



Lenoir Board of Adjustment

Agenda • March 24, 2025

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 February 24, 2025 Minutes

OLD BUSINESS

1. V# 1-25 530A Wheeler Street NW-Continued from February 24, 2025 meeting

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
February 25, 2025
5:30 PM

LOCATION:

City /County Meeting Room
905 West Avenue

MEMBERS PRESENT:

Curtis Baker, Sharon T. Bryant, Michael Careccia, Kyle Case, Lucy McCarl, Dontrell Parson,
Tim Scobie

MEMBERS ABSENT:

Leah Hamilton

STAFF PRESENT:

Matt Duchan, Hannah Williams, Lauren Hartley

A quorum was established and Chairperson Bryant called the meeting to order.

MINUTES:

Board Member Careccia moved approval of the meeting minutes of December 16, 2024. Board Member McCarl seconded the motion, which was voted upon and passed by unanimous vote.

NEW BUSINESS:

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. Delay action until the March 24, 2025 meeting for notice requirements.

Planning Director Hannah Williams stated that the hearing notice sign had not been posted for the required 10-25 days as required by 160D-406(b), and advised that the hearing be continued to the next regularly scheduled meeting on March 24, 2025. The board may hear the case findings, but not vote.

Board Member McCarl made a motion to continue the hearing and decision until the March 24, 2025 meeting. Board Member Case seconded the motion, which was voted upon and passed unanimously.

Hannah Williams, Matt Duchan, Nate Ford, and Freda Cowan were placed under oath.

Planner Matt Duchan presented the variance case for 530A Wheeler Street NW. The owner and applicant is Nate Ford. The subject property is located in the West End neighborhood and is zoned R-6 (high-density residential). The property cannot meet the minimum lot size or the front (35 ft.) and rear (25 ft.) setbacks for the R-6 zoning. The applicant is requesting a variance to the front and rear setbacks, each lowering to 10 feet in order to develop a duplex with reasonable parking and yard space for future residents.

Mr. Duchan explained that because the applicant is not changing the lot dimensions, minimum lot size is not considered as part of the variance requested. Prior to 2022, 530A Wheeler Street had a single-family home on the property, the home has since been demolished. The zoning district R-6 is a compatible zoning district for multi-family housing.

Matt Duchan 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 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.

Applicant Nate Ford of 8029 Marrion Drive, Charlotte NC approached the Board. Mr. Ford stated he is planning on building a duplex on the property.

Freda Cowan of 4748 Grady Place, Lenoir NC approached the Board. After discussion it was determined her property will not be affected by this variance.

Board Member Case made a motion to adjourn the meeting and continue the variance case and decision until March 24, 2025. Board Member Careccia seconded the motion, which was voted upon and passed unanimously.

ADJOURNMENT:

There being no further business to be brought before the Board, Chairperson Bryant adjourned the meeting at 6:15 p.m.

Sharon T. Bryant, Chair

**Hannah Williams
Planning Director**

LOCATION MAP/AERIAL PHOTOGRAPH



530A Wheeler Street

SUMMARY

Owner
BJS5 LLC (Nate Ford)
Applicant
BJS5 LLC (Nate Ford)
Location
530A Wheeler Street
NC PIN
2749574704
Project Planner
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:

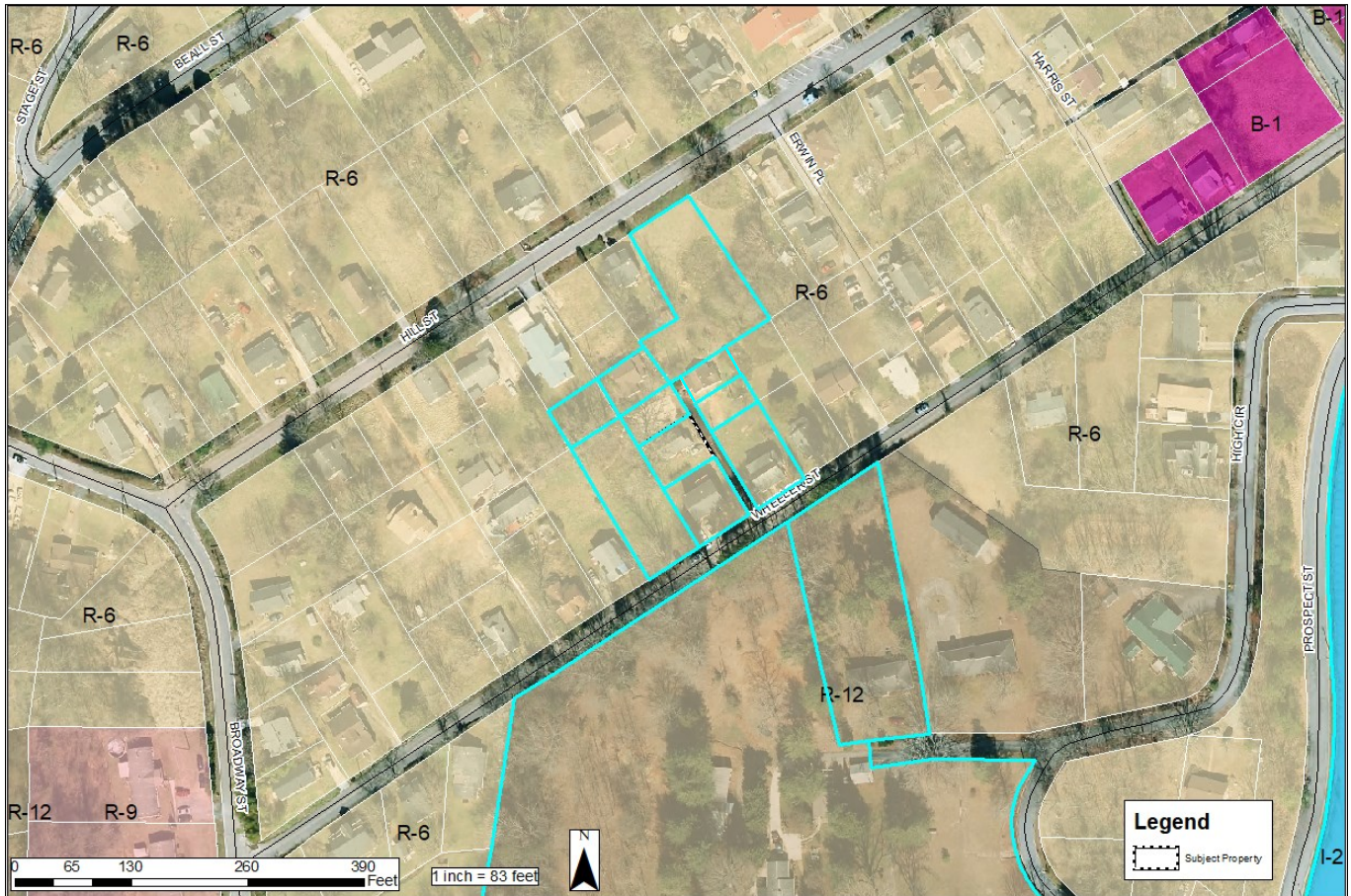
Approval of the requested variance. See draft findings, page 5.

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 property 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 envelope 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.

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.

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

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

