



CHRISTOPHER DONATO  
MAUREEN DONATO  
501 BERTONLEY AVE  
CHARLOTTE, NC 28211

**RE: VARIANCE  
501 BERTONLEY AVENUE  
CASE NUMBER 2021-048**

To Whom It May Concern:

At its remote meeting on June 29, 2021 the City of Charlotte Zoning Board of Adjustment (“Board”) **granted** a 5 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 applicants are Christopher and Maureen Donato.
2. The site is located 501 Bertonley Avenue, further identified as tax parcel 157-091-13.
3. The property is zoned R-4 (single family).
4. The site comprises of approximately 0.32 acres.
5. The single family structure that currently occupies the site was built in 1960.
6. Per Section 9.205(1)(g) a minimum rear yard of 40 feet is required for the subject property.
7. The original single family home was compliant with the minimum 40 foot rear yard.
8. On February 28, 2012, building permit #B2292582 was issued for a dining room and chimney addition on the rear of the structure.
9. The applicants now wish to sell the property.
10. A survey dated April 23, 2021 was commissioned for the sale of the property and shows a 5 foot encroachment of the 2012 addition into the 40 foot rear yard.
11. The applicants are requesting a 5 foot variance from the 40 foot rear yard for compliance of the existing addition to the principal structure.
12. The hardship does not result from actions taken by the applicant or the property owner.
13. The building permit issued for the addition noted the required 40 foot rear yard, however the applicants state they were unaware the 9 year old home addition was non-compliant with the Zoning Ordinance.
14. The hardship results from conditions that are peculiar to the property.
15. The property is 140 feet, which is a lesser depth than most other 150 to 155 foot lots in the area.
16. The decreased depth of the property reduces the allowed building depth for an addition.
17. The granting of the variance does not impact public safety.
18. The variance will not detract from the character of the neighborhood.
19. The addition has existed in its current location for 9 years.
20. The 5 foot encroachment is minor and not easily detected with the heated portion of the encroachment being approximately 3 feet in depth and the chimney accounting for the additional 2 feet.
21. Strict application of the Ordinance would require the addition to be demolished which would result in an unnecessary hardship.

22. Due to the lesser depth of the lot, and the undue hardship of demolishing the structure that has been in place for 9 years, hardships exists that warrant granting the variance.

**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