



# Lenoir Board of Adjustment

## Agenda • February 24, 2025

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### Meeting Information

#### *Location*

City /County Meeting Room  
905 West Avenue  
Lenoir, NC 28645

#### *Time*

5:30 p.m.

#### *Board Members*

Sharon Bryant, Chairperson

Curtis Baker

Michael Careccia (alternate)

Kyle Case

Leah Hamilton, Vice-Chair

Lucy McCarl

Dontrell Parson (alternate)

Tim Scobie

#### *Welcome!*

We are glad you have joined us for tonight's meeting. The Lenoir Board of Adjustment is a quasi-judicial board comprised of citizen members appointed by the City Council in accordance with G.S. 160A-388. The Board of Adjustment is tasked with hearing variance requests and appeals of land development decisions by administrative officials.

In order to grant a requested variance, a 4/5 majority of the Board must find that the requested variance satisfies four related standards established by state statutes – competent, material, and substantial evidence in the record must support findings that:

1. The ordinance creates an unnecessary hardship
2. The hardship is peculiar to the property
3. The hardship is not self-created, and
4. The requested variance meets the intent of the ordinances, upholds public safety, and achieves substantial justice.

Each decision of the Board will be reduced to writing and be signed by the Chair, and shall become effective upon delivery of the signed decision to the applicant, property owner, and to any person who has submitted a written request for a copy.

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. A petition for review shall be filed with the Clerk of Superior Court within 30 days of the effective date of the board's decision.

#### *General Rules of Order*

If you wish to appear before the Board, please fill out an Appearance Request Form and give it to the Recording Secretary. Anyone who wishes to appear before the Board must be sworn in prior to delivering testimony or entering other evidence into the record. When the Chairperson recognizes you, state your name and address and speak directly into the microphone. ROBERT'S RULES OF ORDER govern the conduct of the meeting.

## OPENING SESSION

- Determination of a Quorum
- Call to Order
- Consideration of December 16, 2024 Minutes

## REGULAR AGENDA

### 1. V# 1-25 530A Wheeler Street NW

Applicant: BJS5 LLC (Nate Ford)

Owner: BJS5 LLC

Location: 530A Wheeler Street NW

**V# 1-25** The applicant is requesting a variance to the front and rear setbacks, from 35 and 25 feet respectively, each lowering to 10 feet, in order to develop a duplex with reasonable parking and yard space for future residents.

*Recommended Action:* Staff recommends approval of the variance request.

#### *Order of Proceedings:*

- Swearing in of applicant, staff, and all others who wish to provide testimony.
- Staff summary of request, opportunity for cross examination
- Testimony by applicant, opportunity for cross examination
- Testimony by others, opportunity for cross examination
- Closing of the Evidentiary Hearing/Board deliberation (discussion of four standards)/entertainment of motions
- Call for a vote

## ADJOURNMENT

**MINUTES**  
**BOARD OF ADJUSTMENT MEETING**  
**December 16, 2024**  
**5:30 PM**

**LOCATION:**

City /County Meeting Room  
905 West Avenue

**MEMBERS PRESENT:**

Michael Careccia, Kyle Case, Leah Hamilton, Lucy McCarl, Dontrell Parson, Tim Scobie

**MEMBERS ABSENT:**

Curtis Baker, Sharon T. Bryant

**STAFF PRESENT:**

Matt Duchan, Hannah Williams, Lauren Hartley

A quorum was established and Vice-Chair Hamilton called the meeting to order.

**MINUTES:**

Board Member McCarl moved approval of the meeting minutes of October 21, 2024.  
Board Member Scobie seconded the motion, which was voted upon and passed by unanimous vote.

**NEW BUSINESS:**

**1. 1605 Harper Avenue**

Applicant: Dwayne Pruitt

Owner: Pru-Crew Home Improvements LLC (Dwayne Pruitt)

Location: **1605 Harper Avenue**

**V#4-24** A 15-foot variance to the setback in order to adequately repair an ongoing leak and water damage issue to the home on this property.

