



Samuel & Peggy Hall
(Represented by Tracy Helms)
1235 Riverside Drive
Charlotte, NC 28214

RE: VARIANCE
10200 Rozzelles Ferry Road
CASE NUMBER 2019-075

To Whom It May Concern:

At its meeting on October 29, 2019, the City of Charlotte Zoning Board of Adjustment ("Board") **granted** two variances to allow the construction of an auto service station:

1. A 10-foot variance from the required 20-foot setback from Mt. Holly-Huntersville Road.
2. A 6.06% variance from the maximum built upon area allowance of 50% of the property area.

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

1. The applicant is Samuel & Peggy Hall (Represented by Tracy Helms).
2. The proposed site is located at 10200 Rozzelles Ferry Road, further identified as tax parcel 023-271-26.
3. The property is approximately 0.98 acres in area and is zoned B-1 (neighborhood business).
4. The property is located in the Mountain Island Lake Watershed Overlay Protected Area 1.
5. The property currently contains a nursery/greenhouse use and the applicant proposes to redevelop the property for an auto service station which will result in built upon area, and setback requirements.
6. The proposed auto service station use will be oriented with the minimum 20-foot (front) setback facing Mt. Holly-Huntersville Road and the 10' minimum street side yard facing Rozzelles Ferry Road.
7. Per Code Section 12.103(2), a 'transitional setback' shall be established along a thoroughfare that has an existing right-of-way which is not as wide as the right-of-way established for that thoroughfare.
8. The required 20 foot 'transitional setback' along Mt. Holly-Huntersville Road, major arterial Class III, is measured from the 50 foot 'proposed right-of-way'.
9. The required 10 foot 'transitional setback' along Rozzelles Ferry, minor arterial Class IV, is measured from the 35 foot 'proposed right-of-way'.
10. The Charlotte Department of Transportation and the North Carolina Department of Transportation have requested an additional right-of-way be designated for future intersection improvements, resulting in a 50-foot dedication along Rozzelles Ferry Road and 65 feet from the centerline of Mt. Holly-Huntersville Road.
11. Per Code Section 12.103(2), the 'transitional setback' established for lots abutting thoroughfares can be used for any purpose allowed by the particular zoning district, except for uses which are prohibited in the required setbacks, including parking.
12. Per Code Section 12.106(2)(a) no principal use or structures shall be located within any setback.
13. Per Code Section 12.206(3) no parking shall be located within any setback or side yard that abuts a street.

14. Per Code Section 10.506, the maximum built upon area allowed for nonresidential uses developed under the high-density option is 50 percent of the site.
15. The maximum built upon area allowed for the site is 10,703 square feet calculated based on 50 percent of 21,406 square feet, which is the area of property remaining after right-of-way designation.
16. The applicant is requesting two variances to allow the proposed redevelopment; a 10-foot variance from the required 20-foot setback along Mt. Holly-Huntersville Road, and a 6.06% variance from the maximum built upon area allowance of 50% of the property area.
17. The total site area is 0.98 acres, and the net site area is 0.49 acres after the designated of right-of-way is removed, or 50% of the land area.
18. There is a Duke Energy easement and tower on the property which totals 0.15 acres and restricts certain uses on that portion of property.
19. There is 0.34 acres of land that is not within the Duke Energy easement or the designated right-of-way.
20. The decreased land area results in a smaller allowance of built upon area for the site.
21. Granting the variance for increased built upon allowance will allow the applicants proposed site development and required site improvements.
22. The reduced setback of 10 feet from the proposed right-of-way for Mt. Holly-Huntersville Road will accommodate the required parking area and a corner of the proposed building.
23. The hardship is not a result of actions taken by the applicant or property owner.
24. The hardship is a result of the property location at the intersection of two thoroughfares and the existing Duke Energy easement.
25. The hardship is unique to the subject property and is not shared by the neighboring properties.
26. Granting the variance would not alter the essential character of the area.

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 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,

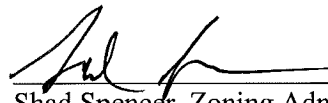


Rick Sanderson, Chairperson

11/26/19

Date

**DECISION FILED IN THE
PLANNING DEPARTMENT:**



Shad Spencer, Zoning Administrator

12/3/19

Date