



Cooper Morrison (Represented by John B. Fryday)
605 Berkeley Avenue
Charlotte, NC 28203

RE: VARIANCE
601 Berkeley Avenue
CASE NUMBER 2019-009

To Whom It May Concern:

At its meeting on January 29, 2019, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** a 9 foot variance from the required 15 foot street side yard to allow for a second story addition to be built in the established street side yard using the existing footprint of the single family dwelling.

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

1. The applicant is Cooper Morrison (Represented by John B. Fryday, AIA/ASID).
2. The proposed site is located 601 Berkeley Avenue, further identified as tax parcel 123-057-01.
3. The property is zoned R-4 (single family).
4. The property is located in the Dilworth Historic District-Overlay.
5. On April 17, 2018 a request to demolish the existing home was delayed for 365 days by the Historic District Commission.
6. A single family structure built around 1951, currently occupies the site.
7. Code section 9.205(1)(e2) indicates a minimum setback of 30 feet for a residential use within the R-4 zoning district when located along right-of-way approved prior to December 20, 2010.
8. Code section 12.102(6) states that if two corner lots are separated by a common rear lot line, the common side yards of the lots on the street must be a minimum of 50 percent of the required setback. Therefore, the required street side yard for this subject property is 15 feet along Euclid Avenue.
9. Per a physical survey of the subject property provided by the applicant, the left exterior wall of the house encroaches approximately 9 feet into the required street side yard.
10. The existing home was constructed prior to the current zoning regulations and the portion of the home which encroaches into the required street side yard is considered a legal nonconforming structure.
11. Code section 7.103(5) states that nonconforming structures may be expanded only if the part of the structure to be expanded and the area of the lot into which the expansion is taking place comply with the current zoning regulations.
12. The applicant is requesting a variance for a 9 foot reduction from the required 15 foot street side yard along Euclid Avenue to allow a second story addition to be built over a nonconforming portion of the existing structure.
13. The physical footprint of the existing house will not change and the 9 foot encroachment will not be increased.
14. The encroachment is not easy to detect.

15. The subject lot is a corner lot which requires a greater side yard dimension when abutting a street than the typical side yard dimension when abutting another lot.
16. Granting the variance will allow the second story addition to be visually integrated with the existing home.
17. Granting the variance will not alter the essential character of the neighborhood.
18. The second story addition must be reviewed and approved by the Historic District Commission, and be in keeping with the Charlotte Historic District Design Guidelines.
19. Granting the variance will allow for preservation and the continued use of the existing structure as an alternative to demolition.
20. Granting the variance will not adversely affect adjacent or contiguous properties.

Based upon the above findings of fact, the Board concludes that the applicant has met the standards set forth in North Carolina General Statutes § 160A-388, and more specifically:

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,



Rick Sanderson, Acting-Chairperson

1/31/19
Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**



Shad Spencer, Zoning Administrator

2/6/19
Date