

CHARLOTTE UNIFIED DEVELOPMENT BOARD OF ADJUSTMENT MINUTES

July 28th, 2026

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The Unified Development Ordinance Board of Adjustment (hereinafter “Board”) for the Charlotte Unified Development Ordinance held a meeting pursuant to its regular meeting schedule on July 28th, 2026. Chair Kevin Shea called the meeting to order at 9:00am. Reference to “Ordinance” means “Charlotte Unified Development Ordinance” (“UDO”).

Present: Kevin Shea (Chair), Hamilton Cort (Vice-Chair), Marshall Williamson, Amy Sun, Deborah Dryden, Janice Shirley (alternate)

Also Present:

John Kinley, Interim Zoning Administrator/ Senior Project Manager
Terrie Hagler-Gray, Senior Assistant City Attorney, Lead
Paige Inman, Assistant City Attorney
Crystal Monsegur, Planner
Kamesha Lampley, Associate Planner/ Clerk to the Board
Elizabeth Majors, Veritext Court Reporting

Index of Cases: Case # APL-2026- 00003
Case # VAR-2026-00028
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Case # VAR-2026-00026

Other Agenda Items

APL-2026-00003 (Requested Deferral to August 25th, 2026)

David Murray for property located at 2424 Cedarvale Dr, parcel 05319305 owned by HK CEDARVALE LLC.

- Variance from Article 4.3, Table 4-2 for setbacks for N1-C zoning of the UDO to reduce the required rear setback of 30 ft to 15 ft, a 15 ft reduction.

VAR-2026-00028

BENJAMIN ENTERPRISES LLC (represented by Jason Dolan of Timmons Group) for property located at 6519 Old Concord Rd parcel 04903205 owned by BENJAMIN ENTERPRISES LLC.

- Variance from Article 15.4.ZZ.2 to reduce the required 200' separation of outside storage and activity areas from residential use.

A motion was made by Board member Amy Sun to defer the following cases to the July 28th, 2026 regular meeting of the Board: APL-2026-00003, VAR- 2026-00028 (the “referenced cases”). The motion was seconded by board member Hamilton Cort. The Board voted unanimously in favor of the motion to defer the referenced cases to the August 25th, 2026 regular meeting of the Board. The motion passed 5-0.

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DECISION ON FINDINGS OF FACT AND CONCLUSIONS OF LAW

VAR-2026-00019

Architect Builder Group (represented by Abraham Khalil of 650 INVESTMENTS LLC) for property located at 1218 East Bv, parcel 12111315 owned by 650 INVESTMENTS LLC and EQUITY TRUST COMPANY.

- Variance from UDO 20.9 to waive the required landscape yard.

The adoption of the findings of fact and conclusions of law was deferred from the last regular meeting. The Board considered proposed findings of fact and conclusions of law and adopted the following:

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

1. The applicant is Abraham Khalil of 650 INVESTMENTS LLC (represented by Jamal Smith of Architect Builder Group)
2. The site is located at 1218 East Bv, further identified as tax parcel 12111315.
3. The parcel is zoned NC (HDO) (Neighborhood Center Zoning District) (Historic District Overlay). The existing structure on the property was originally built as a home but was converted by previous owners to non-residential use. The applicant proposes a two-story addition to the building for restaurant use.
4. Per Article 20.9. B. When a landscape yard is required by the UDO, and a site does not have a landscape yard or the existing landscape yard on the site does not meet the standards, a landscape yard shall be installed when an addition to an existing principal structure occurs.
5. Per Table 20-3, Nonresidential or mixed-use development abutting residential use requires a 25 ft wide Class B buffer.
6. The development site abuts residential use; thus, the Unified Development Ordinance (UDO) requires a Class B landscape yard along the rear property line.
7. Per Article 20.9 Table 20-2 the required width of a Class B landscape yard is 25 ft and shall contain landscaping and a fence/wall is optional.
8. The applicant is requesting to eliminate the 25 ft wide Class B landscape yard along the rear property line.
9. Unnecessary hardships would result from the strict application of the regulation because, per Article 20.9 B. the addition to the existing building triggers the requirement to install a landscape yard when one does not exist.
10. The Ordinance does not provide an exception for the addition trigger, any addition regardless of the size or location on the building would trigger compliance.
11. Article 38.7 allows certain non-conforming site elements to continue "unless otherwise stated elsewhere in the Ordinance". The provisions for nonconforming site elements do not apply because the Ordinance states otherwise in Article 20.9 that compliance with the regulation is required with a building addition.
12. NC zoning has minimum parking requirements and for a restaurant use requires 1 space/500sf GFA + 50% of outdoor seating/activity area when within 400 ft of a Neighborhood 1 Place Type. The abutting residential property to the rear is in a Neighborhood 1 Place Type. The plans submitted by the applicant show 5 parking spaces to the rear of the building.
13. There is not space between the rear of the building and the property line to install the required landscape yard and meet on-site parking requirements. The strict application of the regulation would

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require parking and vehicle maneuvering to be removed such that the property would not be able to meet both landscape yard and parking standards.

14. The hardship does result from conditions that are peculiar to the property.
15. The existing site was originally constructed in 1918 for a single-family home.
16. There is approximately 60 ft from the rear of the existing building to the rear property line. The required landscape yard width is 25 ft., leaving approximately 35 ft for parking spaces and vehicle movement. Per the Charlotte Land Development Standards Manual (CLDSM) a 1-way commercial driveway is 20 ft wide and a standard parking space is 18 ft 6 inches long, in total the parking and driveway required would be 38 ft. There is 44 ft between the rear building line and the rear property line. The unique placement of the existing building on the lot results in conditions peculiar to the property such that there is not space at the rear of the building to meet both on-site parking requirements and landscape yard requirement regardless of the proposed addition.
17. The hardship does not result from actions taken by the applicant or the property owner because the applicant and property owner did not create the existing site layout or specific conditions such as historic structure or existing buffers. The size of the lot requires a buffer that is not otherwise possible.
18. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.
19. The variance is granted with the following conditions:
 - a. A landscape yard that is a minimum of five (5) feet shall be installed along the rear property line;
 - b. The landscape yard shall contain plantings that meet the requirements of the Historic District;
 - c. There shall be vision blocking window screens for the rear of the property;
 - d. Not increasing future parking spaces.
 - e. There shall be adequate screening for the trash location; and
 - f. There shall be a fence constructed along the rear property line that meets the requirements of the Historic District.

Conclusion of Law:

1. Unnecessary hardships would result from the strict application of the regulation.
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 regulation, such that the public safety is secured, and substantial justice is achieved.
5. The following conditions are required:
 - a. A landscape yard that is a minimum of five (5) feet shall be installed along the rear property line;
 - b. The landscape yard shall contain plantings that meet the requirements of the Historic District;
 - c. There shall be vision blocking window screens for the rear of the property;
 - d. Not increasing future parking spaces.
 - e. There shall be adequate screening for the trash location; and
 - f. There shall be a fence constructed along the rear property line that meets the requirements of the Historic District.
 - g. Not increasing future parking spaces.

