

Hearing Request Application - Form 1
Zoning Board of Adjustment
City of Charlotte

Date Filed: May 25, 2012

Case Number: 12 - 024

Received by: Sonda Kennedy
ZBA Clerk

Instructions

This form must be filled out completely. Please attach the appropriate additional form depending on your request type along with required information as outlined in the appropriate checklist. Please type or print legibly. All property owners must sign and consent to this application, attach additional sheets if necessary. If the applicant is not the owner, the owners must sign the Designation of Agent section at the bottom of this form.

The Applicant Hereby (check all that apply):

- ☒ Requests a variance from the provisions of the Zoning Ordinance as stated on Form 2
- ☐ Appeals the determination of a zoning official as stated on Form 3
- ☐ Requests an administrative deviation as stated on Form 4

Applicant or Agent's Name: Pleasant Acres, LLC, c/o John Carmichael

Mailing Address: 101 North Tryon Street, Suite 1900

City, State, Zip: Charlotte, NC 28246

Daytime Telephone: 704-377-8341

Home Telephone: _____

Interest in this Case (please circle one):

Owner

Adjacent Owner

Other

Property Owner(s) [if other than applicant/agent]: Pleasant Acres, LLC, c/o William Chase

Mailing Address: 13 Crimson Circle

City, State, Zip: Troy, NY 12180

Daytime Telephone: 518-265-9812

Home Telephone: 518-326-6139

Property Address: 3061 North Sharon Amity Road, Charlotte, NC

Tax Parcel Number: 133-014-01

Zoning District: B-1

Subdivision Name: N/A

Conditional District:

YES

NO

Applicant Certification and Designation of Agent

I (we) certify that the information in this application, the attached form(s) and documents submitted by me (us) as part of this application are true and correct. In the event any information given is found to be false, any decision rendered may be revoked at any time. I (we) hereby appoint the person named above as my (our) agent to represent me (us) in this application and all proceedings related to it. I (we) further certify to have received, read and acknowledged the information and requirements outlined in this packet.

5/25/12

Date

PLEASANT ACRES, LLC

By: William A. Chase

Its: Manager

Hearing Request Application - Form 2
Zoning Board of Adjustment
City of Charlotte

Date Filed May 25, 2012

Case Number: _____

Fee Collected: _____

Has work started on this project? YES ☐ NO ☒

If yes, Did you obtain a building permit? YES ☐ NO ☐ If yes, attach a copy.

Have you received a Notice of Violation for this project? YES ☐ NO ☒ If yes, attach a copy.

Has this property been rezoned? YES ☐ NO ☒ If yes, Petition Number: _____

- (1) What zoning ordinance section numbers are you seeking a variance from? Please list each section, the requirement and the requested variance.

Item	Code Section	Code Requirement	Variance Request
<i>Example</i>	<i>9.205(1)(g)</i>	<i>45 foot rear yard</i>	<i>35 foot rear yard (10 foot reduction from required)</i>
A	12.202(1) and Table 12.202	1 parking space per 200 square feet of floor area for a medical clinic use	Reduce the parking requirement for a 12,120 square foot dialysis clinic from 61 parking spaces to 49 parking spaces (reduce parking requirement from 1 parking space per 200 square feet to 1 parking space per 250 square feet)
B			
C			
D			
E			

- (2) Please describe why the variance requested is necessary.

The Applicant, Pleasant Acres, LLC ("Pleasant Acres"), is the owner of an approximately 1.59 acre parcel of land located at 3061 North Sharon Amity Road that is designated as Tax Parcel No. 133-014-01 on the Mecklenburg County Tax Maps (the "Site"). The Site is improved with a one story commercial building (the "Building") that contains 12,871 square feet of floor area and a parking lot that contains 76 parking spaces. The Site is zoned B-1.

Attached hereto as *Exhibit A* is a site plan that depicts the Site, the parking lot, the Building and a proposed 6,000 square foot addition to the Building (the "Building Addition"). The existing portions of the Building are designated as Suites A, B and C on the site plan, and the Building Addition is designated as Suite D on the site plan. In the event that the Building Addition is constructed, the Building will contain a total of 18,871 square of floor area. The expanded Building is hereinafter referred to as the "Expanded Building."

