



Sarah Hair Blackburn
William Gray Blackburn
16421 Shallow Pond Rd
Charlotte, NC 28278

**RE: VARIANCE
16415 SHALLOW POND RD
CASE NUMBER 2020-062**

To Whom It May Concern:

At its remote meeting on July 28, 2020, the City of Charlotte Zoning Board of Adjustment (“Board”) **GRANTED** to allow a home to be constructed on a lot that does not abut a public street.

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

1. The applicant is Sarah H. Blackburn.
2. The proposed site is located at 16415 Shallow Pond Road, identified as tax parcel 217-241-32.
3. The property is zoned R-3 (single family), is located in the Lower Lake Wylie Protected Area Watershed Overlay, and is approximately 4.29 acres.
4. The lot was created May 8, 1998 by deed recorded in Deed Book 9668, Page 235.
5. The lot was created for the purpose of transferring the tract as a bona fide gift from previous property owners, James and Susan Yandle, to Jeffrey and Kay Yandle.
6. Per Subdivision Ordinance Section 20-6, the transfer of tracts by bona fide gift are not subject to the Subdivision Ordinance requirements.
7. The subject property does not abut a public street and is accessed by an easement.
8. Per Code Section 12.101(1), a single family detached dwelling may be constructed on a lot that does not abut a street if the lot is at least 2 acres with access to a public street by an easement at least 15 feet in width for the exclusive use of the detached dwelling, and the easement is maintained in a condition passable for emergency and service vehicles.
9. The property is approximately 4.29 acres, which exceeds the 2 acre size requirements for lots that do not abut a street.
10. The applicant purchased the property on April 24, 2015, and the corresponding recorded Deed Book 29919 Page 209, describes the access easement for the property as an ‘exclusive’ easement of 15 feet in width.
11. On May 17, 2019, Mecklenburg County issued building permit B3525031 to construct a single family home on the property.
12. After the building permit was issued, it was discovered that the easement for the property also serves 4 other dwellings located on parcels 217-241-29, 217-021-46, 217-241-30 and 217-241-31.
13. Since the easement is not for the exclusive use of the dwelling, construction of the single family home is not permitted per Code Section 12.101(1).
14. On September 16, 2019, the City of Charlotte Code Enforcement issued a stop-work order for the home construction.

15. The applicant is requesting a variance to allow a home to be constructed on a lot that does not abut a public street because the easement access for the proposed dwelling is not exclusive.
16. The hardship did not result from actions taken by the applicant.
17. The applicant was not involved in the subdivision of the subject property and was unaware that the lot did not have an exclusive easement.
18. Granting the variance will not alter the essential character of the neighborhood.
19. There are other single family homes located along the easement.
20. Granting the variance is consistent with the intent of the zoning ordinance.
21. The subject property is approximately 4.26 acres which is larger in size than the 3 unit per acre density permitted in the R-3 zoning district.
22. Granting the variance will allow a single family home to be constructed on the property consistent with the R-3 zoning district.
23. Granting the variance upholds public safety.
24. A Road Maintenance Agreement recorded in Deed Book 8352, Page 489, is in place to ensure maintenance of the easement.
25. The Road Maintenance Agreement addresses the access beginning from Youngblood Road, which is a public state maintained road, to Shallow Pond Road, which is a private road leading to the easement.

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 does result 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 not secured and substantial justice is not 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,

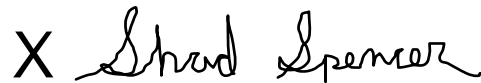


Rick Sanderson, Chairperson

7/30/2020
Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**

 Recoverable Signature



Shad Spencer
Zoning Administrator
Signed by: sspencer@ci.charlotte.nc.us

8/4/2020
Date