Board Member Deborah Dryden made a motion to **approve** the findings of fact and conclusions of law as

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amended. Board Member Hamilton Cort seconded the motion. The Board voted unanimously in favor of the motion to **approve** the findings of facts and conclusions of law as amended. The motion passed 5-0. The amended findings of fact and conclusions of law are reflected in these minutes.

VAR-2026-00021

CHARLOTTE MECKLENBURG BOARD OF EDUCATION (represented by Jeff Fuller of Optima Engineering) for property located at 15340 Smith Rd parcel 21932393 owned by CHARLOTTE MECKLENBURG BOARD OF EDUCATION.

- Variance from Article 17.2.F.3 to waive the requirement that roof-mounted mechanical equipment shall be screened by an architectural element so that it is not visible from an abutting frontage.

The adoption of the findings of fact and conclusions of law was deferred from the last regular meeting. The Board considered proposed findings of fact and conclusions of law and adopted the following:

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

1. The applicant is Charlotte Mecklenburg Board of Education (represented by Jeff Fuller of Optima Engineering) for property owned by Charlotte Mecklenburg Board of Education.
2. The site is located at 15340 Smith Rd, further identified as tax parcel 21932393.
3. The property is zoned N1-A (Neighborhood 1-A Zoning) and is 18.080 acres and developed with River Gate Elementary school.
4. The applicant provided a site plan completed on January 16, 2026, showing the roof mounted mechanical equipment located on top of the existing buildings.
5. The applicant is proposing to replace the existing rooftop units (RTU) with new units. The existing units are old and beginning to fail.
6. Per Article 17.2.F.3 of the UDO roof-mounted mechanical equipment shall be screened by an architectural element so that it is not visible from an abutting frontage.
7. The UDO requires rooftop mechanical equipment for all uses to be screened with an architectural element from view from frontages.
8. Unnecessary hardships would result from the strict application of the regulation.
9. The existing RTUs fall near the structural limits of the existing roof. The new RTUs and their adaptive curbs are heavier than the existing RTUs and there is no capacity for additional load that would be caused by the required screenings.
10. Further, the property is developed with River Gate Elementary school which is an elementary school that is in-use. The structural remediation that would be required to support the additional weight would require the school to close and would not allow reasonable use of the property.
11. The hardship results from conditions that are peculiar to the property. The changes to equipment size and weight and structural loads of the roof and maintenance are unique to the property. Extensive structural remediation of River Gate Elementary school would be required.
12. The hardship does not result from actions taken by the applicant or the property owner.
13. The applicant is not responsible for the changes in HVAC design, referenced below, that have produced equipment that exceeds the weight limitations of an older structural system that was not intended to accommodate the modern loads.
14. HVAC units have required efficiencies - <https://www.iccsafe.org/products-and-services/i-codes/doe-seer2-eer2/>
15. To hit these higher ratings without changing core thermodynamic limits, manufacturers had to increase the surface area of indoor and outdoor copper/aluminum coils. Hence all the modern units

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got noticeably larger. In addition, there is a component of this from the EPA that pertains to the A2L refrigerant transition, the industry is phasing out of more HFC refrigerants which had higher GWP. Similar to the Freon phaseout years earlier. While the new A2L refrigerants are friendlier to the environment, they are less efficient. HVAC refrigerant standards - <https://www.iccsafe.org/products-and-services/i-codes/a2l-refrigerants-transition/>.

16. The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that the public safety is secured and substantial justice is achieved.

Conclusion of Law:

1. Unnecessary hardships would result from the strict application of the regulation in addition to structural disruptions.
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 due to DOE 2023 policy changes and specific conditions to this property.
4. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that the public safety is secured and substantial justice is achieved.

Board Member Deborah Dryden made a motion to **approve** the findings of fact and conclusions of law as written. Board Member Hamilton Cort seconded the motion. The Board voted unanimously in favor of the motion to **approve** the findings of facts and conclusions of law as written. The motion passed 5-0.

VAR-2026-00023

MAXIM STARK for property located at 1927 St John St, parcel 07505814 owned by MAXIM STARK.

- Variance from Article 4.3.D.1 to increase the maximum required sidewall height.

The adoption of the findings of fact and conclusions of law was deferred from the last regular meeting. The Board considered proposed findings of fact and conclusions of law and adopted the following:

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

1. The applicant is Maxim Stark.
2. The site's address is 1927 St John St further identified as tax parcel 07505814.
3. The property is zoned N1-C (Neighborhood 1-C) and is 0.294 acres.
4. Per the applicant's plan exhibit, they propose to construct a duplex dwelling on the lot with a sidewall height of 30 ft measured from the ground level to the eave.
5. The UDO requires a maximum sidewall height of 20 ft measured from the ground level of the structure to the roof eave on the sides of the building, which may be increased based on the average height of the sidewalls of abutting single-family homes. There is only one abutting single-family home with a sidewall height of 26 ft.
6. The applicant is requesting a variance from Article 4.3.D.1 to increase the maximum required sidewall height from 20 ft to side to 30.5 ft, a 10.5 ft increase to allow the proposed sidewall height and for minor adjustments to final grading during construction.
7. The site is subject to requirements for stormwater, minimum parking and sidewall heights.
8. The applicant's plan exhibits show that the west side of the lot is constrained by a 30 ft Post Construction (PC) stormwater buffer and 100+1 S.W.E.L and a 10 ft wide sewer easement which restricts the width of the building envelope. The overall width of the lot is 101 ft and the buildable area of the lot is reduced to approximately 52 ft in width.

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9. The UDO limits the sidewall height of duplex dwellings to 20 ft. The height is measured from the ground level of the structure to the roof eave. Garages and parking under buildings are considered part of the structure and the ground level.
10. The UDO requires 1.5 parking spaces per unit for duplex dwellings; the applicant proposes 2 spaces per unit.
11. It would not be possible to lower the building to meet sidewall requirements without moving the parking. The PC buffer, sewer easement and S.W.E.L. restrict the developable area of the lot such that there is not enough buildable area for 3-4 surface parking/driveway pads and proposed duplex.
12. An unnecessary hardship would not result from the strict application of the regulation because the applicant can build a single-family residence on the property and meet the sidewall height requirement. The applicant's proposal to construct a duplex dwelling creates the hardship.
13. As illustrated on the applicant's plan exhibit, the property has steep topography ranging from 724 ft above sea level along the eastern property line in common with the abutting single-family home, to 708 ft above sea level along the western property line within the creek bed from the Irwin Creek tributary.
14. The applicant proposes to grade a level building pad at 718 ft above sea level and a retaining wall is proposed along the eastern property line due to the topography.
15. The property has several site constraints including a 30' post construction buffer, 10' sewer easement, and 100+1 SWEL. The UDO requires habitable buildings to be located outside of the SWEL and above the SWPE. The SWPE is 711 ft above sea level. The ground level of the structure is proposed to be at 718 ft with the habitable living space elevated approximately 10 additional feet to accommodate the required parking.
16. The hardship does not result from conditions that are peculiar to the property. Despite the unique conditions associated with this property, the applicant can build a single-family residence on the site.
17. The hardship results from actions taken by the applicant or the property owner. Applicant's proposal to construct a duplex dwelling creates the hardship.
18. The requested variances are consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.
19. West of the site is a drainage area for a tributary of Irwin Creek, the neighboring 3 lots to the west are wooded and vacant. The improved portion of St. John St. ends at the subject lot.
20. The proposed site and building design placing the required parking under the structure, protects sensitive environmental areas along the drainage area securing public safety.

