



Sam Serrano
14420 Harvington Drive
Huntersville, NC 28078

**RE: VARIANCE
 6001 and 6009 Old Concord Road
 CASE NUMBER 2016-051**

Dear Mr. Serrano:

At its meeting on April 25, 2017, the City of Charlotte Zoning Board of Adjustment ("Board") **denied** two variances (1) a 10 foot variance from the 20 foot distance requirement from which a 6' to 7' high fence is to be located from the public street right-of-way (2) a 10 foot variance from the required 20 foot setback.

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

1. The applicant is Sam Serrano (Represented by Robert L. Brandon, Zoning Consultant).
2. The proposed site is located at 6001 and 6009 Old Concord Road, further identified as tax parcels 049-011-04 and 19.
3. The property is zoned I-2 (General Industrial).
4. The subject property is a triangular shaped property and is approximately 2.36 acres in size.
5. The site is bordered by Orr Road and Old Concord Road.
6. The current use of the applicant's property is that of a legal nonconforming junkyard.
7. Per the applicant's variance application form, the junkyard use was established prior to October 17, 2007. On that date, the Charlotte City Council adopted a text amendment which expanded the number of prescribed conditions for junkyards.
8. Per the aerial overlays on Virtual Charlotte, the junkyard use was established between 2006 and 2007. Therefore, the prescribed conditions for junkyards found in the Zoning Ordinance prior to the 2007 text amendment would apply to the subject property.
9. Section 9.1103(7)(a) of the Zoning Ordinance in effect at the time the junkyard was established and Section 9.1103(22)(a) of the current Zoning Ordinance require the use to be enclosed by a fence which is not easily climbable from six to seven feet in height and located at least 20 feet from the public street right-of-way.
10. The existing chain link fences along both Old Concord Road and Orr Road are approximately located along the public right-of-way lines.
11. Section 9.1105(1)(d) of the Zoning Ordinance in effect at the time the junkyard was established and the current Zoning Ordinance require a 20 foot setback. No outdoor storage of goods and materials shall be located within any required setback or within any required side yard which abuts a street per Section 12.106(4) of the current and previous Zoning Ordinances.

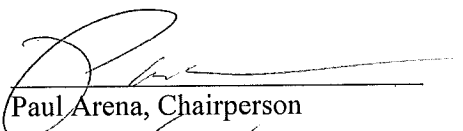
12. The outdoor storage of goods and materials associated with the subject junkyard are currently located within the required setback and required side yard which abuts a street.
13. The applicant is requesting two variances (1) 10 foot variance from the 20 foot distance requirement from which a six to seven foot high fence is to be located from the public street right-of-way and (2) 10 foot variance from the required 20 foot setback.
14. The subject property is of sufficient size to accommodate the placement of the required fence 20 feet from the public street right-of-way and place the outdoor storage of goods and materials behind the required fence out of the required setback.

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:

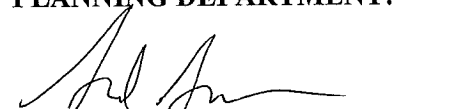
1. Unnecessary hardships would not result from the strict application of the Ordinance.
2. The hardship does not result from conditions that are peculiar to the property (location, size or topography).
3. The hardship results from actions taken by the applicant or the property owner.
4. The requested 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. 2016-051 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
4/28/17
Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**


Shad Spencer, Zoning Administrator

5/3/17
Date

cc: Robert L. Brandon