

## Town of Charlotte Staff Report – DRB 24-138-VA Stone

### General Information

Applicant:	Martha Stone (Consultant: Mike Gaines, Barnard and Gervais)
Application No.:	<b>DRB-24-138-VA</b>
Property Owner:	Martha Stone
Requested Action:	Variance approval
Purpose:	Detached Two-Car Garage
Existing Zoning:	Rural District (RUR)
Location:	88 Museum Road
Parcel ID:	00043-0088
Size:	1.79 acres (lot is naturally subdivided into three parcels)
Existing Land Use:	Residential
Surrounding Land Use and Zoning:	Residential (Rural District)
Permitting / Subdivision History:	HAP-24-04 (Highway Access Permit)
Applicable Regulations	Land Use Regulations, as amended 2023 Recommended Standards for Developments & Homes, 1997
Public Notification:	Public notification was published in <i>The Citizen</i> newspaper November 14, 2024 and mailed to adjoining property owners on November 21, 2024. The notice was posted on the town website and at the Town Office, the Post Office, and the Charlotte General Store at least fifteen days before the hearing.

### Materials Received in Support of this Application:

1. Variance Application, last revised November 19, 2024
2. Accessory Structure Permitting Sketch Plan (Sheet SK-1), Barnard and Gervais, Last Revised November 1, 2024
3. Letter of Support, Clark Hinsdale III, November 6, 2024

### Project background:

In late May 2024, Michael Gaines of Barnard and Gervais submitted an application on behalf of Martha Stone to replace a dilapidated former house with a garage at 88 Museum Road. The site plan showed a new substandard access from Museum Road. Zoning Administrator Aaron Brown placed the application on hold and advised the applicant to submit a Highway Access Permit with a compliant driveway design. The Highway Access Permit was approved August 28, 2024.

Brown reviewed the garage application after the HAP was approved, noted that the building was proposed to be built on slopes exceeding 15%, and advised the applicant that conditional use approval was required. The applicant submitted a conditional use application on September 20, 2024. The DRB opened a hearing for the conditional use application on October 23, 2024. Over the course of two meetings, the board decided the dilapidated, nonconforming structure could not be replaced in the same location because it had not been used for over two years. The Board suggested that variance review standards would better apply to the project. Stone withdrew her conditional use application and submitted a variance application. The updated site plan in the variance application moves the garage location to the northern end of Stone's lot, across Museum Road from her house.



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### Section 9.7 Variances

The Board may grant a variance, and render a decision in favor of the appellant, only if all of the following facts are found, and the findings are specified in its written decision:

- 1. There are unique physical circumstances or conditions ... and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of these regulations...*
- 2. Because of these physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is necessary to enable the reasonable use of the property.*
- 3. The unnecessary hardship has not been created by the appellant.*
- 4. The variance, if authorized, will not alter the essential character of the neighborhood ... or permanently impair ... the development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.*
- 5. The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.*

The middle lot is an existing, non-conforming lot of 0.54 acres. It is only 78 feet wide at the northerly boundary and 90 feet wide at the southerly boundary. A significant portion of the southern end of the lot has slopes in excess of 15% grade. It is therefore nearly impossible to site a structure that does not encroach into at least one setback or impact steep slopes. The applicant appears to have revised the design to make it as conforming as possible – the new site avoids steep slopes and is 17 feet shy of meeting the setback on Museum Road. There is arguably no reasonable use of the middle lot at this time, because the dilapidated structure is unfit for use. It seems difficult to argue that Stone created the hardship of the narrow lot.

### Staff Comments:

The applicant appears to be in a strong position to be granted a variance. Stone did not create the hardship of a narrow lot with slopes, which are unique physical circumstances that arguably prevent development that complies with the LURs. The proposed garage site is fifty feet from the edge of Museum Road, just 17 feet short of meeting that setback. Many structures in this neighborhood, which includes a designated historic district, are located close to the road. Indeed, the museum for which the road is named lies within the right-of-way. Placing the garage across the street from the house is probably a more unified and logical location than the originally proposed site.

**Prepared by:** Aaron Brown, Zoning Administrator, December 4, 2024