Conclusions of Law:

1. Unnecessary hardships would not result from the strict application of the regulation.
2. The hardship does not result from conditions that are peculiar to the property, such as location, size, or topography.
3. The hardship does result from actions taken by the applicant or the property owner.
4. The requested variances are consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.

Board Member Marshall Williamson made a motion to **approve** the findings of fact and conclusions of law as written. Board Member Deborah Dryden seconded the motion. Board Members Williamson, Dryden, Shea, and Sun voted in favor of the motion to **approve** the findings of facts and conclusions of law as written. Board member Hamilton Cort voted in opposition to the motion to approve the findings of facts and conclusion of law. The motion passed 4-1.

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*Board Member Dryden stepped down to conclude her term on the board and left the meeting at 9:19 am. Alternate member Janice Shirley joined the Board for the remainder of the meeting.

Recommendation Agenda

All persons providing testimony were sworn. Staff's Agenda packet, presentation, and slides were admitted into evidence and made part of the record for each hearing.

Case No.: VAR-2025-00050

Subject Ordinance: *Unified Development Ordinance (UDO)*

Request: Variance from UDO 19.6.A.1.a.iii.E to allow a parking pad within established front setback.

Applicant/Agent: 620 Queens Road Condominium Owners' Association, Inc (represented by Sarah Beason of Alexander Ricks PLLC).

Address: 620 Queens Rd

Parcel ID Number: 12524C93

Applicable Code Sections:

2.3 GENERAL DEFINITIONS

Setback – Front - A front setback is a required setback located along the shortest lot line dividing the lot from the right-of-way.

Setback, Established - An established setback is the area between the curb line, lot line, or other point set by the Ordinance and the building line of a principal building or structure.

19.6.A.1.a.iii.E DESIGN OF SURFACE PARKING AND PARKING LOTS

Parking areas other than individual driveways are prohibited within the established front and corner side setback. This does not apply to principal buildings fronting on Limited Access Roads or to single-family dwellings on individual lots.

The Board approved the variance with the following conditions: the parking space will be limited to an ADA space and associated loading zone and that landscaping and screening shrubs or a screen wall matching the standards of Article 20.5 B. 3. & 4. shall be provided between the parking and street. The screening will reduce the visual impact of the parking.

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

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1. The applicant is 620 Queens Road Condominium Owners' Association, Inc (represented by Sarah Beason of Alexander Ricks PLLC).
2. The site's address is 620 Queens Rd further identified as tax parcel 12524C93.
3. The property is zoned N2-B (Neighborhood 2 Zoning District).
4. The applicant is requesting a variance from 19.6.A.1.a.iii.E to allow a parking pad within established front setback along Queens Road.
5. The hardship does result from strict application of the regulation.
6. The pre-UDO zoning of the property was R-22MF (multi-family) and the site was developed under the by-right zoning with the building constructed in 2022. The legacy Ordinance required a 30 ft setback plus a 30 ft transitional setback. The legacy Zoning Ordinance allowed parking within the established setback and transitional setback provided it was not used to meet the minimum number of parking spaces. Thus, under the legacy Zoning Ordinance the proposed parking space could have been permitted.
7. The property's by-right R-22MF zoning was automatically translated to N2-B when the UDO went into effect in June of 2023. The UDO does not allow parking in the established setback. The UDO does not provide an exception for accessible parking spaces to be located in the established front setback. Strict application of the regulation applies to all parking other than individual driveways. The site layout and property configuration results in the lack of space to place accessible parking outside of the established front setback.
8. The hardship does result from conditions that are peculiar to the property. The property is developed with a condominium with a shared driveway providing access to garages for the units and connecting between Queens Rd and Baxter St. The established setback includes the space between the front building wall and the Queen's Road right-of-way.
9. The parcel is 100 ft wide at the widest point along Queens Road and 65 ft wide at the narrowest point along Baxter St. The building is 45 ft at the widest point with a 10 ft one-way shared driveway. The narrow parcel along with the existing building and shared driveway limit along with other site requirements such as open space and tree save prevent the ability to place parking outside of the established setback.
10. Per Mecklenburg County GIS <https://polaris3g.mecklenburgcountync.gov/> the site elevation at Queens Road is 678 ft and site elevation at Baxter St. is 660 ft, a 18 ft difference. Currently, persons needing accessible parking must park at the rear of the site or on-street along Baxter St and traverse up the hill along the shared driveway to access the dwelling units.
11. The requested variance would allow for a reasonable accommodation for the property owners to have an ADA-parking space for their residences while maintaining the open space and tree save areas and aesthetic characteristics of the neighborhood.
12. The hardship does not result from actions taken by the applicant or the property owner. The hardship is not the result of the HOA or the Property Owners' actions. The HOA and condominium owners did not develop the property. The hardship results from changes between to the parking location requirements between the legacy Zoning Ordinance and the UDO and the unique property constraints.
13. The requested variance is consistent with the spirit, purpose, and intent of the Ordinance. It would provide enhanced safety to property owners and visitors, avoiding pedestrians having to travel within or cross adjacent public rights-of-way.
14. Per the proposed plan, a small amount of tree save area will be removed and the applicants will make it up elsewhere on the site.
15. Granting the variance will allow an accessible parking space near existing building.
16. The applicant has agreed to and offered the following conditions, the parking space will be limited to an ADA space and associated loading zone and that landscaping and screening shrubs or a screen

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wall matching the standards of Article 20.5 B. 3. & 4. shall be provided between the parking and street. The screening will reduce the visual impact of the parking.

17. Granting the variance would not alter the essential character of the area, there are single family homes along Queens Road with circle driveways allowing parking between the homes and street and there are other multi-family buildings in the area that have parking between the buildings and street.

Conclusions of Law:

1. Unnecessary hardship would result from the strict application of the regulation.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography.
3. The hardship did 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 regulation, such that public safety is secured, and substantial justice is achieved.
5. The applicant has agreed to and offered the following conditions, the parking space will be limited to an ADA space and associated loading zone and that landscaping and screening shrubs or a screen wall matching the standards of Article 20.5 B. 3. & 4. shall be provided between the parking and street. The screening will reduce the visual impact of the parking.

Board Member Hamilton Cort made a motion to **approve** the variance with conditions. The motion was seconded by Board Member Amy Sun. The Board voted unanimously in favor of the motion to **approve** the variance. The motion passed 5-0.

