



Future Brothers, LLC
(Represented by Independence Delites Land, LLC)
6608 Heath Glen Drive
Mint Hill, NC 28227

RE: VARIANCE
3751 E. Independence Blvd
CASE NUMBER 2019-054

To Whom It May Concern:

At its meeting on August 27, 2019, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** a variance for proposed parking spaces to be more than 0.5' below the Community Base Flood Elevation as required in Section 9-102(k) in the City of Charlotte Floodplain Ordinance to allow the site to be redeveloped with a new restaurant.

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

1. The applicant is Future Brothers, LLC (Represented by Independence Delites Land, LLC).
2. The property is located at 3751 East Independence Blvd., Charlotte NC, 28208, further identified as Tax Parcel 131-092-15.
3. The subject parcel is zoned B-2 (General Business).
4. According to Mecklenburg County records, the existing building on subject property was constructed in 1971.
5. According to the Floodplain Ordinance 9-102(k) *Parking Spaces*, the lowest level of any parking space required for new or substantially improved non single-family Habitable Buildings must be no more than 0.5' below the Community Base Flood Elevation.
6. A portion of this lot is located within the FEMA (Federal Emergency Management Agency)/Community Floodplain and the FEMA Floodway/Community Encroachment Area.
7. The existing structure is not compliant with City of Charlotte's Floodplain Regulations.
8. The finished floor of the existing structure is 690.9' (equal to the FEMA Base Flood Elevation of 690.9').
9. The lowest adjacent grade is 0.5' below the FEMA Base Flood Elevation of 690.9'.
10. The Community Base Flood Elevation at this location is 690.9'.
11. The Flood Protection Elevation (Community Base Flood Elevation +1 ft.) at this location is 691.9'.
12. The finished floor is 1 ft. below the Flood Protection Elevation.
13. The existing structure will be demolished and replaced with a new compliant structure on this parcel.

Mecklenburg County Storm Water Services supports granting of the variance with the following conditions.

1. A "No-Rise" study shall be submitted and approved if the proposed footprint is larger than the existing footprint.

2. A Floodplain Development Permit Application including a Site Plan, and Erosion Control/Grading Plan showing the proposed building, driveway location and proposed fill shall be submitted for review.
3. According to the Mecklenburg County Tax Records, the existing structure is a commercial building.
4. The driveway for the new structure shall meet Specific Standards 9-102(d)4.b of the City of Charlotte's Floodplain Regulations.
5. The new structure shall meet Specific Standards 9-102 of the City of Charlotte's Floodplain Regulations.
6. The lowest floor and all mechanical equipment servicing the building of the new structure shall be elevated 1.0' above the Community Base Flood Elevation (also referred to as the Flood Protection Elevation).
7. FEMA (Federal Emergency Management Agency) Flood Insurance will be required.
8. An Elevation Certificate is required to be submitted after construction is completed before a Certificate of Occupancy can be issued.
9. An As-built survey showing elevations and topography is required.
10. The flood warning system is required and needs to be acknowledged.
11. The control box elevation is required that shall be verified it is above the FPE (Flood Protection Elevation).
12. The flood warning sensor box shall meet the approved requirements and the elevations shall be verified.
13. A cabling system is required that shall meet requirements and be verified.
14. A flood warning sign shall be posted and wording shall be approved by County Storm Water's Permitting and Compliance.

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.

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, Chairperson

8/30/19
Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**



Shad Spencer, Zoning Administrator

9/17/19
Date