



Doug Ehmann  
(Represented by Allen L. Brooks)  
1915 Springdale Avenue  
Charlotte, NC 28203

**RE: VARIANCE**  
**2224 Sarah Marks Avenue**  
**CASE NUMBER 2019-078**

To Whom It May Concern:

At its meeting on October 29, 2019, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** two variances for an accessory structure, and construction on the existing home including addition of a second story onto the rear of the home, and construction of a rear addition on the home.

1. A 26 foot variance from the 35 foot rear yard.
2. A 10 foot variance from the required 10 foot street side yard.

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

1. The applicant is Doug Ehmann (Represented by Allen L. Brooks).
2. The proposed site is located at 2224 Sarah Marks Avenue, further identified as tax parcel 121-123-08.
3. The property is zoned R-5 (single family) and is located in the Dilworth Historic District-Overlay.
4. The property was created through a subdivision plat dated May 1921.
5. A single family structure, built in 1922, currently occupies the site.
6. The single family home and an accessory structure on the site are nonconforming structures, because they were constructed prior to the ordinance regulations and do not meet the required street side yard and rear yard.
7. Code section 9.205(1)(g) requires a minimum rear yard of 35 feet for a residential use within the R-5 zoning district.
8. The existing home on the property has an established rear yard of 9 feet, which is a 26 foot discrepancy from the required rear yard of 35 feet.
9. The property is adjacent to Sarah Marks Avenue, which is the front of the property, and Ledgewood Lane, which is the street side yard.
10. Code section 12.102(6) requires a minimum 10 foot street side yard along Ledgewood Lane.
11. Code section 12.106(2)(a) states that accessory structures are not permitted within any setback or side yard, or within three feet of a lot line in the established rear yard.
12. The existing accessory structure labeled as a garage on the survey provided in the variance application packet, has an established 0 foot street side yard, which is a discrepancy of 10 feet from the required 10 foot street side yard.
13. The existing accessory structure is located on the rear property line, which is an established rear yard of 0 feet, or a 3 foot discrepancy from the required 3 foot accessory rear yard.
14. The applicant wishes to add a second story and addition to the rear of the home, utilizing the established 9 foot rear yard, and renovate the accessory 'garage' structure that is in disrepair.

15. 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 complies with the current zoning regulations.
16. The applicant is requesting a variance a 26 foot variance from the required 35 foot rear yard, to allow a second story and addition on the rear of the home that will not exceed the 9 foot established rear yard. The applicant also requests a variance of 3 feet from the required accessory rear yard, and a 10 foot variance from the street side yard, to renovate the existing accessory structure, and allow it to remain in its current location.
17. The hardship does not result from actions taken by the applicant.
18. The home was built in 1922, prior to any zoning regulations.
19. The encroachment is not easy to detect.
20. Granting the variance will allow a second story addition that will be visibly integrated with the existing home and will not expand beyond the established rear yard of the home.
21. Granting the variance will not alter the essential character of the neighborhood because the nonconforming rear yard encroachment and accessory structure location will not change.
22. Other properties in the area have added second story additions and redeveloped their properties with multi-storied homes.
23. HDC (Historic District Commission) Staff is aware of this project and has met with both the project architect and property owner. HDC Staff has indicated this case is typical of project requests submitted to the HDC. After receiving a determination from the ZBA, this project will be reviewed in its entirety by the HDC for compliance with the Design Guidelines.
24. The rear of the subject property is slanted resulting in a smaller rear yard area.
25. The depth of the lot ranges from 88 to 99 feet, which is less than most of the surrounding lots that have 125 or 150 foot depths.
26. The lot is visibly smaller compared to most other lots in the area.
27. Granting the variance will not adversely affect adjacent or contiguous properties.
28. Granting the variance would be consistent with the intent of the R-5 (single family) zoning district since it is an addition to the residential home on the property.

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

The garage located adjacent to the Ledgewood Lane right-of-way shall not be used for passenger vehicles.

**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