



CITY OF CHARLOTTE ZONING BOARD OF ADJUSTMENT
CONFERENCE ROOM 280, 2ND FLOOR
GOVERNMENT CENTER – 600 EAST FOURTH STREET
TUESDAY, OCTOBER 25, 2011 – 9:00 A.M.

AGENDA
REVISED October 18, 2011

GRANTED

CASE NO. 11-035 – Application has been made by Providence Day School, Inc for property located at 5800 Sardis Road, Tax Parcel Number 187-033-03 requesting a variance up to 45’7” from the required 75’ buffer. **Code Section 2.201** defines a buffer as a strip of land with natural or planted vegetation located between a use or structure and a side or rear property line intended to separate and partially obstruct the view of two abutting land uses or properties from one another. A buffer area may include any required screening for the site. **Code Section 9.203(7)(a)** states that all buildings, outdoor recreational facilities, and off-street parking and service areas will be separated by a Class C buffer for elementary and junior high schools and a Class B buffer for senior high schools from any abutting property located in a residential district. **Code Table 12.302(b)** states that the minimum width for a Class B buffer on 10 acres or more of land is 75 feet. **Code Section 12.302(12)** states that required buffers shall not be disturbed for any reason except for required driveways, sidewalks, or other pedestrian or bicycle paths, walls, fences, or required landscaping, landscaping maintenance and replacement, or maintenance and construction of berms, or utility lines.

Vote is Aye to Grant

Ayes-Jeffrey Davis, Michael Knotts, Mark Loflin (Alternate)

Nays – Randy Fink, David Hoffman

WITHDRAWN by APPLICANT

CASE NO. 11-037 – Application has been made by Providence Day School, Inc for property located at 5800 Sardis Road, Tax Parcel Number 187-041-23, requesting a 26 foot variance from the required 75 foot buffer to allow a lacrosse practice field. **Code Section 2.201** defines a buffer as a strip of land with natural or planted vegetation located between a use or structure and a side or rear property line intended to separate and partially obstruct the view of two abutting land uses or properties from one another. A buffer area may include any required screening for the site. **Code Section 9.203(7)(a)** states that all buildings, outdoor recreational facilities, and off-street parking and service areas will be separated by a Class C buffer for elementary and junior high schools and a Class B buffer for senior high schools from any abutting property located in a residential district. **Code Table 12.302(b)** states that the minimum width for a Class B buffer on 10 acres or more of land is 75 feet.

DENIED

CASE NO. 11-038 – Application has been made by Providence Day School, Inc for property located at 5800 Sardis Road, Tax Parcel Number 187-041-21 requesting to eliminate the 75’ Class B buffer. **Code Section 2.201** defines a buffer as a strip of land with natural or planted vegetation located between a use

or structure and a side or rear property line intended to separate and partially obstruct the view of two abutting land uses or properties from one another. A buffer area may include any required screening for the site. **Code Section 9.203(7)(a)** states that all buildings, outdoor recreational facilities, and off-street parking and service areas will be separated by a Class C buffer for elementary and junior high schools and a Class B buffer for senior high schools from any abutting property located in a residential district. **Code Table 12.302(b)** states that the minimum width for a Class B buffer on 10 acres or more of land is 75 feet.

Vote is Aye to Deny

Ayes-Jeffrey Davis, Randy Fink, David Hoffman, Mark Loflin (Alternate)

Nays – Michael Knotts

DEFERRED TO NOVEMBER

CASE NO. 11-039 – Application has been made by Southern Steel Company LLC, Inc *for property located at 3015 Wilkinson Blvd, Tax Parcel Number 117-011-18*, requesting a variance to allow a chain link fence with slats to satisfy the requirements of this section when abutting a public street. **Code Section 4.103 Certificate of occupancy required.** 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. **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. **Code Section 9.1103(22) Uses permitted under prescribed conditions.** (a) Junkyards (I-2 only) must be enclosed by a fence which is not easily climbable from six to seven feet in height, and located at least 20 feet from the public street right-of-way. (b)The use shall be located a minimum of 300’ from any abutting residentially used or zoned property. Distances shall be measured from the closed edge of the property line to any residential use or zoning district. **Code Section 12.303(2)(a)** states any fences or walls used for screening shall be constructed in a durable fashion of brick, stone, other masonry materials, wood posts and planks or metal or other materials specifically designed as fencing materials or any combination thereof as may be approved by the Zoning Administrator. Other materials may also be considered through the alternate buffer and screening process. No more than 25 percent of the fence surface shall be left open and the finished side of the fence shall face the abutting property. A chain link fence with plastic, metal or wooden slats may not be used to satisfy the requirements of this section when abutting residential uses and districts, and public streets.