*Recommended Action:* Staff recommends approval of the variance request, subject to the conditions in the staff report.

Hannah Williams was placed under oath.

Planning Director, Hannah Williams presented the variance case for 1605 Harper Avenue. The applicant is requesting a 13-foot variance to the rear setback in order to adequately repair an ongoing leak and water damage issue to the home on their property. There is water leaking into the rear exit from the concrete that slopes towards the door. The applicant wants to add a roof structure over the exit to divert the water from the concrete area to the grass.

Mrs. Williams stated, technically the property is legally non-conforming. The subject property and the lot beside it were split in 2011, which resulted in a setback non-conformity. This may have been a good faith error from whoever signed the plat and did not apply the side setback. Staff supports this variance and feels the roof structure is the simplest way to resolve the water leakage issue.

Hannah Williams read the draft findings and staff responses for the record as follows:

**1. An unnecessary hardship is created from the strict application of the ordinance.**

**Staff Response:** The strict application of the required 20 foot setback prevents the applicant from adding a roof structure that would divert water from leaking into the building.

**2. The unnecessary hardship is peculiar to the property.**

**Staff Response:** The property is already legally nonconforming because the building encroaches into the rear setback. The applicant cannot make the repair that would prevent the water leakage because it would increase the nonconformity. The existing nonconforming status of the property makes the hardship peculiar to the property.

**3. The hardship is not self-created.**

**Staff Response:** The applicant purchased the property in February 2024 and did not initiate the subdivision (Plat Book 27, Page 281) that created the rear setback nonconformity, neither did he cause the slope of the rear entrance to the building. Therefore, the hardship is not self-created.

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

**Staff Response:** The requested variance would allow for the building to stay in good repair and for the water leakage to be addressed directly. Without the variance, the applicant would not be able to prevent further damage and would not have the ability to fix a problem in the most efficient and straight-forward manner.

It is not the intent of the ordinance to prevent property owners from making basic repairs to their property. By granting the variance, substantial justice is achieved by allowing the applicant to repair his property as intended. The property owner cannot repair the leakage into the building without encroaching into the setback.

Board Member McCarl asked what the mechanism is for a mistake like this non-conformity in the future.

Planning Director, Hannah Williams replied, it was signed by a previous Planning Director in 2011, in what they believe was a good faith error. Minor subdivisions are thoroughly examined by Planning Staff before they are signed.

**Board Member McCarl made a motion for the staff report and presentation slides be entered into the record. Board Member Case second the motion, which was voted upon and passed unanimously.**

**Board Member McCarl made a motion to approve the variance application and adopt the staff findings as presented by staff. Board Member Case seconded the motion, which was voted upon and passed unanimously.**

**ADJOURNMENT:**

There being no further business to be brought before the Board, Vice-Chair Hamilton adjourned the meeting at 6:00 p.m.

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**Leah Hamilton, Vice-Chair**

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**Hannah Williams  
Planning Director**

**LOCATION MAP/AERIAL PHOTOGRAPH**



530A Wheeler Street

**SUMMARY**

<b>Owner</b>
BJS5 LLC (Nate Ford)
<b>Applicant</b>
BJS5 LLC (Nate Ford)
<b>Location</b>
530A Wheeler Street
<b>NC PIN</b>
2749574704
<b>Project Planner</b>
Hannah Williams, AICP, CZO
Matt Duchan, CZO
<i>Updated February 14, 2025</i>

**Applicant’s Request:**

The applicant is requesting a variance to the front and rear setbacks, from 35 and 25 feet respectively, each lowering to 10 feet, in order to develop a duplex with reasonable parking and yard space for future residents.

