



Mecklenburg County Real Estate
(Represented by Collin Brown)
600 E. 4th Street
Charlotte, NC 28202

RE: VARIANCE
1658 Sterling Road
CASE NUMBER 2019-068

To Whom It May Concern:

At its meeting on October 10, 2019, the City of Charlotte Zoning Board of Adjustment ("Board"):

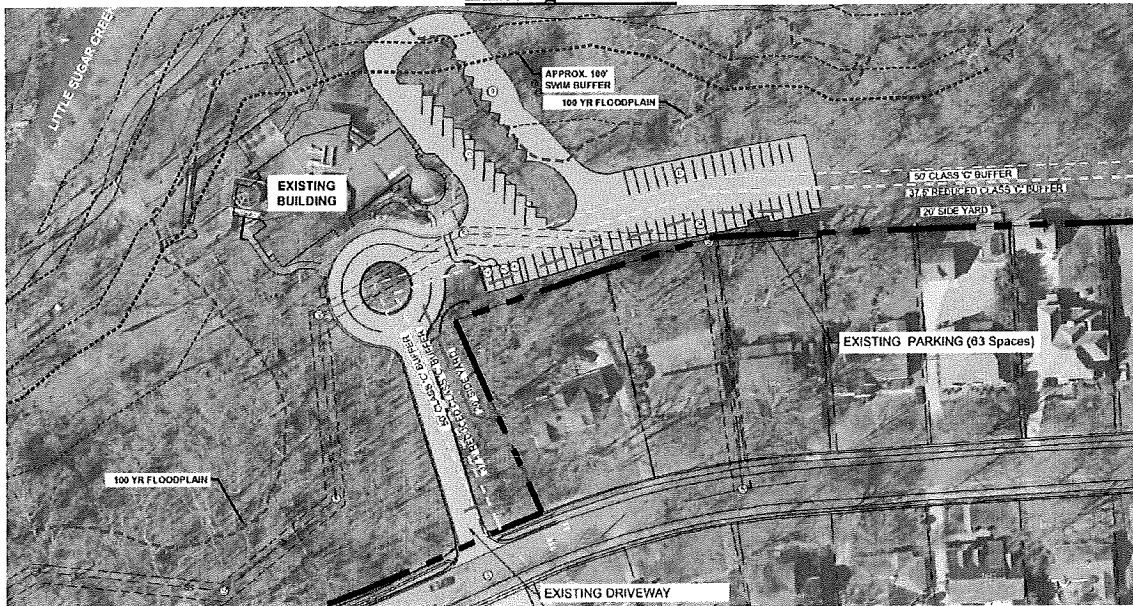
- (1) Denied** a variance from the required Class-C buffer to allow for a new building and related site improvements for the Nature Museum; and
- (2) Granted** a variance to allow the primary vehicular access to not be provided by a collector, minor or major thoroughfare in order to allow for a new building and related site improvements for the Nature Museum.

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

1. The property owner is Mecklenburg County (Represented by Collin Brown).
2. The proposed site is located at 1658 Sterling Road, identified as tax parcel 151-041-01.
3. The portion of the property for the subject variance is zoned R-3 (single family).
4. The site of the subject variance is located in an area of Freedom Park, a Mecklenburg County park property that totals approximately 104.9 acres.
5. The subject site area of Discovery Place Nature, was originally developed in approximately 1953 according to Mecklenburg County tax records.
6. The use of the property is categorized as a recreation center per the Zoning Ordinance definition of recreation center in Section 2.201.
7. The use of a recreation center is a permitted use in the R-3 (single family) zoning district, subject to prescribed conditions per Section 9.203(16) of the Zoning Ordinance.
8. The existing recreation center on the subject site is not compliant with two of the four prescribed conditions for recreation centers per Section 9.203(16) as follows:
 - (a) All buildings and off-street parking and service areas shall be separated by a Class C buffer from any abutting property used and/or zoned residential, as per the requirements of Section 12.302;
 - (c) Primary vehicular access to the use will not be provided by way of a residential local (Class VI) street.
9. Per Zoning Ordinance Section 12.302(9), a Class C buffer with a width of 50 feet is required on the subject site abutting single family uses.
10. Per the Zoning Ordinance Section 12.302(8), the 50 foot buffer width is permitted to be reduced 25%, to a minimum width of 37.5 feet with the installation of a 6 foot high fence or wall.
11. The right side of the subject site's existing driveway and the eastern side of the existing parking lot abutting residential do not provide a 37.5 foot Class C buffer from the property line.

