



LINDA A ALEXANDER  
2507 HAVERFORD PLACE APT 435  
CHARLOTTE, NC 28209

**RE: VARIANCE  
1948 WILMORE DRIVE  
CASE NUMBER 2021-050**

To Whom It May Concern:

At its remote meeting on June 29, 2021 the City of Charlotte Zoning Board of Adjustment (“Board”) **granted** a 3 foot variance from the required 35 foot rear yard for an existing principal structure.

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

1. The applicant is Linda A. Alexander.
2. The site is located 1948 Wilmore Drive, further identified as tax parcel 119-041-01.
3. The property is zoned R-5 (single family) and is located in the Wilmore Local Historic District Overlay that was adopted in 2010.
4. The site comprises of approximately 0.15 acres.
5. The single family structure that currently occupies the site was built in 2008.
6. Per Code Section 9.205(1)(g), a minimum rear yard of 35 feet is required for the subject property.
7. The applicants now wish to sell the property.
8. A survey dated May 7, 2021 was commissioned for the sale of the property and shows a 3 foot encroachment of the rear of the home into the 35 foot rear yard.
9. The applicants are requesting a 3 foot variance from the 35 foot rear yard for compliance of the principal structure.
10. The hardship does not result from actions taken by the applicants.
11. On December 13, 2007, building permit # B1841501 was issued for the new home noting the 35 foot rear yard.
12. The home was constructed at that time and a Mecklenburg County Certificate of Occupancy was issued on June 16, 2008.
13. The property has changed ownership 4 times since the home was rebuilt in 2008.
14. A survey dated August 5, 2016 from the applicants purchase of the home did not show the rear yard encroachment.
15. The applicants state they were unaware of the encroachment until the 2021 survey was commissioned for the sale of the home.
16. The hardship results from conditions that are peculiar to the property.
17. The property depth ranges from 92 to 97 feet which is a lesser depth than most other lots in the neighborhood which have depths of 132 feet or more.
18. The granting of the variance does not impact public safety.
19. The variance will not detract from the character of the neighborhood.
20. The home has existed in its current location for 13 years.
21. The encroachment is minor and not easily detected.
22. There is a fence that screens the rear yard area from view of the neighboring properties and the Spruce Street right-of-way.

23. Section 4.107 of the Zoning Ordinance allows for an administrative deviation of a yard requirement up to 2 feet. Since the encroachment is 3 feet, it cannot be remedied through this provision.
24. The deck on the rear of the is 6.4 feet in depth with a current encroachment of approximately 9 feet into the required rear yard.
25. Per Section 12.106(3)(b) a deck can encroach up to 25% of the rear yard, so if the 3 foot variance is granted allowing a rear yard of 32 feet, the 6.4 foot deck on the rear of the home would be compliant with the resulting 8 foot encroachment allowance.
26. The property is located in the Wilmore Local Historic District. The Historic District Commission staff has indicated that they do not oppose the request and the 2008 home since it was constructed prior to the adoption of the Wilmore district in 2010.
27. Due to the smaller lot depth and the undue hardship of demolishing a portion of the structure that has been in place for 13 years, a hardship exists that warrants the granting of 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