



Charles and Mary Anne Mauldwin  
Represented by David W. Murray, The Odom Firm, PLLC  
22001 Shearer Road  
Davidson, NC 28036

**RE: VARIANCE**  
**2411 Derita Avenue**  
**CASE NUMBER 2018-082**

To Whom It May Concern:

At its meeting on December 11, 2018, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** following two variances to allow for portions of the existing principal structure and an accessory structure to remain if the subject property is granted a rezoning to the Institutional (INST) zoning designation:

1. A 14 foot variance from the required 20 foot INST side yard to allow an existing storage building to remain along the site's southern boundary.
2. A 12 foot variance from the required 18 foot Class C Buffer for the proposed institutional use to allow an existing storage building to remain along the site's southern boundary.

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

1. The applicants are Mary Anne and Charles Mauldwin (Represented by David W. Murray, The Odom Firm, PLLC)
2. The proposed site is located 2411 Derita Avenue, further identified as tax parcel 045-130-18.
3. The principal structure currently occupying the site was built approximately 1926.
4. The property is approximately 1.7 acres in lot area.
5. The property is currently zoned R-3 (single family district) and is the subject of a proposed rezoning to a conditional institutional (INST(CD)) zoning designation.
6. The placement of the existing accessory storage building is in compliance with the regulations associated with accessory buildings for single family dwellings.
7. The use of the subject site was converted from single family residential to a wedding event facility which is not a permitted use in the R-3 zoning district.
8. A zoning notice of violation was issued on this subject property earlier this year due to the use of the site.
9. The proposed rezoning to INST will bring the wedding event use into compliance with the Zoning Ordinance. However, the INST zoning designation will result in non-compliance of the existing storage building on the property with yard and buffer requirements.
10. The applicant is requesting two variances based on the side yard and buffer requirements. These requests include:
  - a. A 14-foot variance from the required 20-foot INST side yard to allow an existing storage building to remain along the site's southern boundary.

- b. A 12-foot variance from the required 18-foot Class C Buffer for the proposed institutional use to allow an existing storage building to remain along the site's southern boundary.
11. The applicant submitted a site plan depicting the portion of the existing structure that will encroach into the required side yard and buffer.
  12. Per Code Section 9.505(1)(e), the minimum required side yard for the INST zoning district is 20 feet.
  13. Per Code Section 12.302, a class C buffer with a minimum width of 18 feet for an approximate 1.7-acre parcel is required in the INST zoning district for institutional uses adjacent to single family residential uses.
  14. The storage building along the southern property line encroaches up to 14 feet into the required 20-foot side yard and 12 feet into the required 18-foot buffer.
  15. The storage building has a solid rear wall and itself acts as a wall and buffer between the proposed event facility and the adjacent residential houses.
  16. A portion of the storage building was expanded without a permit and the applicant has agreed as a condition of the variance to remove the unpermitted portion of the building at the time the rezoning is approved and permits are obtained.
  17. The class "C" buffer will be installed in all areas other than the areas covered by the existing accessory storage building.
  18. The hardship is a result of the placement of the existing structures on the subject site and the applicant's attempt to reuse the existing structures upon approval of the rezoning to the INST zoning district.
  19. The hardship is unique to the subject property and is not shared by the neighboring properties.
  20. Granting the variance would not alter the essential character of the neighborhood, because the abutting properties are large lots with residential structures which are not located near the existing storage building on the subject property.

**Conditions of the Variance:**

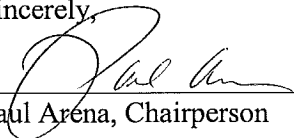
1. The variance is conditioned on the subject property being rezoned.
2. The unpermitted extensions of the storage building shall be removed at the time the rezoning is obtained from City Council and permits are obtained.
3. The variance will expire when/if the storage building is removed from the property.

**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.

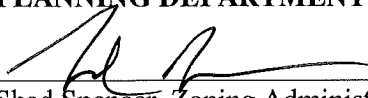
If any permits are required, please make sure the variance case number is referenced on the permit application and/or site plan. Section 5.111 of the Zoning Ordinance provides that unless otherwise specified by the Board, any decision of the Board granting a variance shall automatically expire if a permit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

  
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Paul Arena, Chairperson

12/14/18  
\_\_\_\_\_  
Date

**DECISION FILED IN THE  
PLANNING DEPARTMENT:**

  
\_\_\_\_\_  
Shad Spencer, Zoning Administrator

12/21/18  
\_\_\_\_\_  
Date