



Val Kovalenko
C/O David W. Murray
The Odom Firm, PLLC
1109 Greenwood Cliff
Charlotte, NC 28204

**RE: VARIANCE
407 CENTERFIELD DRIVE
CASE NUMBER 2020-115**

To Whom It May Concern:

At its remote meeting on January 26, 2021 the City of Charlotte Zoning Board of Adjustment (“Board”) **granted** a 23 foot variance from the required 35 foot setback in order to construct a new house.

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

1. The applicant is Val Kovalenko, represented by David W. Murray, The Odom Firm, PLLC.
2. The subject site is located at 407 Centerfield Drive, further identified as tax parcel 055-042-30.
3. The property is zoned R-5 (single family).
4. The property is currently vacant and is approximately 0.14 acres.
5. The subject parcel is identified as Lot 11 on Plat Map Book 34 Page 94, which was recorded at the Register of Deeds on October 20, 2000.
6. There is a Piedmont Northern Railroad right-of-way shown on the plat that runs along the rear of the property and is approximately 50 feet in depth.
7. Per Code Section 9.205(1)(e2), footnote 1, setbacks shown on a plat recorded at the Register of Deeds shall supersede required zoning setbacks.
8. The setback for the subject property is 35 feet, as shown on the approved plat.
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 subject lot ranges from approximately 115.21 feet to 168.93 feet in depth, and at the time of plat approval there was a compliant building depth of approximately 30.21 feet to 83.93 feet construct a single family home on the property factoring the 35 foot required setback and 50 foot railroad right-of-way.
11. On December 4, 2002, Duke Energy Corporation purchased approximately 1.7 acres of transmission line right-of-way over several properties on the north side of Centerfield Drive, from Selective Development, LLC and Lewis Homes, Inc., which was recorded in Plat Map Book 38 Page 697.
12. The Duke Energy transmission line easement covers a large portion of the subject property, with the exception of the front portion of the property that has a depth ranging from approximately 36.55 feet to 65.40 feet in depth measured from the Centerfield Drive right-of-way.
13. The acquisition of Duke Energy easement rights on the property resulted in the conversion of the use of most of the property from single family to transmission line easement right-of-way.
14. The applicant requests a variance of 23 feet from the required 35 foot setback to allow a 12 foot setback to construct a home on the subject property.

15. Granting the requested variance would be in keeping with the character of the neighborhood.
16. Three other variance requests were granted in the immediate area along Centerfield Drive to allow setbacks ranging from 6 feet to 15 feet for the construction of single family homes on lots that are also encumbered by the railroad right-of-way and Duke Energy transmission easements.
17. Per Code Table 12.26(3) driveways and parking pads are required a minimum length of 20 feet for single family homes.
18. A minimum 20 foot setback in single family zoning districts accommodates the 20 feet needed for parking and maneuvering area, ensures that vehicles are not parked on sidewalks or yards, and for visibility and pedestrian safety.
19. The applicant states that a 20 foot driveway will fit adjacent to the proposed home to uphold public safety.
20. Due to the Duke Energy transmission line easement, and railroad right-of-way on the property, strict application of the Ordinance would create a hardship in constructing a single-family home.

Conclusion of Law:

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 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,



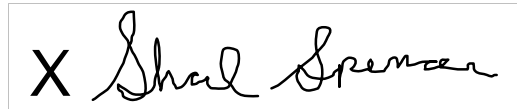
Rick Sanderson, Chairperson

1/28/2021

Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**

2/1/2021



Shad Spencer
Zoning Administrator - 2/1/2021
Signed by: sspencer@ci.charlotte.nc.us