



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

REVISED

**RECOMMENDATION AGENDA**

**GRANTED**

**CASE NO. 09-041** – Application has been made by **Domenic Polzella, David and Leigh Polzella (Represented by Allen L. Brooks)** for *property located at 9132 Bob Beatty, Tax Parcel Number 027-532-52*, requesting a 7 foot variance from the required 20 foot rear yard requirement to allow a structure to be located 13 feet from the rear property line. **Code Section 9.705(g)** Development standards for office districts states that the minimum rear yard is 20 feet in the B-2/O-1 zoning district. **Code Section 2.201** defines a required rear yard as the minimum distance 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.

**Vote is Aye to Grant**

**Ayes:** Andy Zoutewelle, Lee McLaren, Michael Knotts, Randy Fink, Mark Loflin (Alternate)

**Nays:** None

**REVISED AGENDA**

**Zoning Administrator's Decision Upheld**

**CASE NO. 09-037 (Appeal)** – Application has been made by **David Drew** for *property located at 3532 Sandy Porter Road, Tax Parcel Number 201-021-06*, appealing the Notice of Violation that (1) a commercial business may not operate from the residence; (2) storage of commercial materials are prohibited; (3) customary home occupation is allowed, however, employees may not report to the residence for work purposes; and (4) a customary home occupation permit must be obtained to operate a home office. **Code Section 4.103 Certificate of occupancy required.** It is illegal for any person to occupy or use any land, building, or structure or change the use of any land, building, or structure, except for land used for agricultural purposes, without first obtaining a certificate of occupancy. **Code Sections 9.202 and 9.203** state that a contractor's office is not a permitted use by right or listed under prescribed conditions in the single family district. **Code Section 9.204(3) Permitted accessory uses and structures.** Customary home occupations, subject to the regulations of Section 12.408. **Code Section 12.408(1)** states that the home occupation must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling. **Code Section 12.408(3)** states no accessory building or outside storage may be used in connection with the occupation. **Code Section 12.408(4)** states that no chemical, mechanical, electrical, construction, paint, landscaping equipment and materials/supplies that are not normally a part of domestic or household equipment may be used or stored, with two exceptions: (a) medical, dental, and office equipment used for professional purposes may be used and (b) a single trailer with a cargo area/work platform shall not exceed a length of 14 feet. **Code Section 12.408(7)** states only residents of the dwelling may be engaged in work activities at the residence.

Vote is Aye to Uphold

Ayes: Andy Zoutewelle, Lee McLaren, Michael Knotts, Mark Loflin (Alternate), Jennifer Coble (Alternate)

Nays: None

**DENIED**

**CASE NO. 09-042** – Application has been made by **Apex Homes (Represented by Sally Johnson)** for **property located at 7100 Oakspring Court, Tax Parcel Number 201-322-26**, requesting a 15 foot variance from the 45 foot setback recorded on the approved plat to allow an existing unfinished single family structure to remain. **Code Section 9.205(1)(d)** of the City of Charlotte Zoning Ordinance requires a minimum lot width of 70 feet in a R-3 zoning district. **Code Section 12.106(1)** states that no principal building or principal structure shall be located within any setback or yard required by these regulations. **Code Section 2.201** defines a 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, projected to the side lines of the lot. In the case of a through lot, a required setback also will be measured from the right-of-way line at the rear of the lot to the rear building line. **Code Section 2.201** defines a lot width as the distance between the side lot lines measured along the setback line as established by this ordinance.

Vote is Aye to Deny

Ayes: Lee McLaren, Michael Knotts, Mark Loflin (Alternate)

Nays: Andy Zoutewelle, Randy Fink

**DENIED**

**CASE NO. 09-043** – Application has been made by **Apex Homes (Represented by Sally Johnson)** for **property located at 7101 Oakspring Court, Tax Parcel Number 201-322-27**, requesting a 15 foot variance from the 45 foot setback recorded on the approved plat to allow an existing unfinished single family structure to remain. **Code Section 9.205(1)(d)** of the City of Charlotte Zoning Ordinance requires a minimum lot width of 70 feet at the setback line in a R-3 zoning district. **Code Section 12.106(1)** states that no principal building or principal structure shall be located within any setback or yard required by these regulations. **Code Section 2.201** defines a 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, projected to the side lines of the lot. In the case of a through lot, a required setback also will be measured from the right-of-way line at the rear of the lot to the rear building line. **Code Section 2.201** defines a lot width as the distance between the side lot lines measured along the setback line as established by this ordinance.

