



Jason M. & Courtney M. Henry
3536 Fielding Avenue
Charlotte, NC 28211

**RE: VARIANCE
3536 Fielding Avenue
CASE NUMBER 2019-044**

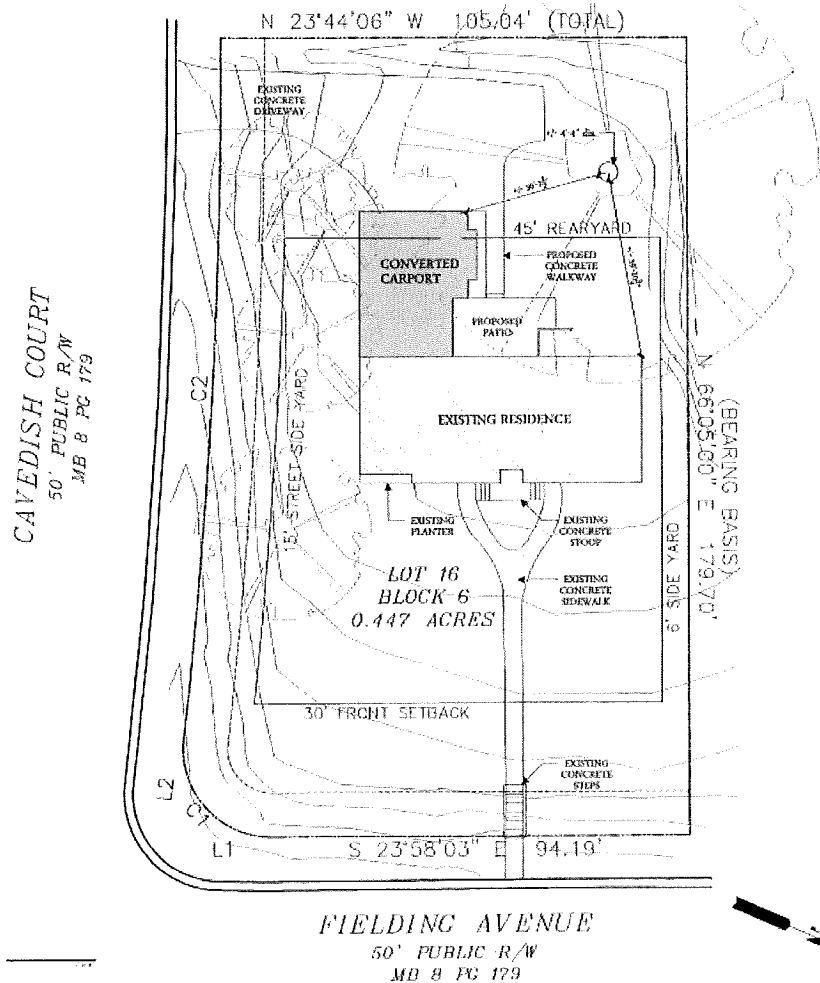
To Whom It May Concern:

At its meeting on August 27, 2019, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** a 6-foot variance from the required 45 foot rear yard to allow the conversion of an existing carport into heated living space.

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

1. The applicants are Jason M. & Courtney M. Henry.
2. The proposed site is located at 3536 Fielding Avenue, further identified as tax parcel 185-051-18.
3. The property is zoned R-3 (single family).
4. The property is approximately 0.45 acres in size.
5. Per Code Section 9.205(1)(g), the minimum required rear yard for R-3 is 45 feet.
6. The existing single-family home on the property was built around 1960, and aerial photography from 1978 shows that no additions have been made since that time.
7. There is an existing carport in the rear of the home that encroaches into the required rear yard 6 feet as shown on the applicant's survey dated April 30, 2019.
8. The existing unheated carport is compliant with the Zoning Ordinance, and permitted to encroach 25% in the rear yard, or up to 11.25, feet per Code section 12.106(3)(b).
9. The applicants want to convert the existing carport into heated living area, which would not qualify for the encroachment allowance for certain extensions of a principal structure in Code section 12.106(3)(b).
10. The applicant is requesting a 6 foot variance from the required 45 foot rear yard to allow the conversion of the existing carport into heated living space.

Site Plan



11. The hardship results from conditions that are peculiar to the property.
12. The subject property has a downward slope of approximately 6 feet on the street side yard facing Cavendish Court.
13. There is a Willow Oak tree in the right rear of the property that the applicant states would prevent grading and construction toward that area of the property due to damage it would cause to the root system. The applicant states that the tree is over 100 years old, 52 inches in diameter, and the canopy is wider than 66 feet.
14. Timothy Short, ISA Certified Arborist, Shrub Doctor Inc., evaluated the Willow Oak tree on the subject property in a letter dated August 19, 2019. Mr. Short advised in the letter that the ground between the Willow Oak trunk and the existing home was located within a root zone area that should be left undisturbed to ensure the health of the tree.
15. Jim Luke, ISA Certified Arborist, with Jim Luke's Tree Service, evaluated the Willow Oak tree on the subject property. Mr. Luke stated that the tree is healthy, and he does not recommend any additional building in the back yard, because it would weaken the root system and cause failure of the tree.

16. The hardship is not the result of actions taken by the applicant as the existing home was constructed in the 1960's prior to current zoning regulations.
17. Granting the variance will not alter the essential character of the neighborhood.
18. The proposed carport conversion into heated living area of the home will not expand the existing footprint of the home.
19. The variance request is to expand upon single family use, which is consistent with the R-3 (single family) zoning.
20. Strict application of the Ordinance would require damage to the root system of a large Willow Oak tree.

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, Chairperson

8/30/19

Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**



Shad Spencer, Zoning Administrator

9/17/19

Date