



Kenneth Orr
6925 Foxglove Drive
Charlotte, NC 28226

**RE: VARIANCE
6925 Foxglove Drive
CASE NUMBER 2016-054**

Dear Kenneth Orr:

At its meeting on October 25, 2016, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** a 10.7 foot variance from the required 36 foot setback as shown on recorded plat to allow a single family structure to remain.

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

1. The applicant is Kenneth Orr (represented by Lucas D. Garber, Alexander Ricks, PLLC).
2. The subject parcel is currently zoned R-3 (single family residential).
3. The site is located 6925 Foxglove Drive, further identified Mecklenburg County tax parcel 211-311-61.
4. The existing single family home was built in 1987.
5. The Orr's contend that the home was in violation of the required setback when they purchased the property in 2004.
6. The setback error was discovered on a survey by a potential buyer as the Orr's attempt to sell their property.
7. The Orr's have not been cited for a violation by the City of Charlotte and voluntarily brought this issue to the Zoning Board of Adjustment.
8. The front exterior brick wall of the home is 30.1 feet from the street right-of-way and the covered porch is 25.3 feet from the street right-of-way according to the survey submitted by the applicant (exhibit C).
9. Section 9.205(1)(e2) of the Zoning Ordinance requires a 30 foot setback from the right-of-way line along local and collectors streets approved prior to 12-20-2010 for properties within the R-3 zoning district.
10. Foxglove Drive is a local street approved prior to 12-20-2010.
11. Footnote #1 to Section 9.205(1) states that setbacks shown on a plat recorded at the Register of Deeds shall supersede required zoning setbacks.
12. The plat recorded at the Register of Deeds (map book 21 page 301) indicates a 36 foot setback for the subject property.
13. Pursuant to Section 12.106(1) no principal building or principal structure shall be located within any setback.

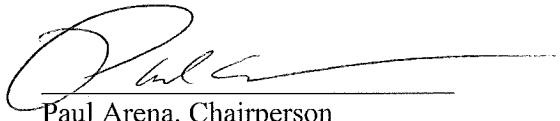
14. The applicant is requesting 10.7 foot variance from the required 36 foot setback as shown on the recorded plat to allow a single family structure to remain.
15. Granting the variance would not substantially detract from the neighborhood character.
16. Several homes in the community that front along Foxglove Drive have covered porches that are similar or the same as the applicants.
17. The home's encroachment into the required setback is not easily detectable and does not change the community character.
18. The hardship is not created by the applicant.

Based upon the above findings of fact, the Board concludes that the applicant has met the standards set forth in North Carolina General Statutes § 160A-388, and more specifically:

1. Unnecessary hardships would result from the strict application of the Ordinance.
2. The hardship results from conditions that are peculiar to the property (location, size or topography).
3. The hardship does not result from actions taken by the applicant or the property owner.
4. The requested variance is consistent with the spirit, purpose, and intent of the Zoning Ordinance, in that the public safety is secured and substantial justice is achieved.

If any permits are required, please make sure the variance case number is referenced on the permit application and/or site plan. Section 5.111 of the Zoning Ordinance provides that unless otherwise specified by the Board, any decision of the Board granting a variance shall automatically expire if a permit or a certificate of occupancy pertaining to the need for the variance is not obtained within two (2) years from the date of the meeting of the Board at which the Board rendered its decision.

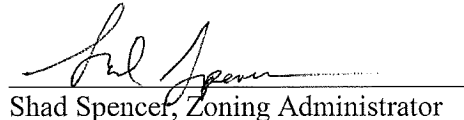
Sincerely,



Paul Arena, Chairperson

12/6/16
Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**



Shad Spencer, Zoning Administrator

12/12/16
Date