



SAM'S MART, LLC  
C/O ANTHONY FOX  
P.O. BOX 56607  
ATLANTA, GA 30343

**RE: VARIANCE  
6300 ALBEMARLE ROAD  
CASE NUMBER 2021-027**

To Whom It May Concern:

At its remote meeting on April 27, 2021 the City of Charlotte Zoning Board of Adjustment (“Board”) **granted** a variance to allow for vehicle maneuvering space within the 20 foot transitional setback along Albemarle Road.

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

1. The applicant is Sam’s Mart, LLC (Represented by Anthony Fox).
2. The proposed site is located at 6300 Albemarle Road, further identified as tax parcel 133-171-13.
3. The property is zoned B-2 (general business) and is approximately 0.817 acres.
4. The existing building on the site was constructed in 1975, prior to current zoning regulations.
5. The property abuts Albemarle Road which is classified as a Class III-C Commercial Arterial thoroughfare and has an existing right-of-way of 50 feet measured from the street centerline.
6. Per Code Section 12.103(1), the minimum setback along a thoroughfare shall be measured from the ‘proposed right-of-way’ line, which is established by thoroughfare classification. Since Albemarle Road is classified as a Class III-C Commercial Arterial, the ‘proposed right-of-way’ is 75 feet measured from the centerline of Albemarle Road.
7. Based on the existing 50 foot right-of-way from the centerline of Albemarle Road, and the required 75 foot ‘proposed right-of-way’, an additional 25 feet of right-of-way is required from the centerline of Albemarle Road.
8. 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.
9. The required 20 foot ‘transitional setback’ along Albemarle Road is measured from the 75 foot ‘proposed right-of-way’.
10. Per Code Section 12.103(2)(a) 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.
11. Per Code Table 12.206(3) the parking of vehicles and maneuvering space for the parking of vehicles is not permitted within the setback.
12. Per Code Section 2.201, the ‘transitional setback’ is defined as the area that lies between the existing required setback line and the future required setback.
13. There is existing parking and maneuvering area on the property located within the 75 foot ‘proposed right-of-way measured’ from the centerline of Albemarle Road, and the 20 foot ‘transitional setback’ measured from the proposed right-of-way.

14. The existing development on the site is considered nonconforming since it predates ordinance requirements and doesn't meet current standards for the 'proposed right-of-way' and 'transitional setback'.
15. The applicant wishes to redevelop the site with a new building and parking lot. The proposed parking lot would be moved back from Albemarle Road by removing parking spaces from the 'proposed right-of-way' and 'transitional setback' than what currently exists, but having some maneuvering space remaining in the 'transitional setback' area.
16. Per Code Section 7.103(6), a nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning district in which it is located.
17. The applicant is requesting a variance to allow for vehicle maneuvering space within the 20 foot 'transitional setback' along Albemarle Road.
18. The hardship was not a result of actions taken by the applicants.
19. The site was developed in 1975 and current parking and maneuvering space encroaches into 'proposed right-of-way' and 'transitional setback'.
20. The proposed request meets the spirit and intent of the Zoning Ordinance.
21. Granting the variance would bring the parking lot further into compliance by eliminating the existing encroachment of parking spaces in the 'proposed right-of-way' and 'transitional setback'.
22. The North Carolina Department of Transportation has indicated they do not oppose the requested variance.
23. Granting the variance will not adversely affect adjacent or contiguous properties or alter the essential character of the area.
24. Many properties along Albemarle Road have parking areas that encroach into the 'required setback' and 'transitional setback'.
25. The variance will not impact public safety.
26. The applicant is proposing to remove two of the four existing driveways that are located closest to the intersection of Albemarle Road and Farm Pond Lane.
27. Due to the existing nonconforming parking and maneuvering area on the property, and application of the 'proposed right-of-way' and 'transitional setback' along Albemarle Road, a hardship exists that would make redevelopment of the site difficult without the requested encroachment.

**Conclusion of Law:**

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,

*Patrick Welch*

Patrick Welch, Chairperson

04/28/2021  
Date

**DECISION FILED IN THE  
PLANNING DEPARTMENT:**

4/30/2021

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X *Shad Spencer*

Shad Spencer

Zoning Administrator - April 30, 2021

Signed by: 4370c57f-ee18-462b-b92c-d54f5ed20af9