



Thom Duncan
416 Hermitage Ct
Charlotte, NC 28207

**RE: VARIANCE
4505 Eagle Lake Drive North
CASE NUMBER 2020-035**

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 to construct a garage within the established setback.

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

1. The applicant is Thom Duncan.
2. The subject site is located at 4505 Eagle Lake Drive, further identified as tax parcel 141-082-16.
3. The subject parcel is zoned R-3 (Single Family) and was subdivided in 1940.
4. The principal structure on the property was constructed in 1967 and predates current zoning requirements.
5. Per Code Section 12.106(2)(a), no accessory structure shall be located within any required or established setback in any residential district.
6. The applicant is seeking a variance to allow an accessory structure to be constructed within the established setback.
7. The hardship is not a result of actions taken by the property owner.
8. The rear of the site is located adjacent to a stream that drains to an area over 300 acres.
9. Per Code Section 12.804, there is a 50 foot S.W.I.M. (Surface Water Improvement and Management) stream buffer required from the shoreline of the stream that restricts development.
10. Most of the property to the rear of the home is encumbered by the S.W.I.M. buffer.
11. The hardship results from conditions that are peculiar to the property.
12. The property to the right side of the home contains a propane tank that would prevent the location of a garage.
13. A septic field is located in the established setback adjacent to the home and at the end of the existing driveway which prevents garage construction.
14. A hardship in the strict application of the ordinance is caused by the septic field location, propane tank location, and S.W.I.M. buffer area on the property.
15. The requested variance is consistent with the spirit of the ordinance because it would allow a residential accessory structure on the property, which is common in single family zoning districts.

Staff recommends the following condition:

16. The proposed garage shall be located outside of the required 30 foot setback from Eagle Lake Drive.

Findings related to proposed conditions:

17. The applicant has agreed to the proposed condition.

18. The site plan submitted with the application incorrectly shows a 15 foot setback.
19. The recommended condition will prevent the proposed accessory structure from being located within the 30 foot required setback.
20. The recommended condition would ensure the construction is in character with the surrounding area.
21. Observing the required 30 foot setback ensures a consistent streetscape.

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,

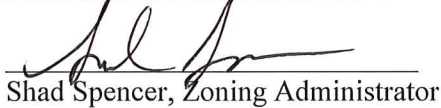


Rick Sanderson, Chairperson

6/4/20

Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**



Shad Spencer, Zoning Administrator

6/30/2020

Date