

**WINSTON SALEM ZONING BOARD OF ADJUSTMENT
REQUEST FOR VARIANCE STAFF REPORT**

June 6, 2019

CASE #:	Z1900400	REQUEST:	Variance for a portion of a required 15-foot Type II bufferyard
STAFF:	Elizabeth Colyer		
PETITIONER(S):	Brynn, LLC Leon Nguyen	LOCATION:	540 Granville Drive (0.34 acres)

BACKGROUND:

The subject property was rezoned from Residential Single Family Quadraplex (RSQ) to Neighborhood Business – Limited Use (NB-L) by the City Council in September of 2012, per Zoning Case W-3121. The Special Use Limited District Permit specifies a condition pertaining to bufferyard requirements: “Prior to the issuance of any permits, the Petitioner shall obtain a bufferyard variance from the City Zoning Board of Adjustment.”

The Petitioner is requesting a variance for a seventy-six (76) foot portion of one-hundred and fifty (150) linear feet of the required Type II bufferyard against residentially zoned property. The rest of the bufferyard will be planted as required.

FINDINGS/ANALYSIS:

When unnecessary hardship would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

a) Unnecessary hardship would result from the strict application of the UDO.

Permits could not be obtained to upfit the existing building if a 15-foot Type II bufferyard was required to be installed along the entire length of the northwest property line. The existing building on the site was constructed circa 1925, per Forsyth County tax records, prior to the adoption of the current Unified Development Ordinances (UDO). Additionally, the adjacent residential structure was constructed circa 1926. The Petitioner is proposing a change of use on the subject site that would utilize the existing building.

b) The hardship results from conditions that are peculiar to the property, such as location, size or topography.

The existing building is located approximately one (1) foot off the northwestern property line, providing no space to install a bufferyard. The residential site to the northwest is accessed

from Granville Drive by a concrete driveway that is adjacent to the subject property line and existing building. The northeast corner of the existing building is in close proximity to a utility pole and low-hanging utility lines that service the building from Granville Drive. These existing conditions prevent the installation of the required 15-foot Type II bufferyard along the entire property line.

- c) **The hardship did not result from actions taken by the applicant or the property owner.**

The existing site is nonconforming to the bufferyard standards and was developed prior to the bufferyard requirements in the UDO.

- d) **The requested variance is consistent with the spirit, purpose and intent of the UDO, such that public safety is secured, and substantial justice is achieved.**

The Petitioner is not proposing any changes to the existing building footprint and is proposing to install the required bufferyard where feasible. The building is existing today, and the Petitioner's proposal does not increase the level of nonconformity on the site as it pertains to the bufferyard requirement.

RECOMMENDATION: Approval, per Site Plan on file.

In approving an application for the issuance of a variance, the Board of Adjustment may impose additional appropriate conditions reasonably related to the variance. [Chapter B, Article 6-1.4(B) (6)]