

DK7179PG0045

Drawn by and HOLD FOR:  
PERRY, PATRICK, FARMER & MICHAUX, P.A.  
(#968540jp)

000280

PRESENTED  
FOR  
REGISTRATION

96 OCT -7 AM 11:38

KENNETH C. WILKINS  
REGISTER OF DEEDS  
WAKE COUNTY

WAIVER OF SETBACK REQUIREMENTS

STATE OF NORTH CAROLINA

COUNTY OF WAKE

WHEREAS, Article 12.C of the Declaration Of Covenants, Conditions And Restrictions For Amherst Subdivision, recorded in Book 6410, Page 120, Wake County Registry (hereinafter the "Covenants") provides, in part, that "[n]o above-grade structure (except approved fences or walls) shall be constructed or placed on any Lot" closer than 25 feet from the rear Lot line.

WHEREAS, as shown on the survey dated 08/15/96, entitled "Survey For DAVID B. ARNOLD & ANCHUN ARNOLD", dated August 15, 1996, and prepared by Leonard H. Sullivan, Jr. (Job # 2141095), a copy of which is attached hereto as Exhibit A and made a part hereof, the deck constructed on Lot 41, AMHERST Subdivision (Book of Maps 1995, Page 63, WAKE County Registry) (hereinafter the "Property"), is located only 23.8 feet from the rear Lot line;

WHEREAS, Article 15 of the Covenants states, in part, that "The Board of Directors [of the Association] in its sole discretion may allow reasonable variances and adjustments of these Restrictions in order to alleviate practical difficulties and hardship in their enforcement and operation. Any such variances shall not violate the spirit or the intent of this document to create a Subdivision of Lots owned in fee by various Persons with each such Owner having an easement upon areas owned by Corporation. To be effective, a variance hereunder shall be recorded in Wake County Register of Deeds Office, shall be executed on behalf of the Corporation; and shall refer specifically to this Declaration."

WHEREAS, the Board of Directors has determined that the deck is in compliance with the Zoning Ordinance of the Town of Apex, that a variance of the rear setback requirements of the Covenants is necessary to permit the deck to remain in order to permit the deck to remain as constructed, and that granting a variance of the rear setback requirement will not violate the spirit or intent of the Covenants;

NOW, THEREFORE, pursuant to the provisions of Article 15 of the Covenants, the Association hereby waives the 25 foot rear setback requirement contained in Article 12 of the Covenants as same applies to the Property so as to permit the deck to remain 23.8 feet from the rear lot line.

IN WITNESS WHEREOF, the Association caused this instrument to be executed in its name by its duly authorized officers and its seal to be affixed thereto, as of the 19 day of August, 1996.

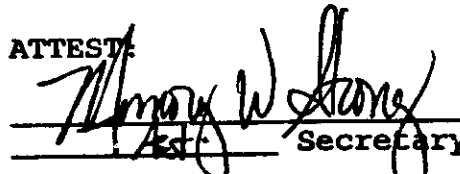
HOMEOWNERS ASSOCIATION OF AMHERST, INC.,  
a North Carolina non-profit corporation

(Corporate Seal)

By:

  
Arthur H. Steckler, President

ATTEST:

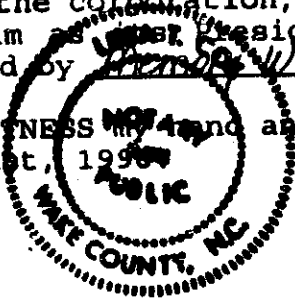
  
Mary W. Honey  
Secretary



STATE OF NORTH CAROLINA -- WAKE COUNTY:

I, Lesa T. Cox, a Notary Public for said County and State, do hereby certify that ARTHUR H. STECKLER personally came before me this day and acknowledged that he is President of HOMEOWNERS ASSOCIATION OF AMHERST, INC., a North Carolina non-profit corporation, and that, by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name him as President, sealed with its corporate seal, and attested by W. Strong as its Asst. Secretary.

WITNESS my hand and official stamp or seal, this the 19 day of August, 1998



Lesa T. Cox  
Notary Public My Commission Expires 2-2-00  
My commission expires: \_\_\_\_\_

STATE OF NORTH CAROLINA -- WAKE COUNTY:

The foregoing certificate of Lesa T. Cox, Notary Public is certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

KENNETH C. WILKINS, Register of Deeds

By: Charles A. Kelly  
Deputy/Asst. Register of Deeds