



CITY OF CHARLOTTE ZONING BOARD OF ADJUSTMENT
CONFERENCE ROOM CH-14 BASEMENT - CMGC
GOVERNMENT CENTER – 600 EAST FOURTH STREET
TUESDAY JANUARY 27, 2009 – 9:00 A.M.

REVISED
RECOMMENDATION AGENDA

GRANTED

CASE NO. 09-001 – Application has been made by **William T. Blalock** for property located at **6533 Freedom Drive - Tax Parcel Number 059-231-21**, requesting two (2) variances: (1) a 20 foot variance from the transitional setback (along Freedom Drive) and (2) a 10 foot variance from the 20 foot setback (along Little Rock Road) to allow the construction of a commercial building. **Code Section 2.201. Definitions.** A **transitional setback or yard** is defined as 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. **Code Section 12.103. Requirements for lots along thoroughfares.** Subsection (1) identifies a major arterial (Class III) with a right-of-way of 50 feet from the center line. Subsection (2) states that a transitional setback or yard shall also be established for each zoning district which abuts a thoroughfare that has an existing right-of-way which is not as wide as the right-of-way established for that thoroughfare. **Code Section 9.805** requires a minimum setback of 20 feet in a B-1 district.

[Vote is Aye to Grant](#)

Ayes: Zoutewelle, Davis, McLaren, Knotts, Fink

Nays: None

AGENDA

GRANTED with conditions

CASE NO. 09-005 – Application has been made by **Myra Clark, Center for Community Transitions (represented by Tom Anastasi, P.E.)**, for property located at **5825 Old Concord Road - Tax Parcel Number 049-011-18**, requesting a 58 foot variance from the required 100 foot structure separation from the nearest residentially zoned or used property to allow the location and operation of a halfway house for females. **Code Section 9.503(9)(b). Uses permitted under prescribed conditions.** Jails (halfway houses) use. The use and structures shall be separated from the nearest residentially zoned or residentially used property by the following minimum distances: (i) any portion of the principal structure – 100 feet, (ii) any security fence attendant to the principal use – 50 feet, and (iii) any accessory use associated with the principal use – 50 feet. **Code Section 2.201. Definitions.** A jail is defined as a publicly or privately owned building(s), and all accessory uses and structures, used to confine, house, and supervise persons held in lawful custody including those who are serving terms of imprisonment for violations of criminal laws or who are awaiting trial for alleged violations of criminal laws, but not including temporary holding facilities that are accessory to a police station.

[Vote is Aye to Grant](#)

Ayes: Davis, McLaren, Knotts

Nays: Zoutewelle, Fink

GRANTED with conditions

CASE NO. 09-002 – Application has been made by **Nina Toth, for property located at 2401 Laburnum Avenue- Tax Parcel Number 127-073-02**, requesting a 4.5 foot variance from the required 10 foot side yard to increase the floor area of a nonconforming structure by building a second level addition. **Code Section 2.201. Definitions.** 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 9.205(e). Development standards for single family districts.** Requires a minimum setback of 20 feet in a R-5 zoning district. **Code Section 12.102(6). Special lot, setback, yard and building envelope requirements.** If two corner lots are separated by a common rear lot line, the common side yards of the lots on the street must be a minimum of 50 percent of the required setback for the district in which the structure is located. **Code Section 7.103. Nonconforming structures.** Subsection (4a) states that the change in use or renovation does not increase the floor area of the structure. Subsection (5) states that 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.

[Vote is Aye to Grant](#)

Ayes: Zoutewelle, Davis, McLaren, Knotts

Nays: Fink

GRANTED

CASE NO. 09-003 – Application has been made by **Charles W. Walker (Represented by Mitchell Henkent) for property located at 3401 Commonwealth Avenue - Tax Parcel Number 129-111-34**, requesting a variance from the required 10 foot side yard to allow a backflow preventer to be located five (5) feet from the right-of-way. **Code Section 2.201. Definitions.** A **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.

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. “Structure” also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, docks, mooring areas, and other accessory construction. **Code Section 9.805(1)(h) Development standards for business districts** states that the minimum side yard is five (5) feet in the B-1 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. **Code Section 12.106(2)(b). Uses and structures prohibited and allowed in required setbacks and yards.** Notwithstanding the provisions of subsection (a), above ground structures (other than a back-flow preventer) connected to and associated with underground electric, natural gas, telecommunications or cable television distribution lines, pipes, or conduits may be located in the setback.

[Vote is Aye to Grant](#)

Ayes: Zoutewelle, Davis, McLaren, Knotts

Nays: Fink

**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.

WITHDRAWN

CASE NO. 09-004 – Application has been made by **Mattamy Homes (Represented by Jim Brodnix) for property located at 13214 Reunion Street - Tax Parcel Number 219-183-14**, requesting a 4 foot variance from the required 20 foot setback of a cluster development to allow a constructed porch to remain. **Code Section 2.201.**

Definitions. A **cluster development** is defined as a tract of land, at least 10 acres in area, under individual, corporate, firm, partnership, or association ownership, planned and developed as an integral unit, in a single development operation or a definitely programmed series of development operations and according to an approved preliminary site plan. **Code Section 9.205(5). Development standards for single family districts** states that cluster developments are permitted in all single family residential districts, except the R-8, in accordance with

regulations. **Charlotte Tree Ordinance Section 21-13(f)(1a)** states that sites with the minimum tree save area or areas of 10% qualify for a reduced setback and yard.

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.
