



Kevin Trent  
PO Box 2398  
Indian Trail, NC 28079

**RE: VARIANCE  
1539 MERRIMAN AVENUE  
CASE NUMBER 2020-116**

To Whom It May Concern:

At its remote meeting on December 8, 2020, the City of Charlotte Zoning Board of Adjustment (“Board”) **GRANTED** two variances to bring home additions into compliance:

1. A 1.5 foot variance from the required rear yard.
2. A 1 foot variance from the required street side yard.

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

1. The applicant is Kevin Trent.
2. The proposed site is located at 1539 Merriman, further identified as tax parcel 119-097-08.
3. The property is zoned R-5 (single family) and is located within the Wilmore Local Historic District Overlay.
4. The previous home on the property was constructed in 1940 and was recently demolished to redevelop a new single family home on the property.
5. The property is a corner lot of approximately 0.21 acres with the front of the lot located on Merriman Avenue and the street side yard located on Larch Street.
6. Per Code Section 12.102(6) the required street side yard is 10 feet, which is one half of the required 20 foot setback for the property.
7. The existing attached covered porch encroaches approximately 1 foot into the required 10 foot street side yard along Larch Street according to the applicant’s as-built survey dated November 2, 2020.
8. Per Code Section 9.205(1)(g) the required rear yard for the property is 35 feet.
9. The as-built survey for the new home shows that the closest distance from the home to the rear property line is 28.5 feet.
10. There is a 10 foot unopened alley that is adjacent to the rear of the property.
11. Per Code Section 12.102(3) the required rear yard can be measured from the centerline of the alley, giving an additional 5 foot of rear yard distance, and resulting in an established rear yard of 33.5 feet.
12. The structure is not a nonconforming structure since it was constructed between 2019 and 2020 and does not predate current zoning requirements.
13. The applicant is requesting two variances to bring home additions into compliance: 1. A 1.5 foot variance from the required rear yard. 2. A 1 foot variance from the required street side yard.
14. The hardship was not caused by the applicant.
15. A Certificate of Appropriateness was issued by the Historic District Commission on July 11, 2018 for renovations to the home on the property including expansion of the front porch and a second story over the rear porch of the home.

16. The applicant obtained a Mecklenburg County building permit (B3640079) on December 2, 2019 for additions to street side and rear of the home on the property.
17. Building Permit B3640079 noted a minimum rear yard of 35 feet, and a minimum street side yard of 10 feet.
18. The preliminary survey submitted with the permit showed that there was 30.7 feet from the home to the rear property line.
19. Per Code Section 12.102(3) the rear yard was 35.7 feet when measured from the centerline of the alley, compliant with the 35 foot required rear yard.
20. A Certificate of Appropriateness was issued by the Historic District Commission on August 12, 2020 for changes to the front porch addition.
21. Building Permit B384126 was issued on October 23, 2020 for the increased front porch square footage, which noted the required rear yard as 35 feet and street side yard as 10 feet.
22. Per Code Section 4.107(2) administrative deviations are permitted for instances where there has been an inadvertent error during the construction of the home.
23. The requested street side yard and rear yard encroachments are eligible for an administrative deviation of up to two feet due to inadvertent error during construction.
24. Although the variance application requests a 10 foot rear yard variance, administrative deviation eligibility of the encroachment was discovered through variance processing upon the applicants agreement to a modified request for the actual 1.5 foot variance needed for compliance of the existing structure given the 5 feet that can be gained from the alley.
25. The applicant has indicated agreement to the decreased rear yard variance request and chosen to continue with the variance process, instead of initiating the administrative deviation process, in order to expedite resolution of the encroachments.
26. Granting the variance will allow the newly constructed home to remain as it was built and will not expand the current street side yard and rear yard encroachments.
27. Unnecessary hardships result from strict application of the Ordinance.
28. 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.
29. Granting the variances will not alter the essential character of the neighborhood.
30. A Certificate of Appropriateness was approved by the Historic District Commission that ensures the construction complies with historic guidelines, and the historic character of the Wilmore District.
31. Historic District Commission staff have indicated their support of the proposed requests.
32. Granting the variances will not adversely affect adjacent or contiguous properties.
33. The encroachments are minor is not easy to detect.
34. Due to the home's rear property line abutting an alley, the greater side yard dimension required of a corner lot, the unintended error that occurred with home placement during construction, and the minor nature of the encroachments, hardships would result from strict application of the ordinance.

**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 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.

Sincerely,



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Rick Sanderson, Chairperson

12/23/2020

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Date

**DECISION FILED IN THE  
PLANNING DEPARTMENT:**

 Recoverable Signature



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Shad Spencer

Zoning Administrator 12/28/2020

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