



JD Partners Group LLC
8274 Golf Ridge Drive
Charlotte, NC 28208

**RE: VARIANCE
3600 SADLER ROAD
CASE NUMBER 2022-001**

To Whom It May Concern:

At its remote meeting on March 29, 2022 the City of Charlotte Zoning Board of Adjustment (“Board”) **granted** a variance to allow 2 decks to encroach up to 92% into the required rear yard.

Staff recommends approval of the variance request with the following condition:

The applicant shall obtain an approved buffer revegetation/mitigation plan in accordance with the Charlotte-Mecklenburg Water Quality Buffer Implementation Guidelines.

The findings of fact are:

1. The applicant is JD Partners Group LLC (Represented by Christopher W. Webb of Archchrysalis).
2. The applicant has agreed to the proposed condition.
3. The proposed site is located at 3600 Sadler Road, further identified as tax parcel 113-271-05.
4. The subject parcel is zoned R-5 (single family) and located within the Critical Area of the Lower Lake Wylie Watershed Overlay.
5. The site is roughly 0.6 acres and contains a home constructed in 1960.
6. Per Code Section 10.708(1), the property is subject to a 50 foot undisturbed vegetative buffer measured from the full pond elevation of Lake Wylie.
7. Per Code Section 10.708(3), no permanent structure or built upon areas shall be allowed within the 50 foot watershed buffer with limited exceptions.
8. Per Code Section 10.709, buffer encroachments may be mitigated with a site-specific mitigation plan by Charlotte Mecklenburg Storm Water Services in lieu of a variance.
9. Staff’s recommended condition that the applicant obtain an approved buffer revegetation/mitigation plan ensures required mitigation for the buffer disturbance in accordance with Code Section 10.709.
10. Per Code Section 9.205(1)(g), the minimum rear yard is 35 feet.
11. The existing home encroaches into the required 35 foot rear yard.
12. Per Code Section 12.106(3)(b), a deck can encroach up to 25% or 8.75 feet into the required 35 foot rear yard.
13. The existing decks exceed the 25% encroachment allowance, with the closest deck encroaching 92% (32 feet & 2 inches) into the required 35 foot rear yard.
14. The home meets the definition of a nonconforming structure because it was developed prior to the current regulations for the rear yard and 25% encroachment allowance.
15. The applicants wish to convert existing rear stairs into a small deck that will serve as a landing, and to modify an existing rear deck.

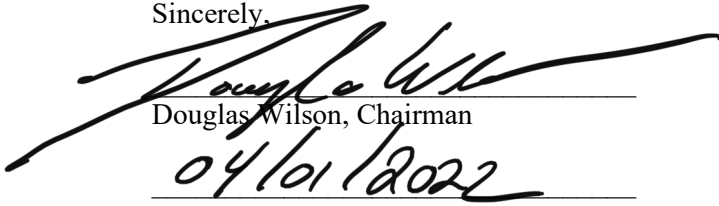
16. Per Code Sections 7.103(2) & (5), normal repair and maintenance of a nonconforming structure is permitted, but the structure can only be expanded if it is in compliance with the ordinance requirements, so the decks would not be permitted more than a 25% encroachment into the required rear yard.
17. The proposed modifications will expand the footprint of the existing nonconforming deck and stairs and increase the square footage of decking in the rear of the home by 125 square feet. The proposed expansion will not be compliant with the 25% encroachment allowance.
18. The applicants are requesting a variance from the 25% encroachment allowance to allow 2 decks that encroach up to 92% into the required rear yard.
19. The hardship was not caused by the applicants.
20. The existing home has an established 92% encroachment (32 feet & 2 inches) into the 35 foot required rear yard.
21. The hardship is caused by conditions peculiar to the property.
22. There is a well on the right side of the property within the compliant building area.
23. The applicant states that construction of the proposed decks is limited in the front of the home due to the existing location of the septic and leach field.
24. The applicant states that construction of the proposed decks on the left side of the home is limited due to the location of mechanical, electrical, and utility locations.
25. The existing nonconforming home is located almost entirely within the required 35 foot rear yard.
26. Granting the variance will not alter the essential character of the area.
27. The requested variance will not exceed the established 92% rear yard encroachment.
28. The requested variance will not be easily detected due to vegetation screening the home from the street.
29. Granting the variance will uphold public safety.
30. The proposed wooden slatted decking is pervious so the decks will not increase the existing built-upon area on the lot.
31. Mecklenburg County Storm Water Services does not oppose the requested variance with the condition of an approved buffer revegetation/mitigation plan because it will not increase the existing built-upon area within the 50 foot watershed buffer.
32. The proposed decks encroach into the 30 foot State Riparian Buffer measured from the shoreline of Lake Wylie.
33. If the variance is granted, approval from the NC Department of Environment & Natural Resources for the encroachment into the State Riparian Buffer will be necessary.
34. The applicant has been in communication with the NC Department of Environment & Natural Resources who has indicated that buffer authorization will likely be granted pending mitigation including the installation of native ground covers and low maintenance “native species” shrubs and vegetation.
35. Hardships result from existing location of the home within the 35 foot rear yard, the well and septic locations, and the utility locations.

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.

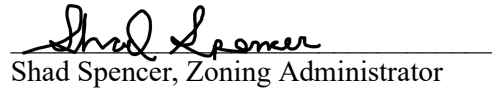
Sincerely,



Douglas Wilson, Chairman

04/01/2022
Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**



Shad Spencer
Shad Spencer, Zoning Administrator

04-01-2022
Date