**Staff Recommendation:**

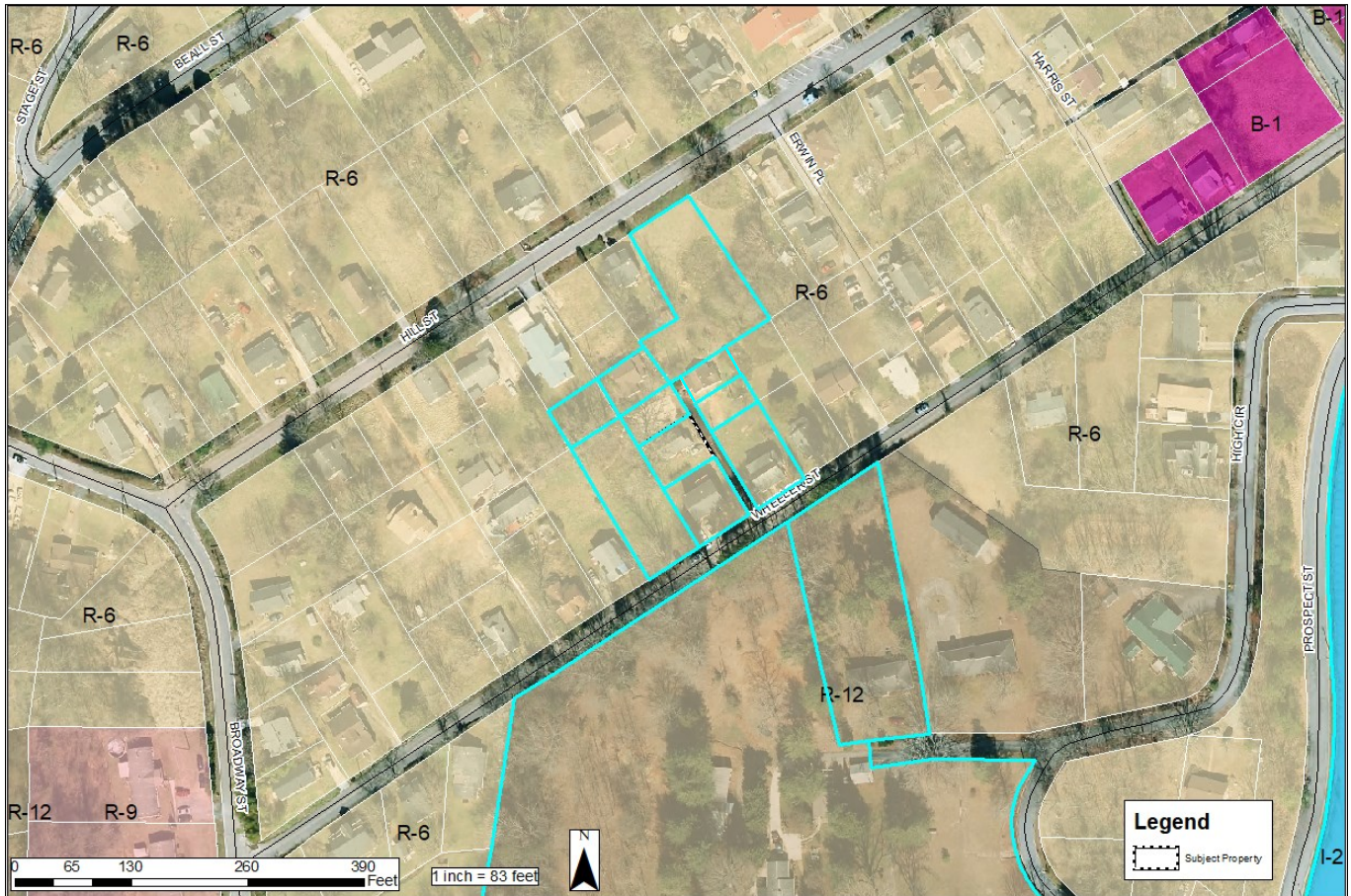
Approval of the requested variance. See draft findings, page 5.

