



John Lambert
1935 Brunswick Avenue
Charlotte, NC 28207

**RE: VARIANCE
1935 Brunswick Avenue
CASE NUMBER 2018-045**

To Whom It May Concern:

At its meeting on July 31, 2018, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** three variances to allow for the second floor of an existing accessory structure to be converted from storage to an accessory dwelling unit (ADU):

- 1) a 12.9 foot variance from the required 15 foot rear setback requirement,
- 2) a 1.5 foot variance from the required 5 foot side yard, and
- 3) allow the ADU to exceed the height of the principle dwelling.

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

1. The applicant is John Lambert.
2. The proposed site is located at 1935 Brunswick Avenue, further identified as tax parcel 153-031-03.
3. The property is zoned O-2 (Office District).
4. John Lambert purchased the property in November 2013.
5. The single family structure that currently occupies the site was built in 1942.
6. In 2004, previous owners obtained a permit to construct a detached garage with storage to the rear of the single family home.
7. The storage area on the second floor of the detached garage is proposed to be converted into an ADU.
8. ADU's were not permitted in 2004. In 2012, a text amendment was adopted by City Council to allow ADU's within office zoning districts with prescribed conditions.
9. Per Code Section 12.407(6)(a), in no case shall the ADU exceed 800 heated square feet.
10. The second floor of the accessory structure where the ADU is proposed is already constructed and contains a heated floor area of approximately 425 square feet.
11. Per Code Section 12.407(6)(b), the accessory structure containing the ADU shall be no taller than the principal dwelling.
12. The accessory structure in which the ADU is proposed is taller than the principal structure.
13. Per Code Section 12.407(6)(c), the ADU shall not be any closer than 15 feet to a rear property line or along any side property line within the required side yard dimension. The required side yard dimension within the O-2 zoning district is five feet.
14. Per Code Section 12.106(5), the allowed three foot encroachment of gutters and eaves within required yards does not apply to accessory structures.

15. The survey provided by the property owner indicates the rear of the existing accessory structure being 3.1 feet from the rear property line and 4.5 feet from the left side property line. This dimension on the survey did not take into account the 1.5 foot gutters/eaves.
16. The applicant is requesting the following three variances to allow for the second floor of an existing accessory structure to be converted from storage to an ADU:
 - 1) A 13.4 foot variance from the required 15 foot rear setback requirement,
 - 2) A 2 foot variance from the required 5 foot side yard, and
 - 3) Allow the ADU to exceed the height of the principle dwelling.
17. ADU's are allowed within office zoning districts. However, the existing accessory structure in which the proposed ADU is to be located does not meet the prescribed conditions of Section 12.407 of the Zoning Ordinance.
18. Based on information provided within the application, deed restrictions create unique and preventative restrictions for expanding the current footprint of the principal single family home.
19. The width of the lot is approximately 65 feet which is less than the majority of the single family lots within the area which typically range from 75 feet to 100 feet.
20. The depth of the lot is approximately 140 feet which is less than the majority of the single family lots within the area which typically range from 170 feet to well over 200 feet.
21. The accessory structure has been in existence since 2004 and there are no exterior aesthetic changes to the structure proposed. The applicant only proposes to make interior renovations to convert the second floor storage area to an ADU.
22. The subject property is zoned office and is the last single family home on the block. There is a single family home south of the site and an office building north of the site.
23. Allowing an ADU to be located within the existing accessory structure will not change nor detract from the character of the surrounding neighborhood.

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

8/23/18
Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**


Shad Spencer, Zoning Administrator

8/29/18
Date