Board Member Hamilton Cort made a motion to **approve** the findings of fact and conclusions of law as amended. Board Member Amy Sun seconded the motion. The Board voted unanimously in favor of the motion to **approve** the findings of facts and conclusions of law as amended. The motion passed 5-0. The amended findings of fact and conclusions of law are reflected in these minutes.

Case No.: VAR-2026-00022

Subject Ordinance: *Charlotte Zoning Ordinance - Amended June 21, 2021 (Legacy)*

Request: Two variance requests from the 2021 Legacy Zoning Ordinance

- Variance from legacy Zoning Ordinance Section 15.6.6.D. to reduce the width of the required buffer yard from 10 ft to 0-4.5 ft as indicated within the variance areas depicted on the plan exhibit.
- Variance from legacy Zoning Ordinance Section 15.8.4.A.9.b.ii and iii to modify the required screen fence setback from 7 ft to 0'-4.75 ft.

Applicant/Agent: Piedmont Natural Gas Company INC (represented by Crystal Fox of BMCD EGS PC) for property located at 9365 South Bv, parcel 20701202 owned by COMPANY INC PIEDMONT NATURAL GAS.

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Address: 9365 South Bv.

Parcel ID Numbers: 20701202

Applicable Code Sections:

Section 15.6.6.D Buffer Yards

A buffer yard shall be a minimum of ten feet in width in the TOD-UC and TOD-CC Districts, and a minimum of 15 feet in width in the TOD-NC and TOD-TR Districts.

Section 15.8.4.A.9.b.ii and iii Utility Equipment (as a principal use)

- ii. A buffer yard as per Section 15.6.6 is required within all side and rear setback zones.
- iii. Utility equipment shall be screened with a solid fence or decorative wall, constructed of wood posts and planks, brick, finished masonry, or stone, and a minimum of six feet and a maximum of eight feet in height. Such fence shall be set back seven feet from a required setback line. One evergreen shrub, at least two feet in height at installation and with a minimum spread of two feet, shall be planted for every five linear feet of perimeter area length, spaced linearly on-center, along the outside of the fence. Shrubs shall be listed on the approved plant list in the Approved Plant Species located in the Charlotte Land Development Standards Manual.

The Board granted the variance with the following condition:

That the variance is applicable only to the variance areas depicted on the variance plan exhibit and that landscape screening as generally depicted on the approved plans is provided and if necessary, maintenance easements from abutting property owners will be obtained.

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

1. The applicant is Piedmont Natural Gas Company INC (represented by Crystal Fox of BMCD EGS PC).
2. The site is located at 9365 South Bv. and further identified as tax parcel 20701202. The property is owned by Company INC Piedmont Natural Gas.
3. The property is zoned TOD-CC (Transit Community Center Zoning District).
4. The applicant's variance exhibit plan show existing regulator station, existing retaining walls along the northern and southern property line and vehicular access points, and measurements from the property line to the regulator station area and the existing equipment on site.
5. The applicant is seeking two variances, one variance from Legacy ordinance section 15.6.6 to reduce the required 10 ft landscape buffer as required by 15.8.4.A.9.b.ii. The second variance is from Legacy ordinance section 15.8.4.A.9.b.iii to reduce the 7 ft fence setback measured from required setback lines.
6. Unnecessary hardships would result from the strict application of the regulation. Compliance with the strict application of the Ordinance to place the fence 7 ft from the property line would require the relocation of retaining walls along the property boundary. Relocating the retaining wall would necessitate the relocation of other components of the utility facility and could compromise the integrity of the wall and site's grading.
7. The strict application of the buffer yard standard requires the buffer yard width to be measured from the property line. After construction was completed and buffer plantings installed the applicants received a more accurate property line location information showing the property lines were not exactly where they were thought to be during permitting. The correction to the property line would

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shift where the buffer yard and plantings would be located. The relocation of the buffer yard and plantings would require the relocation of utility equipment on the site.

8. The hardship does result from conditions that are peculiar to the property. The site is narrow, about 150 ft wide at the rear of the property with approximately 30 ft of topographic grade change across the site. According to the variance plan exhibits the applicant installed retaining walls parallel to the northern and southern boundaries to provide a level area for the regulator station equipment. The approved plans included the required buffers along the property boundaries according to the Ordinance standards. However, after construction was substantially completed the applicant's discovered discrepancy in the property line location as depicted on the variance plan exhibit. The site's width and topography are a hardship for relocating the landscape yard and fence placement.
9. The hardship does not result from actions taken by the applicant or the property owner.
10. Land acquisition and title review indicated differences in the property line which were not known at the time of design, permitting. The project was constructed according to the plans approved during permitting. The clarification of the property line location reduces the space available for the required landscape yard width and fence setback. The hardship was not caused by the applicants as they proceeded through the land development process with approved plans based on the assumption that the property lines were accurate. The property owners did not create discrepancies in the property line location nor create the grade change of the property requiring the construction of retaining walls.
11. The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that the public safety is secured, and substantial justice is achieved.
12. The site is located along South Bv. between a car dealership and a shopping center. The reduced landscape yard and adjusted fence location will not have an impact on residential properties.
13. Without the variances the applicants would have to relocate retaining walls and utility equipment causing disruptions to the functionality of the gas regulator station which is used to control and safely maintain gas pressure within pipelines.
14. The applicant has agreed to the following conditions; that the variance is applicable only to the variance areas depicted on the variance plan exhibit and that landscape screening as generally depicted on the approved plans is provided and if necessary, maintenance easements from abutting property owners will be obtained.

Conclusion of Law:

1. Unnecessary hardships would result from the strict application of the regulation.
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 *Charlotte Zoning Ordinance*, such that public safety is secured, and substantial justice is achieved.
5. The applicant has agreed to the following conditions; that the variance is applicable only to the variance areas depicted on the variance plan exhibit and that landscape screening as generally depicted on the approved plans is provided and if necessary, maintenance easements from abutting property owners will be obtained.

Board Member Marshall Williamson made a motion to **approve** the variance with conditions. The motion was seconded by Board Member Hamilton Cort. The Board voted unanimously in favor of the motion to **approve** the variance with conditions. The motion passed 5-0.

Board Member Hamilton Cort made a motion to **approve** the findings of fact and conclusions of law as

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amended. Board Member Amy Sun seconded the motion. The Board voted unanimously in favor of the motion to **approve** the findings of fact and conclusions of law as amended. The motion passed 5-0. The amended findings of fact and conclusions of law are reflected in these minutes.

VARIANCES

All persons providing testimony were sworn. Staff's Agenda packet, presentation, and slides were admitted into evidence and made part of the record for each hearing.

