



Toll NC I, LLC
6067 Hemby Road
Weddington, NC 28104

RE: VARIANCE
15705 Lake Ridge Road
CASE NUMBER 2016-042

Dear Toll NC I, LLC:

At its meeting on August 30, 2016, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** a variance to reduce 100 foot separation for outdoor recreational uses to 60 feet from abutting residentially zoned property to allow a bocce ball court to remain.

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

1. The applicant, Toll NC I, LLC (Represented by Marc Houle, PE. – Yarbrough-Williams & Houle, Inc.) is requesting a variance to reduce the required 100 foot separation for outdoor recreational uses to 60 feet from abutting residentially zoned property to allow a bocce ball court to remain.
2. The property is located at 15705 Lake Ridge Road, further identified as tax parcel 217-333-46.
3. The site is zoned MX-3 (Mixed Use District).
4. Per Table 12.540-1, recreational facilities require a 100' separation and Class C buffer from abutting lots outside the planned development that are residentially zoned or used.
5. The applicant has built a bocce ball court within the required 100' separation area. The bocce ball court is outside the required Class C buffer.
6. The Palisades Tract 2 amenity area received commercial site plan approved by City Engineering on April 7, 2014, indicating the location of the bocce ball court. There is no zoning review associated with City Engineering's commercial site plan review.
7. The applicant submitted revised commercial site plans to City Engineering that were approved on October 10, 2015, which also indicated the location of the bocce ball court.
8. A zoning use permit or a building permit is required for amenity areas that contain recreational facilities. There is a zoning review associated with this process.
9. On September 24, 2015, the applicant submitted to Mecklenburg County Code Enforcement an application for building permit to construct the Regency at Palisades Clubhouse on the subject property.
10. Notification was provided to the applicant in January 2016 that the bocce ball court did not meet the 100 foot separation requirement during the building permit review process by the zoning plan reviewer. However, the court had already been constructed by the time the zoning comment was received by the applicant.
11. Currently there is a 60' separation between the bocce ball court and the lot line of the abutting residentially zoned property that is not part of the planned development.

12. The applicant was unsuccessful in attempts to purchase a portion of the abutting lot in order to comply with the 100' separation requirement.
13. The existing constraints of the subject property (i.e. topography, utility easements, existing roadway, and culvert associated with the roadway) create a hardship to relocate the bocce ball court.
14. The applicant has agreed to increase the amount of vegetation within the separation area to reduce the impact on adjacent property owners.
15. The applicant inadvertently constructed the bocce ball court prior to receiving zoning approval as part of the building permit review process. The court was constructed after receiving City Engineering's commercial site plan approval.
16. In granting the variance the public safety and welfare have been assured and substantial justice has been done.
17. Granting the variance would not alter the essential character of the neighborhood.
18. All adjoining property owners were duly notified.

Conditions:

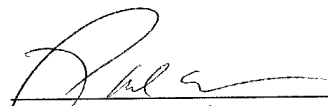
1. The Class C buffer shall include vegetation as shown on Government Exhibit #12.

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.

If any permits are required, please make sure the variance case number is referenced on the permit application and/or site plan. Section 5.111 of the Zoning Ordinance 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

9/9/16

Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**



Shad Spencer, Zoning Administrator

9/19/16

Date