



ANDREW HURD  
1220 SOUTH KINGS DRIVE  
CHARLOTTE, NC 28207

**RE: VARIANCE  
2546 PENNINGER CIRCLE  
CASE NUMBER 2020-132**

To Whom It May Concern:

At its remote meeting on February 23, 2021 the City of Charlotte Zoning Board of Adjustment (“Board”) **granted** a 10 foot variance from the required 30 foot setback to allow the conversion of existing accessory structures to single family residences and subdivision of the property.

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

1. The applicant is Andrew Hurd.
2. The subject site is located at 2546 Penninger Circle, further identified as tax parcel 047-052-19.
3. The property is zoned R-3 (single family) and is approximately 2.54 acres.
4. There are currently two storage structures on the property constructed in approximately 1985.
5. The existing structures have established setbacks of approximately 20 and 26 feet.
6. When the structures were constructed in 1985, the property was zoned R-12 (single family) which had a 30 foot required setback.
7. The property is currently zoned R-3, and per Code Section 9.205(1)(e2), the required setback is 30 feet.
8. The existing structures do not meet the definition of nonconforming structures since they were not in compliance at the time of construction in 1985 and are not compliant with current zoning requirements.
9. Per Code Section 9.204(1) and the definition of accessory structures, an accessory structure must be located on the same lot as a principal structure.
10. The existing accessory structures are noncompliant because there is no principal structure on the property.
11. The applicant would like to convert the existing accessory structures into residential dwellings.
12. Per Code Section 12.107(2), no more than one principal building devoted to residential uses shall be located on a lot.
13. The applicant would like to subdivide the property so that the structures can be converted into compliant single family homes located on their own individual lots.
14. The applicant is requesting a 10 foot variance from the required 30 foot setback to bring the existing structures into compliance and allow their conversion to single family residences and subdivision of the property.
15. Granting of the variance will not constitute subdivision approval but will subsequently allow the property to be subdivided.
16. The hardship results from the strict application of the ordinance.

17. The storage buildings are not permitted to be converted to single-family homes due to the noncompliant setback encroachments.
18. The hardship was not a result of actions taken by the applicant.
19. The buildings on the property were constructed in 1985, prior to the applicant's purchase of the property in 2017.
20. Granting the variance request will allow conversion of the buildings to single family dwellings in compliance with Code Section 12.107(2), which permits no more than one principal building per single family lot.
21. Granting the variance will not alter the essential character of the neighborhood.
22. The buildings have existed in their current location for approximately 36 years.
23. Granting the variance will not adversely affect adjacent or contiguous properties.
24. The applicant has submitted architectural elevations of the proposed converted homes that are in keeping with character of the neighborhood.
25. The requested variance is in keeping with the intent of the ordinance.
26. Granting the requested variance will allow two noncompliant storage buildings located on a lot with no principal structure to be brought into compliance by permitting subsequent subdivision of the property and allowing a change of use to single family dwellings.

**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.

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

\_\_3/1/2021\_\_

Date

**DECISION FILED IN THE  
PLANNING DEPARTMENT:**

 Recoverable Signature



Shad Spencer

Zoning Administrator - 3/1/2021

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