



Patrice Pickett (Oscar Agurs)
1916 Darbywine Drive
Charlotte, NC 28216

RE: VARIANCE
5415 East W T Harris Blvd
CASE NUMBER 2019-026

To Whom It May Concern:

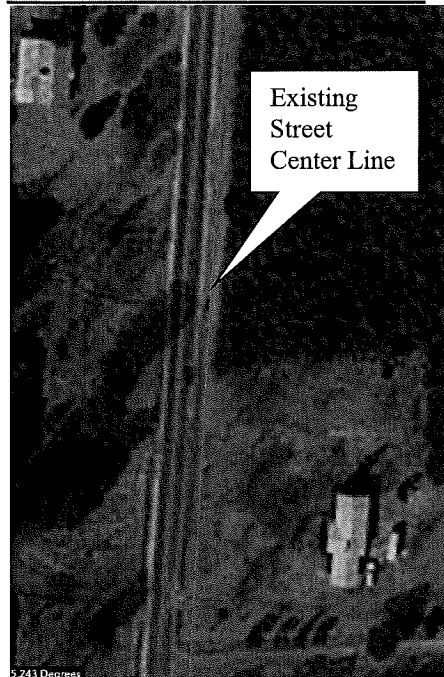
At its meeting on May 28, 2019, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** two variances to allow for the construction of a new single family dwelling on the lot.

1. A 35 foot reduction from the 55' front setback per the recorded subdivision plat to allow a 20 foot setback.
2. A 10 foot reduction from the 45 foot rear yard to allow a 35 foot rear yard.

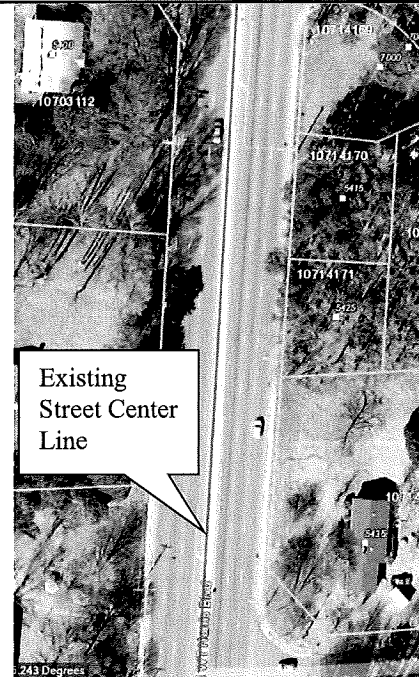
The Board based its decision on the following findings of fact:

1. The applicant is Patrice Pickett (Represented by Oscar Agurs).
2. The proposed site is located at 5415 East W.T. Harris Boulevard, further identified as tax parcel 107-141-70.
3. The property is zoned R-3 (single family) and is currently vacant.
4. The lot was created through an R-15 (single family) Cluster Subdivision development as shown on an approved plat dated January 27, 1984.
5. The approved setback shown on the plat is 55 feet from East W.T. Harris Blvd right-of-way. Per code section 9.205(1) Footnote 1 this supersedes the R-3 setback requirement of 30 feet.
6. Per code section 9.205(1)(g), the required rear yard in the R-3 zoning district is 45 feet. The plat for the property showed a minimum rear yard of 35 feet, which does not supersede the current R-3 rear yard requirement.
7. The depth of the lot was approximately 120 feet as shown on the approved plat when the property was created in 1984.
8. The current lot depth is shown as approximately 81 feet on a survey dated April 8, 2019.
9. The applicant is requesting two variances to allow the construction of a single family dwelling on the property: (1) A 35 foot reduction from the 55 foot setback per the recorded subdivision plat to allow a 20 foot setback; (2) A 10 foot reduction from the 45 foot rear yard to allow a 35 foot rear yard.
10. The subject property lost approximately 40 feet of depth when East W.T. Harris Boulevard was widened.
11. The current rear yard requirement of 45 feet for R-3 zoning, imposes an additional 10 feet from the 35 foot rear yard shown on the approved plat.
12. The East W.T. Harris Boulevard improvements disproportionately impacted the property to the east including the subject property area. Aerial photos from 2017 and 1978, with a map layer of the existing street centerline, show the current centerline along the eastern edge of the 1978 roadway.

1978 Aerial Photo of W.T. Harris



2017 Aerial Photo of W.T. Harris



13. If a home had been built on the property in 1984, and had the lot depth, setback and rear yard shown on the plat, a building footprint with a 30 foot depth would have been permitted. The lot is a legal non-conforming lot.
14. The existing lot depth of 81 feet, the 55 foot setback, and the 45 foot rear yard requirement, would not allow any building footprint depth. There would be a deficit of approximately 19 feet, where the setback and rear yard would overlap.
15. The subject variance request would result in a 20 foot setback and 35 foot rear yard, allowing a building depth of 26 feet, which is consistent with the building footprint intended for the lot on the approved plat (30 feet).
16. The request for a 35 foot rear yard is consistent with the 35 foot rear yard shown on the approved plat.
17. The depth of the lot is approximately 81 feet, and is not sufficient to permit a single family home without a variance.
18. The hardship is not a result of the applicants actions, and is the result of Zoning Ordinance regulations, and improvements to East W.T. Harris Boulevard.
19. Granting the variance will not alter the essential character of the area.
20. Granting the variance will not adversely affect adjacent or contiguous properties.
21. The hardship is unique to the property because of the depth of the existing lot.
22. The applicant's act of purchasing the property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

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, Acting-Chairperson

6/3/19
Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**



Shad Spencer, Zoning Administrator

6/11/19
Date

