



Robert B. Bruner
1129 Dilworth Crescent
Charlotte, NC 28203

**RE: APPEAL
14735 BALLATYNE VILLAGE WAY
CASE NUMBER 2014-039**

Dear Mr. Bruner:

On November 13, 2014, the City of Charlotte Zoning Board of Adjustment ("Board") upheld the Zoning Administrator's interpretation for Ballantyne Village Shopping Center regarding the number of parking spaces prescribed by the required parking ratio for a shopping center within the Zoning Ordinance based on the floor area calculation provided by the property owner and the architect of record of the subject property.

The Board based its decision on the following findings of fact:

1. The applicant, Robert B. Bruner, is appealing the Zoning Administrator's interpretation. The applicant represents Ballantyne Village Parking, LLC, the owner of property adjacent to the subject parcel.
2. Robert B. Bruner had an interest in BV Retail, LLC, which was the owner of the subject property prior to the current owner, MV Ballantyne Village LLC.
3. In 2011, Robert B. Bruner requested that the Zoning Administrator confirm the number of parking spaces required by the Zoning Ordinance for the Ballantyne Village shopping center.
4. The subject parcel is zoned CC (Commercial Center District).
5. The property was rezoned in 1996, from B-1SCD (Neighborhood Business Shopping Center District) to CC (Commercial Center District).
6. Per Code Section 2.201, a shopping center is "[a] group of two or more retail establishments or restaurants constructed and planned and developed with a unified design of buildings with associated out parcels and coordinated parking and service areas." The property has a principal use as a shopping center per the Code.
7. On June 24, 2014, the current owner of the subject parcel, MV Ballantyne Village LLC, provided a letter requesting that the Zoning Administrator reevaluate and confirm the number of parking spaces required by the Zoning Ordinance for the Ballantyne Village shopping center. This letter indicated that the square footage calculation submitted in 2011 by the prior property owner used inaccurate information. The letter stated the calculation inappropriately excluded certain areas (i.e. hallways and restrooms) that are to be included within a floor area calculation.
8. The current property owner submitted to the Zoning Administrator a sealed ALTA/ACSM Land Title Survey of the property from ESP Associates, P.A., which survey incorporated a floor area calculation of the shopping center performed by the architect of record in the development of the center, aiDesign, Inc. The floor area shown on the survey is 180,199 SF.
9. Per Code Section 2.201, floor area is defined as "the sum of the gross horizontal areas of each floor of the principal building, and any accessory building or structures measured from outside of the exterior walls or from the center line of party walls. The term does not include any area used exclusively for the surface parking of motor vehicles or for building or equipment access, such as stairs, elevator shafts, and maintenance crawlspace."
10. Per Code Section 12.202 and Table 12.202, a property that has a principal use as a shopping center of greater than 50,000 square feet is required to have at least 1 parking space per 250 square feet. The floor area of a use, as defined by Code Section 2.201, is used to calculate the required number of parking spaces.


11. The Zoning Administrator issued his determination on July 9, 2014, that the Zoning Ordinance requires Ballantyne Village Shopping Center to have 721 parking spaces. The Zoning Administrator made the interpretation by dividing the floor area of the shopping center by the applicable Zoning Ordinance parking ratio (180,199 SF / 250 square feet per required parking space).
12. The applicant filed an application for appeal on August 25, 2014, which alleged that the Zoning Administrator "did not use the correct amount of square footage" when calculating the parking requirement per Table 12.202 in the Zoning Ordinance.
13. The floor area figures provided in 2014 appear to accurately state the floor area (as defined in the Zoning Ordinance) of the buildings.
14. The Zoning Administrator reasonably relied on floor area amounts provided by the property owner in 2014 to calculate the parking requirement for the subject parcel and did not err in applying the Zoning Ordinance.

Based upon the above findings of fact, the Board concludes that the applicant has failed to carry the burden stated in §5.109(1) of the Ordinance to show an error in the Zoning Administrator's application of the Ordinance, and more specifically:

The Zoning Board of Adjustment upholds the Zoning Administrator's interpretation that the Zoning Ordinance requires Ballantyne Village Shopping Center to have at least 721 parking spaces.

Pursuant to N. C. G. S. Section 160A-388(e2), the Board's decision in Case No. 14-039 may be appealed by a petition for review in the nature of *certiorari* to Superior Court within thirty (30) days from the date stated below, which is the date when the decision of the Board was filed in the Planning Department/Zoning Administration Division, or within thirty (30) days after receipt of the decision by an aggrieved party who filed a written request for such copy with the Clerk to the Board at the time of the hearing of the case, whichever is later.

Sincerely,


Paul Arena
Acting Chairperson

12/9/14
Date

DECISION FILED IN THE PLANNING DEPARTMENT:


Shad Spencer, Zoning Administrator

12/9/14
Date

cc: Scott Tyler