



Morgan Drury
626 Queens Rd #302
Charlotte, NC 28207

**RE: VARIANCE
3200 AUBURN AVENUE
CASE NUMBER 2020-091**

To Whom It May Concern:

At its remote meeting on October 27, 2020, the City of Charlotte Zoning Board of Adjustment (“Board”) **GRANTED** a variance to allow a 5 foot reduction to the required 40 foot rear yard in order to construct a new house.

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

1. The applicant is Morgan Drury, for John and Tina Flinn.
2. The proposed site is located 3200 Auburn Avenue, further identified as tax parcel 147-062-14.
3. The property is zoned R-4 (single family).
4. The property was created through a subdivision plat dated February 29, 1952.
5. There is an existing single family home on the property that was constructed in 1951.
6. The subject lot is approximately 10,040 square feet in lot area.
7. The applicant wishes to demolish the existing home to construct a new single family dwelling on the property.
8. Per Code Section 9.205(1)(g), the minimum rear yard for the property is 40 feet.
9. Per Code Section 12.106(1), no principal building or principal structure is permitted within any setback or yard required by these regulations
10. The applicant is requesting a 5 foot reduction from the required 40 foot rear yard in order to construct a home.
11. The hardship is not a result of actions taken by the applicant.
12. The hardship results from conditions that are peculiar to the property.
13. The applicant’s survey dated September 18, 2020, shows that the depth of the lot ranges from 82 feet to 100 feet, which is a smaller than most other lots in the area that have depths of 140 feet.
14. Unnecessary hardships results from the minimum required 40 rear yard imposed on the subject property due to the shape of the lot.
15. The requested 5 foot reduction of the rear yard would allow a building depth of 37 feet based on R-4 dimensional standards per Code Section 9.205(1)(e2) and (g).
16. The reduced rear yard will not detract from the character of the neighborhood and will not be easily visible.
17. The applicant states that restrictive covenants recorded in Deed Book 1544 Page 181 require a 35 foot front setback, 6 foot side yard, and 20 foot street side yard on the property.
18. A hardship cannot be based on the 5 foot difference in the historic deed restricted front setback since that is a condition that is shared by all properties in the area and it is not peculiar to the property.
19. The City of Charlotte does not have jurisdiction over restrictive covenants and cannot enforce them.

20. Deed restrictions must be enforced by a private party including neighboring property owners or a Home Owners Association.
21. The applicant would be permitted to construct a new home compliant with the 30 foot setback, 5 foot side yard, and 15 foot street side yard of the R-4 zoning district per Code Sections 9.205(1)(e2) & (g), and 12.102(7).
22. The applicant has offered to impose two conditions on the variance approval in order to mitigate impacts of the increased lot coverage resulting from the additional 5 feet of rear building area allowance to the neighboring property.
23. The neighboring property owner at 3210 Auburn Avenue has indicated their support of the requested variance with the imposed conditions.
24. Due to the smaller lot depth, hardships exist which make it difficult to construct a home within the compliant building footprint, and the impacts of additional building depth allowance will be offset by the applicants imposed conditions.

Conditions of Approval

1. The driveway for 3200 Auburn remain sited off Greystone Road.
2. A French drain be provided that carries drainage to the curb and preserves the existing vegetation between 3200 Auburn Avenue and the adjacent property located at 3210 Auburn Avenue.

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 does result from conditions that are peculiar to the property (location, size or topography).
3. The hardship is not a 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

11/2/20
Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**

 Recoverable Signature



Shad Spencer
Zoning Administrator - 11/3/2020
Signed by: sspencer@ci.charlotte.nc.us