Suite A of the Building, which contains 6,751 square feet of floor area, is occupied by Office Depot. Suites B and C are currently vacant. Pleasant Acres desires to construct the Building Addition, and to lease Suites B, C and D to an outpatient dialysis clinic (the "Dialysis Clinic"). The Dialysis Clinic would occupy 12,120 square feet of floor area (the "Dialysis Clinic Space").

Office Depot is a retail use and under Section 12.202(1) and Table 12.202 of the City of Charlotte Zoning Ordinance (the “Ordinance”), parking must be provided at a rate of 1 parking space per 250 square feet of floor area to serve Office Depot. This results in a parking requirement of 27 parking spaces for Office Depot, and it leaves 49 of the 76 parking spaces on the Site to serve Suites B, C and D, which comprise the Dialysis Clinic Space.

49 parking spaces meets the parking requirements of the Ordinance for the Dialysis Clinic Space if the Dialysis Clinic is classified as a retail use or a general office use under the Ordinance. However, the Dialysis Clinic is classified as a medical clinic under the Ordinance. A “clinic, medical, dental, or optical” is defined under the Ordinance as “a use or structure intended or used primarily for the testing and treatment of human physical or mental disorders.” Under Section 12.202(1) and Table 12.202 of the Ordinance, a medical clinic is required to provide parking at a rate of 1 parking space per 200 square feet of floor area. This results in a parking requirement of 61 parking spaces for the 12,120 square foot Dialysis Clinic.

As noted above, there are 49 parking spaces on the Site available to serve the Dialysis Clinic Space. Therefore, there is a shortfall of 12 parking spaces for the Dialysis Clinic Space. As a result, Pleasant Acres respectfully requests a variance from Section 12.202(1) and Table 12.202 of the Ordinance to reduce the parking requirement for the Dialysis Clinic Space from 61 parking spaces to 49 parking spaces for as long as the Dialysis Clinic Space is occupied by the Dialysis Clinic. This reduction would yield a parking ratio of 1 parking space per 250 square feet of floor area for the Dialysis Clinic Space.

In support of this request, Pleasant Acres submits that the actual parking needs of the Dialysis Clinic are less than the parking needs of a traditional medical clinic or the parking needs of a retail operator for that matter. Pleasant Acres, through the operator of the Dialysis Clinic, will offer evidence at the hearing on this variance request that demonstrates that the actual parking requirement for the Dialysis Clinic is 1 parking space per 300 square feet of floor area. The reasons that the parking requirement for the Dialysis Clinic is only 1 parking space per 300 square feet of floor area include that the Dialysis Clinic will have a limited number of employees per shift; the Dialysis Clinic does not care for a large number of patients per week; each patient appointment is for an extended period of time; and there is no waiting room at the facility.

(3) THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS IN THE WAY OF CARRYING OUT THE STRICT LETTER OF THE ORDINANCE. The courts have developed three rules to determine whether, in a particular situation, “practical difficulties or unnecessary hardships” exist. State facts and arguments in support of each of the following:

- (a) If the property owner/applicant complies with the provisions of the Ordinance, the property owner can secure no reasonable return from, or make no reasonable use of his property. (It is not sufficient that failure to grant the variance simply makes the property less valuable.)

If Pleasant Acres is required to comply with the parking requirements of Section 12.202(1) and Table 12.202 of the Ordinance, the Dialysis Clinic will be unable to locate in the Expanded Building. There is a need in the area in which the Site is located for the services provided by the Dialysis Clinic and as noted above, the Dialysis Clinic’s actual parking requirements are less than the parking requirements for a traditional medical clinic or medical office.

- (b) The hardship of which the Applicant complains results from unique circumstances related to the Applicant’s land. (Note: Hardships common to an entire neighborhood, resulting

from overly restrictive zoning regulations, should be referred to the Charlotte-Mecklenburg Planning Commission. Also, unique personal or family hardships are irrelevant since a variance, if granted, runs with the life of the land.)