**Public Comment:**

Notices were mailed to adjacent property owners on February 12, 2025. A sign was posted on the subject property advertising the evidentiary hearing on February 12, 2025.

**\*\*\*This request is quasi-judicial. You should not discuss this case with decision-makers outside of the scheduled hearing\*\*\***

# ZONING MAP AND ABUTTING PROPERTY OWNERS



Name(s)	Address	City	State	Zip Code
Shakera Hawkins & Damarian Caldwell	530 WHEELER ST NW	LENOIR	NC	28645
Toni Steed-Smith	11218 WARFIELD AVE	HUNTERSVILLE	NC	28078
Heirs of Walter Bristol	524 WHEELER ST NW	LENOIR	NC	28645
Marie Dailey et al	4748 GRADY PL	LENOIR	NC	28645
A-Plus Property Investors	1308 HARPER AVE NW	Lenoir	NC	28645
Heirs of Lilliard Gaither C/O Joyce Alba Dubon	21 CORNELL PL 217 BROADWAY ST NW	MANALAPAN Lenoir	NJ NC	07726 28645
Matilda Dula C/O Mabel Dixon Hill	801 BLUESTONE RD	DURHAM	NC	27713
Catherine & Edan Johnston	419 HIGH CIR NW	LENOIR	NC	28645
Christina & William Lewis	421 HIGH CIRCLE NW	Lenoir	NC	28645
Heirs of John Peay C/O Sadie McDow	2408 MADRE PL	GREENSBORO	NC	27406

## BACKGROUND

### Intent of Variances

When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment **must** allow for a variance from the ordinance standards creating the hardship, when specific factors are found to be true (see Sec. 1332 in the Lenoir Zoning Ordinance for specific standards).

### Subject and Surrounding Properties

The .08 AC (3,700 SF) subject property is located in the West End neighborhood and is zoned R-6 (High-density Residential). The properties lacks street frontage as it is situated behind 530 Wheeler Street. A 12' wide shared driveway accesses the subject property and 3 other similar, undersized parcels. In 2022, a single family home was demolished and removed from the subject property. The property was purchased by the applicant through the public auction foreclosure process in December 2024.

All of the surrounding properties to the north are in the same R-6 zone. There is predominantly single-family homes and a few churches in the vicinity. At the corner of Wheeler and Willow Street, there are a few properties zoned for neighborhood business (B-1), and south of Wheeler Street is zoned for medium-density and single-family residential (R-12). The West End neighborhood is adjacent to Downtown Lenoir, and can be accessed from Harper Avenue and Creekway Drive. Within the neighborhood is Mt. Pilgrim Baptist Church, West End Park, as well as a couple non-residential uses such as a convenience store. Greenway runs parallel to West End on the east side of Willow Street.

### Intent of the Zoning District

R - 6 Residential (Multi-family) District is intended to establish and preserve areas of land within the city for medium and high density residences, including single family, doublewide manufactured homes, duplexes, townhomes, multi-family developments, and other compatible uses at appropriate densities. Higher density multi-family developments are allowed as special uses. Any uses which would adversely affect or interfere with the residential character and development of these areas are excluded.

# STAFF ANALYSIS

## Relevant Ordinances

Section 800 outlines the general provisions for all zoning districts including setbacks, minimum lot size, minimum lot width, building height, and maximum density. The R-6 zoning district requires a front yard setback of 35 feet, a rear yard setback of 25 feet, and a side yard setback of 10 feet.

Principal Building Setback(11):						
Front yard	40ft	40ft	40ft	40ft	35ft	35ft
Side yard (3)	15ft (4)	15ft (4)	15ft (4)	12ft (4)	12ft (4)	10ft (4)
Street side yard	25ft	25ft	25ft	25ft	25ft	25ft
Rear yard (3)	35ft	35ft	35ft	30ft	25ft (4)	25ft (4)

## Applicant's Request

The applicant is seeking to develop a duplex on the property. Until 2022, 530A Wheeler Street had a single-family home on the property. The home has since been demolished. R-6 is a compatible zoning district for multi-family housing.

