



DAVID W. MURRAY
1109 GREENWOOD CLIFF
CHARLOTTE, NC 28204

**RE: VARIANCE
6401 ILEX COURT
CASE NUMBER 2021-062**

To Whom It May Concern:

At its remote meeting on July 27, 2021 the City of Charlotte Zoning Board of Adjustment (“Board”) **granted** a 10 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 Robert and Lynne Trice, (Represented by David W. Murray, with The Odom Firm, PLLC).
2. The proposed site is located at 6401 Ilex Court, further identified as tax parcel 189-112-13.
3. The lot is identified as Lot 271 on the recorded subdivision Plat Map Book 15 Page 415 dated January 13, 1972.
4. The property is zoned R-3 (single family) and is occupied by a single family dwelling constructed in 1985.
5. Per Code Section 9.205(1)(g) the required rear yard is 45 feet.
6. The applicants stated that they received a copy of a 1986 survey when they purchased the property in 1991, that did not show the required 45 foot rear yard.
7. The applicants stated that they added an addition to the rear of the home in 1997.
8. Due to the age of the addition, any permits have since been expunged by Mecklenburg County and there are no remaining records.
9. The applicants now wish to sell the property.
10. A survey dated May 27, 2021 commissioned for the sale of the property shows that the rear addition on the home encroaches approximately 9.58 feet into the 45 foot rear yard.
11. The rear addition would not meet the definition of a nonconforming structure because the ordinance requirements were in place at the time of construction.
12. The applicants are requesting a 10 foot variance from the required 45 foot rear yard for the existing encroachment of the rear of the principal structure.
13. The hardship was not a result of actions taken by the applicants.
14. The applicants state that they were unaware of the required 45 foot rear yard and encroachment.
15. The hardship results from conditions that are peculiar to the property.
16. Per the applicants’ survey, the lot depth ranges from approximately 115 to 125 feet, which is a smaller depth than many of the surrounding properties which range from approximately 145 to 175 feet in depth.
17. Per footnote 1 to Section 9.205, the required setback for the property is 35 feet as shown on the recorded plat Map Book 15 Page 415.
18. The required 35 foot setback for the property per the recorded plat is 5 feet greater than the standard 30 foot setback for the R-3 zoning district, which narrows the permitted building depth.

19. Unnecessary hardships result from strict application of the ordinance.
20. The reduced depth of the lot creates a smaller permitted building footprint on which to place a rear addition.
21. The variance will not adversely affect adjacent or contiguous properties or change the essential character of the neighborhood.
22. The home has existed in its current configuration for 24 years.
23. The encroachment is not easy to detect, and the footprint of the home will remain the same.
24. Due to the smaller lot depth and increased setback requirement, hardships exist which make it difficult to locate the addition outside of the existing encroachment area.

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,

Patrick Welch

Patrick Welch, Chairman

08/04/2021
Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**

 Recoverable Signature

X *Shad Spencer*

Shad Spencer
Zoning Administrator - August 5, 2021
Signed by: 4370c57f-ee18-462b-b92c-d54f5ed20af9