The hardship of which Pleasant Acres complains results from the following unique circumstances. The Ordinance, as currently drafted, does not distinguish between different types of medical care providers in determining the amount of required parking. Under the Ordinance, all medical care providers are required to provide parking at a rate of 1 parking space per 200 square feet of floor area. However, a dialysis clinic's actual parking requirement is less than the parking requirement for medical clinics as set out in Table 12.202 of the Ordinance. The Dialysis Clinic's actual parking requirement is 1 parking space per 300 square feet of floor area. The reduced parking requirement for the Dialysis Clinic is attributable to the unique nature of the Dialysis Clinic's operation.

(c) The hardship is not the result of the Applicant's own actions.

The hardship is not the result of Pleasant Acres' own actions. The hardship is the result of the Ordinance's failure to distinguish between various types of medical care uses in determining parking requirements for medical care providers, and the reduced actual parking requirements of the Dialysis Clinic due to the unique nature of its operations.

(4) THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE AND PRESERVES ITS SPIRIT. (State facts and arguments to show that the requested variance represents the least possible deviation from the letter of the Ordinance to allow a reasonable use of the land; and, that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.)

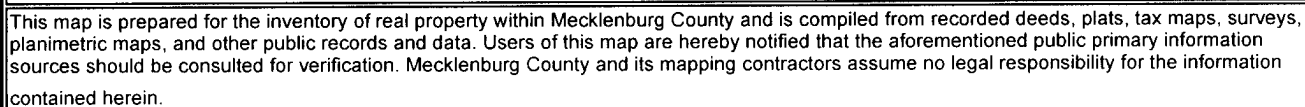
The variance requested is the least possible deviation from the Ordinance to allow the Dialysis Clinic to occupy and use the Dialysis Clinic Space. If the requested variance is granted, it will not substantially detract from the character of the neighborhood. The actual parking requirement for the Dialysis Clinic is 1 parking space per 300 square feet of floor area, and if the variance is granted, parking will be provided at a rate of 1 parking space per 250 square feet of floor area. Therefore, the Site has sufficient on-site parking to accommodate the existing retail use, Office Depot, and the Dialysis Clinic. Consequently, the granting of the requested variance will not substantially detract from the character of the neighborhood.

(5) THE GRANTING OF THE VARIANCE SECURES THE PUBLIC SAFETY AND WELFARE AND DOES SUBSTANTIAL JUSTICE. (State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the Applicant.)

If the requested variance is denied, Pleasant Acres and the Dialysis Clinic will be harmed without any benefit to the public in the view of Pleasant Acres. If the variance is denied, the Dialysis Clinic will be unable to occupy and use the Dialysis Clinic Space, and it will not be able to provide needed dialysis services to the area. A need for such services has been identified. As noted above, there is sufficient parking on the Site to accommodate the parking requirements of Office Depot and the Dialysis Clinic, so the public will not be harmed if the variance request is granted. In short, Pleasant Acres does not believe that the public will benefit from the denial of the variance request.