## Setbacks and Lot Size

At 3,700 SF, the lot is far below the minimum required lot size. The minimum lot size for single family is 6,000 SF, and the minimum lot size for two-/multi-family is 9,000 SF. Having no street frontage and a lot depth of only 55 feet, the subject property has no room to work with in terms of building envelope with front yard setback requirements of 35 feet and rear yard setback requirements of 25 feet. Because the applicant is not changing the lot dimensions, minimum lot size is not considered as part of the variance requested.



### Current Setbacks

The 35' front yard and 25' rear yard requirement leaves a 250 SF building envelop that's 7 feet wide.

## STAFF ANALYSIS, CONT.

### Single-family Homes Pre-Zoning

Like the lot owned by the applicant, many properties in the area demonstrate the inability to meet setbacks, or, at the very least are currently non-conforming with respect to present zoning standards. As shown on the aerial of the West End neighborhood on page 10, many houses along Wheeler Street and Hill Street do not meet front setback requirements, nor side nor rear in several cases. Depending on the size of the lot, it can be especially challenging to meet all setback requirements let alone one, whether it be front, side, or rear. The vast majority of homes in West End pre-date modern zoning ordinance requirements. Nearby examples of non-conforming homes include 522, 524A, 526 Wheeler Street and 537, 539, 544, 548 Hill Street. All have non-conforming front setbacks, and several have non-conforming side setbacks.

### Minimum Housing History and Foreclosed Properties

In February 2022, the subject property's then-owner was notified of minimum housing violations and subsequently failed to respond by addressing the hazardous conditions. The house on the property was demolished after issuance of a notice of violation noting dilapidation of the home and presence of overgrown vegetation. The subject property was purchased by the applicant after tax foreclosure and offered at public sale at the Caldwell County Courthouse in July 2024. The deed was officially granted to the applicant on November 4, 2024. Foreclosed properties such as this one are a great opportunity for prospective buyers to develop a residence that would contribute to the need for housing stock in Lenoir.

### Purchasing Property is not a Self-Created Hardship and Why That Matters

According to NCGS 160D-705 *Quasi-judicial zoning decisions*, "The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship." That is, an applicant may purchase a property knowing it is non-conforming and the creation of that hardship does not fall on them. In this case, the applicant was aware that the property is only just over 3700 square feet, around 2300 square feet below the conforming lot size minimum with a peculiar lot shape which further complicates structure placement. There are also several homes in the vicinity that are non-conforming to setback standards. This is all the more important for foreclosed and/or vacant non-conforming properties, because this outright prevents non-conforming properties from development, therefore sitting vacant and undeveloped in perpetuity. As such, there is a lot of untapped potential for many properties in Lenoir should prospective buyers decide to invest.



### **Proposed Building Envelope**

With 10-foot setbacks on all sides (front, side, and rear), the applicant would have a building envelope of ~1460 square feet.

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## DRAFT FINDINGS

No variance shall be approved unless a 4/5 majority of the Board of Adjustment finds that:

**1. An unnecessary hardship is created from the strict application of the ordinance.**

**Staff Response:** The strict application of R-6 renders the 530A Wheeler Street lot essentially unbuildable. A lot of this size inhibits any property owner from building a residential dwelling of adequate size to meet any of the setbacks required in the zoning ordinance.

**2. The unnecessary hardship is peculiar to the property.**

**Staff Response:** This lot is well below minimum lot size standards (2,300 square feet below required) and cannot accommodate the front, rear, and side setbacks. A non-conforming home that pre-dates zoning restrictions was demolished and the property was put up for sale in 2022 after foreclosure.