Case No.: VAR-2026-00024

Subject Ordinance: *Unified Development Ordinance (UDO) – Amended 6/16/25*

Request:

Variances from articles listed below:

1. Variance from Article 13.3.B, Table 13-1.A Building Siting Standards, to waive the frontage setback requirement along S. Tryon due to the existing building.
2. Variance from Article 13.3.B, Table 13-1.B Building Siting Standards to waive Frontage Build-To Zone requirement along S. Tryon due to the existing building.
3. Variance from Article 13.3 B, Table 13-1.C Building Siting Standards to modify the requirement for Minimum BTZ Build-To Percentage for Structure from the required 80% to 40% due to the existing building.
4. Variance from Article 13.3.D, Table 13-3.A Building Articulation Standards, to reduce the requirement for Minimum Building Length as percentage of the lot width along S. Tryon frontage from 60% to 40% due to the existing building.
5. Variance from Article 20.9, Table 20-2 and Table 20-3 to waive the required 25 ft wide Class B landscape yard abutting residential use due to the existing driveway and building.
6. Variance from Article 20.5, 20.5.B.1-5, to reduce the width of the parking lot screening from the required 5 ft to 2 ft, a 3 ft reduction.
7. Variance from Article 19, Section 19.7.C.2.c.i-ii Design of Parking Structures, to reduce the ground floor activation requirement from 90% to 20%, a 78% reduction and reduce the 20 ft depth requirement to 10 ft, a 10 ft reduction.
8. Variance from Article 18.3, Table 18-2 Architectural Features to allow a roof overhang and supporting posts to encroach into the required frontage setback along S. Tryon for architectural features on the roof of the existing building.
9. Variance from Article 18.3, Table 18-2, Architectural Features to allow awnings and sunshades to encroach into the required frontage setback along the Rail Trail public path frontage.
10. Variance from Article 13.3.E, Table 13-4 Transparency Standards, to waive requirement for transparency as a percentage of wall area between 3-10 ft from grade along the Rail Trail public path frontage.

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Applicant/Agent: 1447 SOUTH TRYON LLC (represented by Hattie Pavlechko-Reiter of LandDesign)

Address: 1447 S Tryon St

Parcel ID Number: 12304109

Applicable Code Sections:

Article 2.3 General Definitions:

Active Use. A use listed in the Residential Uses category of the Use Matrix and nonresidential uses listed in the Commercial Uses category, the Industrial Uses category, and/or the Institutional and Governmental Uses category of the Use Matrix in Article 15

Awning. A roof like structure typically made of cloth, metal, or other material attached to a frame that extends from and is supported by a building. Awnings are typically erected over a window, doorway, or building front, and may be raised or retracted to a position adjacent to the building.

Build-To Percentage. The percentage of the building facade that shall be located within the build-to zone (BTZ), calculated by building facade, not lot width.

Build-To Zone (BTZ). A build-to zone (BTZ) is the area on a lot, measured parallel from the required frontage setback line, where the minimum build-to percentage of a structure shall be located. A build-to zone sets a minimum and maximum dimension within which the building facade line shall be located per the requirements of the minimum build-to percentage.

Building Length. Building length is measured as the length of the facade abutting a frontage. Passageways, breezeways, ground floor passages and similar building connections are included in the calculation of total building length

Building Length, Minimum. The minimum length a building shall be along a frontage, established either by a set amount of linear feet or a percentage of lot width.

Frontage, 4-5 Lane Avenue/Boulevard. Frontage that includes the following street classifications: 4 lane avenue, 4+ lane avenue, 5 lane avenue, 5+ lane avenue, 4+ lane boulevard, 5+ lane boulevard, as defined by the associated Avenue or Boulevard street classification definitions.

Landscape Yard. Land area with landscape plantings and other components used to separate one use or development from another and/or to shield or block noise, lights, or other nuisances.

Reuse. The occupancy of a pre-existing structure for an active use. Reuse may include the rehabilitation or modification of an existing structure to serve the needs of a new use.

Setback. The minimum dimension a structure may be located as measured from a curb line, lot line, right-of-way line, or other point set by the Ordinance, along frontages and side and rear lot lines. A setback shall be located at or behind the required pedestrian/bicycle facilities and planting strip/amenity zone.

Transparency. The required amount of window area as a percentage of the specified facade area. Doors are included in ground floor transparency when such doors are designed with glass or other transparent materials. For the purposes of transparency, areas of vehicular access, required fire access stairs, transformer enclosures, and mechanical or electrical equipment rooms shall not be included in the calculable area.

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Table 13-1: Transit Oriented Development Zoning Districts Building Siting Standards

		TOD-TR	TOD-CC	TOD-NC	TOD-UC
A	Frontage Setback Line (from future back of curb) (feet) ^{1,2}				
	Uptown Signature	24	24	24	24
	Main Street	24	24	24	24
	Linear Park	36	36	36	36
	4-5 Lane Avenue/Boulevard	20	20	20	20

Table 13-1: Transit Oriented Development Zoning Districts Building Siting Standards

B	Frontage Build-To Zone (BTZ) (from frontage setback line) (feet) ^{4,5}				
	Main Street	0-20	0-10	0-20	0-10
	4-5 Lane Avenue/Boulevard	0-20	0-10	0-20	0-10

Table 13-1: Transit Oriented Development Zoning Districts Building Siting Standards

		TOD-TR	TOD-CC	TOD-NC	TOD-UC
C	Minimum BTZ Build-To Percentage for Structure (%)				
	Main Street	80	80	100	100
	4-5 Lane Avenue/Boulevard	80	80	80	80
	6 or more Lane Avenue/Boulevard	80	80	80	80
	2-3 Lane Avenue	40	60	40	60
	Transit Station, Off-Street Public Path, Public Park	80	80	80	80
	Other - Primary	80	80	80	80
	Secondary	40	60	40	60

Table 13-3: Transit Oriented Development Zoning Districts Building Articulation Standards

		TOD-TR	TOD-CC	TOD-NC	TOD-UC
A	Minimum Building Length as a Percentage of Lot Width Along Frontage (Measured at Frontage Setback Line) (%) ^{1, 9, 10}				
	Main Street	60	60	80	80
	4-5 Lane Avenue/Boulevard	60	60	60	60

Table 20-3: Required Landscape Yards by Zoning District

Zoning District of Property Under Development	Development Type Required to Install Landscape Yard Per Section 20.9.B	Landscape Yard Required for Development When ¹ :	Landscape Yard Class Required

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TOD-UC, TOD-CC	Development in the zoning district	Abutting single-family, duplex, triplex, or quadraplex dwelling, or abutting vacant parcel zoned: a Neighborhood 1 Zoning District, or R-3(CD), R-4(CD), R-5(CD), R-6(CD), or R-8(CD)	B
		Abutting multi-family, or multi-dwelling development, or abutting vacant parcel zoned: a Neighborhood 2 Zoning District (unless zoned N-2C), or R-8MF(CD), R-12MF(CD), R-17MF(CD), R-22MF(CD), R-43MF(CD), UR-1(CD), UR-2(CD), UR-3(CD), MX-1, MX-2, or MX-3	

20.5.B.1 Design of Screening Areas

The screening area shall be improved as follows:

1. The screening area shall be at least five feet in width.

19.7.C.2.c.i-ii Option C – Ground Floor Activation

i. Parking structures shall include residential or nonresidential active uses along 90% of the ground floor building length along any primary frontage, excluding areas of vehicular and pedestrian egress, fire stairs, and mechanical or electrical equipment rooms.

ii. Nonresidential active use bays shall be a minimum of 20 feet in width and 20 feet in depth. Individual spaces shall be furnished with water, sewer, and electrical service, or such services shall be stubbed into each individual active use bay for a future connection.

