The City of Brevard North Carolina

City of Brevard Planning Department
95 West Main Street
Brevard, North Carolina 28712
Phone (828) 885-5630
Fax (828) 885-5625
cityofbrevard.com

RECEIVED 2/15/2024

Appeal File# APL-24-001

BREVARD BOARD OF ADJUSTMENT – APPEAL

APPOINTMENT OF AGENT

I Renae Masters, owner of property located at (street address) 252 Elm Bend Rd Brevard, NC 28712 and identified by the Transylvania County Tax Identification Number (PIN#):

8585-88-8335-000, located in Transylvania County, North Carolina, do hereby appoint Sam Wheeler to represent me in filing an application for APPEAL DECISION OF ZONING ADMINISTRATOR AND/OR CODE ENFORCEMENT OFFICER or PETITION FOR AN INTERPRETATION OF THE CITY OF BREVARD UNIFIED DEVELOPMENT ORDINANCE before the Brevard Board of Adjustment.

I further authorize Sam Wheeler to act as my agent in all matters, formal and informal, and to receive all official correspondence as it relates to the APPEAL OR PETITION FOR AN INTERPRETATION request and hearing.

Property Owner Signature: Renae Masters Date: 2-15-24
Mailing Address: 250 Elm Bend Rd Brevard, NC 28712
Phone: 828-553-5579 Email: crun1@comporium.net

Agent Name: Sam Wheeler, Whitfield-Cargile Law
Mailing Address: 23 S. Broad St, Suite 204, Brevard, NC 28712
Phone: (828) 884-4529 Email: sam@whitfieldcargilelaw.com

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APPEAL FILE # APL-24-001

CITY OF BREVARD

APPLICATION FOR APPEAL FROM DETERMINATION OF THE CODE ENFORCEMENT OFFICER AND/OR ZONING ADMINISTRATOR - PETITION FOR AN INTERPRETATION OF THE UNIFIED DEVELOPMENT ORDINANCE

TO THE BOARD OF ADJUSTMENT:

I, Renae Masters, hereby appeal to the Board of Adjustment from the following adverse determination of a Code Enforcement Officer and/or Zoning Administrator of the City of Brevard: (State the Decision)

See Ex. A - letter/decision from Paul Ray

The adverse decision was made with respect to property described herein or on the attached sheet.

Parcel Identification Number (PIN): 8585-88-8335-000

I, Renae Masters, hereby request an interpretation of:

( ) City of Brevard Official Zoning Map as specified herein;

(X) the following section(s) of the text of the Unified Development Ordinance:

16.9.E.3

as the map and/or the ordinance relate to the use of the property described herein or on the attached sheet.

STATEMENT BY THE APPELLANT

In the space provided below or on the back of this form, write your interpretation of the UDO provision in question and state your reasons for your interpretation. State the FACTS you are prepared to prove to the Board of Adjustment in support of your interpretation that the determination of the Code Enforcement Officer and/or Zoning Administrator was erroneous. Attach a copy of correspondence from the Code Enforcement Officer and/or Zoning Administrator, with the determination you are appealing.

See Ex A - Decision. See Email, Ex. B, related to Stop Work order, Ex. C, and 6 inch encroachment into setback, as shown on survey, Ex. D. Interpretation/relief sought is in email, Ex. B.

I certify that all of the information presented by me in this Application is true and correct to the best of my knowledge, information and belief.

SIGNATURE OF APPLICANT Bernae Martin Date: 2-15-24

Mailing Address 250 Elm Bend Rd Brevard, NC 28712

Phone: 828-553-5579 Email: cerun1@comporium.net

Appeal filed with the City of Brevard, City Clerk this the 15th day of February, 2024.

City of Brevard

By: Denise Hodgson
City Clerk

Statement Continued

It was unclear from Mr. Ray's letter, Ex. A, whether a decision was made, thus triggering appeal rights, or whether Mr. Ray was referring to the Board of Adjustments for an initial determination. Emails with Mr. Ray's office indicate a decision was made; however, out of an abundance of caution, both an appeal and, if necessary, an interpretation are requested.

Ex. B

Sam Wheeler

From:	Sam Wheeler
Sent:	Tuesday, February 6, 2024 4:30 PM
To:	katherine.buzby@cityofbrevard.com; Paul.Ray@cityofbrevard.com
Cc:	rerun1@comporium.net
Subject:	Masters; 252 Elm Bend Rd.; PIN# 8585-88-8335; Stop Work Order

Katherine,

Thanks for meeting with me this morning. As discussed, I am emailing you and Paul about Mrs. Masters' Stop Work Order.

To reiterate and for the benefit of Paul, I live on Warren Lane close to Mrs. Masters. She walked over last evening and filled me in about her issues. I told her I would try to help her look into them and see if there is a way to resolve them. I have copied her so everyone can be on the same page.

The Stop Work Order indicates that the construction does not meet side setbacks, which are 6' on each side. The way the home is constructed, the sides of the property are where the front and the back of the home are located. I understood from our conversation that the issues are as follows:

(1) The deck on the front of the home (side of the property) was not included on your permit, and it further does not comply with 6' setbacks. It is my understanding that Mrs. Masters' is in the process of adjusting the lot line to avoid the setback issue and that she is more than willing to update her permit to reflect the deck. She stands ready to complete both those things with necessary applications/guidance from your office.

(2) The stairs on the back of the house (other side of the property adjacent to Mr. Brown's vacant lot) were not permitted and are in the 6' setback. Mrs. Masters is prepared to remove those stairs, thus completely alleviating the issue altogether. She does not want to do this work without the Stop Work Order being lifted, as she does not want to be in further violation.

(3) The side of the house or corner of the house (adjacent to Mr. Brown's lot) is 5'6'' from the line, thus 6'' into the 6' setback. This is shown on a preliminary survey. I believe Mrs. Masters is exploring whether to get a second opinion from another surveyor, but she is also interested in pursuing relief under 16.9.E.3 of the UDC, which gives your office authority to make minor modifications based on the location of a home being constructed up to one foot into a setback. Your office is authorized to adjust the setback 12'' or 20%, which ever is greater. If her home is only 6" into the setback, this provision would be applicable. This is a process that is separate from a potential variance, as stated in 16.9.F

I understand there has been some back and forth between the various parties, but, at this point, Mrs. Masters simply want to have the Stop Work Order lifted, come into compliance, and complete construction. Numbers (1) and (2) above can be achieved with coordination with your office. Again, she does not want to remove the steps with the Stop Work Order in place. The remaining issue would be Number (3), and we are inquiring as to the application process to exercise rights under 16.9.E.3. This provision applies to the situation – the home was constructed less than a foot into the setback - and your office has the authority to modify the requirements to accommodate the error. The UDC considers an application for modification, but I understand from our conversation that you are not aware of a formal application.

Please let us know about clearing all the above issues so she can proceed with the completion of her home.

I am happy to talk at your or Paul's convenience. I am trying to help a neighbor and friend, so I certainly do not have an in-depth knowledge of all the interactions and facts to date.

Thanks.

Best,

Sam

Sam Wheeler
Whitfield-Cargile Law, PLLC
Post Office Box 1101
23 South Broad Street, Suite 204
Brevard, North Carolina 28712
P: 828-884-4529
F: 828-884-4528
E: sam@whitfieldcargilelaw.com

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