



James Quinlan
5735 Tufton Brae Court
Charlotte, NC 28226

**RE: VARIANCE
5735 TUFTON BRAE COURT
CASE NUMBER 2020-076**

To Whom It May Concern:

At its remote meeting on September 29, 2020, the City of Charlotte Zoning Board of Adjustment (“Board”) **GRANTED** a variance to allow the construction of an in-ground swimming pool within the established front setback.

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

1. The applicant is James Quinlan.
2. The proposed site is located at 5735 Tufton Brae Court, further identified as Mecklenburg County tax parcel 209-042-56.
3. The subject parcel is zoned R-3 (Single Family Residential) and is approximately 0.62 acres.
4. The parcel is identified as lot 1 on plat Map Book 46, Page 979 which was approved on November 1, 2006.
5. The home on the property was built in 2008.
6. The front of the home is oriented towards the street side yard along Tufton Brae Court and the right side facade of the home is oriented towards the required setback along Carmel Road.
7. Per Code Section 9.205(1)(e1), there is a required 30 foot setback measured from the right-of-way of Carmel Road, and this setback is shown on the approved plat.
8. Per Code Section 2.201, the established setback is the area between the right-of-way of Carmel Road and the existing single family home.
9. The applicant proposes to construct a swimming pool out of the required 30 foot required setback but located within the established setback.
10. Per Code Section 12.106(2)(a), no accessory structure shall be located within any required or established setback in any residential district.
11. The applicant is seeking a variance to allow a new accessory structure to be constructed in the established setback.
12. The hardship was not caused by the applicant.
13. The applicant purchased the home in 2011, three years after it had been constructed.
14. Per the property survey dated May 9, 2011, placement of the proposed accessory structure to the ‘rear’ of the property (left side of the home) is not feasible due to the location of a tree save area, utility easements, a retaining wall, and parking area.
15. The established rear yard area is smaller than the two other lots in the subdivision that adjoin Carmel Road because the home on the subject property has an established setback of approximately 97 feet in depth from Carmel Road, and the two other lots have established setbacks of approximately 51 and 57 feet in depth.

16. Placement of the proposed accessory structure to the left of the existing home is not feasible due to sewer easements.
17. The subject lot is a corner lot and the left side of the property abuts Tufton Brae and requires a greater side yard dimension than the typical side yard dimension when abutting another lot.
18. There is not adequate building area along the right side property line for the proposed pool.
19. Granting the variance will not alter the essential character of the neighborhood.
20. The placement of the accessory structure within the established setback will not be easy to detect.
21. Based on the existing home's orientation to Tufton Brae, the proposed pool will appear to be within the side yard of the home rather than the established setback.
22. Granting the variance will not adversely affect adjacent or contiguous properties.
23. The proposed pool will not be visible from the public right-of-way because of brick walls and vegetation that screen the property along Carmel Road and Tufton Brae Court.
24. Due to the location of the tree save area, utility easements, sewer easements, retaining walls, and the home orientation and location on the property, hardships exist which make it difficult to locate the accessory structure out of the established setback.

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

10/16/2020

Date

 Recoverable Signature



Shad Spencer

Zoning Administrator - Date: 10/23/2020

Signed by: sspencer@ci.charlotte.nc.us