Article 18.3, Table 18-2: Permitted Architectural Features and Extensions for Multi-Family Stacked, Mixed-Use, And Nonresidential Development

Permitted Architectural Features	Maximum Extension Allowed Into Required Frontage Setback	Maximum Extension Allowed Into Required Side Setback	Maximum Extension Allowed Into Required Rear Setback	Additional Regulations
Awning or Sunshade	Up to a distance of 4' from the future back of curb along a street; cannot encroach along non-street frontages	Not permitted	Not permitted	Section 18.3.C.2

Article 13, Table 13-4: Transit Oriented Development Zoning Districts Transparency Standards Ground Floor Transparency – Nonresidential and Mixed-Use (% of wall area between 3' and 10' from grade; Per building)

Table 13-4: Transit Oriented Development Zoning Districts Transparency Standards				
	TOD-TR	TOD-CC	TOD-NC	TOD-UC
Transit Station, Off-Street Public Path, Public Park	40	50	60	60

The following witnesses testified on behalf of the Applicant: Sam Lodebole, Hattie Pavlechko-

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Reiter, and Bradford Klotz. Applicant's powerpoint presentation is admitted into evidence and made part of the record.

The Board approved the variances with conditions for numbers 1-10.

For variances 1 through 6, the Board based its decision on the following findings of fact:

1. The applicant is 1447 SOUTH TRYON LLC (represented by Hattie Pavlechko-Reiter of LandDesign).
2. The site is located at 1447 S Tryon St, further identified as tax parcel 12304109.
3. The parcel is zoned TOD-UC (Transit Urban Center Zoning District), developed with a non-residential building.
4. The site is centrally located in South End adjacent to the Bland Street transit station and abutting the Rail Trail and public open space area known as "Fowler Porch".
5. The site is located between non-residential uses to the northeast and a residential building with 9 town-home style units to the southwest. The Charlotte Trolley building is located two parcels southwest of the site.
6. As shown on the applicant's variance plan exhibit, the proposed development includes adaptive reuse of the existing building constructed in 1928, an addition atop the existing building for potential restaurant/bar/terrace, and construction of proposed hotel with ground level parking structure connected to the rear of the existing building along the rail trail frontage.
7. The existing building is not currently designated as a historic structure; the applicants are seeking possible designation from the Landmarks Commission.

The following is the list of variance requests associated with the application and their associated Findings of Fact and Conclusions of Law for numbers 1-6.

Variance Request 1. - Article 13.3.B, Table 13-1.A – Ground Floor Setback: (staff supports)

- to waive the frontage setback requirement along S. Tryon St. due to the existing building
 - i. Unnecessary hardship would result from the strict application of the regulation.**

Strict application of the required 20-ft setback would prevent the preservation and adaptive reuse of the existing building along S. Tryon St. The existing building is already located within the required setback area, and compliance would require removal or substantial reconstruction of the existing street-facing portion of the building.
 - ii. The hardship results from conditions that are peculiar to the property.**

The hardship results from the narrowness and limited depth of the site, the existing building's location relative to the S. Tryon St. right-of-way, and the need to maintain the existing vehicular access point. The existing conditions along the frontage that are proposed to remain to facilitate the adaptive reuse of the building, limit the ability to relocate the required streetscape, shift the building, or provide the required setback without undermining the historical integrity of the existing building and its adaptive reuse.
 - iii. The hardship does not result from actions taken by the applicant or property owner.**

The hardship is based on pre-existing physical conditions, including the existing building location, existing right-of-way relationship, and established access condition. The applicant is not proposing a new building within the setback; rather, the request is necessary to preserve and reuse an existing historic structure.
 - iv. The requested variance is consistent with the spirit, purpose, and intent of the regulation.**

The requested variance supports the TOD-UC intent by preserving an existing 1920's urban building. The site is centrally located within South End, an urban area with pedestrian-oriented development

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with buildings built close to the backs of sidewalks along streets. The applicant's will coordinate with Planning and CDOT during the land development process to determine the appropriate adjustments to the transportation improvements along S. Tryon St. triggered by the development. The project preserves the existing street-facing building condition and reinvests in the site rather than requiring demolition or reconstruction solely to satisfy the setback standard.

Variance Request 2. - Article 13.3.B, Table 13-1.B – Build-To Requirement: Build-To Zone: (staff supports)

- to waive Frontage Build-To Zone requirement along S. Tryon due to the existing building

i. Unnecessary hardship would result from the strict application of the regulation.

Strict application of the 0-foot to 10-foot build-to zone would prevent the preservation and adaptive reuse of the existing building along S. Tryon St. Compliance would require substantial alteration or removal of the existing building frontage along South Tryon Street, undermining the adaptive reuse intent of the project.

ii. The hardship results from conditions that are peculiar to the property.

The hardship results from the narrowness and limited depth of the site, the existing building's location relative to the South Tryon Street right-of-way, and the need to maintain the existing vehicular access point. CDOT has indicated a preference to maintain the existing right-of-way and access conditions, limiting the ability to adjust the frontage to meet the prescribed build-to zone.

iii. The hardship does not result from actions taken by the applicant or property owner.

The hardship is based on pre-existing physical conditions, including the existing building placement, established frontage condition, and existing access location. The applicant is not proposing a new building placement outside the build-to zone; rather, the request is necessary to preserve and reuse the historic existing structure under current site constraints.

iv. The requested variance is consistent with the spirit, purpose, and intent of the regulation.

The requested variance supports the intent of the TOD-UC district by allowing adaptive reuse of an existing 1920's building near transit while maintaining an active urban frontage along South Tryon Street to the extent feasible. The project preserves the existing street-facing building condition and reinvests in the site rather than requiring demolition or reconstruction solely to satisfy the build-to zone standard.

Variance Request 3. - Article 13.3, Table 13-1.C – Build-To Percentage Requirement: (staff supports)

- to modify the requirement for Minimum BTZ Build-To Percentage from the required 80% to 40%

i. Unnecessary hardship would result from the strict application of the regulation.

Strict application of the 80% build-to percentage requirement along South Tryon Street would be impracticable because the existing building frontage does not occupy enough of the required frontage length, and expanding the building to meet the standard would conflict with the preservation of the existing historic 1920's structure, required site circulation, and existing vehicular access.

ii. The hardship results from conditions that are peculiar to the property.

The hardship results from the site's narrowness, limited frontage depth, existing building location, and the need to maintain the existing vehicular access point. CDOT has indicated a preference to maintain existing right-of-way and access conditions which further limits the ability to reconfigure the frontage or add building area to achieve the 80% build-to percentage.

iii. The hardship does not result from actions taken by the applicant or property owner.

The hardship is tied to pre-existing physical conditions, including the existing building footprint, existing frontage length, and established access condition. The applicant is not creating a new frontage deficiency; rather, the request is necessary to allow adaptive reuse of the existing building within the constraints already present on the property.

