



Mark Patterson
The Resident Experts, Inc.
PO Box 908
Huntersville, NC 28070

**RE: VARIANCE
2320 ARDEN STREET
CASE NUMBER 2020-037**

To Whom It May Concern:

At its remote meeting on August 25, 2020, the City of Charlotte Zoning Board of Adjustment (“Board”) **GRANTED** a 17 foot variance from the required 35 foot rear yard to redevelop a single family home on the property.

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

1. The applicant is Mark Patterson.
2. The proposed site is located at 2320 Arden Street, further identified as tax parcel 079-047-02.
3. The property is zoned R-5 (single family).
4. The property is approximately 0.14 acres in size.
5. A single family home on the property built in 1946 was recently demolished to redevelop a new single family home within the original building footprint.
6. Per Code Section 9.205(1)(g), the minimum required rear yard for R-5 is 35 feet.
7. The previous home encroached into the required 35 foot rear yard approximately 17 feet, leaving an 18 foot rear yard.
8. The previous home was a nonconforming structure per the definition in Code Section 2.201, because it was a structure that lawfully existed prior to the effective date of the current Zoning Ordinance regulations that did not comply with the regulations.
9. Since the previous home was a nonconforming structure it was subject to Code Section 7.103, which allows normal repair and maintenance, as well as certain renovations and expansions.
10. The proposed home, being a new structure, meets the definition of redevelopment in Code Section 2.201 that defines redevelopment as the demolition and reconstruction of a building.
11. Since the proposed home is redevelopment, it is not subject to the nonconforming structure provisions, and is subject to the current zoning requirements.
12. The applicant is requesting a 17 foot variance from the required 35 foot rear yard to construct a single family home that utilizes the footprint of the previous nonconforming home.
13. The hardship was not created by the applicant.
14. The applicant states he was unaware of the rear yard encroachment until he applied for a building permit for the new home.
15. The subject lot has an angled rear lot line and the lot ranges in depth from approximately 94.5 to 74 feet, leaving an allowable building depth of 19 to 40 feet.
16. The subject property has a deed restriction that requires a 25 foot setback from Arden Street which is greater than the typically required zoning setback of 20 feet for the subject R-5 zoning district.

17. The proposed home will use the footprint of the previous home on the property.
18. The requested home depth of 31.2 feet is consistent with depths of other homes in the area that range in depth from 26.5 to 43 feet.
19. Granting the variance will not alter the essential character of the neighborhood.
20. Granting the variance will secure public safety.
21. The hardship is a result of the relatively shallow lot depth and the angle of the rear property line.
22. The applicant states that the previous home was not compliant with North Carolina Building Code standards for crawl space height, and the siding rested on the ground in some places along the foundation.
23. The applicant states that the new home will be compliant with all building code requirements.
24. The variance request is to rebuild a single family home, a use that is consistent with the R-5 (single family) zoning.
25. Due to the lot's angled rear lot line, restricted allowable building depth, and the previous rear yard encroachment, hardships exist which make it difficult to locate the proposed home outside of the required rear yard.

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

9/8/20

Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**

 Recoverable Signature

X 

Shad Spencer
Zoning Administrator
Signed by: sspencer@ci.charlotte.nc.us