Vote is Aye to Deny

Ayes: Lee McLaren, Michael Knotts, Mark Loflin (Alternate)

Nays: Andy Zoutewelle, Randy Fink

**DENIED**

**CASE NO. 09-044** – Application has been made by **1600 West Morehead Street LLC (Represented by Robert Brandon)** for **property located at 1600 West Morehead Street, Tax Parcel Number 067-031-01**, requesting that the Zoning Board of Adjustment grant a variance from the one year provision to designate the existing sign as a Landmark Sign. **Code Section 13.110(5) Landmark Sign**. When revised sign regulations were adopted on February 1, 1988, changes were made which caused many signs to be nonconforming and subject to an eight-year amortization. Some of these nonconforming signs may have special significance to a section of the community or the entire City. Therefore, the Zoning Administrator may designate certain signs as “landmark signs” which will permit them to remain and not be subject to the eight-year amortization. **Code Section 13.102(a1)** defines amortization as a provision requiring nonconforming signs, as determined in Section 13.112 of these regulations, to either become conforming or be removed within a set period of time, otherwise known as the amortization period. **Code Section 13.102(S2)** defines a sign as any object, device, or structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include the flag or

emblem of any nation, organization of nations, state, city, or any fraternal, religious or civic organizations; works of art which in no way identify a product; or scoreboards located on athletic fields. Except where the address is also the name of the business or institution owning or occupying the premises, displayed address information is not a sign or part of a sign for the purposes of this code. **Code Section 13.102(S7(q))** defines a landmark sign as an existing on-premise sign which exhibits unique characteristics, that enhances the streetscape or identify or a neighborhood and as such contributes to the historical or cultural character of the streetscape or the community at large. **Code Section 13.1129(4) On-Premise Signs.** All nonconforming on-premise signs that were issued valid permits prior to February 1, 1988 and were erected in accordance with the permits, may remain until any change in the existing use of the property requiring a change of use permit from Neighborhood Development or Engineering and Property Management occurs.

Vote is Aye to Deny

Ayes: Lee McLaren, Michael Knotts, Randy Fink

Nayes: Andy Zoutewelle, Mark Loflin (Alternate)

**THE BOARD WILL BREAK FOR LUNCH AFTER THE ABOVE CASES  
AT APPROXIMATELY 12:30 P. M.  
THE FOLLOWING CASE WILL NOT BE HEARD BEFORE 12:30 P.M.**

Zoning Administrator's Decision Upheld

**CASE NO. 09-030 (Appeal)** – Application has been made by **Roxanne McLeod** *for property located at 1114 Hawfield Road, Tax Parcel Number 053-093-29*, appealing the Notice of Violation that a camper/mobile home is not listed as a permitted use as a dwelling in the R-3 single family zoned districts. **Code Section 2.201** defines that a dwelling unit is not a mobile home or recreational or motor vehicle. **Code Section 9.101** states that the R-3 zoned district is a single family district. **Code Sections 9.202 and 9.203** do not list mobile homes as a permitted use by right or under prescribed conditions in the single family zoned district.

Vote is Aye to Uphold

Ayes: Andy Zoutewelle, Lee McLaren, Michael Knotts, Randy Fink, Mark Loflin (Alternate)

Nayes: None

Zoning Administrator's Decision Upheld

**CASE NO. 09-046 (Appeal)** – Application has been made by **Charlotte Scottish Rite Bodies Trustees (Represented by Robert Brandon)** *for property located at 4740 Randolph Road, Tax Parcel Number 185-021-34*, appealing the Zoning Administrator's interpretation of Code Sections 8.22.2, 8.22.6, 23-40, 44(b) and 23.40.44. **Code Section 8.22.2** in the City of Charlotte Zoning Ordinance 1972 states that an application for conditional use approval for a fraternal organization in a single-family or multi-family residential district shall be accompanied by a written description of the organization involved and the type of activities proposed for the facilities. **Code Section 8.22.6** states that any conditional use approved or established under the provisions of this Section 8-22 shall be limited to the fraternal organization petitioning therefore or for whose benefit such use was originally approved or established; and such approval or establishment shall terminate and expire upon the cessation or exercise of such use by that such fraternal organization. **Code Section 23.36.7** of the Charlotte City Ordinance 1981 states that institutional uses in residential districts may be established by a special use permit for fraternal organizations. **Code Section 23.36(b) Application.** A request for a special use permit shall be considered only by application of the owners of the subject property or his duly authorized agent. Application for or amendments to approved special use permits shall be filed in the office of the planning commission. Application shall be made on forms provided by the planning commission and shall be accompanied by a one hundred dollar (\$100.00) fee to defray administrative and publication expenses, and by a site plan drawn to scale.

Vote is Aye to Uphold

Ayes: Andy Zoutewelle, Lee McLaren, Michael Knotts, Randy Fink, Mark Loflin (Alternate)

Nayes: None

## BUSINESS

Approval of Minutes

**~ THE BOARD RESERVES THE RIGHT TO DEVIATE FROM THE AGENDA. ~**

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*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](mailto:skennedy@ci.charlotte.nc.us), at least 72 hours prior to the meeting.*

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