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iv. The requested variance is consistent with the spirit, purpose, and intent of the regulation.

The requested modification to 40% allows the project to preserve and activate the existing building while maintaining functional site access and circulation. The project still supports the TOD-UC intent by reinvesting in an existing urban site near transit and improving the pedestrian-oriented frontage to the extent feasible.

Variance Request 4. - Article 13.3.D, Table 13-3.A – Minimum Building Length as a Percentage of Frontage: (staff supports)

- to reduce the requirement for Minimum Building Length as percentage of the lot width along S. Tryon frontage from 60% to 40%

i. Unnecessary hardship would result from strict application of the regulation.

Strict application would require increasing the building frontage from approximately 60 feet to approximately 72 feet along South Tryon Street. This would require expansion or reconstruction of the existing building frontage, which is impracticable while preserving the existing historic 1920's structure and maintaining functional site access.

ii. The hardship results from conditions peculiar to the property.

The hardship results from the existing building's fixed frontage length, the narrowness of the site, the existing building's relationship to the South Tryon right-of-way, and the need to maintain the existing vehicular access point. These conditions limit the ability to extend the building frontage to meet the required 60% frontage length.

iii. The hardship does not result from actions taken by the applicant or property owner.

The hardship is based on pre-existing conditions, including the existing building dimensions, existing frontage condition, and established access location. The applicant is seeking to preserve and adaptively reuse the existing historic 1920's building rather than create a new building frontage that fails to meet the standard.

iv. The requested variance is consistent with the spirit, purpose, and intent of the regulation.

The requested modification allows the existing building frontage to remain while supporting adaptive reuse of the property in a transit-oriented location. Although the building frontage is less than the required percentage, the project preserves an existing historic 1920's urban building, maintains street presence along South Tryon, and supports reinvestment in the site without unnecessary demolition.

Variance Request 5. Article 20.9.A-B.2,4, Table 20-2 Landscape Yard Class and Table 20-3: Required Landscape Yards by Zoning District: (staff supports)

- to waive the required 25 ft wide Class B landscape yard abutting residential use

i. Unnecessary hardship would result from strict application of the regulation.

Strict application of the required landscape yard would eliminate or substantially impair the only practical vehicular access serving the property. Providing the required landscape yard width while maintaining the existing driveway and accommodating safe vehicular circulation would significantly reduce the functionality of the site and jeopardize the adaptive reuse of the existing building.

ii. The hardship results from conditions peculiar to the property.

The hardship results from the property's constrained size, the location of the existing driveway, the limited frontage available for site access, and the existing building and parking layout. The property is approximately 117 ft wide, the existing building is about 60 ft, leaving about 57 ft between the building and abutting the residential use southwest of the site. The existing driveway and surface parking are located within that 57 ft of space. Additionally, CDOT has indicated a preference that the existing access location remain, leaving no practical opportunity to provide the required landscape yard without adversely affecting site access.

iii. The hardship does not result from actions taken by the applicant or property owner.

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The hardship is the result of pre-existing site conditions, including the established driveway location, existing building placement, and the physical dimensions of the property. The applicant is preserving the existing access configuration in response to existing site conditions and transportation agency guidance.

iv. The requested variance is consistent with the spirit, purpose, and intent of the regulation.

The requested variance remains consistent with the intent of the landscape yard requirements by providing alternative screening measures that achieve substantially the same visual buffering objective. The project proposes a combination of masonry screening walls and evergreen landscaping to soften views of the parking area while preserving safe site access, supporting adaptive reuse of the property, and maintaining functionality within this constrained urban site.

Condition: applicants will provide a combination of masonry site wall and evergreen landscaping for screening along the southwest property line as generally depicted on the variance plan exhibit.

Variance Request 6. - Article 20.5.B.1-5 Parking Lot Screening: (staff supports)

- to reduce the width of the parking lot screening from the required 5 ft to 2 ft, a 3 ft reduction

i. Unnecessary hardship would result from strict application of the regulation.

Strict application of the required parking lot screening dimension would reduce the functional parking area and impair the project's ability to preserve a portion of the existing parking necessary to support the adaptive reuse of the existing building. The existing parking is located with 2 ft of the property line. Requiring the full 5 ft screening width would adversely impact the existing vehicular access and circulation, reducing the functionality of the already small site and the feasibility of the proposed redevelopment.

ii. The hardship results from conditions peculiar to the property.

The hardship results from the property's constrained size, the existing building location, the established parking layout, the limited area available between the parking area and property boundaries, and the need to maintain the only practical vehicular access point. In addition, CDOT and NCDOT have recommended maintaining the existing access configuration, further limiting opportunities to accommodate the required parking lot screening width while preserving a portion of the existing parking.

iii. The hardship does not result from actions taken by the applicant or property owner.

The hardship results from pre-existing site conditions, including the limited dimensions of the property, the existing building and parking layout, the established driveway location, and the minimum dimensions necessary to accommodate safe vehicular maneuverability. As shown on the applicant's variance plan exhibit the applicant is working with existing physical constraints to preserve a portion of the existing parking and adaptively reuse the existing building.

iv. The requested variance is consistent with the spirit, purpose, and intent of the regulation.

Within the existing screening strip is a metal fence and deciduous vegetation. As shown on the variance plan exhibit the applicant will install a combination of a masonry wall and evergreen landscaping within the 2ft wide screening area. The masonry wall and evergreen vegetation will provide improved year round screening of vehicles and their headlights consistent with the intent of the parking lot screening standards. Although the screening dimension is reduced to two (2) feet, the proposed design will continue to effectively buffer views of the parking area while preserving a portion of the existing parking supply, maintaining safe vehicular access and circulation, and supporting the adaptive reuse of the property.

Condition: applicants will provide a combination of masonry site wall and evergreen landscaping for screening along the southwest property line as generally depicted on the variance plan exhibit.

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Board Member Hamilton Cort made a motion to **approve** variances 1-10 with conditions. The motion was seconded by Board Member Amy Sun. The Board voted unanimously in favor of the motion to **approve** variances 1-10. The motion passed 5-0.

Board Member Hamilton Cort made a motion to **approve** the findings of fact and conclusions of law for variances 1-6 as written. Board Member Marshall Williamson seconded the motion. The Board voted unanimously in favor of the motion to **approve** the findings of facts and conclusions of law for variances 1-6 as written. The motion passed 5-0.

Board Member Hamilton Cort made a motion to **defer** the adoption of findings of fact and conclusions of law for variances 7-10 to the August 25th, 2026 regular meeting of the Board. Board Member Marshall Williamson seconded the motion. The Board voted unanimously in favor of the motion to **defer** the adoption of findings of facts and conclusions law for variances 7-10 to the August 25th, 2026 regular meeting of the Board. The motion passed 5-0.

***The Board took a recess at 11:44am and resumed the meeting at 11:57am**

Case No.: VAR-2026-00026

Subject Ordinance: *Unified Development Ordinance (UDO) – Amended 6/16/25*

Request: Variance from Article 17.2.E to reduce the minimum required 20 ft garage setback from 20 ft to 11.5 ft, an 8.5 ft decrease.

