



Robin H. Fox
9000 Moores Chapel Road
Charlotte, NC 28214

**RE: VARIANCE
NANCE ROAD
CASE NUMBER 2020-124**

To Whom It May Concern:

At its remote meeting on January 26, 2021 the City of Charlotte Zoning Board of Adjustment (“Board”) **granted** a variance to construct a single family home on an existing lot that does not abut a street.

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

1. The applicant is Robin H. Fox.
2. The proposed site is located on Nance Road, identified as tax parcel 055-101-11.
3. The property is zoned R-5 (single family), is located in the Catawba River/Lake Wylie Protected Area Watershed Overlay, and is approximately 1.04 acres.
4. The lot was created prior to 1989 according to historic zoning maps.
5. The subject property does not abut a public street and is accessed by a 15 foot wide easement.
6. Per Code Section 12.101(1), a single family detached dwelling may be constructed on a lot that does not abut a street if the lot is at least 2 acres with access to a public street by an easement at least 15 feet in width for the exclusive use of the detached dwelling, and the easement is maintained in a condition passable for emergency and service vehicles.
7. The property is approximately 1.04 acres, which does not meet the minimum 2 acre size requirement for lots that do not abut a street, and the 15 foot wide easement for the property is not denoted as exclusive.
8. Since the easement is not described as exclusive, and the property is not a minimum of 2 acres, construction of the single family home is not permitted per Code Section 12.101(1).
9. The applicant is requesting a variance to allow a home to be constructed on a lot that does not abut a public street because the easement access for the proposed dwelling is not exclusive, and the lot does not meet the minimum 2 acre size requirement.
10. The hardship did not result from actions taken by the applicant.
11. The applicant states the lot was in existence prior to their ownership.
12. Granting the variance will not alter the essential character of the neighborhood.
13. The lot has been in existence in its current configuration prior to the 1980’s.
14. Granting the variance is consistent with the intent of the zoning ordinance.
15. The subject property is approximately 1.04 acres, which is larger in size than the 5 unit per acre density permitted in the R-5 zoning district.
16. Granting the variance will allow a single family home to be constructed on the property consistent with the R-5 zoning district.
17. Granting the variance upholds public safety.

18. Although it is not specified to be exclusive, there is a 15 foot wide deeded easement for access to the property.
19. If the variance were denied, a single family home will not be permitted on the property, and it will remain vacant.
20. Due to the nonconforming nature of the lot, the 15 foot wide easement permitting access to the property, and the size of the property that exceeds the minimum lot size for the zoning district, strict application of the Ordinance would create a hardship for the use of the property as a single family dwelling.

Conclusion of Law:

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 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 not secured and substantial justice is not 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:**

 Recoverable Signature



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