



**CITY OF CHARLOTTE ZONING BOARD OF ADJUSTMENT
INNOVATION STATION
GOVERNMENT CENTER – 600 EAST FOURTH STREET
TUESDAY – FEBRUARY 28, 2006 – 9:00 A.M.**

REVISED AGENDA

Denied

Case no. 06-011 – 4301 Acorn Street – Michael A. Argenio – Tax Parcel Number 101-152-26, requesting a 14 foot variance from the required 30 foot setback to allow a residential structure to be converted to a duplex. Code Section 9.205(1)(e) states the minimum setback in an R-4 zoned district is 30 feet. Code Section 9.203(5.1)(c) states the minimum setback requirement must be applied to each of the two different streets. Code Section 2.201(f) defines setback as the distance between the right-of-way line and the front building line of a principal building or structure, as constructed, projected to the side lines of the lot.

Granted with conditions

Case no. 06-012 – 3801 Miriam Drive – Bob Furr – Tax Parcel Number 159-043-05, two variances: 1) 20 foot variance from the required 20 foot setback on Miriam Drive and; 2) a 10 foot variance from the required 10 foot side yard along Pinewood Drive for maneuvering of vehicles in the required setback and side yard. Code Section 12.206 states no off-street parking or driveways are permitted in the required setback or within any required side yard which abuts a street in any district nor within (5) feet of any exterior lot line. The space within the required setback, side, or rear yard abutting a street may not be used for maneuvering space for parking or unparking of vehicles, except that driveways providing access to the parking area may be installed across these setback and yard areas. It is the intent that these driveways be as nearly perpendicular to the street right-of-way as possible. Code Section 2.201(f) states 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 at the rear of the lot to the rear building line. Code Section 2.201(g) states the required side yard 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.

Continued until March

Case no. 06-014 – 961 Seigle Avenue – EHY Properties LLC / Elizabeth Yarboro, rep. by ALB Architecture, PA – Tax Parcel Number 081-084-08, requesting an 8 foot variance from the required 10 foot side yard to allow an addition to the commercial building. Code Section 9.1105(e) states the minimum side yard requirement in a I-2 zoned district is 0 or 5. (In I-1 and I-2 districts, no side yard is required, but if one is provided, it must be a minimum.) Code Section 12.102(7) states that in any district, the rear lot line of a corner lot abuts the side lot line of an abutting lot fronting on a street,

then the side yard of the corner lot must be a minimum of 50 percent of the setback for the abutting lot. Code Section 2.201(g) defines the minimum side yard 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.

Withdrawn at hearing by Applicant

Case no. 06-017 – 5221 Equipment Drive – George and Dina Beligrinis – Tax Parcel Number 047-011-17, requesting a 226 foot variance from the required 600 foot distance separation to allow a day labor service to be located 375 feet from a residential zoned district. Code Section 12.530 states that any structure in which a day labor service agency is the principal or accessory use shall be separated by a distance of at least six hundred (600) feet from any residentially zoned district or from any existing residential use. The distance shall be measured in a straight line from the closest edge of any building occupied by a day labor service agency to the nearest residential zoning district or to the property line of a residential use.

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.

~ REMOVED from the Agenda ~

Case no. 06-019 – 7023 Beatties Ford Road – Paul & Janette Skyers – Tax Parcel Number 037-091-03, requesting a 4 foot variance from the required 40 foot required setback to allow the conversion of a single-family residence to a day care center. Code Section 9.505(1)(d) states the minimum setback for a INST zoned district is 40 feet.

Granted with condition

Case no. 06-020 – 419 Beaumont Avenue – Charles Stratford – Tax Parcel Number 080-201-11, requesting 2.97 foot variance from the required 5 foot side yard to allow a residence to encroach 1.6 feet from the property line. Code Section 9.205(1)(f) states the minimum side yard required in an R-5 zoned district is 5 feet.

~ REMOVED from the Agenda ~

Case no. 06-021 – 6520 E. Independence Blvd. – DriveTime Car Sales, Inc., rep. by Tommy Odom – Tax Parcel Number 191-052-05, requesting a variance to allow parking and maneuvering in the transitional right-of-way and to allow improvements to the nonconforming structure for automobile sales. Code Section 12.103(2) states the transitional setback or yard area established for lots abutting thoroughfares can be used for any purpose allowed by the particular zoning district, except for (a) those uses which are prohibited in the required setbacks or yards as established by this ordinance, or (b) to satisfy any minimum parking requirements if parking is not allowed in the setback or yard by the particular zoning district. Code Section 12.106(2)(a) states that no accessory structures, including architectural features, as cited in five (5) below, 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 the accessory structure exceeds the height of the principal structure, it must meet the minimum side yard and be at least 15 feet from a rear property line and shall not exceed the total square footage of heated area located on the first floor of the principal structure. Code Section 12.106(3) states that certain portions of the required rear yard on a lot used for a single family detached dwelling may be utilized for attached garages, porches, decks, greenhouses, covered patios and utility room extensions 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. Code Section 7.103(3) states that except as provided in subsections (4) and (5) below, a nonconforming structure shall not undergo a change of use, renovation or expansion.

Continued until May

Case no. 05-113 – 9509 University Terrace Drive, Unit D – Larry R. Cullingford, rep. by Ken Davies – Tax Parcel Number 051-331-28, requesting a variance to allow an on-site office for a homeowner's association to be located within a residential condominium unit in a building that contains less than 50 units and where direct public entrance will be provided from the outside of the building. **Code Section 9.302** does not allow an office as a permitted use by right in an R-12MF (CD) zoned district. **Code Section 9.303(25)** states that an office is permitted under prescribed conditions provided that (a) the establishment will be located within a building that contains at least 50 dwelling units; and (c) the establishment will have no direct public entrance from the outside of the building.

Upheld Zoning Administrator's Decision

Case no. 06-008 (APPEAL) – 4223 Morris Field Drive – Robert Hill, rep. by Leonard Kornberg, Esq. – Tax Parcel Number 117-111-25, appealing the Zoning Administrator's decision that the approval of Rezoning Petition #76-07 allow 3 trucks for fuel delivery to be located on the premise and does not permit storage of construction equipment. Code Section 9.802(20) states that contractor offices and accessory storage, excluding the storage of general construction equipment and vehicles (B-2, B-D and BP). Code Section 7.102(5) states a nonconforming use of a structure may be changed to another nonconforming use of the same classification, a higher classification, or to a conforming use. The determination of the classification of the use is based on the district in which the use would be allowed by right under the ordinance. The change of a nonconforming use to another nonconforming use must not generate any more automobile or truck traffic, noise, vibration, smoke, dust, or fumes than the original nonconforming use. Once a nonconforming use is changed to a conforming use, the nonconforming use shall not be re-established. 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.

~ 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 lbell@ci.charlotte.nc.us, at least 72 hours prior to the meeting.
