



ZONING	2014-081 (MX-2)
LOCATION	The property is located at 6136 Treehouse Drive within the Vineyards development west of I-485, south of Wilkinson Bv., parcel 11308334

STAFF RESOURCE: John Kinley

REQUEST:

- Jean Paul Cosentino (property owner) is requesting approval of Innovative side yard for the single-family home within the MX-2 zoned portion of the approved zoning plan associated with petition 2014-081 also known as the Vineyards. The requested innovative side yard only applies to the single-family home located on parcel 11308334.
 - Reduction of the north (right), side yard for the existing home from 5 ft to 1.5 ft. The innovative request only applies to existing home footprint, any future additions or redevelopment of the parcel shall be compliant with the MX-2 zoning's 5 ft side yard.

STAFF	Staff recommends approval of the Innovative Request.
RECOMMENDATION	

Certain legacy zoning districts allow applicants to seek innovative standards for regulations such as setbacks and yards. The parcel is located within an area denoted as Development G-2 for the Vineyards development on the original approved zoning plan established by rezoning petition 2014-081. The area is zoned MX-2, a legacy conditional zoning district.

The approved zoning plan confirms in note V.A.2. the ability to request Innovative standards to side yards. No innovative side yard was listed on the rezoning plan therefore the required side yard is based on the standard in the Zoning Ordinance in place at the time the zoning was approved (2014). Chapter 11 of the Ordinance covers MX-2 zoning standards which says setback and yard standards for residential development is per R-6 zoning standards in Section 9.205 of the Ordinance that states the side yard is 5 ft.

After closing on the home in July of 2024, the applicant submitted an application to the neighborhood's HOA to construct an attached garage. The HOA approved the project without any specific conditions related to setbacks, providing a standard notice that the HOA approval does not guarantee compliance with local permitting requirements. The plan set submitted to the HOA clearly show a side yard of 2 ft. Based on the HOA approval and general assurances the applicant received from contractors and real estate professionals and their own lack of understanding regarding setback requirements they proceeded in good faith with the construction of the addition. The applicant acknowledges it was their oversight to not verify the Ordinance requirements prior to construction. The applicant became aware of the issue by an HOA board member after the addition was built. Since then the applicant has been working to resolve the issue by securing an easement agreement with the abutting property owner to the north, engaging permitting consultants and surveying professionals and contacting the Planning staff to determine and follow the process to bring the property into compliance. If the innovative request is approved the applicant will be required to obtain a after the fact building permit from Mecklenburg County and record a new plat for the parcel reflecting a 1.5 ft side yard on the right side of the lot noting, it is for only the existing structure. If the request is denied the applicant will need to demolish the portion of the structure that encroaches into the 5 ft side yard.

The applicant is requesting approval of innovative side yard applicable only to the north (right) side yard for the existing single-family home on parcel 11308334, in accordance with the note on V.A.2 of the zoning plan and Chapter 11 of the legacy Zoning Ordinance. Innovative standards requested are to north (right) side yard. The attached survey dated 11/26/25 shows existing home, property lines and separation from abutting home to the north.

- The home on the subject parcel is located 1.5 ft from the property line at the nearest point per the easement agreement with the abutting property owner, provided by the applicant. The survey and applicant's plan set show the home 2 ft from the property line at the front corner of the home which may not account for eaves, thus the request is to reduce the side yard to 1.5 ft.

Staff recommends approval of the proposed innovative standards based on the following:

- The site is in an area developed with single family homes in the Vineyards development. The development plan includes a mixture of detached and attached single family homes. Development area G-2 is restricted to single family homes.
- The zoning plan states that developments taking place within each residential parcels will be subject to covenant, and restrictions governed by a masters owner association. The City of Charlotte and Mecklenburg County does not enforce restrictive covenants. Compliance with restrictive covenants does not exempt compliance with the approved zoning plan and Zoning Ordinance.
- Note V.A. of the zoning plan states that the petitioner may request innovative standards for front, side and rear yards. "Petitioner" includes the original rezoning petitioner, the developer, owners and successors.
- The MX-2 zoning standards point to R-6 standards for single family home setbacks and yards. The side setback for R-6 zoning per the 2014 Zoning Ordinance is 5 ft. The requested 1.5 ft side yard for the subject parcel is a 3.5 ft reduction.
- The applicant acknowledges they failed to confirm the side yard requirement and get proper zoning approval of the addition constructed.
- The reduced side yard would allow the existing structure to remain as constructed. Future additions or redevelopment of the lot would have to be compliant with the 5 ft side yard requirements.
- Per the survey provided by the applicant, the abutting home to the north is located 28.5 ft from the left side property line at the nearest point, with approximately 36 ft of separation between the homes at the nearest point.
- The subject home and abutting home are not directly side by side and the subject home sits at a lower elevation such that the encroachment is not noticeable from the street.
- Homes in the neighborhood that are side by side have a separation of approximately 23-30 ft.
- The applicant and abutting property owner have signed an easement agreement acknowledging the encroachment into the required side yard.
- If the innovative request is approved the applicant will be required to obtain applicable building permits and record a new plat showing the required 5 ft side yard and the 1.5 ft innovative side yard applicable only to the existing home.

Survey showing existing home with encroachment into side yard

SETBACKS (PER MAP 73-746)

FRONT SETBACK - 20'
 SIDE SETBACK - 5'
 REAR SETBACK - 30'
 MAXIMUM BUILDING COVERAGE IS 35% OF LOT
 AREA (LOT SIZE 8,501-15,000 SF)

