



Upstate Management LLC
(Represented by Jeff Casper)
3432 The Plaza
Charlotte, NC 28205

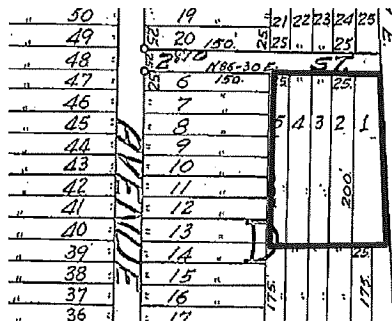
RE: VARIANCE
3033 Ross Avenue
CASE NUMBER 2019-062

To Whom It May Concern:

At its meeting on October 29, 2019, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** a variance to allow a home to be constructed on a lot that does not abut a public street.

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

1. The applicant is Upstate Management, LLC (Represented by Jeff Casper).
2. The proposed site is located at 3033 Ross Avenue, identified as tax parcel 145-121-01.
3. The property is zoned R-5 (single family) and is 0.64 acres.
4. The property was created through a combination of 5 adjoining lots, identified by Lots 1-5, Block D, on Plat Map Book 5 Page 163, approved in 1946.
5. The right-of-way adjacent to the subject lot is labeled as 2nd Street on the approved plat.
6. This 25-foot-wide undeveloped right-of-way does not meet the Zoning Ordinance definition of street, which can be no less than 30 feet in width.



7. Per Code Section 12.101(1), a single family detached dwelling may be constructed on a lot that does not abut a street, if the lot is at least 2 acres, and has access to a public street by an exclusive 15-foot easement that is in passible condition for emergency vehicles. Further, the lot must be compliant with the subdivision ordinance or recorded prior to May 1, 1989.
8. The lot does not meet the requirements of Section 12.101(1) above that would allow the construction of a single-family home, because the lot is less than 2 acres, and does not have an exclusive 15 foot easement that is passible for emergency vehicles.
9. The applicant is requesting a variance from Code Section 12.101(1) to allow the construction of one single family home on the property.

10. The applicant does not own any adjacent property, so they would not be able to combine the lot with another parcel to allow street access to Ross Avenue, or Caronia Street.
11. The subject 0.64-acre lot is a combination of 5 original lots platted in 1946 and is larger in size than most other lots in the area that are 0.20 acres.
12. The property was subdivided prior to the adoption of the Zoning Ordinance regulations.
13. The undeveloped right-of-way abutting the subject lot is labeled on the approved 1946 plat as a street, which would have served the subject lot, but it was not developed.
14. Granting the variance will not alter the essential character of the neighborhood.
15. Granting the variance meets the intent of the ordinance because it will allow a single-family home to be constructed on the property, consistent with the R-5 zoning district.
16. Granting the variance will permit the lot that was subdivided 73 years ago to be developed.
17. The Charlotte Department of Transportation indicated support of the requested variance in an email dated September 9, 2019.

Staff recommends the following condition be placed on the variance request:

Access to the property be coordinated and approved by the City of Charlotte General Services Department, Land Development Division.

Findings related to the recommended condition of the variance request:

1. The applicant has agreed to the condition.
2. **An email from Casey Mashburn, PE, Senior Engineering Project Manager with the Charlotte Department of Transportation Right-of-Way Management Section of the Development Services Division, dated September 26, 2019, regarding the subject property states:**
“All public right-of-way is owned by the public, including unopened rights-of-way or right-of-way that is maintained by the City. As such, the builder of 3033 Ross does have the right to build a driveway in the unopened right-of-way for the purposes of ingress and egress from their property. Yes, there are other instances of property owners utilizing unopened rights-of-way to access their property. I did want to add that only a paved or gravel driveway should be allowed in the unopened right-of-way and the approval of the design should be coordinated through the City’s Land Development Division within General Services.”

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

11/26/19
Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**



Shad Spencer, Zoning Administrator

12/3/19
Date