



Miguel Casar (Represented by David W. Murray, The Odom Firm, PLLC)
204 Island View Road
Mt. Holly, NC 28120

RE: VARIANCE
2938 Nance Cove Road
CASE NUMBER 2019-011

To Whom It May Concern:

At its meeting on March 26, 2019, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** four variances to allow for the property to be developed.

1. A 50' reduction the 100' Mountain Island Lake Watershed Buffer to allow the construction of a new single family residence.
2. A 50' reduction from the 100' Mountain Island Lake Watershed Buffer to allow the construction of a new detached garage.
3. A 50' reduction from the 100' Mountain Island Lake Watershed Buffer to allow the construction of a new pathway from the new house to the new detached garage.
4. A 30' reduction from the 100' Mountain Island Lake Watershed Buffer to allow for the expansion of an existing driveway.

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

1. The applicant is Miguel Casar (Represented by The Odom Firm, PLLC).
2. The proposed site is located at 2938 Nance Cove Road, further identified as tax parcel 023-151-42.
3. The subject parcel is unincorporated and located within Charlotte's sphere of influence and zoning jurisdiction.
4. The parcel is zoned R-5 (single family residential) and within the CA-4 (Critical Area 4) of the MIL (Mountain Island Lake) Watershed Overlay.
5. The property is in the Westside Strategy Plan study area boundaries, which lists the preservation of water quality as one of the key environmental issues and objectives.
6. The site is roughly 0.63 acres and is currently occupied with a paved driveway and accessory structure which are proposed to remain.
7. There is a well located within the 30 foot setback area.
8. The existing septic tank and field that will serve the proposed development are located in the front of the property, and within the 100 foot MIL buffer area. Sewer is not available.
9. According to the applicant, there was a 1,074 sq. ft. home on the property prior to 2013.
10. Per Code Section 10.508(1)(a) the property is subject to a 100 foot undisturbed vegetative buffer measured from the normal pool elevation of Mountain Island Lake.
11. Per Code Section 10.508(3) no permanent structures or any other disturbance of existing vegetation shall be allowed within the buffer.
12. The applicant is requesting 4 variances: (1) 50' variance from the 100' MIL Watershed Buffer to construct a single family residence, (2) detached garage, and (3) pathway from the new home to the new garage; (4) 30' variance from the 100' MIL Watershed Buffer to expand the existing driveway.

13. The proposed home location will accommodate the existing septic area. The septic area is located on the front portion of the property allowing it to be distanced from Mountain Island Lake, which is desirable from a water quality standpoint.
14. The setback and buffer restrictions imposed on the applicant by the Zoning Ordinance make it difficult to develop the property.
15. The septic and well locations impose additional constraints on the development of the property.
16. Granting the variance will not adversely affect adjacent or contiguous properties.

Findings related to proposed conditions:

17. Per Code Section 10.508, disturbance of the MIL buffer area requires mitigation.
18. Charlotte-Mecklenburg Storm Water Services is in support of the variance request if a mitigation plan is required.
19. The condition of a mitigation plan will ensure the development along the waterfront will not negatively impact water quality which is in keeping with the Westside Strategy Plan objectives.
20. The subject property, being an existing lot of record, is exempt from the MIL CA4 maximum 24% built upon area and subject only to the MIL 100 foot buffer according to Section 10.503.
21. Since there is no existing development on the property, and with the intention of not setting a precedent for other undeveloped lots located within the MIL CA4, staff recommends a condition that there be a maximum 24% built upon area. 24% of the subject lot area (0.63 acres) is approximately 6,585 sq. ft.
22. The applicant has agreed to this condition and provided calculations that show the proposed and existing development on the property is approximately 4,722 sq. ft., or 17.15%.

Staff recommends the following two conditions:


1. A mitigation plan be approved by Charlotte-Mecklenburg Storm Water Services.
2. The property be subject to a maximum 24% built upon area, including proposed and existing development.

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.

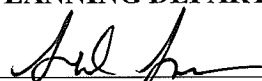
If any permits are required, please make sure the variance case number is referenced on the permit application and/or site plan. Section 5.111 of the Zoning Ordinance provides that unless otherwise specified by the Board, any decision of the Board granting a variance shall automatically expire if a permit 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

3/27/19
Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**


Shad Spencer, Zoning Administrator

4/8/19
Date