Date Printed: Thu May 24 08:48:58 EDT 2012

3061 North Sharon Amity Road



EXHIBIT

tabbles



NORTH SHARON AMITY ROAD

BUILDING SUMMARY

EXISTING AREA:
12,871 SF
PROPOSED ADDITION:
6,000 SF
NEW TOTAL AREA:
18,871 SF

TOTAL PARKING:
76 SPACES

REQ'D. PARKING PER ORDINANCE
BY SUITE

- SUITE A - RETAIL:
6751 SF @ 1/250 sf = 27 SP

- SUITE B, C & D - RETAIL:
12,120 SF @ 1/250 sf = 49 SP

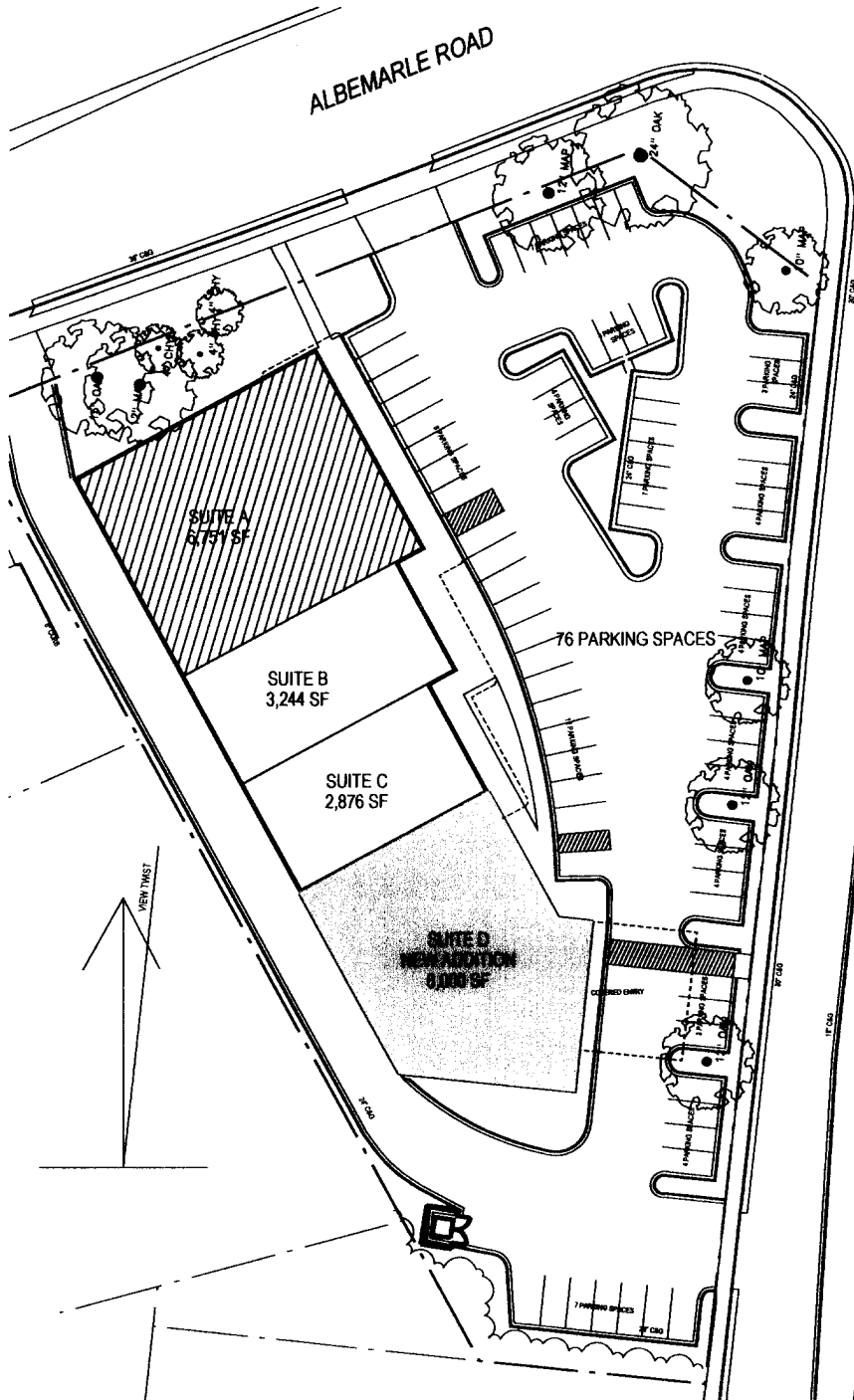
PROPOSED TENANT FOR
COMBINED SUITES B, C & D IS
A MEDICAL DIALYSIS TENANT
WITH REQ'D PARKING AT
1/200 = 61 SPACES

REQUESTED PARKING
VARIANCE = 12 SPACES

**CONCEPT SITE PLAN
W/ BUILDING ADDITION**

SCALE: 1" = 60'

MAY 24, 2012



Pleasant Acres, LLC
3061 North Sharon Amity Road
Office Retail
Charlotte, North Carolina

