



Robert & Debra Cole  
Jennifer Cole  
2211 Mecklenburg Avenue  
Charlotte, NC 28205

**RE: VARIANCE**  
**701 East 37<sup>th</sup> Street**  
**CASE NUMBER 2017-010**

Dear Robert & Debra Cole/Jennifer Cole:

At its meeting on March 28, 2017, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** a variance requesting to eliminate the 10 foot street side yard along the unopened North Alexander Street right-of-way to allow for the expansion of a nonconforming structure.

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

1. The applicants are Robert & Debra Cole (Represented by Jennifer Cole).
2. The proposed site is located 701 East 37<sup>th</sup> Street, further identified as tax parcel 091-106-09.
3. The property is zoned R-5 (single family residential).
4. The single family structure that currently occupies the site was originally built around 1926 according to information from the Mecklenburg County Real Estate Department.
5. The existing structure is considered nonconforming due to the location of the building not meeting the setback of 20 feet and street side yard of 10 feet; in addition, the house encroaches 2.4 feet onto adjacent right-of-way of an unbuilt street.
6. The site is triangularly shaped and relatively small in size as compared to lots within the surrounding area.
7. The property is bordered by East 37<sup>th</sup> Street to the southeast and proposed North Alexander Street to the north.
8. Per Code Section 12.102(7), the minimum required side yard for a corner lot with rear lot line in common with a side lot line is at least 50 percent of the required setback which equates to a 10 foot street side yard along the unopened North Alexander Street right-of-way.
9. The applicants are requesting a variance to eliminate the 10 foot street side yard along the unopened North Alexander Street right-of-way; to allow for a second floor expansion of a nonconforming structure. The existing footprint of the home is not proposed to be expanded.
10. Per Code Section 7.103(5), a nonconforming structure may be expanded, only if the part of the structure to be expanded is brought into conformity with the requirements of the regulations. The applicant has attempted to remedy the situation by purchasing the N. Alexander right-of-way, but the City of Charlotte is unwilling to sale at this time.

**Conditions:**

1. There shall be no expansion into the existing right-of-way and all new construction must remain in the existing footprint of the lot.

**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.

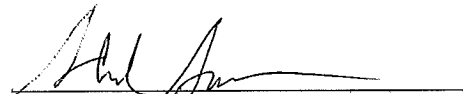
If any permits are required, please make sure the variance case number is referenced on the permit application and/or site plan. Section 5.111 of the Zoning Ordinance provides that unless otherwise specified by the Board, any decision of the Board granting a variance shall automatically expire if a permit 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

4/19/17  
\_\_\_\_\_  
Date

**DECISION FILED IN THE  
PLANNING DEPARTMENT:**

  
\_\_\_\_\_  
Shad Spencer, Zoning Administrator

4/25/17  
\_\_\_\_\_  
Date