



The Pound Family Trust
c/o David W. Murray, The Odom Firm, PLLC
1109 Greenwood Cliff
Charlotte, NC 28204

**RE: VARIANCE
3138 COMMONWEALTH AVENUE
CASE NUMBER 2020-047
PID: 129-073-12**

To Whom It May Concern:

At its remote meeting on June 30, 2020, the City of Charlotte Zoning Board of Adjustment (“Board”) **granted** a variance of 5 feet from the required 15 foot street side yard to allow for additions within the established street side yard of a home.

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

1. The applicant is the Pound Family Trust (represented by David W. Murray, The Odom Firm, PLLC).
2. The proposed site is located at 3138 Commonwealth Avenue, further identified as tax parcel 129-073-12.
3. The property is zoned R-4 (single family).
4. The property was created through a subdivision plat in 1939.
5. A single family structure, built in 1940, currently occupies the site.
6. The single family home on the site is a nonconforming structure, because it was constructed prior to current ordinance regulations and does not meet the required street side yard.
7. The property is a corner lot adjacent to Commonwealth Avenue, which is the front of the property, and Waterman Avenue, which is the street side yard.
8. Code section 12.102(6) requires a minimum 15 foot street side yard along Waterman Avenue, which is half of the required 30 foot setback per code section 9.205(1)(e2).
9. Code section 12.106(1) states that principal structures are not permitted within any setback or side yard.
10. The existing home has an established street side yard of approximately 10.5 feet, which is a discrepancy of 4.5 feet from the required 15 foot street side yard.
11. The applicant wishes to add a second story to the home by finishing an attic space, and build an addition using the established street side yard.
12. 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 comply with the current zoning regulations.
13. The applicant is requesting a variance of 5 feet from the required 15 foot street side yard to construct the addition and the second story.
14. The hardship does not result from actions taken by the applicant.
15. The home is an existing nonconforming structure with an established street side yard of 10.5 feet.
16. Granting the variance will not expand the established street side yard that has been in existence since the original home construction.

17. The subject lot is a corner lot which requires a greater side yard dimension when abutting a street than the typical side yard dimension when abutting another lot.
18. Granting the variance will not alter the essential character of the neighborhood.
19. Granting the variance will allow the second story addition to be visually integrated with the existing home and roofline.
20. Granting the variance will not adversely affect adjacent or contiguous properties.
21. The encroachment is not easy to detect.
22. The side of the home along Waterman Avenue is largely obscured by vegetation.
23. The lot is higher on the interior side and slopes approximately 6 feet down towards Waterman Avenue.
24. The applicant states that granting the variance will allow proper drainage on the lot, because water would pool at the foundation of an addition if it were located on the interior side of the lot.
25. Due to the home's established street side yard of 10.5 feet, the greater side yard dimension required of a corner lot, and the topography of the lot that dictates placement of the addition on the street side, hardships exist which make it difficult to locate the addition out of the established street side 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,



Terry Brown, Jr. Vice-Chairperson

7-19-2020
Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**



Shad Spencer, Zoning Administrator

7/23/2020
Date