

AMENDED MEMORANDUM

TO: Board of Adjustment Members
FROM: Community Development Department
DATE: December 10, 2024
RE: Variance Application –2420 Rolfe Street

SUMMARY: The Community Development Department has received an application from David Kronen and Ricki Reed-Kronen for a variance from Section 5-3-3. Dimensional Requirements in accordance with the definition of “setback” in Section 12-2 Definition of Terms to reduce the required 30’ setback to 7.5’ on the front of the property in order to construct a 526 square foot addition. The subject property is currently zoned R-15 Medium-Density Residential. The specific variance requested is for the following:

VARIANCE REQUEST: The Applicant is requesting a variance from the requirement for the front yard setback of 30’ in Section 5-3-3 of the Zoning Ordinance. The applicant is seeking to build a two-story addition (main level and basement with a footprint of 526 feet). (*Exhibit A*)

The subject property is a corner lot that is .37 acres or 16,117 square feet and is zoned R-15 Medium-Density Residential. There is a 1,232-square-foot building on the property currently that is positioned at an angle towards the corner. The front setback requirement is 30’ according to Section 5-3-3. – Dimensional requirements. The current home on the property sits within both the front and side setback on the property, though it will not be required to come into conformance with our setback standards at this time. Other requirements for this district are an 85’ minimum lot width, a side setback of 10’ (increased by 10 feet on corner lots), and a rear setback of 15’. The applicant has successfully achieved these requirements.

The applicant has expressed limitations of the property due to its unique shape, existing building location, location of the septic system, and location of the driveway.

PROPOSED FINDINGS OF FACT:

- Based on Henderson County records the subject property possesses a PIN of 9569-39-0335 and is zoned as R-15 Medium-Density Residential.
- Based on Henderson County records, the lot size is approximately 0.37 acres or 16,117 square feet.
- Based on Henderson County records, the subject property has one structure built on it that is 1,232 square feet.

- Based on Henderson County records a North Carolina General Warranty Deed between Rachel B Reed (Grantors) and Ricki Reed-Kronen and husband David Kronen (Grantees) was recorded on August 8, 2023.
- *Section 5-3-3* of the zoning ordinance requires the principal structure setbacks for MIC be:
 - Front: 30'
 - Side: 10' with an additional 10' for corner lots
 - Rear: 20'
- *Section 12-2-2* defines the building setback as an open, unobstructed area that is required by this zoning ordinance to be provided from the furthestmost projection of a structure to the property line of the lot on which the building is located.
- Based on the Variance Application (*Exhibit A*), the Applicant is proposing to construct an addition on the home.
- Based on the site plan submitted by the Applicant, the addition will be located on the southwestern corner of the existing building and will require a reduced setback of 7.5'.

CODE REFERENCES.

5-3-3 Dimensional Requirements:

Minimum Lot Area in Square Feet:	15,000
Minimum Lot Width at Building Line in Feet:	85
Minimum Yard Requirements in Feet:	
Front:	30
Side:	10 with an additional 10 for corner lots
Rear in Feet:	20
Maximum Height in Feet:	35

Section 12-2 Definition of Terms

Setback: An open, unobstructed area that is required by this zoning ordinance to be provided from the furthestmost projection of a structure to the property line of the lot on which the building is located.

Section 10-9 Variance.

A Variance is a means whereby the City may grant relief from the effect of the Zoning Ordinance in cases of hardship. A Variance constitutes permission to depart from the literal requirements of the ordinance. When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of the following:

- 1) Unnecessary hardship would result from the strict application of the ordinance. It is not necessary to demonstrate that, in the absence of the Variance, no reasonable use can be made of the property.
- 2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a Variance. A Variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- 3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a Variance is not a self-created hardship.
- 4) The requested Variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

The Board of Adjustment shall not have authority to grant a Variance when to do so would:

- 1) result in the extension of a nonconformity regulated pursuant to Section 6-2, above,
or
- 2) permit a use of land, building or structure which is not permitted within the applicable zoning district classification. Per NCGS 160D-705 (d), appropriate conditions may be imposed on any Variance, provided that the conditions are reasonably related to the Variance.

