



**CERTIFIED MAIL**

Alfaro Holdings LLC  
4400 Central Avenue  
Charlotte, NC 28205

**RE: VARIANCE  
5906 SOUTH BOULEVARD  
CASE NUMBER 2016-022**

Dear Alfaro Holdings LLC:

At its meeting on April 26, 2016, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** a 7 foot variance from the required 20' transitional setback along South Boulevard to allow for the construction of a new facade on an existing building.

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

1. The applicant is Alfaro Holdings LLC (Represented by Moodye Clary).
2. The proposed site is located at 5906 South Boulevard, further identified as tax parcel 173-011-06.
3. The subject parcel's current zoning classification is B-2 (Commercial).
4. The current use of the property is for a restaurant.
5. The existing structure currently encroaches 2 to 5 feet into the transitional setback along South Boulevard and is legal nonconforming.
6. Mecklenburg County tax records indicate that the building may have been constructed in 1968.
7. The applicant is requesting a 7 foot variance to continue to encroach in the required 20' transitional setback along South Boulevard to allow for the construction of a new facade on the existing building.
8. Code Section 9.805(1)(g) states that the minimum setback is 20 feet within the B-2 zoning district.
9. Per Code Section 12.103(1), the minimum yards or setbacks prescribed for each zoning district, which abuts a thoroughfare, shall be measured from the proposed right-of-way line established for each classification of thoroughfare.
10. The proposed right-of-way width for South Boulevard at this subject site is 50 feet from the centerline of the road based on the road being designated a major arterial (Class III) street by the Thoroughfare Plan.
11. Per Code Table 12.103(2), the transitional setback or yard area established for lots abutting thoroughfares can be used for any purpose allowed by the particular zoning district, except for (a) those uses which are prohibited in the required setbacks or yards as established by this ordinance.
12. Code Section 12.106(1) states that no principal structure shall be located in the setback.
13. Charlotte Department of Transportation has reviewed the application and is comfortable with the proposed renovation as it does not appear to conflict with the Tyvola/Archdale Transit Station Area Plan.


14. The Tyvola/Archdale Transit Station Area Plan, adopted by City Council in 2008, indicates this portion of South Boulevard is to be a Four Lane Divided Avenue. This street type indicates a 70 wide street measured from back of curb to back of curb (i.e. 35 feet from centerline to back of curb). A minimum 24 foot building setback is then indicated to be measured from the proposed back of curb. The subject variance request does not prevent the proposed streetscape from being achieved in the future.
15. The Norfolk Southern Railroad right-of-way consumes approximately one-third of the applicant's property to the rear.
16. The width of the railroad right-of-way and the width of the transitional setback creates a hardship on the subject property. The subject property has a relatively shallow lot depth.
17. Granting the variance will not alter the essential character of the area.
18. Granting the variance will not adversely affect adjacent or contiguous properties.

**Based upon the above findings of fact, the Board concludes that the applicant has met the standards set forth in North Carolina General Statutes § 160A-388, and more specifically:**

1. Unnecessary hardships would result from the strict application of the Ordinance.
2. The hardship results from conditions that are peculiar to the property (location, size or topography).
3. The hardship does not result from actions taken by the applicant or the property owner.
4. The requested variance is consistent with the spirit, purpose, and intent of the Zoning Ordinance, in that the public safety is secured and substantial justice is achieved.

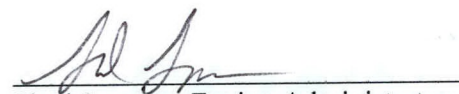
All applicable permits must be obtained from the Planning Department, which has been notified of this decision. The Ordinance § 5.111, provides that unless otherwise specified by the Board, any decision of the Board granting a variance shall automatically expire if a permit or a certificate of occupancy pertaining to the need for the variance is not obtained within two (2) years from the date of the meeting of the Board at which the Board rendered its decision.

Sincerely,

  
Paul Arena, Chairperson

5/9/16  
Date

**DECISION FILED IN THE  
PLANNING DEPARTMENT:**

  
Shad Spencer, Zoning Administrator

5/12/16  
Date

Cc: Moodye Clary, Agent