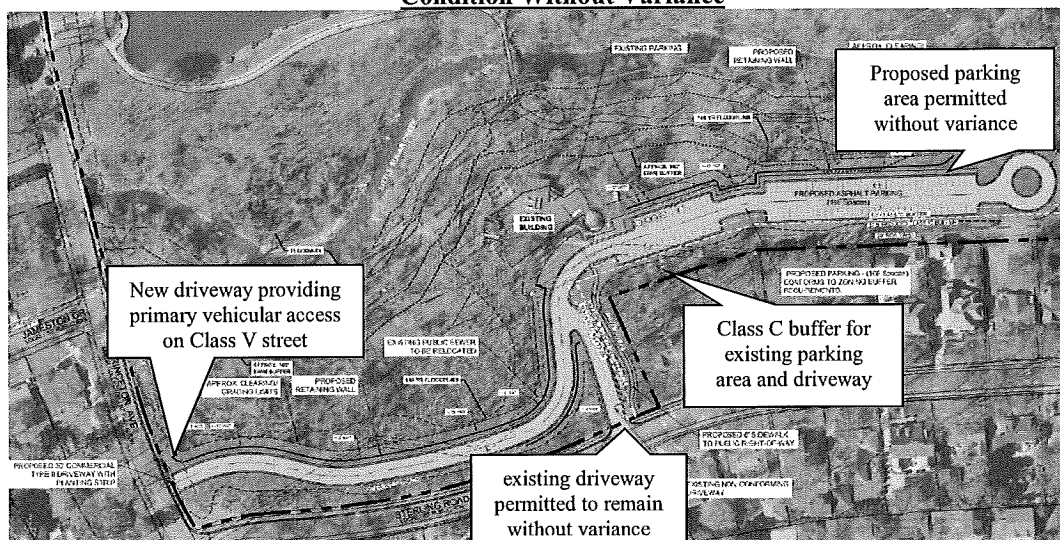
12. Per Ordinance Section 9.203(16)(c), primary vehicular access should not be provided by a residential local street.
13. The existing driveway on the subject site, providing primary vehicular access, is located on Sterling Road, which is classified as a residential local (Class VI) street.
14. The subject site is legally nonconforming since it was constructed prior to the current Zoning Ordinance regulations.

Existing Condition



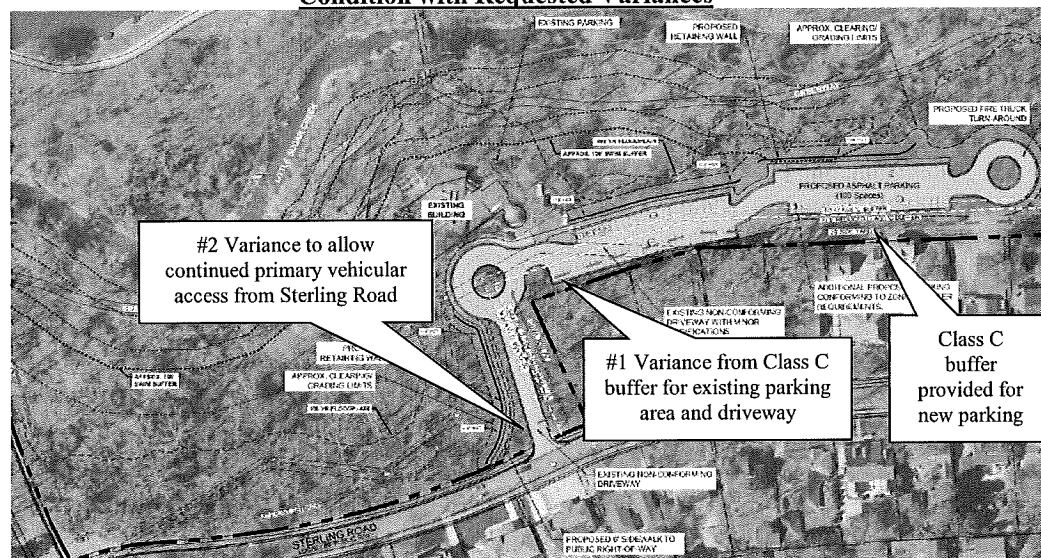
15. The applicant proposes to redevelop the property, by constructing a new building and adding related site improvements.
16. Per Zoning Ordinance Section 7.103, redevelopment of the site will require conformity with Zoning Ordinance requirements.
17. Per Zoning Ordinance Section 9.203(16)(c), redevelopment would require the installation of a new driveway providing primary vehicular access from Princeton Avenue, which is classified as a Minor Collector (Class V) street, is required for compliance.

