MARK & MAGDALENA DALEY PROPERTY  
CHARLOTTE, MECKLENBURG COUNTY, NC

SCALE 1" = 40'

FOR THE BENEFIT OF BOXWOOD BUILDERS

MAP REFERENCE IN BOOK 230 PAGE 71

DEED REFERENCE IN BOOK 31038 PAGE 217

EEL PROJECT NUMBER: 6165