



ADRIAN DAVIS
ANGELA PERALTA
3126 MOUNTAINBROOK ROAD
CHARLOTTE, NC 28210

**RE: VARIANCE
3126 MOUNTAINBROOK ROAD
CASE NUMBER 2021-005**

To Whom It May Concern:

At its remote meeting on February 23, 2021 the City of Charlotte Zoning Board of Adjustment (“Board”) **granted** an 18 foot variance from the required 45 foot rear yard in order to construct an addition to an existing house.

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

1. The applicants are Adrian Davis and Angela Peralta.
2. The proposed site is located at 3126 Mountainbrook Road, further identified as tax parcel 209-061-01.
3. The property is zoned R-3 (single family).
4. The property is approximately 0.42 acres in size.
5. There is a single family home on the property that was built 1957.
6. Per Code Section 9.205(1)(g), the minimum required rear yard for R-3 is 45 feet.
7. The existing home on the property has an established rear yard of approximately 27 feet and meets the definition of a nonconforming structure since it predates the 45 foot rear yard requirement.
8. The applicants are requesting an 18 foot variance from the required 45 foot rear yard to allow a heated addition on the existing single family home.
9. The hardship is not the result of actions taken by the applicants.
10. The existing home was constructed in the 1950’s prior to current zoning regulations.
11. The applicant’s purchased the property in 2005.
12. The applicant’s survey dated August 16, 2005 does not show the 45 foot required rear yard.
13. The applicants became aware of the nonconforming rear yard encroachment when they reached out to zoning staff to ask about the location of the required rear yard for the proposed addition.
14. The hardship results from conditions that are peculiar to the property.
15. The property is a corner lot and is located on the intersection of Mountainbrook Road and Chaucer Drive.
16. The approved 1957 subdivision plat for the property shows the frontage along Mountainbrook Road.
17. The home was constructed in 1958 and is oriented diagonally with the front of the home facing the intersection of Mountainbrook Road and Chaucer Drive, and the rear of the home facing the interior rear corner of the lot.
18. A portion of the left side of the existing home, including the garage area encroaches 18 feet into the required rear yard.
19. The proposed addition would not exceed the existing encroachment of 18 feet.

20. There is significant topography and a retaining wall on the right interior side of the property, prohibiting the placement of the addition to the right side of the home.
21. Granting the variance will not alter the essential character of the neighborhood.
22. The addition will not be easily detectable.
23. Due to the configuration of the home, the proposed addition will not be visible from the public right-of-way of Mountainbrook Road or Chaucer Drive.
24. The applicant's state that adding a second story would be out of character with the other single story homes in the area.
25. The hardship results from topography in the buildable area of the lot, the diagonal orientation of the existing home, and the established rear yard encroachment.

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