



Bruce & Wanda Mae Smith (Represented by FisherHerman Construction, LLC)  
5427 President Avenue  
North Highlands, CA 95660

**RE: VARIANCE**  
**106 Stillwell Oaks Circle**  
**CASE NUMBER 2019-037**

To Whom It May Concern:

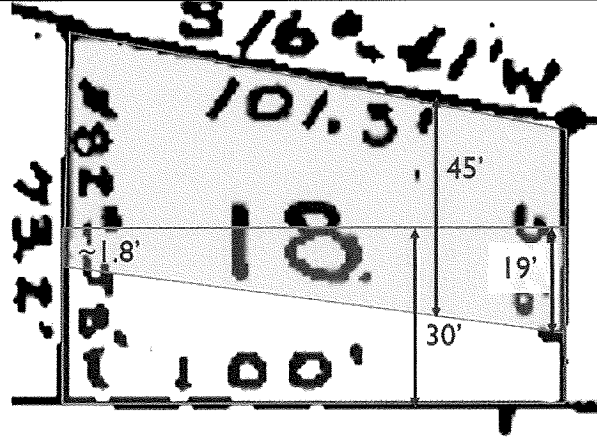
At its meeting on June 25, 2019, the City of Charlotte Zoning Board of Adjustment ("Board")  
**granted** two variances to allow a single family home to be constructed:

1. A 33 foot variance from the 45 foot rear yard to allow a 12 foot rear yard.
2. A 10 foot variance from the 30 foot setback to allow for a 20 foot setback.

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

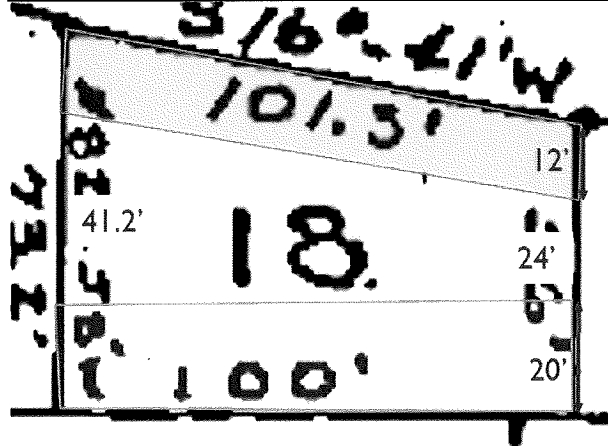
1. The applicants are Bruce & Wanda Mae Smith (Represented by Fisher Herman Construction, LLC).
2. The proposed site is located at 106 Stilwell Oaks Circle, further identified as tax parcel 103-052-01.
3. The property is zoned R-3 (single family) and is currently vacant.
4. The lot was created in 1950 through the approved plat Map Book 6 Page 347, and no setbacks or yards were shown.
5. The property has not been altered and remains as it was shown on the approved subdivision plat.
6. The property is 0.15 acres, or approximately 6,534 square feet. The lot is not in compliance with the minimum lot area of 10,000 square feet for detached dwellings in the R-3 zoning district per Section 9.205(1)(c) of the Zoning Ordinance.
7. The lot meets the definition of a nonconforming vacant lot since it doesn't meet the current ordinance requirements for minimum lot size.
8. According to Zoning Ordinance Section 7.105(2) Nonconforming Vacant Lots, the lot shall not be used if it could be combined with adjoining lot(s) owned by the same person on or before the effective date of these regulations in order to create one or more conforming lots. The owner of the subject property doesn't own any of the adjacent parcels, and therefore would not be required to combine the lot with an adjoining lot.
9. According to Zoning Ordinance Section 7.105(1) Nonconforming Vacant Lots, since the lot is not required to be combined, the lot may be used for any use permitted in R-3, provided that it meets the minimum requirements for setback and yards.
10. The minimum setback for properties in the R-3 zoning district is 30 feet, and the minimum rear yard is 45 feet.
11. The depth of the subject lot varies between approximately 56 and 73 feet across the width of the lot.
12. When the current setbacks for the R-3 zoning district are applied to the lot, it does not allow any building footprint depth. There would be a deficit of approximately 1.8 to 19 feet, where the setback and rear yard would overlap.

**R-3 Required 30 Foot Setback & 45 Foot Rear Yard**

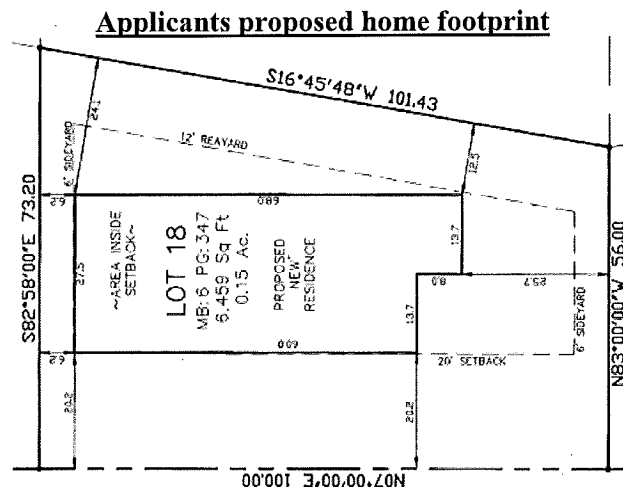


13. The applicant is requesting two variances to allow the construction of a single family dwelling on the property: (1) A 33 foot variance from the 45 foot rear yard to allow a 12 foot rear yard. (2) A 10 foot variance from the 30 foot setback to allow for a 20 foot setback.
14. The requested variance would allow a building depth of approximately 24 feet to 41 feet.

**Requested 20 Foot Setback & 12 Foot Rear Yard**



15. The requested variance will accommodate the applicants house plan for the property by providing the needed building footprint to construct the home, which has a 27.5 foot depth.



16. The existing lot depth of 56 to 73 feet is not sufficient to permit a single family home without a variance.
17. Other lots in the area have an average approximate depth of 200 feet.
18. The hardship is not a result of the applicant's actions and is the result of Zoning Ordinance regulations on the nonconforming vacant lot.
19. The applicants stated in an email that they have exhausted the remedy of gaining additional property from the property owner to the rear. The adjoining property owner was not willing to sell due to concerns over possible conditions and fees to their mortgage lender for releasing land from the deed of trust.
20. Granting the variance will not alter the essential character of the area. The proposed home has a 27.5 foot depth, and the adjacent homes have depths of approximately 41 feet (home to the left) and 27 feet (home to the right).
21. Granting the variance will not adversely affect adjacent or contiguous properties.
22. The hardship is unique to the property because of the depth of the lot.
23. 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 does result 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

6/27/19

Date

**DECISION FILED IN THE  
PLANNING DEPARTMENT:**



Shad Spencer, Zoning Administrator

7/9/19

Date