



CITY OF CHARLOTTE ZONING BOARD OF ADJUSTMENT
CONFERENCE ROOM 280, 2ND FLOOR
GOVERNMENT CENTER – 600 EAST FOURTH STREET
TUESDAY, DECEMBER 13, 2011 – 9:00 A.M.

RECOMMENDATION AGENDA

GRANTED

CASE NO. 11-046– Application has been made by Richard and Susan Coe (Represented by Robert G. Young) for property located at 3834 Monroe Rd, Tax Parcel Number 159-047-04, requesting a 123.5 foot variance from the required 300 foot minimum separation distance to allow the location of an outdoor pet services area. Code Section 2.201 defines pet services indoor/outdoor as a use for grooming, breeding, training, boarding, medical services, sales, or other services provided to small animals, typically considered as household pets. Such a use may include one or more of the following: retail sales, pet day care, veterinary clinic, dog park, training or storage, commercial kennel, and similar services. Areas for outdoor pet activities are permitted. Code Section 12.541(6) states that pet services indoor/outdoor is a permitted use in I-2 and all outdoor uses are located at least 300 feet from any lot in a residential zoning district or in residential use. All outdoor uses are completely fenced.

Vote is Aye to Grant

Ayes- Jeffrey Davis, Randy Fink, Michael Knotts, C. Jennifer Coble (alternate), Mark Loflin (alternate)

Nays- None

AGENDA

GRANTED: Variances 1 & 3; DENIED: Variance 2

CASE NO. 11-044– Application has been made by Sunoco Logistics (Represented by Paul Raetz) for property located at 6801 Freedom Drive, Tax Parcel Number 055-012-04, requesting three variances: (1) to reduce buffer and provide a fence 5 feet off the property line, (2) waive tree planting requirement for buffer, and (3) allow a 24 foot separation instead of a 100 foot separation as required by the ordinance from the property line. 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 lined 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 9.1103(37)(b) states that petroleum storage facilities with a storage capacity no more than 200,000 gallons provide that all storage tanks and facilities will be located at least 100 feet from any exterior property line is a use permitted under prescribed conditions. Code Section 9.1103(37)(d) states that all buildings and structures and off-street parking and service areas will be separated by a Class A buffer from any abutting property in residential, institutional, office or business zoning district or use in those district. Code Section 12.302 requires a 55 foot Class “A” buffer. 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 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.

Variance 1: Vote is Aye to Grant

Ayes- Randy Fink, Michael Knotts, Mark Loflin (alternate)

Nays- Jeffrey Davis, C. Jennifer Coble (alternate)

Variance 2: Vote is Aye to Deny

Ayes- Jeffrey Davis, Randy Fink, Michael Knotts, C. Jennifer Coble (alternate), Mark Loflin (alternate)

Nays- None

Variance 3: Vote is Aye to Grant

Ayes- Randy Fink, Michael Knotts, Mark Loflin (alternate)

Nays- Jeffrey Davis, C. Jennifer Coble (alternate)

DENIED

CASE NO. 11-045– Application has been made by Eco Energy Distribution-Charlotte (Brian Williams) *for property located at 7720 Mount Holly Road, Tax Parcel Number 031-033-56*, requesting a 95 foot variance from the required 100 feet minimum distance separation to allow the placement of a butane tank on site. **Code Section 9.1103(37)(b)** states that petroleum storage facilities with a storage capacity no more than 200,000 gallons provide that all storage tanks and facilities will be located at least 100 feet from any exterior property line is a use permitted under prescribed conditions.

Vote is Aye to Deny

Ayes- Jeffrey Davis, Randy Fink, Michael Knotts, and Mark Loflin (alternate)

Nays- C. Jennifer Coble (alternate)

OVERTURNED ZONING ADMINISTRATOR'S DECISION

CASE NO. 11-047 (APPEAL) – Application has been made by Eastway Wrecker Service *for property located at 2801 Wilkinson Blvd, Tax Parcel Number 117-011-15*, appealing the Zoning Administrator's interpretation that a junkyard did not exist at the referenced location prior to the adoption of the current Zoning Ordinance and therefore is now required to meet current standards. **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 Overturn Zoning Administrator's Decision

Ayes- Jeffrey Davis, Randy Fink, Michael Knotts, and Mark Loflin (alternate)

Nays- C. Jennifer Coble (alternate)

CONTINUED TO JANUARY

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 variances: (1) to allow an existing structure to be located within the required buffer, (2) to allow parking not to be screened from public view of a public street and (3) to allow parking to be located in the required buffer. **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 Continue

Ayes- Jeffrey Davis, Randy Fink, Michael Knotts, C. 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.

REVERSED ZONING ADMINISTRATOR'S INTERPRETATION

CASE NO. 11-043 (APPEAL) – Application has been made by Pfalzgraf Communities LLC (Represented by Bill Amann and American Tower Corporation) *for property located at 5417 Albemarle Road, Tax Parcel Number 103-011-32*, appealing the Zoning Administrator's interpretation of the distance requirements from the property line for a wireless communication transmission facility located in a residential district adjoining a business district. **Code Section 2.201** defines a public utility structure as an electricity or gas substation, water or wastewater pumping station, telephone repeater station, water storage tank, reservoir, recycling collection center, cellular and telephone transmission facilities, or similar structure used as an intermediary switching, boosting, distribution, or transfer station for electricity water, wastewater, cable television, or telephone services between the point of generation and the end user, or a wastewater treatment plant, but not including satellite dish antennas, facilities for the handling of solid waste (except for recycling collection centers), or radio, television, or microwave transmission or relay towers. **Code Section 12.108(8)(a)** states that wireless communications transmission facilities are permitted above (or below) the height limit in any zoning district as an ancillary or secondary use on a site where another use (other than single family or duplex use) is already established as the principal use of the property, such as a school, church, multi-family residential complex, shopping center, office building, commercial, gold courses, parks or other similar use. For lots in or adjacent to a residential district, wireless communications facilities may be constructed over 40 feet in height provided that the minimum setback, side and rear yards adjacent to the residentially zoned property are increased by one foot for each one foot of facility height in excess of 40 feet, up to a

maximum required separation 200 feet.

Vote is Aye to Reverse Zoning Administrator's Decision

Ayes- Randy Fink, Michael Knotts, and Mark Loflin (alternate)

Nays- Jeffrey Davis, C. Jennifer Coble (alternate)

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.
