



Optimus Properties
Represented by Wes Piatt
615 Walnut Street
Davidson, NC 28036

**RE: VARIANCE
2801 Glendale Road
CASE NUMBER 2018-072**

To Whom It May Concern:

At its meeting on October 30, 2018, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** a 5 foot variance from the required 15 foot street side yard to allow for an existing structure to remain in its existing condition.

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

1. The applicant is Optimus Properties (Represented by Wes Piatt).
2. The proposed site is located at 2801 Glendale Road, further identified as tax parcel 175-094-08.
3. The subject property and all abutting properties are zoned R-4 (single family district).
4. A single family structure built in 2016 currently occupies the site.
5. Code section 9.205(1)(e2) indicates a minimum setback of 30 feet for a residential use within the R-4 zoning district when located along right-of-way approved prior to December 20, 2010.
6. 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. Therefore, the required street side yard for this subject property is 15 feet along Colony Road.
7. Per a physical survey of the subject property provided by the applicant, a portion of the left exterior wall of the house encroaches approximately 4.64 feet into the required street side yard. The survey also indicates a cantilevered fireplace encroaching slightly over one foot into the street side yard.
8. The portion of the existing home which encroaches in the street side yard utilized the original foundation of the porch of the previous home located on the site.
9. The applicant is requesting a 5 foot variance from the required 15 foot street side yard to allow for an existing structure to remain in its existing condition.
10. A demolition permit was issued for the subject property on July 13, 2016 to demolish the entire previous home on the site except for the porch which encroached into the required street side yard.
11. A building permit was issued on July 15, 2016 for the construction of a new single family dwelling on the subject site.
12. The building permit was inadvertently issued which allowed for the reuse of a portion of the original foundation of the previous nonconforming home that had been demolished.

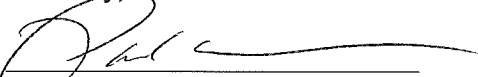
13. Utilizing an existing foundation of a demolished home which encroaches into a required setback or yard does not maintain the nonconforming status of a structure.
14. The hardship was created as a result of a building permit being issued in error which allowed for a portion of the home to be constructed within the required street side yard.
15. The dimension of the encroachment is relatively minor and not easy to detect.
16. The subject lot is a corner lot which requires a greater side yard dimension when abutting a street than the typical side yard dimension when abutting another lot.
17. Granting the variance will not alter the essential character of the neighborhood.
18. Granting the variance will not adversely affect adjacent or contiguous properties.

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,

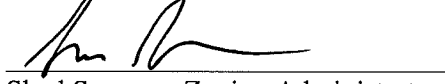


Paul Arena, Chairperson

11/2/18

Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**



Shad Spencer, Zoning Administrator

11/7/18

Date