



CITY OF CHARLOTTE ZONING BOARD OF ADJUSTMENT
CONFERENCE ROOM 280, 2ND FLOOR
GOVERNMENT CENTER – 600 EAST FOURTH STREET
TUESDAY, JUNE 26, 2012 – 9:00 A.M.

REVISED (6/15/2012)

RECOMMENDATION AGENDA

CASE NO. 12-009 – Application has been made by Men’s Shelter of Charlotte, Inc.(Carson Dean) (Represented by John Carmichael) for property located at 3410 Statesville Road, Tax Parcel Number 077-056-10, requesting variances to allow: (1) a 2,127 square foot variance where the existing building encroaches into the required buffer; (2) reduced width of required Class “B” buffer to accommodate existing building, parking lot, and trash area; (3) a .38 acre variance from the two (2) acres required; (4) allow existing structure to encroach 43 square feet into required five (5) foot side yard and (5) allow existing structure to encroach into required 10 foot rear yard. **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. A **homeless shelter** is defined as a facility that provides free lodging and one or more supportive services for indigent individuals and/or families with no regular home or residential address, on a non-profit basis. A **side yard** is defined as the minimum distance required by this ordinance between the side lot line and the side building line, extending from the established setback to the established rear yard. If no setback is required, the **side yard** shall be defined as extending from the street line to the rear yard. The **rear yard** is defined 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. **Code Section 9.1103(45) (c) Uses permitted under prescribed conditions. Homeless shelters** in an I-1 zoned district is a permitted use subject to the regulations of 12.538. **Code Section 12.538(c)** states that the property for homeless shelters shall have a minimum of two (2) acres. **Code Section 9.1105(1)(e) Development standards for industrial districts** states that the minimum side yard in an I-1 zoned district is 0 or 5 feet. (In I-1 district, no side yard is required, but if one is provided, it must be a minimum of five (5) feet). **Code Section 9.1105(1)(f) Development standards for industrial districts** states that the minimum rear yard in an I-1 zoned district is 10 feet. **Code Section 12.538(b) Homeless Shelters. Buffers:** A **Class “B” buffer** shall be provided along all property lines abutting residentially zoned and/or used property. **Code Section 12.302(3)** states that the buffer requirements include a minimum distance separation from the property line and required planting of trees and shrubs within the buffer. The minimum buffer requirements, which are based on the size of the lot are in accordance with Table 12.302(b). **Table 12.302(b)** states that the minimum width of a buffer may be reduced an additional 25% if a fence or wall is constructed in accordance with these regulations.

CASE NO. 12-023 – Application has been made by **George A. Arzberger, III** for property located at **18200 Hideaway Road, Tax Parcel Number 217-172-41**, requesting a 13 foot variance from the required 35 foot required rear yard to allow a single family structure to be constructed. **Code Section 9.205(1)(g) Development standards for single family districts** states that in an R-5 district the minimum rear yard is 35 feet. **Code Section 2.201** 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.

AGENDA

CASE NO. 12-011 – Application has been made by **Betty McKinney** for property located at **920 Charlottetowne Avenue, Tax Parcel Number 125-223-03**, The applicant is requesting a 10 foot variance from the required buffer to allow parking and maneuvering in the required side yard. **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. **Required side yard** is defined as the minimum distance required by this ordinance between the side lot line and the side building line, extending from the established setback to the established rear yard. If no setback is required, the side yard shall be defined as extending from the street line to the rear yard. **Code Section 9.705(1)(e)** states that the minimum setback for office districts is 20 feet. **Code Section 9.705(1)(f)** states that the minimum side yard for office districts is 5 feet. **Code Section 9.705(2) Buffer and Screening**. Development of any use in the O-1, O-2, and O-3 districts must comply with the applicable buffer and screening requirements in Chapter 12, Part 3. **Code Section 9.705(4) Parking and Loading**. Development of any use in the O-1, O-2, and O-3 districts must conform to the parking and loading standards in Chapter 12, Part 2. **Table 12.206(3) Development Standards for off-street parking, driveways, and garages**. Parking of vehicles is not permitted within required setback or required side yard that abuts a street on any lot, nor within 5 feet of any exterior lot line. No parking is permitted in the right-of-way, except for parallel parking as approved by CDOT. **Code Section 12.302 Buffer requirements**. Buffers shall be required in accordance with Table 12.302(a) when any use is being developed abutting an existing developed lot or vacant lot. Where a conflict exists between the buffer requirements for a use and zoning district, the use requirement shall control. **Table 12.302(a)(5)** states that that the minimum buffer requirements by office use is Class “C”.

