



Charles Kirby
3214 Rouse Drive
Fayetteville, NC 28306

RE: VARIANCE
1818 Union Street
CASE NUMBER 2017-047

To Whom It May Concern:

At its meeting on November 28, 2017, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** a variance to eliminate the prescribed condition for duplex dwellings within the R-5 zoning district that they must be located on a corner lot in order to allow for the expansion of an existing nonconforming duplex dwelling located on an interior lot.

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

1. The applicant is Charles Kirby.
2. The proposed site is located at 1818 Union Street, further identified as Mecklenburg County parcel number 083-136-05.
3. The parcel's current zoning classification is R-5 (single family residential).
4. The subject property is currently occupied with a duplex dwelling which was constructed in 1965 per Mecklenburg County Real Estate information.
5. Per code section 9.203(6), a duplex dwelling is allowed within the R-5 zoning district provided the use is located on a corner lot.
6. The subject property is located on an interior lot rather than a corner lot as defined by code section 2.201.
7. The existing duplex dwelling is a nonconforming use due to the fact the use was constructed prior to the effective date of the current Zoning Ordinance regulations and does not comply with the current prescribed conditions found in code section 9.203(6) for a duplex dwelling use.
8. Per code section 7.102(3) a nonconforming use shall not be expanded, nor shall a nonconforming use be enlarged by additions to the structure in which the nonconforming use is located or the occupation of additional lands.
9. The applicant is seeking a variance to eliminate the prescribed condition for duplex dwellings within the R-5 zoning district that they must be located on a corner lot in order to allow for the expansion of an existing nonconforming duplex dwelling located on an interior lot.
10. The proposed expansion is to enlarge the kitchen areas within the two dwelling units and accommodate area for a new HVAC system and ductwork.
11. The proposed addition is to the rear of the existing duplex dwelling and can comply with the required 35 foot rear yard of the R-5 zoning district.
12. The purpose and applicability statement found in code section 7.101 states purpose of the nonconformities chapter is to regulate and limit the continued existence of uses and structures lawfully established prior to the effective date of these regulations that do not conform to these regulations.

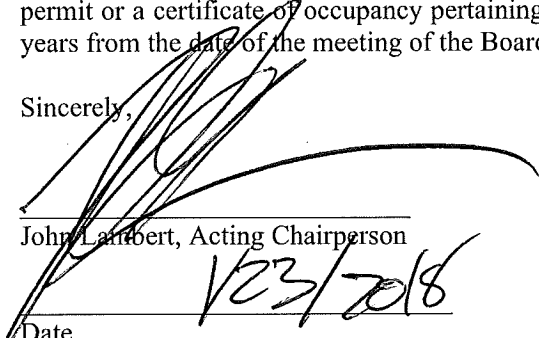
13. There is no evidence of hardship.

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,



John Lambert, Acting Chairperson

Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**



Shad Spencer, Zoning Administrator

Date

1/29/18