



Brent L. Toland
(Represented by The Odom Firm, PLLC)
2430 Cumberland Avenue
Charlotte, NC 28203

RE: VARIANCE
2430 Cumberland Avenue
CASE NUMBER 2019-056

To Whom It May Concern:

At its meeting on August 27, 2019, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** a 15-foot reduction from the required 40-foot rear yard to allow a second story addition to be built in the established rear yard.

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

1. The applicant is Brent L. Toland (Represented by The Odom Firm, PLLC c/o David W. Murray).
2. The proposed site is located at 2430 Cumberland Avenue, further identified as tax parcel 151-033-49.
3. The property is zoned R-4 (single family).
4. The property was created through a subdivision plat dated September 23, 1954.
5. A single-family structure, built in 1955, currently occupies the site.
6. Code section 9.205(1)(h) indicates a minimum rear yard of 40 feet for a residential use within the R-4 zoning district.
7. Per a survey of the subject property dated July 24, 2019, the rear of the home on the subject property encroaches up to 15 feet into the required 40-foot rear yard, so the established rear yard is 25 feet.
8. The existing home was constructed prior to the current zoning regulations and the portion of the home which encroaches into the required rear yard is considered a legal nonconforming structure.
9. Code section 7.103(5) states that nonconforming structures may be expanded only if the part of the structure to be expanded and the area of the lot into which the expansion is taking place comply with the current zoning regulations.
10. The applicant is requesting a variance for a 15-foot reduction from the required 40-foot rear yard to allow a second story addition to be built over the nonconforming rear portion of the existing structure.
11. The hardship does not result from actions taken by the applicants.
12. The home was built in 1955, prior to current zoning regulations.
13. The home was constructed so that the front façade is parallel with Cumberland Avenue and not the slanted rear property line.
14. The established setback of the subject home and the neighboring homes along Cumberland Avenue is approximately 55 feet which is greater than the required 30-foot setback of the R-4 zoning district.
15. The lot depth of the subject property ranges from approximately 110 feet to approximately 125 feet due to the angled rear property line. Most lots within the area have lot depths of 180 feet.
16. The encroachment is not easy to detect.

17. The subject lot is a corner lot which requires a greater side yard dimension when abutting a street than the typical side yard dimension when abutting another lot, resulting in a smaller building envelope.
18. Granting the variance will allow a second story addition that will not expand the existing physical footprint of the home.
19. Granting the variance will not alter the essential character of the neighborhood and will maintain the established setback along Cumberland Avenue.
20. Other properties in the area have added second story additions and redeveloped their properties with multi-storied homes.
21. Hardships result from the depth of the lot and the established setback along Cumberland Avenue.
22. Granting the variance will not adversely affect adjacent or contiguous properties.
23. Granting the variance would be consistent with the intent of the R-4 (single family) zoning district since it is an addition to the residential home on 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 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