CASE NO. 12-024 – Application has been made by **Pleasant Acres, LLC (Represented by John Carmichael)** for property located at **3061 N Sharon Amity Road, Tax Parcel Number 133-014-01**, requesting a variance for 12 parking spaces from the required 61 parking spaces to allow a dialysis clinic. **Code Section 2.201** defines a **parking lot** as an area not within a building designed and used for the storage of motor vehicles. A **clinic (medical, dental or optical)** is defined as a use or structure intended or used primarily for the testing and treatment of human physical or mental disorders. **Table 12.202** states that the minimum required off street parking spaces by use is 1 space per 200 square feet.

CASE NO. 12-022 – Application has been made by **Clarke Davis Allen (Represented by Tri-C Investments)** for property located at **2315 North Davidson Street, Tax Parcel Number 083-052-06**, requesting a 93.22 foot variance from the required 400 foot distance separation to allow a structure in which a nightclub is the principal use to be located 306.78 feet from a residential district and use. **Code Section 2.201** defines a **nightclub** as any commercial establishment serving alcoholic beverages and providing entertainment for patrons including bars, lounges, and cabarets. A **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. **Principal use** is defined as the primary purpose or function that a lot serves or is proposed to serve. **Code Section 9.1103 (30) Uses permitted under prescribed conditions**. Nightclubs, bars and lounges up to 70,000 square feet in I-1 and up to 25,000 square feet in I-2 provided that any structure in which a nightclub, bar or lounge is the

principal use shall be located at least 400 feet from any residential use or residential district.

**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.**

CASE NO. 12-004 (APPEAL) – Application has been made by **The Schnider Group, LLC** for property located at **10762 Traymore Lane, Tax Parcel Number 199-381-32**, appealing the Zoning Administrator’s interpretation that (1) a sidewalk located in the 50 foot required S.W.I.M. buffer is in violation and (2) property violates the Lower Lake Wylie watershed critical area requirement of 20% maximum built upon area. **Code Section 10.702** defines **Critical Area** as the area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. **Buffer** is defined as a natural or vegetated undistributed area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the full pond elevation of impounded structures and from the top of the bank of each side of streams or rivers. **Mitigation** is defined as actions taken either on-site or off-site as allowed by this part to offset the effects of temporary or permanent loss of the buffer. **Code Section 10.706(1)(a) Development Standards for the Lower Lake Wylie Watershed Overlay** states that the critical area maximum allowable built upon area for residential low density option is 20%. **Code Section 10.708(1)(a) Buffer areas required.** Undisturbed vegetative buffers are required along the shoreline of the Lower Lake Wylie measured from the full pond elevation and along each side of all perennial streams measured from the top of bank. In the critical area, the minimum buffer area for low density option is 50’.

CASE NO. 12-005 – Application has been made by **The Schnider Group, LLC** for property located at **10762 Traymore Lane, Tax Parcel Number 199-381-32**, requesting two (2) variances: (1) to allow paved walkway to remain and (2) to increase the amount of impervious area allowed. **Code Section 10.702** defines **Critical Area** as the area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. **Buffer** is defined as a natural or vegetated undistributed area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the full pond elevation of impounded structures and from the top of the bank of each side of streams or rivers. **Mitigation** is defined as actions taken either on-site or off-site as allowed by this part to offset the effects of temporary or permanent loss of the buffer. **Code Section 10.706(1)(a) Development Standards for the Lower Lake Wylie Watershed Overlay** states that the critical area maximum allowable built upon area for residential low density option is 20%. **Code Section 10.708(1)(a) Buffer areas required.** Undisturbed vegetative buffers are required along the shoreline of the Lower Lake Wylie measured from the full pond elevation and along each side of all perennial streams measured from the top of bank. In the critical area, the minimum buffer area for low density option is 50’.

CASE NO. 12-010 (APPEAL) – Application has been made by **Ralph Woods** for property located at **1501 Gum Branch Lane, Tax Parcel Number 031-062-01**, appealing the Zoning Administrator’s determination that the commercial kennel operation is not grandfathered and thereby not permitted. **Code Section 2.201** defines a **commercial kennel** as a use or structure intended and used for the breeding or storage of animals for sale or for the training or overnight boarding of animals for persons other than the occupant of the lot. **Code Section 9.202 Uses permitted by right:** commercial kennels are not listed as uses permitted by right. **Code Section 9.203 Uses permitted under prescribed conditions:** commercial kennels are not listed as uses permitted under prescribed conditions. **Code Section 9.204 Permitted accessory uses and structures:** commercial kennels are not listed as accessory uses.

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.
