



William F. Purvis  
11701 Merriweather Drive  
Charlotte, NC 28273

**RE: VARIANCE  
11701 Merriweather Drive  
CASE NUMBER 2018-022**

To Whom It May Concern:

At its meeting on April 24, 2018, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** three variances to allow for an accessory detached garage structure to remain and to allow for the second floor to be up fitted for an accessory dwelling unit (ADU).

1. A 3.3 foot variance from the required 15 foot street side yard from the right-of-way Antebellum Drive.
2. A 100 square foot variance from the maximum allowable 620 square feet of heated area for an ADU to be constructed within the existing accessory structure.
3. To allow the accessory structure in which the ADU is proposed to be located to exceed the height of the principal structure.

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

Site Information

1. The applicant is William F. Purvis, Jr.
2. The proposed site is located at 11701 Merriweather Drive, further identified as tax parcel 201-253-41.
3. The property is zoned R-3 (single family residential) and is occupied by a single family structure built in 1984 and an unfinished accessory building.
4. The principal one-story single family home has a heated floor area of 1,120 square foot and a total floor area of 1,240 square feet.

History on Original Permit

5. In February 2017, a building permit was approved for the subject property to construct a two story accessory structure. The structure was indicated on the permit as a 1,440 square foot detached garage with dry storage on the second floor. The face of the garage was indicated to face Antebellum Drive.
6. Code section 9.205(1)(e2) indicates a minimum setback of 30 feet for a residential use within the R-3 zoning district when located along right-of-way approved prior to December 20, 2010.
7. Code section 12.102(7) states that if 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. The abutting lot is also zoned R-3. Therefore, the required street side yard for this subject property is 15 feet along Antebellum Drive.
8. Code Section 12.206(3) requires that garages on single family lots that face a right-of-way are required to be a minimum of 20 feet from the back of right-of-way.

9. Code Section 12.106(2)(a) states that no accessory structure, excluding the square footage of an accessory dwelling unit (ADU) shall exceed the total square footage of the heated area located on the first floor of the principal structure. Therefore, the maximum size for accessory structures which do not contain an ADU on this site is 1,120 square feet.
10. City staff correctly identified the 20' setback for the front loaded detached garage identified on the permit but City staff incorrectly issued the permit for an accessory structure that exceeded the square footage allowed by Code Section 12.106(2)(a). The 1,440 square foot accessory garage with storage is 320 square feet larger than the allowed size of 1,120 square feet.

#### Modifications Since Original Permit

11. Since the original building permit was issued, the front loaded garage was modified to be a side loaded garage that no longer has garage doors that front Antebellum Drive. Therefore, the 20 foot setback indicated in Section 12.206(3) no longer applies. The 15 foot street side yard identified in Section 12.102(7) applies to the subject accessory structure.
12. The accessory structure was incorrectly placed 11.7 feet from the right-of-way line of Antebellum Drive. This would have been an 8.3 foot encroachment into the 20 foot setback on the original permit but is now a 3.3 foot encroachment into the 15 foot street side yard due to the reorientation of the garage doors.
13. Since the original building permit was issued, the applicant is proposing to convert the 720 square foot second floor dry storage area into an ADU.
14. Code Section 12.407(6)(a) indicates that an ADU within an accessory structure shall have a floor area no greater than 50% of the principal structure and in no case exceed 800 heated square feet. Therefore, the proposed ADU is limited to a heated floor area of 620 square feet based on the total floor area of the principal home being 1,240 square feet.
15. Code Section 12.407(6)(b) indicates that an ADU within an accessory structure shall be no taller than the principal dwelling. Per a survey provided by the applicant and conducted by SHM Surveying & Mapping, P.A. dated February 9, 2018, the accessory structure has a height of 22.9 feet which is taller than the height of the principal dwelling which has a height of 18.2 feet.

#### Variance Information

16. The applicant is seeking three variances: (1) a 3.3 foot variance from the required 15 foot street side yard from the right-of-way Antebellum Drive, (2) a 100 square foot variance from the maximum allowable 620 square feet of heated area for an ADU to be constructed within the existing accessory structure, and (3) to allow the accessory structure in which the ADU is proposed to be located to exceed the height of the principal structure.
17. An inadvertent error occurred when City staff issued the original building permit which allowed the original concept of the accessory structure that included dry storage to exceed the maximum allowed square footage by 320 square feet.
18. Based on the proposed conversion of the dry storage area into an ADU, the amount of the area that exceeds the various Zoning Ordinance size limitations has decreased from 320 square feet to 100 square feet.
19. The 20 foot setback along Antebellum Drive was correctly identified on the original permit based on the placement of the front loaded garage. The applicant's contractor incorrectly placed the accessory structure 11.7 feet from the right-of-way of Antebellum Drive.
20. Due to the reorientation of the garage doors such that they no longer front Antebellum Drive, the required setback/street side yard from Antebellum Drive was reduced from 20 feet to 15 feet. Therefore, the encroachment and the variance request were reduced from 8.3 feet to 3.3 feet.
21. Based on the minor dimensional encroachment and the curvature of Antebellum Drive in the area of the accessory structure, the encroachment is not easily detectable.

22. The hardship was not a result of the actions of 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

5/8/18  
Date

**DECISION FILED IN THE  
PLANNING DEPARTMENT:**

  
Shad Spencer, Zoning Administrator

5/14/18  
Date