



Andrew Freund
11707 Riverhaven Drive
Charlotte, NC 28214

**RE: VARIANCE
11707 RIVERHAVEN DRIVE
CASE NUMBER 2020-128**

To Whom It May Concern:

At its remote meeting on January 26, 2021 the City of Charlotte Zoning Board of Adjustment (“Board”) **granted** a variance to allow development within an existing encroachment into the 100 foot watershed buffer that includes a home addition and the removal of an existing built upon area.

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

1. The applicant is Andrew Freund.
2. The site is located at 11707 Riverhaven Drive, further identified as tax parcel 031-211-06.
3. The property is zoned R-5 (single family) and located within the Critical Area of the Catawba River/Lake Wylie Watershed Overlay.
4. The subject property totals approximately 0.28 acres in area.
5. The parcel was created through a subdivision plat in 1958, and identified as Lot 8 Block A on Plat Map Book 8 Page 379.
6. There is a single family home on the property that was constructed in 1960 and predates zoning ordinance requirements.
7. The property is located in the Catawba River/Lake Wylie Critical Area Watershed Overlay and has a required 100 foot buffer from the normal pool elevation of Lake Wylie.
8. The existing single family home on the property encroaches approximately 40 feet into the required 100 foot buffer, and meets the definition for a legally nonconforming structure.
9. Per Zoning Ordinance Section 7.103(5), expansion to a nonconforming structure is permitted if the expansion is compliant with Zoning Ordinance regulations.
10. The applicant wishes to make improvements to the property including a finished addition in the current rear deck location.
11. The addition will be an expansion of the nonconforming structure in the area of encroachment into the required 100 foot Catawba River/Lake Wylie buffer, and therefore, requires a variance.
12. This was brought to staff’s attention when the applicant applied for a building permit for the addition.
13. The applicant is requesting a variance of approximately 40 feet into the 100 foot watershed buffer to allow the addition.
14. The proposed expansion does not exceed the existing 100 foot buffer encroachment of 40 feet on the left side of the home.
15. The hardship is peculiar to the property.
16. Approximately half of the lot is encumbered by the 100 foot watershed buffer.

17. The area of the allowed building footprint in the established setback is encumbered by the septic field area and public sewer is not available to this property.
18. The Catawba River/Lake Wylie Watershed Overlay Critical Area has maximum built upon area allowance regulations of which the existing development on the subject property is exempt per Code Section 10.603(1).
19. Although existing development on the subject property is exempt from built upon regulations, the proposed improvements to the property include the removal of some of the existing impervious surface which will result in a net decrease of built upon area.
20. Charlotte-Mecklenburg Storm Water Services Mecklenburg County Water Quality Program staff support the request and have provided the following input: Since sanitary sewer service is not available, there is not much flexibility for redevelopment of the property. The existing gazebo and concrete pad will be removed from the **100'** Water Supply Watershed buffer, which will decrease the net impervious area within the buffer. The proposed development on the property consists of enclosure of an existing concrete patio, and no mitigation is required.
21. Granting the variance will not alter the essential character of the neighborhood.
22. Six other variances have been granted for encroachments into the watershed buffer on Riverhaven Drive.
23. In granting the variance, the public safety has been assured and substantial justice has been achieved.
24. Granting the variance will not adversely affect adjacent or contiguous properties.
25. The proposed expansion does not encroach into the required 50 foot state watershed buffer measured from the shoreline of Lake Wylie.
26. Due to the proposed net decrease of built upon area, lack of availability of sewer connection, and no new encroachment into the 50 foot state watershed buffer, strict application of the ordinance would create a hardship on the property.

Conditions:

1. The proposed addition, classified as new construction, must meet all Floodplain Ordinance requirements.
2. A Floodplain Development Permit must be issued prior to the new construction.
3. The new construction must be elevated above the Flood Protection Elevation.
4. The cost of improvement or repairs must be less than 50% of the structure's value.

Conclusion of Law:

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, Chairperson

1/28/2021

Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**

 Recoverable Signature

X 

Shad Spencer
Zoning Administrator - 2/1/2021
Signed by: sspencer@ci.charlotte.nc.us