



BENJAMIN M BREIDING  
5930 LAKEVIEW DRIVE  
CHARLOTTE, NC 28270

**RE: VARIANCE  
5930 LAKEVIEW DRIVE  
CASE NUMBER 2021-006**

To Whom It May Concern:

At its remote meeting on February 23, 2021 the City of Charlotte Zoning Board of Adjustment (“Board”) **granted** a variance to allow a proposed accessory dwelling unit (ADU) and swimming pool to be constructed in the established setback.

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

1. The applicant is Benjamin M. Breiding.
2. The subject site is located at 5930 Lakeview Drive, further identified as tax parcel 187-013-08.
3. The subject parcel is zoned R-3 (Single Family) and is approximately 1.28 acres.
4. There is a single family home on the property that was constructed in 1925.
5. The applicant has provided documentation written by Stewart Grey for the Charlotte-Mecklenburg Landmarks Commission, that the home may have been the first revival-style log building constructed in Mecklenburg County.
6. The applicant would like to construct a swimming pool and a detached ADU (accessory dwelling unit) to the left side of the home, encroaching approximately 20 feet into the established setback.
7. Swimming pools and detached ADU’s are both considered accessory structures.
8. Per Code Section 12.106(2)(a), no accessory structure shall be located within any required or established setback in any residential district.
9. Per Code Section 9.204(6), ADU’s are subject to the regulations of Section 12.407, which require ADU’s to be located in the rear yard.
10. The applicant is requesting a variance to allow a proposed ADU and swimming pool to be constructed in the established setback.
11. The hardship is not a result of actions taken by the applicant.
12. Due the historic nature of the home, the applicant states they cannot attach the ADU to the home, which would be a permitted expansion of the principal structure into the established setback.
13. The hardship results from conditions that are peculiar to the property.
14. Per Code Section 9.205(e2), the required setback is 30 feet.
15. The proposed pool and ADU location does not encroach into the required setback.
16. The subject property has an established setback of approximately 175 feet, a difference of 145 feet than the required setback.
17. The greater established setback is due to a pond located in the front of the property, and results in a smaller rear yard area.
18. The property has a steep slope to the rear of the home, with an approximate 10 foot elevation change.
19. The rear of the lot is angled, reducing the total rear yard area.

20. The applicant has provided an email from a certified arborist dated December 4, 2020 stating that three large red oak trees in the rear yard would be compromised if the pool and ADU were constructed in the rear yard.
21. A garage and shed occupy the buildable area in the right side of the rear yard.
22. The applicant's survey dated October 9, 2020, shows an underground utility easement and gas line located on the left side of the rear yard.
23. The requested variance is in keeping with the character of the area.
24. The front of the property is heavily vegetated and the proposed pool and ADU construction will not be visible from the Lakeview Drive right-of-way.
25. The historic nature of the principal structure, rear yard topography, rear yard utilities, rear yard trees, increased established setback depth, and angle of the rear property line create an unnecessary hardship in the 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.

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,



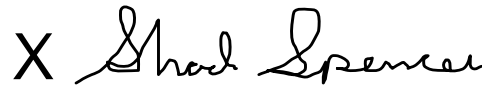
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Rick Sanderson, Chairperson

\_\_\_\_\_  
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