

CITY OF BELMONT
Application for Zoning Board of Adjustment Hearing

For Office Use Only	Application Number BA- <u>2020-01</u>
Date Filed <u>3 / 20 / 20</u>	Date of Board Meeting / /

<input type="radio"/> Conditional Use Permit (\$500.00)	<input type="radio"/> Appeal (\$460.00)
<input checked="" type="radio"/> Variance (\$306.00) {S.F. Residential}	<input type="radio"/> Variance (\$460.00) {Other}

Description of Request	<u>see attached</u>
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Applicant Information	
Name <u>Scott Michael Kagen</u>	
Address <u>201 Riverfront Drive</u>	
City <u>Belmont</u>	State <u>NC</u>
Zip <u>28012</u>	
Telephone (704) <u>564</u> - <u>3256</u>	
Property Owner Information (If different from above)	
Name <u>Scott Michael Kagen and Lisa Kagen</u>	
Address <u>201 Riverfront Drive</u>	
City <u>Belmont</u>	State <u>NC</u>
Zip <u>28012</u>	
Telephone (704) <u>564</u> - <u>3256</u>	

Property Location and Description	
Address <u>3126 Channel View Landing</u>	
Tax Parcel Number <u>187714</u>	Current Zoning Classification _____

This application should be accompanied by a scaled site plan of the property which includes the following information: Lot dimensions, setback dimensions for existing structures, location of all existing structures, location of all underground utilities (water, sewer, power, cable, & gas), other topographical features (bodies of water, significant stands of trees, etc.)

Names and Addressees of all Abutting Property Owners

The following are individuals, firms, or corporations owning property adjoining (including those properties across the street) the property described in this application.

Notification of this Board Meeting shall be sent to all adjacent property owners in accordance with North Carolina State Law. The applicant is responsible for all costs related to this notice.

(Total Cost = Number of Adjoining Property Owners X \$ 1.50)

Name	Address
<u>Dean and Alicia Devries</u>	<u>3120 Channel View Landing, Belmont, NC 28012</u>
<u>Sam and Martha Stowe</u>	<u>3132 Channel View Landing, Belmont, NC 28012</u>
<u>Justin and Shelton Davis</u>	<u>3119 Channel View Landing, Belmont, NC 28012</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Variance Request Description

Section(s) of Ordinance requesting relief from: 4.2

Applicant's Description of Hardship incurred from literal enforcement of the Ordinance	<u>see attached</u> _____ _____ _____ _____ _____ _____
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The Board of Adjustment after having held a public hearing to consider the request for a variance to the Belmont Regulating Ordinance, will make the following findings of fact and draw the following conclusions in order to render their decision.

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

It would be in the best interest of the applicant to submit the following sheet with each finding answered and described as they pertain to their variance request. Please use additional sheets if necessary. In order to grant a variance, each of the findings must be found in the affirmative by the Board of Adjustment by a 4/5 majority of the Board's membership.

Request for Variance

- 1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. This conclusion is based upon the following findings of fact:

see attached

- 2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. This conclusion is based upon the following findings of fact:

see attached

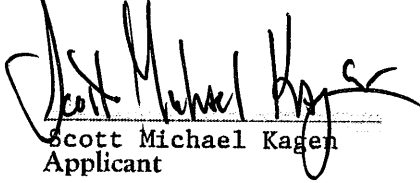
- 3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. This conclusion is based upon the following findings of fact:

see attached

- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. This conclusion is based upon the following findings of fact:

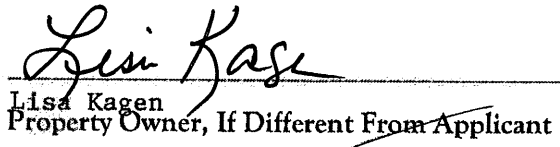
see attached

Signatures



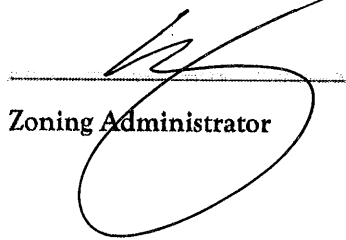
Scott Michael Kagen
Applicant

3/18/2020
Date



Lisa Kagen
Property Owner, If Different From Applicant

3/18/2020
Date



Zoning Administrator

3/20/2020
Date

Application revised on 2/12/2018.

City of Belmont Variance Application
Scott & Lisa Kagen
Application Attachments

I. Description of Request

Applicants seek relief from front setback requirements in Section 4.2 of City of Belmont Land Development Code, which require front setbacks on infill lots to generally be equal to the average setbacks for all principal structures within 300 feet or 1 block length (whichever is greater). Applicants wish to move the front setbacks forward approximately twenty (20) feet in order to have space for a pool between the home and the Catawba River riparian buffer requirement. This would result in a front setback of at least 30 feet, possibly a little more.

II. Applicant's Description of Hardship incurred from literal enforcement of the Ordinance

Applicants purchased the only remaining undeveloped lot on Channel View Landing, where they wish to build a single-family home. The lot is irregularly shaped - narrow at the top by the street but widening at the bottom of the lot where it borders the Catawba River. However, regulations passed by the North Carolina Environmental Management Commission in 2001 prohibit the construction of any improvements within 50 feet of the River, limiting the available space Applicants can build on.

Further complicating the building / improvement options, many homes in the neighborhood were built prior to the 2001 enactment of the 50 foot River buffer and are set back further than would now be allowed. The result is a significantly larger "average setback" than would exist if homes were built under current requirements.

Due to the irregular shape of the lot and the constrictions resulting from the riparian buffer requirements and "average setback" determination, there is not enough room to build a home within the neighborhood average that leaves room in the rear for a pool, deck and similar accessory features.