Condition Without Variance



18. The applicant requests two variances to allow a new building and related site improvements for Discovery Place Nature: 1) A variance from the required Class C buffer along the existing portion of parking area and eastern portion of the driveway; and 2) A variance to allow the primary vehicular access to the use to be provided by way of a residential local (Class VI) street.

Condition with Requested Variances



19. The requested variances do not have implications for the new proposed parking area, which is shown with the required Class C buffer on the site plan prepared by Stimmel, and labeled as Exhibit D Alternative Proposed Site Plan in the applicant's variance application packet. The new parking area is permitted by right without the granting of the variance request.
20. The existing driveway accessed from Sterling Road is permitted to remain as a secondary vehicular access, but not primary access, without the granting of the variance.

21. The granting of the variance to allow primary access by the existing driveway on Sterling Road assures public safety, as the distance of a new driveway accessed from Princeton Avenue would create additional conflict points per the City of Charlotte Department of Transportation.
22. The City of Charlotte Department of Transportation supports the requested variance and has provided the following in response to the request:
“While CDOT understands the driveway being nonconforming due to its existing and primary access being from a local road we also understand the impact a new driveway would pose on Princeton. The distance between the intersection of Princeton and Sterling in comparison to the proposed driveway would create additional conflict points which CDOT is not in favor of. Also, there are existing trails and streams within the area that restricts the new driveway being relocated further from the intersection of Princeton and Sterling. Needless to say CDOT supports the variance and the proposed design with the two roundabouts on site providing a turnaround for vehicles internally.”
23. The applicant showed a alternative plan that would meet the Class C buffer without the need for a variance.
24. With the denial of the variance, the applicant would be required to increase the buffer to accommodate the Class C Buffer keeping the renovations consistent with the spirit, purpose, and intent of the Zoning Ordinance.
25. Without the granting of the variance, the installation of a new driveway for required primary access from Princeton Avenue would necessitate disturbance in or near the floodplain areas on the site.
26. Chris Matthews, the Division Director for Nature Preserves and Natural Resources with Mecklenburg County Park and Recreation Department, has provided a Natural Resources Review for the subject site.
27. The Natural Resources Review identified impacts of moving the existing parking area to provide a Class C Buffer, including the additional storm water management needed, and the impact of the floodplain encroachment.
28. There is significant topography on the site in the area that the new driveway to access Princeton Avenue would be located. There is a grade change of approximately 20 feet from the existing driveway area to the area where the new driveway would be located, and also adjacent to Sterling Road in the area where the new driveway would be located.
29. The hardship as it relates to the driveway connection to Princeton results from results from conditions that are specific to the subject property since the subject site was developed prior to current zoning requirements, the property contains floodplain areas and natural resources, and severe topography.

Staff recommends the following condition be placed on the variance request for the required Class C buffer for the existing parking area:

A 6 foot tall opaque fence or wall be provided along the property line between the existing parking lot and the rear lines of the lots on Sterling Road to screen the parking for the recreation center use from the adjacent residential properties.

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 with regard to its request for a variance from the required Class-C buffer to allow for a new building and related site improvements for the Nature Museum, 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 does result 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 is secured and substantial justice is achieved.

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 with regard to its request for a variance to allow the primary vehicular access to not be provided by a collector, minor or major thoroughfare in order to allow for a new building and related site improvements for the Nature Museum, and more specifically:

1. Unnecessary hardships would result from the strict application of the Ordinance.
2. The hardship does result 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.

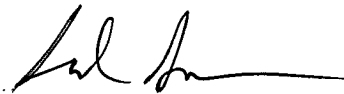
Sincerely,



Rick Sanderson, Chairperson

11/13/19
Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**



Shad Spencer, Zoning Administrator

11/13/19
Date