



Michael & Heather Maykowski
601 Heather Lane
Charlotte, NC 28209

**RE: VARIANCE
601 Heather Lane
CASE NUMBER 2018-066**

To Whom It May Concern:

At its meeting on September 25, 2018, the City of Charlotte Zoning Board of Adjustment ("Board") **granted 2 variances:**

1. A 5 foot variance from the 10 foot side yard requirement to allow for an attached garage to be constructed on the existing principal structure.
2. A 5 foot variance from the required 10 foot side yard to allow for an existing addition to remain on the principal structure.

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

1. The applicants are Michael and Heather Maykowski.
2. The proposed site is located at 601 Heather Lane, further identified as tax parcel 149-211-23.
3. The one-family detached dwelling currently occupying the site was built around 1983.
4. The property is zoned R-12MF (CD) (multi-family residential, conditional).
5. The subject site was part of a larger conditional rezoning for the Selwyn Farm development approved by the Charlotte City Council in December, 1981.
6. The site is subject to the 1981 Charlotte Zoning Ordinance in effect at the time of the approval of the conditional rezoning.
7. Per Code Section 23-41 from the 1981 Zoning Ordinance, the minimum side yard is 10 feet for one-family detached dwellings within the R-12MF (CD) zoning district.
8. Code Section 9.305(1)(f) from the current Zoning Ordinance for R-12MF zoned properties require a minimum 5 foot side yard for detached dwellings.
9. City staff incorrectly provided the 5 foot minimum side yard requirement of the current Zoning Ordinance to the applicant rather than the minimum 10 foot side yard required at the time the subject property was conditionally rezoned.
10. The applicant received a building permit to add an addition to the right side of the principal structure in 2010. The permit was issued based on the current minimum 5 foot side yard rather than the minimum 10 foot side yard in place in 1981. The addition encroaches approximately 5 feet into the minimum 10 foot side yard.
11. Building plans for a proposed attached garage on the left side of the principal structure have been completed and a swimming pool has been installed based upon the minimum 5 foot side yard information provided by the City.
12. The applicant is requesting 2 variances:

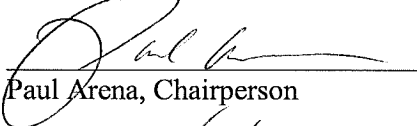
1. A 5 foot variance from the 10 foot side yard requirement to allow for an attached garage to be constructed on the existing principal structure.
2. A 5 foot variance from the required 10 foot side yard to allow for an existing addition to remain on the principal structure.
13. The hardship did not result from actions taken by the applicant.
14. The lot is an irregularly shaped lot where the side property lines angle inward as they extend towards the rear of the lot (i.e. pie shaped lot).
15. The majority of the proposed attached garage will comply with the minimum required 10 foot side yard except for a portion where the side property line angles inward and narrows the lot width towards the rear of the property.
16. Unnecessary hardship would result from the strict application of the Ordinance by requiring the removal of the 2010 addition and preventing the construction of an attached garage that has been designed for placement on the property based on incorrect information.
17. The encroachment is minimal and not visibly noticeable.
18. Granting the variance will not alter the essential character of the 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.

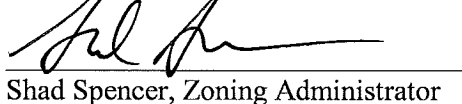
If any permits are required, please make sure the variance case number is referenced on the permit application and/or site plan. Section 5.111 of the Zoning Ordinance provides that unless otherwise specified by the Board, any decision of the Board granting a variance shall automatically expire if a permit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

10/3/18
Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**


Shad Spencer, Zoning Administrator

10/9/18
Date