III. Applicants positions with respect to Findings to be made by the Board of Adjustment:

1. Unnecessary hardship would result from the strict application of the ordinance.

Applicants submit that they would not be able to build the home designed for the property, which otherwise meets the neighborhood average in terms of square feet, while still leaving room for a pool, deck and similar accessory features between the home and the riparian buffer. Also, due to the narrow lot width and desire to stay within the side setbacks, there is not enough room for a garage under the strict application of the Land Development Code provisions.

2. The hardship results from conditions that are peculiar to the property, such as location, size or topography.

The hardship in this case results from a number of factors, including the Lot size and shape. Specifically, the Lot is narrow at the top which results in a need to elongate the design of the home. An additional factor or issue is the fact that surrounding homes were built prior to the enactment of the Riparian buffer requirement, which results in a greater "average setback" than would exist if those same homes were built under present environmental regulations. Finally, the hardship also results from North Carolina Environmental Management Commission watershed / environmental regulations, which prevent the construction of accessory structures such as pools and decks within 50' of the River, which in turn results in the need to move the principal structure forward in order to have enough room in the rear to build accessory improvements.

3. The hardship did not result from actions taken by the applicant or property owner.

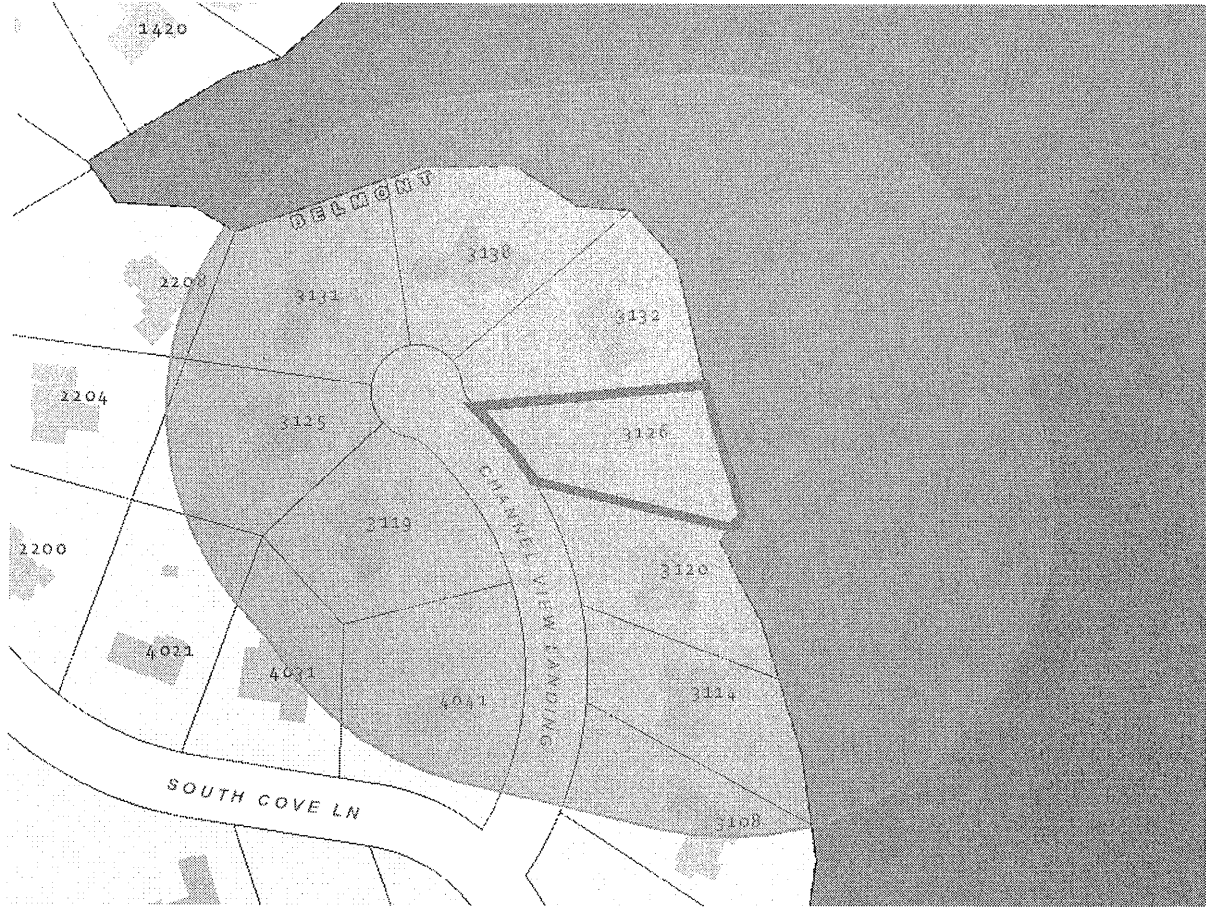
See responses to 1 and 2, above. The hardship in this case results from Lot size and configuration and related factors, and not from any action taken by the applicants and/or owners.

4. The requested variance is consistent with the spirit purpose and intent of the ordinance.

Applicants seek to build a single-family home on the property that is consistent in size, scale, and design with other homes in the neighborhood. The site plan includes adequate parking, and the grounds will be neatly landscaped, also consistent with the character and appearance of the neighborhood. Finally, Applicants will maintain all side set backs, and the home will be constructed to all state and local building codes, such that safety is maintained and overall purpose of infill development is achieved.



Printed On: 3/11/2020



Disclaimer: The information provided is not to be considered as a Legal Document or Description. The Map & Parcel Data is believed to be accurate, but Gaston County does not guarantee its accuracy. Values shown are as of January 1, 2019.