



Jack Elmore Smith
332 Morningside Road
Charlotte, NC 28214

**RE: VARIANCE
332 Morningside Road
CASE NUMBER 2016-041**

Dear Jack Smith:

At its meeting on August 30, 2016, the City of Charlotte Zoning Board of Adjustment ("Board") **denied** a variance to allow an increase from the one vehicle limitation to up to three light or medium commercial vehicles to park overnight at a residence within a single family zoning district.

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

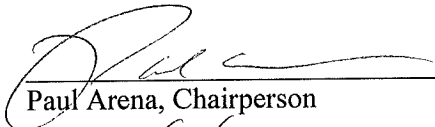
1. The applicant, Jack Elmore Smith Sr. is requesting a variance to allow an increase from the one vehicle limitation to up to three (3) light or medium commercial vehicles to park overnight at a residence within a single family zoning district.
2. The property is located at 332 Morningside Road, further identified as tax parcel 031-012-09.
3. The site is zoned R-4 (single family residential).
4. Code Section 12.218(1)(a) states that one light or medium commercial vehicle may be parked overnight at a residence.
5. The applicant currently has three (3) commercial vehicles parked at their residence located at 332 Morningside Road. The applicant indicates the residents of the home which includes himself, his wife, and two sons drive the commercial vehicles.
6. Parking more than one (1) light or medium vehicle at the site is in violation of the requirements of the Ordinance.
7. The applicant was issued a Notice of Violation dated Tuesday, March 15, 2016, for operating a towing company and parking more than one (1) commercial vehicle on a residentially zoned parcel.
8. There appear to be other options for parking the commercial vehicles in proximity to the subject property that were not explored.
9. The applicant contends that tow trucks have been kept at his residence on Morningside Road since the 1960s.
10. Code Section 12.218(5) states that all pre-existing commercial vehicles parked in residential districts shall comply with Section 12.218 within six (6) months of the effective date of the ordinance amendment, which was October 20, 2003.
11. The hardship is personal in nature.
12. Granting the variance would be in direct violation of the Zoning Ordinance.
13. The hardship is a result of the applicant's own action.

Based upon the above findings of fact, the Board concludes that the applicant has not met the standards set forth in North Carolina General Statutes § 160A-388, and more specifically:

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

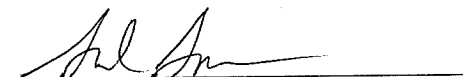
Pursuant to N. C. G. S. Section 160A-388(e2), the Board's decision in Case No. 2016-041 may be appealed by a petition for review in the nature of *certiorari* to Superior Court within thirty (30) days from the date stated below, which is the date when the decision of the Board was filed in the Planning 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, Chairperson

Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**


Shad Spencer, Zoning Administrator

Date