



CERTIFIED MAIL

LPA 37th Street LLC
4530 Park Road, Suite 300
Charlotte, NC 28209

**RE: VARIANCE
506 E. 37th STREET
CASE NUMBER 12-050**

Dear LPA 37th Street LLC:

At its meeting on November 27, 2012, the City of Charlotte Zoning Board of Adjustment ("Board") **denied** a request for two variances: (1) a 19 foot variance from the required 35 foot minimum rear yard and (2) a 7 foot variance from the required 32 foot minimum setback to allow for the demolition and construction of a new residence.

The Board based its decision on the following findings of fact:

1. The applicants are LPA 37th Street LLC (Ricardo DeSoto and Lat Purser).
2. The site is zoned R-5 (residential) and is located at 506 E. 37th Street, further identified as tax parcel 091-103-13.
3. There is an existing single-family structure located on the lot that was built around 1926 and is approximately 975 square feet.
4. The applicant is proposing to construct a 1,216 square feet single-family structure.
5. The applicant is seeking two variances (i) a 19 foot variance from the required 35 foot minimum rear yard and (ii) a 7 foot variance from the required 32 foot minimum setback to allow for the construction of a new single family dwelling.
6. Code Section 9.205(1)(g) requires a minimum rear yard of 35-feet.
7. Code Section 9.205(1)(e2) requires a minimum setback of 32-feet.
8. Per Code Section 12.106(1) no principal building or principal structure shall be located within any setback or yard required by these regulations except as provided in this Section and elsewhere in these regulations.
9. The existing single-family structure is considered legally non-conforming.
10. Per Code Section 7.103 a nonconforming structure may be expanded, without bringing the nonconforming structure into conformity with these regulations, only if the part of the structure to be expanded and the area of the lot into which the expansion is taking place are both brought into conformity with the requirements of these regulations.
11. There is ample room on the lot to build a conforming structure and the applicant has other options.
12. The hardship results from the applicants' desire to demolish and construct a new structure in the required setback and rear yard.

Based upon the above findings of fact, the Board concludes that the applicant has failed to meet the three standards stated in § 5.108(1) of the Ordinance, and more specifically:

1. No practical difficulties or unnecessary hardship exist because:
 - a. The difficulty or hardship is a result of action of the owner of the property.
 - b. The difficulty or hardship is not peculiar to the property in question.
 - c. The difficulty or hardship resulting from the application of these regulations would not prevent the owner from securing a reasonable return or making a reasonable use of the property.
2. The spirit of the regulations will be observed by denying the variance.

Pursuant to N. C. G. S. Section 160A-388(e2), the Board's decision in Case No. 12-050 may be appealed by a petition for review in the nature of *certiorari* to Superior Court within thirty (30) days from the date stated below, which is the date when the decision of the Board was filed in the Planning Department/Zoning Administration Division, or within thirty (30) days after receipt of the decision by an aggrieved party who filed a written request for such copy with the Clerk to the Board at the time of the hearing of the case, whichever is later.

Sincerely,



Randy Fink
Chairperson

12/20/2012
Date

DECISION FILED IN THE PLANNING DEPARTMENT:

December 20, 2012
Date


Katrina Young, Zoning Administrator