



Michael D. Hubert
Vista Homes
7621 Little Ave, Suite 111
Charlotte, NC 28226

RE: VARIANCE
1500 Hawthorne Lane
CASE NUMBER 2020-023

To Whom It May Concern:

At its virtual remote meeting on May 26, 2020, the City of Charlotte Zoning Board of Adjustment (“Board”) **granted** a variance for a 7 foot reduction to the required 20 foot transitional setback along Hawthorne Lane allow for construction of a new duplex.

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

1. The applicant is Michael Hubert for Vista Homes.
2. The proposed site is located at 1055 Hawthorne Lane, further identified as tax parcel 081-193-07.
3. The property is approximately 0.58 acres and is zoned R-22 MF (multi family).
4. The site is currently vacant.
5. Per Code Section 9.305(1)(e1), the minimum setback is 20 feet.
6. The property abuts Hawthorne Lane which is classified as a Class IV Minor Arterial thoroughfare and has an existing right-of-way of 25 feet measured from street centerline.
7. Per Code Section 12.103(1), the minimum setback along a thoroughfare shall be measured from the ‘proposed right-of-way’ established by thoroughfare classification, which is 30 feet from the centerline of Hawthorne Lane.
8. Per Code Section 12.103(2), a ‘transitional setback’ shall be established along a thoroughfare that has an existing right-of-way which is not as wide as the right-of-way established for that thoroughfare.
9. The required 20 foot ‘transitional setback’ along Hawthorne Lane is measured from the 30 foot ‘proposed right-of-way’.
10. Per Code Section 12.103(2)(a), the ‘transitional setback’ established for lots abutting thoroughfares can be used for any purpose allowed by the particular zoning district, except for uses which are prohibited in the required setbacks.
11. Per Code Section 12.106(1), no principal building or principal structure is permitted within any setback or yard required by these regulations.
12. The applicant is requesting a variance for a 7 foot reduction to the required 20 foot transitional setback along Hawthorne Lane allow for construction of a new duplex.
13. Per Code Section 2.201, the transitional setback is defined as the area that lies between the existing required setback line and the future required setback.
14. The requested reduction of the transitional setback will encroach approximately 2 feet into the existing required setback (20 foot measured from the existing right-of-way).
15. The hardship is not a result of actions taken by the applicants.

16. Sewer and storm drain easements encumber a significant amount of the land area on the parcel including a 25 foot wide storm drainage easement, a private sanitary sewer easement, and a presumed storm drainage easement.
17. The applicant was informed by City staff that it will be unable to relocate the sewer and storm drainage easements to accommodate development elsewhere on the property.
18. Granting the variance will not adversely affect adjacent or contiguous properties.
19. Granting the variance will not alter the essential character of the area.
20. The three adjacent properties along the same side of the street and to the north of the subject parcel all encroach into the transitional setback according to the applicant's application materials.
21. The variance preserves public safety.
22. Per Code Table 12.206(3), single family garages are required a minimum setback of 20 feet from the right-of-way.
23. The proposed duplex plan submitted for the variance request maintains 20 foot distance between the existing right-of-way and the garage doors for safety.
24. Hawthorne Lane is identified as a high injury network.
25. CDOT has indicated their support of the requested variance to decrease the transitional setback, because it leaves the full width of the proposed right-of-way 30 feet from street centerline.

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 results 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,

Date

6/30/2020

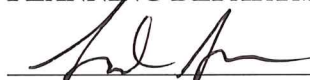


Rick Sanderson, Chairperson

6/4/20

Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**



Shad Spencer, Zoning Administrator