



CITY OF CHARLOTTE ZONING BOARD OF ADJUSTMENT
INNOVATION STATION
GOVERNMENT CENTER – 600 EAST FOURTH STREET
TUESDAY JULY 29, 2008 – 9:00 A.M.

RECOMMENDATION AGENDA

CASE NO. 08-043 – Garinger High School (Represented by Site Solutions, Jeff Ashbaugh, ASLA), for property located at 1100 Eastway Drive, - Tax Parcel Number 093-042-51, requesting a 19 foot variance from the required 75 foot buffer to allow an existing football and track fields to be renovated and sidewalk, visitor bleachers and lights to be replaced. **Code Section 12.302(1)** requires a 75 foot Class “B” buffer for high schools adjacent to residential use. **Code Section 12.302(8)** states that the width of any required buffer may be reduced by 25% if a wall, fence, or berm is provided. **Code Section 7.103 (2) Nonconforming structures:** Normal repair and maintenance may be performed to allow the continuation of nonconforming structures. **Code Section 7.103(3)** Except as provided in subsections (4) and (5), a nonconforming structure shall not undergo a change of use, renovation or expansion.

CASE NO. 08-046 – David Erdman, for property located at 4919 Monroe Road - Tax Parcel Number 161-051-10, requesting a three (3) foot variance from the required five (5) foot side yard to allow a driveway to be located two (2) feet from the exterior property line. **Table 12.206(3)** require driveways to be located five (5) feet from any exterior property line.

AGENDA

CASE NO. 08-032 – Edward and Sarah Davis, for property located at 3201 Ferncliff Road - Tax Parcel Number 177-015-16, requesting a 12 foot variance from the required 45 foot rear yard to allow the construction of a carport addition and renovation. **Code Section 9.205(1)(g)** of the City of Charlotte Zoning Ordinance requires a minimum rear yard of 45 feet in a R-3 zoning district. **Code Section 2.201(4) (h)** defines the required rear yard as the minimum distance required by this Ordinance between the rear of a principal building or structure and the lot line farthest from the street fronting the lot as measured parallel to the rear lot line, projected to the side lines of the lot on which the building or structure is located.

CASE NO. 08-036 – Saint Stephenson Pentecostal Church, for property located at 3656 Beatties Ford Road - Tax Parcel Number 041-082-03, requesting a variance to allow a lot that does not abut a street to be used for the construction of a religious institution and to allow access by way of a 30 foot easement. **Code Section 12.101** states that no building, structure or use of land for any purpose may be placed on a lot, which does not abut a street.

CASE NO. 08-044 – Samuel Franklin, for property located at 4030 Lochfoot Drive - Tax Parcel Number 113-281-10, requesting a 35 foot variance from the required 104 foot established setback to allow an accessory structure to be located in front of the principal building. **Code Section 12.106 (2)(a)** states no accessory structures shall be located within any setback or side yard required of these regulations, or located within three (3) feet of a lot line in the established rear yard. No accessory structure shall be located within any established setback in any residential district, except as otherwise provided.

**THE BOARD WILL BREAK FOR LUNCH AFTER THE ABOVE CASES
AT APPROXIMATELY 12:00 P. M.**

THE FOLLOWING CASES WILL NOT BE HEARD BEFORE 12:30 P. M.

CASE NO. 08-028 – B. Lee Kindberg, for property located at 18323 Hideaway Road - Tax Parcel Number 217-172-20, requesting a 25 foot variance from the required 50 foot buffer requirement to allow construction of a residence. **Code Section 10.708** requires a 50 foot buffer for low density development in the critical area of Lower Lake Wylie. **Code Section 7.103(6)** states a nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning district in which it is located. **Code Section 7.104(1)** states no nonconforming accessory use or accessory structure shall continue after the principal use or structure is terminated by discontinuance, damage, or destruction unless, such accessory use or accessory structure thereafter is made to conform to the standards for the zoning district in which it is located. **Code Section 7.102(2)** states normal repair and maintenance may be performed to allow the continuation of a nonconforming use. **Code Section 2.201-** A nonconforming structure is defined as any structure lawfully existing on the effective date of these regulations, or on the effective date of any amendment thereto, which does not comply with these regulations or any amendment thereto, whichever might be applicable. **Code Section 2.201** defines nonconforming use as any use lawfully being made of any land, building, or structure on the effective date of any amendment thereto, rendering such use nonconforming, which does not comply with these regulations or any amendment thereto, whichever might be applicable.

CASE NO. 08-035 – Janet McMillan (Represented by Joe Ledford), for property located at 4500 East W. T. Harris Blvd - Tax Parcel Number 107-081-77, requesting a four (4) foot variance from the required no signs permitted section of the Ordinance to allow a sign to be erected for a customary home occupation. **Code Section 12.408(11)** states no detached signs or wall signs shall be permitted for the customary home occupation. **Code Section 13.102(S2)** defines sign as any object, device, or structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or emblem of any nation, organization of nations, state, city, or any fraternal, religious or civic organizations; works of art which in no way identify a product; or scoreboards located on athletic fields. Except where the address is also the name of business or institution owning or occupying the premises, displayed address information is not a sign or part of a sign for the purposes of this code. **Code Section 13.109(1)(a)** states that signs on the premises of a single family home shall conform to subsection 13.106(4).

CASE NO. 08-042 (APPEAL) – Joseph Mayer (Represented by H. M. Whitesides, Jr.), for property located at 1405 Tyvola Road - Tax Parcel Number 171-105-08, appealing the Zoning Administrator's decision that a boxing academy is a permitted use in an R-4 zoning district. **Code Section 9.202** does not list indoor recreation as a permitted use by right in the R-4 district. **Code Section 9.203** does not list indoor recreation as a permitted use under prescribed conditions. **Code Section 9.204(1)** states accessory uses and structures, clearly incidental and related to the permitted principal use or structures on the lot are permitted. **Code Section 4.103 Certificate of occupancy required.** (1) It is illegal for any person to occupy or use any land, building, or structure or change the use of any land, building, or structure, except

for land used for agricultural purposes, without first obtaining a certificate of occupancy. (2) A certificate of occupancy shall not be issued unless it has been determined that the site, parcel, building or structure is in compliance with all applicable provisions of these regulations, or an instrument, acceptable to the City, to guarantee conformance with these regulations. **Code Section 4.104 Zoning review.** Professional Staff shall conduct reviews and make approvals of zoning compliance under all applicable provisions of these regulations. Professional Staff is authorized to withhold approval for the issuance of, suspend, or revoke a building permit or a certificate of occupancy if it is determined that a project, structure, site or lot is not in compliance with applicable provisions of this ordinance.

BUSINESS

Approval of Minutes

~ THE BOARD RESERVES THE RIGHT TO DEVIATE FROM THE AGENDA. ~

City of Charlotte will comply with the American Disabilities Act (ADA), which prohibits discrimination on the basis of disability. Anyone needing special accommodations when attending this meeting and/or if this information is needed in an alternative format because of a disability please contact the Clerk to the Charlotte Zoning Board of Adjustment, (704) 336-3818 or skennedy@ci.charlotte.nc.us, at least 72 hours prior to the meeting.
