



DANIEL LINEBERGER
7118 CHARTWELL LANE
CHARLOTTE, NC 28212

**RE: VARIANCE
2427 ELKWOOD CIRCLE
CASE NUMBER 2021-041**

To Whom It May Concern:

At its remote meeting on May 25, 2021 the City of Charlotte Zoning Board of Adjustment (“Board”) **denied** a request for an 8 foot variance from the required 40 foot rear yard for an existing addition to the principal structure.

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

1. The applicant is Daniel Lineberger.
2. The proposed site is located at 2427 Elkwood Circle, further identified as tax parcel 093-072-18.
3. The property is zoned R-4 (single family) and is occupied by a single family dwelling.
4. Per Code Section 9.205(1)(g) the required rear yard is 40 feet.
5. Per Code Section 12.106(1), no principal structure is permitted within any required yard.
6. The original home on the property was constructed in 1954 and was compliant with the required 40 foot rear yard.
7. On April 22, 2019, building permit B3526861 was issued for an addition to the rear of the home.
8. The plot plan form submitted with the permit application specified an 8 foot depth for the proposed addition.
9. The established rear yard with the original home at the time of permitting was approximately 49.5 feet, so the proposed 8 foot depth of the addition would be compliant with the 40 foot required rear yard. This is noted on the permit issued which specifies, “The plot plan appears to be in compliance.”
10. The addition was constructed and issued a Mecklenburg County Certificate of Compliance on July 10, 2019.
11. A survey dated April 12, 2021 was commissioned for the sale of the home and shows that the addition was constructed with a depth of 15.9 feet and encroaches 6.4 feet into the 40 foot rear yard.
12. The applicant is requesting an 8 foot variance from the required 40 foot rear yard to bring the encroachment created by the 2019 addition into compliance and allow a 32 foot rear yard.
13. The hardship was a result of actions taken by the applicant.
14. The building permit (B3526861) for the addition specified that there was a required 40 foot rear yard for the property.
15. The plot plan for the building permit application showed an 8 foot depth for the addition, however, the addition was constructed with a 15.9 foot depth which caused the 6.4 foot encroachment into the 40 foot rear yard.
11. Prior to the addition, the home was compliant with the 40 foot rear yard and there was additional area within the allowed building footprint for a rear addition to the home.
12. The hardship did result from actions taken by the applicant because the home was not constructed per the applicant’s plot plan drawing submitted for the building permit.
13. There is no evidence of practical difficulty or unnecessary hardship.

14. Unnecessary hardships do not result from application of the Ordinance.
15. The shape and size of the subject property is consistent with other properties within the surrounding community.
16. The hardship is not peculiar to the applicant's property.
17. Other homes in the area are compliant with the required rear yard.

Conclusion of Law:

1. Unnecessary hardships would not result from the strict application of the Ordinance.
2. The hardship does not result from conditions that are peculiar to the property (location, size or topography).
3. The hardship does result from actions taken by the applicant or the property owner.
4. The requested variance is not 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,

Patrick Welch

Patrick Welch, Chairperson

05/26/2021

Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**



Recoverable Signature

X *Shad Spencer*

Shad Spencer

Zoning Administrator - June 2, 2021

Signed by: 4370c57f-ee18-462b-b92c-d54f5ed20af9