



David Frankil & Allison Winshel
C/O John H. Phares
19 Fairway Drive
Cream Ridge, NJ 08514

RE: VARIANCE
729 Templeton Avenue
CASE NUMBER 2017-037

To Whom It May Concern:

At its meeting on August 29, 2017, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** a variance up to 5.5 feet from the 10' street side yard along Myrtle Avenue to allow for a second story addition and first floor expansion to remain.

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

1. The applicants are David Frankil & Allison Winshel (Represented John H. Phares).
2. The applicants purchased the existing structure September 17, 2013.
3. The subject site is located at 729 Templeton Avenue, further identified as tax parcel 123-055-08.
4. The property is zoned R-5 (single family district) and located within the historic district overlay of Dilworth.
5. A single family structure currently occupies the site that was built in 1939.
6. The second floor addition and first floor expansion was constructed around 2007-2008.
7. The previous owner, Louis Michael Gais of Gais Construction obtained a Certificate of Appropriateness in 2007 from the Historic District Commission to build the addition.
8. A building permit was issued by Mecklenburg County Land Use and Environmental Services in June, 2007 to the previous owners, Louis Michael Gais, to allow for the second floor addition and first floor expansion.
9. Per Code Section 9.205(1)(e2), the minimum required setback for an R-5 zoned property is 20 feet.
10. Per Code Section 12.102(7), if in any district, a corner lot has a rear lot line in common with a side lot line of an abutting lot, then the side yard on the street side of the corner lot must be at least 50 percent of the required setback for the abutting lot but not less than 10 feet from the right of way.
11. The abutting lot which has a side line in common with the rear lot line of the subject property is also zoned R-5 and has a 20 foot setback.
12. The required street side yard along Myrtle Avenue for the subject site is 10 feet per Section 12.102(7) of the Zoning Ordinance.
13. The applicants are seeking a variance up to 5.5 feet from the 10' street side yard along Myrtle Avenue to allow for a second story addition and first floor to remain.
14. The encroachment was discovered when a survey was obtained in July, 2017, for the sale of the home.

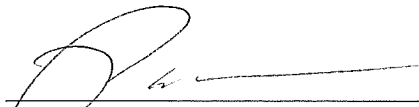
15. The hardship did not result from actions taken by the applicant. The second floor addition and first floor expansion was constructed by the previous property owner.
16. The lot is a corner lot with two street frontages.
17. The dimension of the encroachment is relatively minor and not easy to detect. Unnecessary hardship would result from the strict application of the ordinance by requiring the removal of the two story masonry structure located within the 4.5 foot encroachment area.
18. The subject lot is a corner lot which requires a greater side yard dimension when abutting a street than the typical side yard dimension when abutting another lot.
19. The hardship is unique to the property because of the shape of the lot.
20. Granting the variance will not alter the essential character of the neighborhood.
21. Granting the variance will not adversely affect adjacent or contiguous properties.

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,

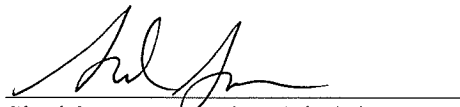


Paul Arena, Chairperson

9/5/17

Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**



Shad Spencer, Zoning Administrator

9/19/17

Date