**3. The hardship is not self-created.**

**Staff Response:** The owner/applicant did not create the non-conforming lot, or demolish the old home. Purchasing a property with the knowledge that it is non-conforming does not constitute a self-created hardship. Without an approved variance, it would be impermissible to redevelop the lot.

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

**Staff Response:** The requested variance would allow for the redevelopment of a property that has limited viable use. The proposed project would resume residential use on this property, which would not cause immediate disturbance as the use conforms with the surrounding area, and a house previously stood on this lot.

By granting the variance, substantial justice is achieved by allowing viable infill in West End, a neighborhood dealing with a significant number of vacant homes in disrepair. West End is one of two focus neighborhoods in Lenoir's ongoing 2045 Comprehensive Plan, and any sufficient housing that could be built in the neighborhood would benefit the community. Reducing the required setback allows infill to match the existing development patterns with small homes located close to the street.

Staff recommends approval of the variance based on the findings above.

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## 530A WHEELER STREET

Deed Reference—Book 2124, Page 830

BEGINNING at a stake, the Church of God's corner and runs South 55° West with the line of

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BK 2124 PG 830 DOC# 10102282

said Church of God, 66 feet to a stake in Matilda Dula's line; thence South 35° East with Matilda Dula's line 55 feet to a stake; thence North 55° East 66 feet to a stake in the edge of a street; thence with said street North 35° West 55 feet to the BEGINNING.

Subject to easements, restrictions and rights of way of record, and matters of survey.

Also being identified as Parcel ID# 06 17 3 49, Caldwell County Tax Office.  
Address: 530 A Wheeler St. NW

# SURROUNDING AREA & SITE PHOTOS



Above: Views of site from 524/526 Wheeler Street properties

Below: View of driveway (subject property on left) facing north



# APPLICANT'S RESPONSE TO VARIANCE STANDARDS

## Variance Justification

**An unnecessary hardship is created from the strict application of the ordinance.** Whenever there is regulation, there is some level of necessary hardship and inconvenience shared by all of the community. An applicant must show *unnecessary* hardship, that is greater than a mere inconvenience or a preference for a more lenient standard. Cost of compliance may be a factor, but cost is not determinative. The hardship must come from the application of the ordinance. *Note: Prior to 2013, the City of Lenoir held that a hardship did not meet this standard unless the applicant showed no reasonable use of the property without the variance. This strict standard is no longer allowed under state statutes.*

*I purchased this property with the intent of building a multi family property.*

**The unnecessary hardship is peculiar to the property.** The hardship must be peculiar to the property, not general to the neighborhood or community. Such peculiar characteristics might arise, for example, from the location of the property, size or shape of the lot, or topography or water features on the site. Hardships that result from personal circumstances may not be the basis for granting a variance. The board is looking at the nature of the property and the land use ordinances, not the nature of the applicant and their circumstances.

*WE NEED A VARIANCE ON THE SET BACKS TO BUILD THIS PROPERTY.*

**The Hardship is not self-created.** The hardship must not result from actions taken by the applicant or property owner. Ignorance of the law is a self-created hardship — variances requested due to the owner's failure to obtain appropriate building and zoning permits prior to construction will not be approved. However, purchasing a property with knowledge that circumstances exist that may justify the granting of a variance is not considered a self-created hardship.

*WE CAN'T CHANGE THE LOT SIZE, BUT THE VARIANCE WILL GIVE US A BETTER FOOT PRINT FOR THE SET BACKS*

**The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.** Where an ordinance expresses a clear intent, the variance cannot subvert that intent. The variance cannot harm public safety, even if the request meets the "unnecessary hardship" test. And the Board must ensure that substantial justice is achieved in the issuance of each variance — the board will consider issues of fairness for the community, neighbors, and prior applicants in their decisions.

*This will allow us to help meet the needs of the housing shortage in the area*

# 2024 AERIAL OF WEST END NEIGHBORHOOD

