



Jim Plyler
c/o NCJS, Inc.
P. O. Box 6090
Charlotte, NC 28207

**RE: APPEAL
130 STETSON DRIVE
CASE NUMBER 2015-009**

Dear Mr. Plyler:

On March 31, 2015, the City of Charlotte Zoning Board of Adjustment ("Board") **upheld** the Zoning Administrator's interpretation that dumpsters located on the subject site must be screened on three sides from public view.

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

1. The applicant is Jim Plyler.
2. The property is located at 130 Stetson Drive, further identified as tax parcel 047-221-19.
3. The site is zoned I-2 (general industrial).
4. The subject property is occupied by a warehouse building that was constructed in 1970.
5. The applicant is appealing the Zoning Administrator's interpretation that dumpsters located on the subject site must be screened on three sides from public view.
6. The applicant was sent a Zoning Notice of Violation letter issued on February 4, 2015, indicating that dumpsters must be screened on three sides from public view.
7. An appeal application was filed by the applicant on February 19, 2015.
8. Per Section 9.1104(3) of the Zoning Ordinance, dumpsters are permitted accessory structures within industrial zoning districts.
9. Per Section 9.403(1) of the Zoning Ordinance, dumpsters must be screened from the public view from public streets.
10. The Zoning Ordinance in effect at the time the subject property was developed in 1970 indicated that screening of outdoor storage of any material, stocks, or equipment accessory to a principal use shall be screened from public view from any public street. The Ordinance did not specifically indicate that dumpsters must be screened from the public view from public streets.
11. A dumpster that lawfully existed on the effective date of when dumpsters were required to be screened from public view by the Zoning Ordinance (i.e. early 1980's) and does not comply with these regulations, are considered to be a nonconforming structure as defined by the Section 2.201 of the Zoning Ordinance.
12. Per Section 7.103(6) of the Zoning Ordinance, a nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning district in which it is located.
13. Based on aerials, the location of dumpsters have moved and the number of dumpsters have changed on the subject site following the effective date of when dumpsters were required to be screened from public view by the Zoning Ordinance (i.e. early 1980's). Therefore, any dumpster on the subject site must conform to the current screening standards of the Zoning Ordinance.

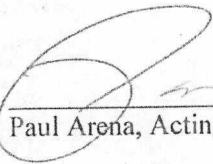
14. Dumpsters, as nonconforming structures, lost their legal non-conformity when the dumpsters were moved then moved again on the property.

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 dumpsters located on the subject site must be screened on three sides from public view.

Pursuant to N. C. G. S. Section 160A-388(e2), the Board's decision in Case No. 2015-009 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

Date

4/17/15

DECISION FILED IN THE PLANNING DEPARTMENT:



Shad Spencer, Zoning Administrator

Date

4/20/15