



CITY OF CHARLOTTE ZONING BOARD OF ADJUSTMENT  
CONFERENCE ROOM 280, 2ND FLOOR  
GOVERNMENT CENTER – 600 EAST FOURTH STREET  
TUESDAY, JULY 31, 2012 – 9:00 A.M.

AGENDA

**DENIED**

**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 of 18 parking spaces from the required 67 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.

Vote is Aye to Deny

Ayes: Randy Fink, David Hoffman, Lynn Wheeler, Jennifer Coble

Nays: Mark Loflin (Alternate)

**DENIED**

**CASE NO. 12-028** – Application has been made by **James E. Harris (Represented by Lundberg Windows & Siding Inc.)** for property located at **5301 Baker Drive, Tax Parcel Number 171-112-01**, requesting a 27 foot variance from the required 40 foot rear yard to allow an existing deck to be replaced and repaired. **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. 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 7.103(2, 3, 4, 5, & 6) Nonconforming structures:** (2) Normal repair and maintenance may be performed to allow the continuation of nonconforming structures. (3) Except as provided in subsections (4) and (5), a nonconforming structure shall not undergo a change of use, renovation or expansion; (4) A nonconforming structure may undergo a change of use or renovation without having to bring the structure into conformity with the requirements of these regulations, provided that (a) the change in use or renovation does not increase the floor area of the structure; (b) the change in use is to a permitted use within the district; and (c) the number of parking spaces provided for the use is in conformity with the requirements of these regulations. (5) A nonconforming structure may be expanded, without bringing the nonconforming structure into conformity with these regulations, only if the part of the structure to be expanded and the area of the lot into which the expansion is taking place are both brought into conformity with the requirements of these regulations. (6) 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**

**9.205(1)(g) Development standards for single family districts** states that in an R-4 district the minimum rear yard is 40 feet.

Vote is Aye to Deny

Ayes: Randy Fink, David Hoffman, Lynn Wheeler, Jennifer Coble, Mark Loflin (Alternate)

Nays: None

### **GRANTED**

**CASE NO. 12-029** – Application has been made by **Robert Sapienza (Represented by Angie F. Lauer/ALB Architecture, PA)** *for property located at 1025 Isleworth Avenue, Parcel Number 123-112-09*, requesting (1) a 12'4" variance and (2) a 16'4" variance from the required 40 foot rear yard to allow for two (2) additions to an existing structure. **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. 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 7.103(2, 3, 4, 5, & 6) Nonconforming structures:** (2) Normal repair and maintenance may be performed to allow the continuation of nonconforming structures. (3) Except as provided in subsections (4) and (5), a nonconforming structure shall not undergo a change of use, renovation or expansion; (4) A nonconforming structure may undergo a change of use or renovation without having to bring the structure into conformity with the requirements of these regulations, provided that (a) the change in use or renovation does not increase the floor area of the structure; (b) the change in use is to a permitted use within the district; and (c) the number of parking spaces provided for the use is in conformity with the requirements of these regulations. (5) A nonconforming structure may be expanded, without bringing the nonconforming structure into conformity with these regulations, only if the part of the structure to be expanded and the area of the lot into which the expansion is taking place are both brought into conformity with the requirements of these regulations. (6) 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 9.205(1)(g) Development standards for single family districts** states that in an R-4 district the minimum rear yard is 40 feet.

Vote is Aye to Grant

Ayes: David Hoffman, Jennifer Coble, Mark Loflin (Alternate)

Nays: Randy Fink, Lynn Wheeler

### **UPHELD ZONING ADMINISTRATOR'S DECISION**

**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'.

Vote is Aye to Uphold Zoning Administrator's Decision

Ayes: Randy Fink, David Hoffman, Jennifer Coble, Mark Loflin (Alternate), Paul Arena (Alternate)

Nays: None

### **DENIED VARIANCE #1**

### **GRANTED VARIANCE #2 with Conditions**

**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'.

Variance #1: Vote is Aye to Deny

Ayes: Randy Fink, David Hoffman, Mark Loflin (Alternate), Paul Arena (Alternate)

Nays: None

Variance #2: Vote is Aye to Grant

Ayes: Randy Fink, David Hoffman, Mark Loflin (Alternate), Paul Arena (Alternate)

Nays: None

### **DEFERRED TO AUGUST**

**CASE NO. 12-030 (APPEAL)** – Application has been made by **Alson Court Condominium Owners Assoc. Inc (Represented by Henry E. Stepp, II, HOA President)** for property located at **127 South Laurel Avenue, Tax Parcel Number 155-03C-96**, appealing the Zoning Administrator's decision that removal and replacement of a wall is not maintenance and repair and therefore is not subject to **Nonconforming structures** Code Section 7.103(2) or Code Section 7.103(4).

### **DEFERRED TO AUGUST**

**CASE NO. 12-031** – Application has been made by **Alson Court Condominium Owners Assoc. Inc (Represented by Henry E. Stepp, II, HOA President)** for property located at **127 South Laurel Avenue, Tax Parcel Number 155-03C-96**, requesting two variances: (1) a two (2) foot variance from the required five (5) foot side yard and (2) a 17 foot variance from the required 20 foot buffer to allow the construction of a garage to be located three (3) feet from the rear property line. **Code Section 9.305(1)(f) Development standards for multi-family districts** states that the minimum side yard in a R-22MF zoned district is 5 feet. **Table Section 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. **Code Section 9.303(19)(g)** states that all structures and off-street parking and service areas will be separated by a Class C buffer along the side or rear yard from any abutting lot located in a single family residential or abutting single family use.

BUSINESS