



ZONING HARDSHIP VARIANCE APPLICATION

Submit required documentation to:
Wake County Planning, Development and Inspections
PO Box 550 Wake County Office Building
Raleigh, NC 27602-0550 336 Fayetteville Street Mall, Downtown Raleigh
Contact (919) 856-6335 for additional information.

File #
Fee
Amt Paid
Check #
Rec'd Date
Rec'd By

Zoning Ordinance Regulation(s) Proposed to be Varied (cite each section(s) and identify requirement from which the variance(s) is (are) being requested; quantify variance – i.e. if this is a variance to allow an encroachment into a setback, give depth of encroachment and total square feet of area proposed to encroach into setback:

- 3-20-5 (c)(2) Stormwater Management
- 11-30-4 Swift Creek Water Supply Watershed
- Impervious surface coverage may not exceed 12% of the total area of the site
- Appendix B - Swift Creek, R-40W

Property

Parcel Identification Number: 0761504107 000

Address: 3009 Van Gogh Lane, Apex, NC 27539-4775

Location: East side of Van Gogh Lane, at/between
(north, east, south, west) (street)
Ten-Ten Road and Broadwing Way
(street) (street)

Total site area in square feet and acres: 40,050 square feet 0.92 acres

Zoning District(s) and Overlay Districts (if any) and land area within each: County Zoning R - 40W

List Conditions of any Conditional Use Zoning Districts: _____

Present land use(s): Residential Property

How is this proposed use a public necessity?
Not Applicable

What is impact on surrounding neighborhood and adjacent properties?
None

Property Owner

Name: David J. White and Jennifer A. White

Address: 3009 Van Gogh Lane

City: Apex State: NC Zip Code: 27539-4775

E-mail Address: davenjenwhite@nc.rr.com Fax: _____

Telephone Number: 919-267-4942

Applicant (person to whom all correspondence will be sent)

Name: Katherine B. Wilkerson
Address: P.O. Box 30515
City: Raleigh State: NC Zip Code: 27622
E-mail Address: kbw@lyncheatman.com Fax: 919-571-9983
Telephone Number: 919-571-8560 Relationship to Owner: Attorney

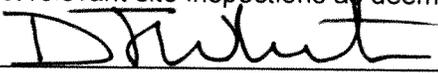
Extent of Proposed Variance (Describe the extent to which the regulation is proposed to be varied.)

The current owner requests a variance to allow an impervious percentage in excess of 12%. The current owner purchased the property with existing impervious percentages in 2010. The installation of an in ground pool has been made. As part of this project a parking pad/turnaround area of the driveway was removed. As a result, upon completion of the project the impervious percentage was reduced and the situation improved from existing.

The permit obtained for the pool installation requires the owner to remove the sidewalk to the front door and a significant portion of the driveway to the garage. The owners request a variance to allow adequate access to the property.

All property owners must sign this application unless one or more individuals are specifically authorized to act as an agent on behalf of the collective interest of some or all of the owners (provide a copy of such authorization).

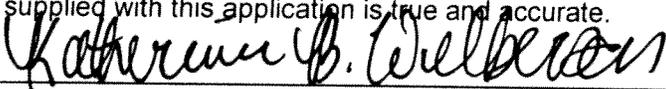
The undersigned property owner(s) hereby authorize the filing of this application (and any subsequent revisions thereto). The filing of this application authorizes the Wake County staff to enter upon the site to conduct relevant site inspections as deemed necessary to process the application.

Signature:  Date: 9/4/2012

Signature: _____ Date: _____

Signature: _____ Date: _____

The undersigned applicant hereby certifies that, to the best of his or her knowledge and belief, all information supplied with this application is true and accurate.

Signature:  Date: 9/4/2012

Notes: All documents and maps submitted as required become the property of Wake County. The Wake County Unified Development Ordinance is on the web at www.wakegov.com.

Zoning Hardship Variance

Statement of Justification

1. Practical difficulties or unnecessary hardships would result from carrying out the strict letter of the regulation. "There are special circumstances or conditions applying to the land, building or use referred to in this application which exists through no fault of the property owner."

The strict letter of the regulation requires that the impervious area of the property should not exceed 12%. The homeowners are requesting a minor variance to allow 13.9 % impervious area on this property. If the homeowners were forced to comply with the regulation, they would have to remove a large portion of their driveway and their entire front walk. The homeowners did not build this house, but purchased it in 2010 as currently constructed. They did not create the impervious surface overage.

1.a. There are special circumstances or conditions applying to the land, building, or use referred to in the application, which exist through no fault of the property owner.

Dr. and Mrs. White purchased the property as a family home in 2010 following customary homeowner inspections and surveys. Since the purchase they have made improvements to the home through installing fencing, relaying lawns and planting shrub and flower beds to improve the aesthetic appearance and utility of the home and gardens and reduce erosion to areas that were previously bare ground. No changes have been made to affect the impervious area of the property prior to the project which is the subject of this variance application.

1.b. The hardship results from application of the regulation to the property.

