



1430SMINTLLC
Represented by Mark Linch
10418 Counts Place
Charlotte, NC 28277-1743

RE: VARIANCE
3945 Rockfern Road
CASE NUMBER 2018-068

To Whom It May Concern:

At its meeting on October 30, 2018, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** a variance from the accessory dwelling unit provision of the Zoning Ordinance that requires such structures to be no taller than the principal dwelling in order for an existing accessory structure which exceeds the height of the existing principal dwelling by 3.3 feet to be converted to an accessory dwelling unit.

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

1. The applicant is 1430SMINT LLC (Represented by Mark Linch).
2. The proposed site is located at 3945 Rockfern Road, further identified as tax parcel 143-162-09.
3. The property is zoned R-4 (single family residential).
4. Per the Mecklenburg County tax records, the single family home that currently occupies the site was built in 1962 and the accessory structure was constructed in 1986.
5. The accessory structure was constructed as a two bay garage with a workshop.
6. Per a survey of the subject property by Thomas E. White dated February 13, 2018, the accessory structure has a height of 19.8 feet and the principal dwelling has a height of 16.5 feet. The accessory structure is 3.3 feet taller than the principal dwelling.
7. Per Code Section 12.407(6)(b), an accessory structure containing an ADU shall be no taller than the principal dwelling.
8. The applicant is requesting a variance from the ADU provision of the Zoning Ordinance that requires such structures to be no taller than the principal dwelling in order for the existing accessory structure which exceeds the height of the existing principal dwelling by 3.3 feet to be converted to an ADU.
9. The workshop and one garage bay of the accessory structure are proposed to be converted into an ADU which will equate to approximately 784 square feet.
10. Per Code Section 12.407(6)(a), in no case shall the ADU exceed 800 heated square feet.
11. Per Code Section 12.407(6)(c), an 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 R-4 zoning district is five feet.
12. Per the survey provided by the applicant, the accessory structure in which the ADU is proposed is located more than 15 feet from both the rear and side property lines.

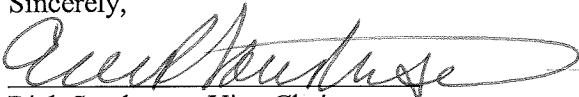
13. The topography of the property slopes down approximately 4 feet from the location of the principal dwelling to the location of the accessory structure. Based on the topography, the accessory structure does not have the appearance of being taller than the principal dwelling as seen from Rockfern Road.
14. The depth of the subject lot is approximately 300 feet which is significantly greater than the surrounding properties which have an average depth of 200 feet.
15. The accessory structure is approximately 150 feet from Rockfern Road.
16. The rear portion of the property is heavily vegetated with trees which create a buffer from surrounding properties.
17. The accessory structure has been in existence since 1986 and there are no expansions to the structure proposed. The applicant only proposes to make exterior cosmetic changes and interior renovations to convert one garage bay and the workshop of the accessory structure to an ADU.
18. 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,



Rick Sanderson, Vice-Chairperson

11/2/18
Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**


Shad Spencer, Zoning Administrator

11/19/18
Date