Vote is Aye to defer until November meeting

Ayes-Jeffrey Davis, Michael Knotts, David Hoffman, Jennifer Coble (alternate), Mark Loflin (Alternate)

Nays – None

DEFERRED TO NOVEMBER

CASE NO. 11-040 – Application has been made by Eastway Wrecker Service *for property located at 2801 Wilkinson Blvd, Tax Parcel Number 117-011-15*, requesting a variance to allow a chain link fence with slats to satisfy the requirements of this section when abutting a public street. **Code Section 4.103 Certificate of occupancy required.** 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. **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. **Code Section 9.1103(22) Uses permitted under prescribed conditions.** (a) Junkyards (I-2 only) must be enclosed by a fence which is not easily climbable from six to seven feet in height, and located at least 20 feet from the public street right-of-way. (b)The use shall be located a minimum of 300’ from any abutting residentially used or zoned property. Distances shall be measured from the closed edge of the property line to any

residential use or zoning district. **Code Section 12.303(2)(a)** states any fences or walls used for screening shall be constructed in a durable fashion of brick, stone, other masonry materials, wood posts and planks or metal or other materials specifically designed as fencing materials or any combination thereof as may be approved by the Zoning Administrator. Other materials may also be considered through the alternate buffer and screening process. No more than 25 percent of the fence surface shall be left open and the finished side of the fence shall face the abutting property. A chain link fence with plastic, metal or wooden slats may not be used to satisfy the requirements of this section when abutting residential uses and districts, and public streets.

Vote is Aye to defer until November meeting

Ayes-Jeffrey Davis, Michael Knotts, David Hoffman, Jennifer Coble (alternate), Mark Loflin (Alternate)

Nays – None

**THE BOARD WILL BREAK FOR LUNCH AFTER THE ABOVE CASES
AT APPROXIMATELY 12:30 P. M.**

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

UPHELD ZONING ADMINISTRATOR'S DECISION

CASE NO. 11-036 (APPEAL) – Application has been made by Hamilton Associates LLC *for property located at 1911 Central Avenue, Tax Parcel Number 095-077-05* appealing the Zoning Administrator's interpretation that a patio cannot be located in the required setback as outlined by the City of Charlotte Zoning Ordinance. **Code Section 2.201** defines the required setback as the minimum distance required by this ordinance between the street right-of-way line and the front building line of a principal building or structure as measured parallel from the street right of way line, projected to the side lines of the lot. In case of a through lot, a required setback also will be measured from the right-of-way line at the rear of the lot to the rear building line. Accessory structure or use is a use or structure that is customarily or typically subordinate to and serves a principal use or structure; is clearly subordinate in area, extent, or purpose to the principal use or structure served; and is located on the same lot as the principal use or structure. In no event shall "accessory use" or "accessory structure" be construed to authorize a principal use or structure not otherwise permitted in the district in which the use is located. Structure is defined as anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building which can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently. Patio is defined as a level, surfaced area directly adjacent to a principal building. A patio may be constructed of any material.

Code 12.106(2)(a) Uses and structures prohibited and allowed in required setbacks and yards. No accessory structures, including architectural features, 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. If an accessory structure exceeds the height of the principal structure, it must meet the minimum side yard of the principal structure and be located at least 15 feet from the rear property line. In addition, no accessory structure shall exceed the total square footage of the heated area located on the first floor of the principal structure. **Code Section 12.106(4)** states that no outdoor storage of goods and materials or refuse containers shall be located within any required setback, or within any required side yard which abuts a street, except for the temporary placement of refuse containers for curbside pick-up in residential districts.

Vote is Aye to Uphold

Ayes-Jeffrey Davis, Randy Fink, Michael Knotts, David Hoffman, Mark Loflin (Alternate)

Nays – None

UPHELD ZONING ADMINISTRATOR'S DECISION

CASE NO. 11-031(APPEAL) – Application has been made by James Borga for property located at 521 Dawn Circle, Tax Parcel Number 089-201-014 appealing the Zoning Administrator's interpretation that the current structure located on the lot is not a dwelling unit and therefore is not permitted as a principal structure in the single family residential zoning district. **Code Section 2.201** defines dwellings, detached as a dwelling unit that is developed with open yards on at least three sides, including modular homes, but not including manufactured homes, mobile homes, or recreational or motor vehicles. A dwelling unit is defined as a room or combination of rooms designed for year-round habitation, containing a bathroom and kitchen facilities, and designed for or used as a permanent residence by at least one family. **Code Section 9.202** lists dwellings, detached as a use permitted by right in single family districts.

Vote is Aye to Uphold

Ayes-Jeffrey Davis, Randy Fink, Michael Knotts, David Hoffman, Mark Loflin (Alternate)

Nays – None

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.
