



BENJAMIN BAXTER
GILLIAN BAXTER
1008 URBAN PLACE
CHARLOTTE, NC 28209

**RE: VARIANCE
940 QUEEN CHARLOTTE'S COURT
CASE NUMBER 2021-047**

To Whom It May Concern:

At its remote meeting on June 29, 2021 the City of Charlotte Zoning Board of Adjustment ("Board") **granted** an 8 foot variance from the required 45 foot rear yard for an existing addition to the principal structure.

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

1. The applicants are Benjamin and Gillian Baxter.
2. The site is located 940 Queen Charlotte's Court, further identified as tax parcel 157-134-77.
3. The property is zoned R-3 (single family).
4. The site comprises of approximately 0.31 acres.
5. The single family structure that currently occupies the site was built in 1997.
6. A minimum rear yard of 45 feet is required for the subject property.
7. The original single family home was compliant with the minimum 45 foot rear yard.
8. An addition to the rear of the structure was permitted in 2011 for an attached garage with a finished office on the second floor.
9. The applicants now wish to sell the property.
10. A survey dated April 28, 2021 was commissioned for the sale of the property and shows an 8 foot encroachment of the addition into the 45 foot rear yard.
11. The applicants are requesting an 8 foot variance from the 45 foot rear yard for the existing addition to the principal structure.
12. The hardship does not result from actions taken by the applicant or the property owner.
13. On April 7, 2011, building permit # B2174464 was issued for the addition noting the required 45 foot rear yard, and also noting a 37 foot distance between the proposed garage/office addition and the rear property line.
14. Per Section 12.106(3)(b) a garage can encroach up to 25% of the rear yard, or 11.25 feet, but this provision would not apply to the heated office on the second floor.
15. Staff believes the 8 foot encroachment may have been thought by permitting staff to be for the garage and subject to the 25% encroachment provision.
16. The applicants state they were unaware the 10 year old home addition was non-compliant with the Zoning Ordinance.
17. The hardship results from conditions that are peculiar to the property.
18. The property is a corner lot with the front setback located along Water Oak Court and the street side yard located along Queen Charlotte's Court. The home was constructed so that the front of the home is oriented towards the street side yard of Queen Charlotte's Court, and the rear yard opposite of Water Oak Road functions as an interior side yard.

19. There is a public storm drainage easement in the rear of the property and topography resulting from a ditch which create a narrower permitted building area to place an addition.
20. The granting of the variance does not impact public safety.
21. The addition does not encroach into the storm water easement on the property.
22. The variance will not detract from the character of the neighborhood.
23. The addition has existed in its current location for 10 years.
24. Strict application of the Ordinance will require the addition to be demolished which will result in an unnecessary hardship.
25. A hardship exists due to the public storm drainage easement, ditch location, and the undue hardship of demolishing the structure that has been in place for 10 years.

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 is not a 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,

Patrick Welch

Patrick Welch, Chairman

06/30/2021
Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**



Shad Spencer, Zoning Administrator

June 30, 2021
Date