



Michael Hopkins
MBH Construction LLC
PO Box 668529
Charlotte, NC 28266

**RE: VARIANCE
611 W PARK AVENUE
CASE NUMBER 2022-008**

To Whom It May Concern:

At its remote meeting on February 22, 2022 the City of Charlotte Zoning Board of Adjustment (“Board”) **granted** two variances to allow the reconstruction of a single family home:

1. A 27.5 foot variance from the required 35 foot rear yard.
2. A 15.3 foot variance from the required 20 foot setback.

The board based its decision on the following findings of facts:

1. The applicant is Michael Hopkins of MBH Construction, LLC.
2. The proposed site is located at 611 West Park Avenue, further identified as tax parcel 119-096-09.
3. The property is zoned R-5 (single family) and is located within the Wilmore Local Historic District.
4. The property is approximately 0.11 acres in size.
5. There is a single family home on the property that was built 1931.
6. Per Code Section 9.205(1)(e2), the minimum required setback for R-5 is 20 feet.
7. Per Code Section 9.205(1)(g), the minimum required rear yard for R-5 is 35 feet.
8. The existing home on the property has an established rear yard of 7.5 feet and an established setback of 4.7 feet. It meets the definition of a nonconforming structure because it predates and is not compliant with the required setback and rear yard.
9. On June 29, 2021, the applicants were granted a variance for an addition to the side of the home which permitted a 17.4 foot setback and 12.5 foot rear yard.
10. During the construction of the addition, an engineer recommended demolition of the existing home, reporting that the home was compromised, and was not able to be renovated due to structural issues including termite, water and fire damage, and extensive foundation issues.
11. On January 19, 2022, the Historic District Commission approved the demolition of the existing home with the following conditions:
 - a. Demolition may take place sooner of the approval of the new construction plans or the expiration of 365 days.
 - b. The 90-day waiting period for the submittal of new construction plans is waived.
 - c. Any salvageable original materials are to be retained for re-use in the new construction.
 - d. Measured drawings of the existing house are to be completed and provided to staff before the building is demolished.
12. Since the existing home will be demolished and redeveloped, the new development will not meet the definition of a nonconforming structure.

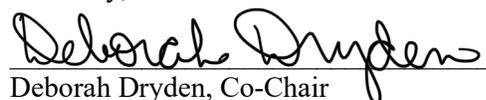
13. The previously granted variance for the property did not accommodate the encroachments needed to rebuild the home in its current footprint.
14. The HDC and the applicants would like for the new home to replicate the appearance and placement of the existing home.
15. The applicants are requesting two variances to rebuild the home as it exists today: 1) A 27.5 foot variance from the required 35 foot rear yard; and 2) A 15.3 foot variance from the 20 required setback.
16. The hardship is not the result of actions taken by the applicants.
17. The existing home was constructed in 1931 prior to current zoning regulations.
18. The applicant's purchased the property in 2020.
19. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
20. The hardship results from conditions that are peculiar to the property.
21. The minimum lot area for a detached dwelling in the R-5 district is 6,000 square feet.
22. The applicants lot area is approximately 4,601 square feet.
23. Per the applicants' survey dated May 27, 2021, the lot depth ranges from approximately 66.5 to 57.5 feet, and the lot width is approximately 74.5 feet, which is not sufficient to accommodate rebuilding the home as it exists today in compliance with the required setback and rear yard.
24. Granting the variance will not alter the essential character of the neighborhood.
25. A variance was granted for the neighboring property to the north in 2016 for a 10 foot front setback and a 10 foot rear yard to allow the construction of a single family home.
26. The property is located within the Wilmore Local Historic District and the home plans for the rebuilding of the home will require HDC (Historic District Commission) approval. HDC staff has approved demolition of the home due to structural issues and is in support of the requested variance to permit reconstruction.
27. No variance is needed on the side yard adjacent to the alley because Code Section 12.102(3) permits side yards to be measured from the centerline of alleys that abut a property.
28. The hardship results from the smaller lot size and buildable area of the lot, and the established setback and rear yard encroachments.

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.

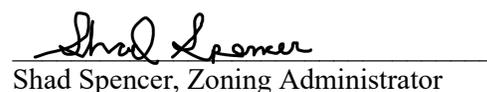
If any permits are required, please make sure the variance case number is referenced on the permit application and/or site plan. Section 5.111 of the Zoning Ordinance provides that unless otherwise specified by the Board, any decision of the Board granting a variance shall automatically expire if a permit 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,


 Deborah Dryden, Co-Chair

3-10-2022
 Date

**DECISION FILED IN THE
 PLANNING DEPARTMENT:**


 Shad Spencer, Zoning Administrator

 Date