



Mauricio Trejos & Kimberly Kyle-Trejos
14418 Arbor Ridge Drive
Charlotte, NC 28273

RE: VARIANCE
14418 Arbor Ridge Drive
CASE NUMBER 2019-022

To Whom It May Concern:

At its meeting on April 30, 2019, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** a 5 foot rear yard encroachment of the 1999 heated addition and sunroom on the existing single family residence.

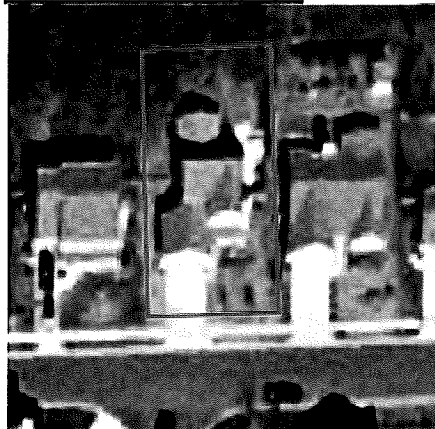
The Board based its decision on the following findings of fact:

1. The applicants are the property owners, Kimberly Kyle-Trejos & Mauricio Trejos.
2. The site is located at 14418 Arbor Ridge Drive, further identified as tax parcel number 201-422-38.
3. The property is zoned R-5(CD) (single family, conditional).
4. The site is comprised of approximately 0.15 acres.
5. The property is located in The Crossings subdivision which was approved through a Mecklenburg County conditional rezoning in 1996 (petition number: 1996-005(C)).
6. The property is subject to the required 35 foot rear yard, and 5 foot side yard of the R-5 (single family) zoning district.
7. The original single family structure on the site was built in 1998, and complied with the required 35 foot rear yard and 5 foot side yard. The original home footprint can be seen in 1999 aerial photography.

1999 Aerial Photograph

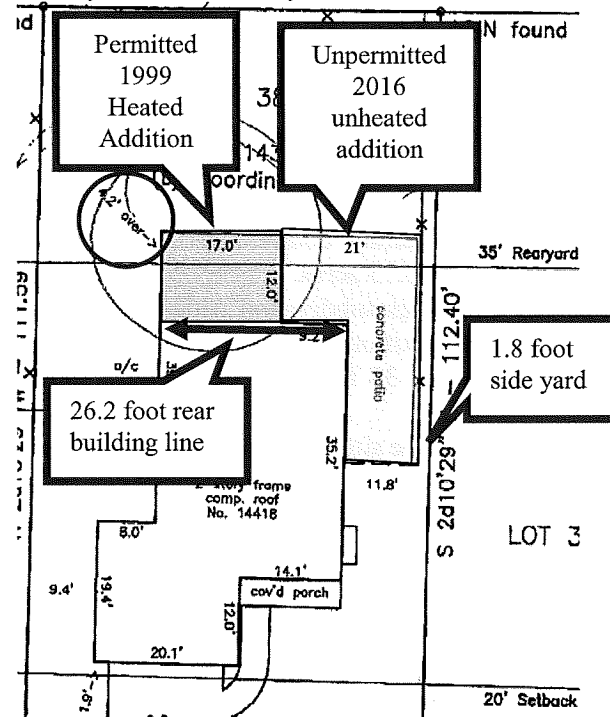


2001 Aerial Photograph



8. In 1999 a permit was issued for a 204 square foot heated addition. The permit specified the required 35 foot rear yard, and 5 foot side yards. The addition encroached into the rear yard 4.2 feet and can be seen in 2001 aerial photography. No one was aware of the encroachment at that time.
9. In June 2002 the applicants purchased the property and had a survey prepared which showed the 4.2 foot rear yard encroachment of the 1999 permitted addition. The applicants purchased additional title protection due to the encroachment.
10. Between 2010 and 2016, the applicants constructed a sunroom without a permit. The sunroom extends the noncompliant 4.2 foot rear yard encroachment by 21 feet. The sunroom also encroaches into the required 5 foot right side yard 3.2 feet, leaving a 1.8 foot established side yard.

February 19, 2002 Survey with 1999 & 2016 Additions



11. The 5 foot rear yard encroachment of the 1999 heated addition and sunroom is not a result of the applicants' actions. The addition was permitted and the encroachment was not discovered until a survey was created for the sale of the property.
12. The act of purchasing the property with knowledge that circumstances exist that may justify granting a variance shall not be regarded as a self-created hardship.
13. The 1999 addition is centered toward the middle of the property. The rear yard encroachment would not significantly detract from the pattern of the neighborhood's residential backyard character. Although it doesn't encroach into the rear yard, the adjacent property to the right also has a rear yard addition of approximately the same size.
14. The rear yard abuts Common Open Space for the subdivision, separating the encroachment area from impact on other single family homes.
15. The granting of the variance for the permitted 1999 addition ensures safety since the work was constructed and inspected to NC Building Codes through the permitting process.

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.

At its meeting on April 30, 2019, the City of Charlotte Zoning Board of Adjustment ("Board") **denied** a 3.2 foot side yard encroachment of the sunroom addition on the existing single family residence.


16. A concrete patio existed at the time of purchase to the side of the 1999 addition, encroaching into the side yard 3.2 feet. This is compliant with the Zoning Ordinance, Code Section 12.106, which allows a patio at grade to be located in any required setback or yard.
17. Between 2010 and 2016 the applicants constructed a sunroom over the existing patio area, which is not compliant with the side yard requirement of the Zoning Ordinance. Constructing the sunroom encroached into the 5 foot side yard 3.2 feet, leaving a 1.8 foot established side yard.
18. The sunroom was built without obtaining a building permit that is required by code Section 4.102.
19. The hardship is a result of actions taken by the property owners.
20. The side yard requirement is not peculiar to the property and are shared by R-5 zoned properties.
21. The requested variance is out of character with neighboring properties, which appear to all observe the 5 foot side yard in aerial photography and field visit.

Based upon the above findings of fact, the Board concludes that the applicant has not met the standards set forth in North Carolina General Statutes § 160A-388, and more specifically:

1. Unnecessary hardships would not result from the strict application of the Ordinance.
2. The hardship does not result from conditions that are peculiar to the property (location, size or topography).
3. The hardship is a result from actions taken by the applicant or the property owner.
4. The requested variance is not 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

Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**


Shad Spencer, Zoning Administrator

Date

5/17/19

5/29/19

