



Jon Burkindine  
7640 Winterset Dr.  
Charlotte, NC 28270

**RE: VARIANCE  
7640 WINTERSET DRIVE  
CASE NUMBER 2020-053**

To Whom It May Concern:

At its remote meeting on August 25, 2020, the City of Charlotte Zoning Board of Adjustment (“Board”) **GRANTED** a variance to allow for a 3.3 foot reduction to the required 6 foot accessory side yard.

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

1. The applicant is Jon Burkindine.
2. The proposed site is located at 7640 Winterset Drive, further identified Mecklenburg County tax parcel 213-201-18.
3. The subject parcel is zoned R-3 (single family) and is approximately 0.41 acres.
4. The subject property is identified as Lot 6 in Block 4 of plat Map Book 17, Page 395 that was approved on May 6, 1975.
5. The home on the property was built in 1976.
6. On November 6, 2014, Mecklenburg County Building Permit #B2706663 was obtained to construct a detached garage on the property.
7. Per Code Section 12.106(2)(a), accessory structures located in the established rear yard may be located within 3 feet of a side or rear lot line, but accessory structures located to the side of the principal structure must comply with the required side yard of the principal structure.
8. Per Code Section 9.205(1)(f), the required side yard in the R-3 zoning district is 6 feet.
9. The majority of the proposed garage structure is located to the side of the home and is subject to the required 6 foot side yard.
10. Permit #B2706663 listed the minimum side yard for the detached garage as 6 feet.
11. The garage was constructed 2.7 feet from the left side property line and encroaches into the required 6 foot side yard by 3.3 feet.
12. The applicant requests a 3.3 foot variance to the required 6 foot side yard to allow the detached garage to remain.
13. The hardship does not result from actions taken by the applicant.
14. Mecklenburg County tax records indicate the applicant purchased the property in 2017, 3 years after the garage was constructed.
15. The applicant states he became aware of the side yard encroachment in 2019 when he applied for permits for improvements to the home.
16. The hardship is peculiar to the property.
17. The lot is located on the bulb of a cul-de-sac and has an angled left side property line, with the property widening toward the rear.
18. The encroachment is not easy to detect.

19. The encroachment into the required 6 foot side yard is minor.
20. Due to the angle of the left property line, only a portion of the front left corner of the garage is located in the required 6 foot side yard.
21. There are floodplain areas and a post construction buffer located in the rear of the property that would make locating the garage further to the rear of the property difficult.
22. The applicant states that they have exhausted other options.
23. The applicant states that he tried to purchase a portion of the adjoining property to the left of the garage for compliance with the required side yard, but the neighbor was unable to sell any of the property due to a divorce dispute.
24. Due to the home's angled side lot line, the minor nature of the encroachment, floodplain and post construction buffer area in the rear yard, and the applicant's inability to purchase additional property for side yard compliance, hardships exist which make it difficult to locate the garage out of the established 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,



Rick Sanderson, Chairperson

9/8/20  
Date

**DECISION FILED IN THE  
PLANNING DEPARTMENT:**

 Recoverable Signature



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