Yes. The hardship results directly from the application of the impervious requirements to the property in question.

1.c The hardship is one that affects the property directly.

Application of the regulation to the property directly affects the accessibility of the property, and the enjoyment of the property by the homeowner as it would require removal of paving used to access the main front door access and the garages. It would require the homeowners to make challenging and hazardous vehicle movements to exit the property.

1.d. The hardship is not the result of the property owner's own actions – that is, special circumstances or conditions causing the hardship exist through no fault of the property owner.

The property was purchased by the current owner with an impervious area of approximately 14.2 % in 2010 and has been in that position since construction of the dwelling in 2002 and addition of the screened in porch in 2008. The current homeowners were unaware of the impervious regulation and the issue did not come up at any time during the purchase process. The current homeowners did not create the impervious surface overage. The request for a variance has resulted from a project to install

an in ground pool at the property. The homeowners have taken steps to improve rather than exacerbate the situation by removing impervious square footage from a turn-around/parking pad area on the driveway (approx 250 sq ft removed) in excess of the impervious square feet added by installation of a retaining wall and pool coping stone (approx 110 sq ft added). This is a net 140 sq ft improvement.

1.e The hardship is peculiar to the property.

Yes.

2. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights.

The actions required of Dr. and Mrs. White as homeowners should this variance not be granted are to remove approx 1500 square feet of impervious surface from the property. Excluding the home itself and a small deck and steps used to access the rear gardens, the only impervious surfaces are the driveway accessing the garage and a foot path from the driveway to the front door.

Removal of the footpath would:

Make access to the front door difficult e.g. by traversing an unpaved, grassy or other pervious pathway and potentially impossible in adverse weather conditions. It is reasonable for enjoyment of the property for it to be provided with an impervious path to the main entrance door for homeowner and visitor access. Without this path access would be particularly difficult for disabled and elderly family members visiting the property.

Removal of part of the driveway would:

Make vehicle access to the garage difficult. The neighborhood has no curbed parking and the driveway is required for off road parking when family or friends visit the home. It is reasonable for normal enjoyment of a property for it to be provided with a driveway of sufficient width to allow safe and comfortable access to the garages and sufficient area directly in front of the garages for activities such as washing cars or parking for the vehicles of family and friends. Access would again be particularly adversely affected for disabled and elderly friends and family visiting the property. The narrowing of the driveway would make it more likely that vehicles would leave the paved surface resulting in rutting and erosion from rain and creation of muddy trenches alongside the paved area.

There is also little doubt that changing the access paving to the property will make it peculiar and unusual – the current driveway is in proportion with the house, and the access pathway to the front door is of typical construction for this type of access and similar to the other houses in the neighborhood. It is therefore respectfully requested that the variance is granted to preserve enjoyment of customary homeowner property rights.

3. The granting of the variance will not materially adversely affect the health or safety of the persons residing or working in the neighborhood of the proposed use, and will not be materially detrimental to the public welfare or injurious to property or improvement in such neighborhood.

The property has been in its current position regarding impervious surfaces since it was constructed in 2002. The addition of a screened in porch under previous ownership met with current building codes.

There has therefore been no adverse affect on the neighborhood in the preceding years. The current project has actually improved the situation regarding impervious surface at the property. A parking/turnaround pad was removed covering 250 square feet which has been replaced by a retaining wall and pool coping stone totaling 110 square feet. The project is therefore positively affecting the impervious situation in the neighborhood, even though no adverse conditions were observed before it. Additionally the installation of an in ground pool to the property and marked improvements to landscaping will generally increase desirability of properties in the area and resulting property values and has been done with the knowledge and consent of the neighbors.

Should the variance not be granted, the driveway to the property will need to be narrowed. This will make turning on the property difficult or impossible. As a result egress from the property will require reversing vehicles down the narrow drive. There is a culvert drop off to either side making this maneuver difficult and risky, and the vehicles will be reversing into the traffic stream, inherently higher risk and more dangerous to other neighbors and road users than driving forwards with clear, unobstructed views of the traffic stream.

Additionally, should the variance not be granted, parking on the property for visitors and guests will be greatly restricted. This will result in the need for visitors to park on the already narrow and uncurbed road outside the property. This again presents hazards to family and friends visiting the homeowners and would require them to climb the inclined drive – this could be difficult for elderly and disabled visitors to the property.

4. The denial of the variance would cause practical difficulties or unnecessary hardships to the landowner.

Many of the practical difficulties expected are outlined above. To summarize, these include:

- Removal of access to the front door of the home for family, friends and commercial visitors (FedEx/Ups deliveries, other local businesses providing typical services to the homeowner.
- More challenging access to the property along a narrowed driveway.
- Safety issues exiting the property via a reversing maneuver as vehicle turn around becomes impossible.
- Loss of parking area on the property for family and friends.
- Safety issues for neighbors from the need for visitors to park on the uncurbed street.
- Loss of property value and marketability.

Given these hardships, we respectfully request that the variance be granted.

