



**CITY OF CHARLOTTE ZONING BOARD OF ADJUSTMENT
INNOVATION STATION
GOVERNMENT CENTER – 600 EAST FOURTH STREET
TUESDAY – SEPTEMBER 25, 2007 – 9:00 A.M.**

RECOMMENDATION AGENDA

CASE NO. 07-049 – 3005 Somerset Drive - Keith C. Sink – Tax Parcel Number 151-063-08, requesting a 1.9 foot variance from the required five (5) foot side yard to allow the construction of an addition to remain as constructed. **Code Section 9.205(1)(f)** requires a minimum side yard of five (5) feet in a R-4 zoning district. **Code Section 2.201(g)** defines 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.

CASE NO. 07-053 – 4500 South Tryon Street – Marcus & Comfort LLC (Obinna Oriaku) - Tax Parcel Number 145-281-01, requesting a ten foot variance from the transitional setback to allow the renovation and addition of an existing bank building to be converted into a medical office facility. **Code Section 9.805(g)** requires a minimum setback of 20 feet in a district zoned B-2. **Code Section 12.103 Requirements for lots along thoroughfares** (1) The minimum yards or setbacks prescribed for each zoning district, which abuts a thoroughfare, shall be measured from the proposed right-of-way line established for each classification of thoroughfare as follows: **Thoroughfare Classification** - Freeway or Expressway (Class I) requires a distance of 175 feet from the proposed right-of-way centerline. **Transitional setback or yard.** That area, if any, along a thoroughfare which lies between the existing required setback line or yard line and the future required setback or yard line. The future setback or yard is measured from the proposed right-of-way. There will be no transitional setback or yard when the existing street right-of-way line and the proposed right-of-way line are the same or when the existing right-of-way width exceeds the proposed right-of-way width.

AGENDA

CASE NO. 07-044 (Continued) – 6829 Statesville Road – John T. McMillan, for Central Avenue Video - Tax Parcel Number 037-192-13, requesting a 382 foot variance from the required 1500 foot separation requirement to allow an adult bookstore to be located at 6829 Statesville Road. **Code Section 12.518(a)** states that any structure in which an adult bookstore or adult mini motion picture theatre establishment is the principal or accessory use shall be separated by a distance of at least 1,500 feet from any residential district, school, church, child care center, park or playground. An adult establishment lawfully operating as a conforming use is not rendered a nonconforming use by the subsequent location of a residential district, school, church, child care center, park or playground within the 1500 foot separation distance. **Code Section 12.518 (g)** In addition to the standards set forth in Section 5.108, before granting a variance from the separation requirements set forth in subsection (a) or (b) of this section, the Board of Adjustment shall find that thoroughfares, traffic circulation patterns, structures or other natural or man-

made geographic or topographic features are likely to provide an adequate measure of protection for the protected zoning or use from any secondary effects of the adult establishment. **Code Section 2.201** defines an adult bookstore as a retail establishment that has: (1) as one of its principal business purposes the sale or rental of; or (2) substantial or significant portion of its stock in trade for sale or rental.

**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.

CASE NO. 07-047 – 10350 Mt. Holly-Huntersville Road - Tran I, LLC – Tax Parcel Number 025-281-07, requesting a 380 foot variance to eliminate the sidewalk requirement. **Code Section 12.529(1)** Sidewalk connections shall be required after the effective date of this amendment between certain commercial buildings and all adjoining public streets except for freeways or expressways. **Code Section 12.529(2)** Commercial uses and industrial uses requiring sidewalk connections to streets include residential buildings of four (4) or more dwelling units, general offices and medical clinics, institutional uses, retail establishments, and industrial uses. **Code Section 12.529(3)** Sidewalk connections shall be made to all streets adjoining the use. **Code Section 12.529(4)** Sidewalk connections shall be a minimum width for five (5) feet and must be constructed of concrete, asphalt, or other material suitable to the individual landscape setting as determined by the Planning Director or assigns. An individual sidewalk connection will not be required if it would result in a length of 1320 feet or more.

CASE NO. 07-046 - 208 Misty Dawn Lane– Paul Alessio - Tax Parcel Number 213-113-79, requesting a two (2) foot variance from the required four (4) foot building separation to allow a detached garage to remain as constructed. **Code Section 12.106(2) (a)** states that 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. **Code Section 12.107(1) (b)** states that each building on the lot must be separated by at least four (4) feet from any other building on the lot, unless a lesser standard is established in these regulations.

CASE NO. 07-054 – 500 West Park Avenue - Darin J. Nicolas – Tax Parcel Number 119-082-06, requesting two (2) variances: (1) a 3.14 foot variance from the required 20 foot setback and (2) a 1.1 foot variance from the required 10 foot side yard abutting a street to allow the construction of a residence to remain as constructed. **Code Section 9.205(1) (e)** requires a minimum setback of 20 feet in a R-5 zoned district. **Code Section 12.102(7)** If, 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.

CASE NO. 07-052 (APPEAL) – 2400 Belvedere Avenue – Benjamin and Julie Brookhart - Tax Parcel Number 095-083-81, appealing the Zoning Administrator’s decision that termite damage to a structure is considered an act of God and should not allow a nonconforming structure to be demolished and rebuilt. **Code Section 7.103. Nonconforming structures.** (7) Where a nonconforming structure is destroyed or damaged by fire, flood, wind, other act of God, the structure may be repaired or restored to its original dimensions and conditions as long as a building permit for the repair or restoration is issued within 12 months of the date of the damage.

CASE NO. 07-051 – 2400 Belvedere Avenue – Benjamin and Julie Brookhart - Tax Parcel Number 095-083-81, requesting a 2.2 foot variance from the required 10’ sideyard abutting a street to allow a structure to encroach into the sideyard. **Code Section 9.205(1)(e)** requires a minimum setback of 20 feet in a R-5 zoned district. **Code Section 12.102(7) Special lot, setback and yard requirements.** If, 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.

BUSINESS

~ 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.