Applicant/Agent: Jeremy Deese (represented by Sarah Beason of Alexander Ricks PLLC)

Address: 2500 E 5th St

Parcel ID Number: 12713701

Applicable Code Sections:

2.3 GENERAL DEFINITIONS

Setback - The minimum dimension a structure may be located as measured from a curb line, lot line, right-of-way line, or other point set by the Ordinance, along frontages and side and rear lot lines. A setback shall be located at or behind the required pedestrian/bicycle facilities and planting strip/amenity zone.

Garage - An accessory building or portion of a principal building designed to be used for the storage of motor vehicles and other household items of the occupants of the premises.

17.2.E Garage, Detached

Detached garages shall be set back a minimum of 20 feet from the right-of-way or back of sidewalk,

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whichever is greater, to allow a driveway or parking pad with a minimum length of 20 feet. A detached garage may be located in an established corner side setback along a street or frontage if it complies with the preceding setback requirement.

19.5.A.1.a.iii.c Surface Parking and Parking Lot Location and Configuration, Residential Dwellings, All Dwellings

(C) Driveways and parking pad spaces shall be a minimum of 20 feet in length as measured from the right-of-way, back of sidewalk, or back of a shared use path, whichever is greater.

The following witnesses testified on the Applicant's behalf: Josh Allison, Sarah Beason, Lauren Deese, and Jeremy Deese.

The Board denied the variance.

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

1. The applicant is Jeremy Deese (represented by Sarah Beason of Alexander Ricks PLLC).
2. The site's address is 2500 E 5th St further identified as tax parcels 12713701.
3. The property is zoned N1-C (Neighborhood 1-C) and is 0.208 acres.
4. The applicant is proposing to construct a 1327 sq ft, 2-story, detached garage with footprint dimensions of 18 ft wide by 39 ft deep.
5. Article 17.2.E requires detached garages to be setback a minimum of 20 ft measured from the street right-of-way.
6. The applicant's variance plan exhibit shows the parcel, the dimensions of the lot, setbacks, proposed detached garage and the existing residential dwelling.
7. The variance plan exhibit shows the garage to be 11.5 ft from the street right-of-way an 8.5 ft reduction of the Ordinance requirements.
8. Unnecessary hardships would not result from the strict application of the regulation because the applicant could build a detached garage that is compliance with the setback requirement.
9. The hardship does not result from conditions that are peculiar to the property because there is space to construct a detached garage that is compliant with the Ordinance standards.
10. Per the applicant's plan exhibit there is approximately 49 ft between the rear of the home and rear property line, accounting for the 5 ft accessory structure separation requirement and 3 ft accessory structure setback leaves approximately 40 ft of width in the rear yard for a garage. Typical side-by-side garages are around 24 ft wide and typical single car garages are around 14 ft wide.
11. The depth of the rear of the lot, extending from Dotger Av. right-of-way is approximately 55 ft and accounting for the 3 ft accessory structure setback and 20 ft garage setback leaves 32 ft of depth for a garage. The depth of a side-by-side and 1 car garages typically range from 20-30 ft.
12. The hardship does result from actions taken by the applicant or the property owner because the applicant's proposed garage design creates the hardship.
13. The applicant proposes to construct a tandem garage (1 car parked in front of the other). The applicant's proposed design results in a garage that is 39 ft deep. The applicant could construct 2 car garage with cars parked side-by-side or a 1 car garage and utilize the driveway pad to park the second vehicle without the need for a variance to reduce the setback of the garage from the street.
14. The requested variance is not consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.
15. There are other similarly sized corner lots in the neighborhood without garages and residents park in driveway pads behind the homes, as do the applicants currently. According to the applicant's survey the current driveway/parking pad is 24 ft long measured from the right-of-way, compliant with the UDO's driveway and parking standards in Article 19.5.

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16. There are also homes on similarly sized corner lots that have detached garages with compliant garage setbacks. (examples include 2421 Kenmore, 2401 E 5th, 2341 E. 5th, 2520 E 5th)
17. Reducing the garage setback would not provide the space for a compliant 20 ft long driveway parking pad per Article 19.5.A.1.a.iii.c.
18. The edge of pavement does not extend to the right-of-way line so there would be approximately 25 ft between the garage and vehicle travel lane. However, the proposed setback of 11.5 ft does not provide space for most vehicles to park on the driveway without encroaching into the street right-of-way.
19. Parallel on-street parking is allowed throughout the neighborhood. Parking perpendicular to the road, within the public right-of-way causes safety concerns for vehicle and pedestrian visibility and maneuvering and is generally prohibited by CDOT.

Conclusions of Law:

1. Unnecessary hardships would not result from the strict application of the regulation.
2. The hardship does not result from conditions that are peculiar to the property, such as 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 regulation, such that public safety is secured, and substantial justice is achieved.

Board Member Amy Sun made a motion to **deny** the variance. The motion was seconded by Board Member Kevin Shea. Board Members Williamson, Shea, Sun voted in favor of the motion to deny the variance. Board Members Cort and Shirley voted in opposition to the motion to deny the variance. The motion to **deny** the variance passed 3-2.

Board Member Amy Sun made a motion to **approve** the findings of facts and conclusions of law as amended. Board Member Marshall Williamson seconded the motion. Board Members Marshall Williamson, Kevin Shea, Amy Sun, and Janice Shirley voted in favor of the motion to approve the findings of fact and conclusions of law as amended. Board Member Hamilton Cort voted in opposition to the motion to **approve** the findings of facts and conclusions law. The motion passed 4-1. The amended findings of fact and conclusions of law are reflected in these minutes.

APPROVAL OF SCHEDULE

A motion was made by Board Member Hamilton Cort to approve the FY27 Board schedule. The motion was seconded by Marshall Williamson. The Board voted unanimously in favor of the motion to approve the FY27 Board schedule. The motion passed 5-0.

MINUTES

Board Member Marshall Williamson made a motion to **approve** the minutes from the June 30th, 2026 regular meeting of the Board. Board Member Amy Sun seconded the motion. The Board voted unanimously in favor of the motion to **approve** the meeting minutes. The motion passed 5-0.

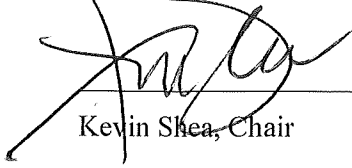
CHARLOTTE UNIFIED DEVELOPMENT BOARD OF ADJUSTMENT MINUTES

July 28th, 2026

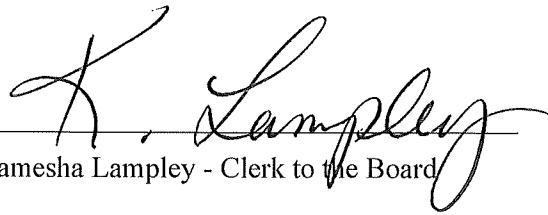
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The meeting adjourned at 12:53pm

This 29 day of September, 2026.



Kevin Shea, Chair



Kamesha Lampley - Clerk to the Board