



March 14, 2025

BOARD OF ADJUSTMENT DECISION

VIA ELECTRONIC MAIL TO: 615 New Bern Avenue, LLC, ssprorest@gmail.com; Isabel Mattox, dcody@nichollscrampton.com

Re: Board of Adjustment Case BOA-0068-2024
Subject Property: 615 New Bern Avenue

Dear Applicant and Associated Parties:

At the February 10th meeting of the Raleigh Board of Adjustment (the “Board”), the Board granted the following request:

Whereas, 615 New Bern Avenue, LLC, property owner, requests i) a 2,700 square foot variance from the required 7,500 square foot minimum site area for an apartment building type to allow a minimum site area size of 4,800 square feet for an apartment building type pursuant to UDO Sec. 3.2.4.A1, ii) a 15 feet variance from the minimum required 20 feet side street setback requirement for the Green (-GR) frontage pursuant to UDO Sec. 3.4.6.C3, and (iii) a variance for complete relief from the requirement for a pedestrian facing entrance on the Primary Street for the Green (-GR) frontage pursuant to UDO Sec. 3.4.6.E1 in association with the construction of a new apartment building on a 0.11-acre property zoned OX-3-GR and -NCOD and located at 615 New Bern Avenue.

In accordance with N.C. Gen. Stat. § 160A-388, please find enclosed a copy of the Board’s adopted written decision approving this request.

Variance Approval

If the request was for a variance and the variance was approved, please note that, pursuant to the City of Raleigh Unified Development Ordinance (the “UDO”), the variance approval expires twelve (12) months from the date of approval by the Board, unless either: 1) a complete building permit application, including payment of all fees, has been filed by the applicant and accepted by the City; or 2) the use and structure was previously in existence prior to the requested variance. See UDO Section 10.2.10.F.

Should you have any questions concerning the decision of the Board, please do not hesitate to contact me at 919-996-2639 or email me at Lucky.Carson@RaleighNC.gov.

Sincerely,

Lucky Carson
Planner
Enclosed: Decision

**615 NEW BERN AVENUE, RALEIGH, NC
VARIANCE APPROVAL
CASE BOA-0068-2024**

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12:39 PM
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City Clerk's Office
City of Raleigh

**CITY OF RALEIGH BOARD OF ADJUSTMENT
FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This application for three (3) variances from Sections 3.2.4.A.1; 3.4.6.C.3; and 3.4.6.E.1 of the City of Raleigh Unified Development Ordinance (the "UDO") came before the Raleigh Board of Adjustment (the "BOA") on February 10, 2025 for an evidentiary hearing. Based on the testimony of the witnesses, the documentary evidence, the Variance Application and related materials, the exhibits and other evidence presented at the hearings, the BOA finds that the Variance should be approved and in support thereof, makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The property at issue (the "Property") is a single parcel of land, 0.11 acres in size. The Property is located at 615 New Bern Avenue (PIN 1713-09-3101) in Raleigh, North Carolina.
2. The Property is zoned Office Mixed Use-3, with Green Frontage and Neighborhood Conservation Overlay Districts (OX-3-GR w/NCOD).
3. The Property Owner is 615 New Bern Ave., LLC (the "Property Owner").
4. The Property Owner was represented at the hearing by Ms. Isabelle Mattox, attorney.
5. The Property's front (southern) property line abuts New Bern Avenue. The Property's side (western) property line abuts Cooke Street. The Property's side (eastern) property line abuts the side property line of a similarly zoned residential property. The Property's rear (northern) property line abuts the rear property line of a similarly zoned residential property.
6. The Property currently contains a single-family dwelling.
7. The Property Owner wishes to demolish the existing 4-plex dwelling and construct a new, apartment- style, 4-plex building (the "Project").
8. UDO Section 3.2.4.A.1. requires a minimum 7,500 square foot lot size for building an apartment building in an office mixed-use zoning district.
9. UDO Section 3.4.6.C.3 requires a minimum of 20-feet and a maximum of 50-feet for a side street setback in a zoning district with Green Frontage.
10. UDO Section 3.4.6.E.1 requires a primary street pedestrian facility entrance on the Primary Street abutting the Green Frontage.
11. In order to construct the Project, the Property Owner requests i) a 2,700 square foot

variance from the required 7,500 square foot minimum site area for an apartment building type to allow a minimum site area size of 4,800 square feet for an apartment building type as provided by UDO Sec. 3.2.4.A 1, ii) a 15' variance from the minimum required 20' side street setback requirement for the Green (-GR) Frontage as provided by UDO Sec. 3.4.6.C3, and (iii) a variance for complete relief from the requirement for a pedestrian facing entrance on the Primary Street for the Green (-GR) frontage as provided by UDO Sec. 3.4.6.E1 (the "Variance Request").

12. The Variance Request requires approval from the BOA, pursuant to the UDO.

13. Unnecessary hardship would result from the strict enforcement of the building area requirement, as the lot will be too small to accommodate an apartment-type building or to construct additional dwelling units as contemplated in the BRT/Frequent Transit Area.

14. The hardship in this case is the small lot size of .11 acres and the narrow lot width of 43 feet with significant setback requirements. A 20-foot setback on Cooke Street reduces the buildable area to 23 feet in width. The proposed new structure would be oriented toward Cooke Street, rather than New Bern Avenue. The lot size hardship was not created by the Applicant.

15. The primary purpose of the application of the GR frontage was presumably to require a consistent Green Frontage along New Bern Avenue, rather than Cooke Street. The Apartment building-type requirement likely contemplates significantly more units than the four units proposed in this development.

16. The Applicant indicated a willingness to repair the driveway shared with the adjacent neighbor, and to work toward accommodating the neighbor's concerns.

17. As testified to by Mr. Robert Slewack, a witness for the Applicant, landscaping for the Project would conform to UDO requirements.

18. The requested Variance is consistent with the public interest, in that it will facilitate the construction of new dwelling units (which replicate the existing 4-plex structure in a new and superior form) in a Frequent Transit Area/BRT Corridor, as envisioned by the City's Comprehensive Future Land and Urban Form plans.

19. Granting the Variance will allow a development which is consistent with the built environment on Cooke Street, which includes many structures which are closer than 20 feet to the street.

CONCLUSIONS OF LAW

Pursuant to the foregoing FINDINGS OF FACT and UDO Section 10.2.10.D.3, the BOA makes the following Conclusions of Law:

1. The Variance Request should be approved as requested.
2. The Applicant/Property Owner submitted competent, material and substantial evidence to

establish that:

- i. an unnecessary hardship would result from the strict application of UDO Sections 3.2.4.A.1, 3.4.6.C.3 and 3.4.6.E.1 to the Property;
- ii. the hardship results from conditions that are peculiar to the Property;
- iii. the hardship did not result from actions taken by the Property Owner;
- iv. the requested variances are consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

ACCORDINGLY, based on the foregoing FINDINGS OF FACT and CONCLUSIONS OF LAW, the BOA hereby approves the Variance Requests, as set forth above.

This the 10th day of March, 2025.

DocuSigned by:

Rodney Swink

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Rodney Swink, BOA Chair