



Board of Adjustment

Meeting Agenda

June 20, 2023 6:30

Council Chambers, 201 S Main St

1. Approve minutes of the May 16, 2023 meeting
2. Old Business
 - A. VR2301: GFL/Waste Industries Accessory Building. An application for a variance for the reduction of the front setback requirement in the I-2 zoning district.
3. Public comment on non-agenda items

A complete agenda packet is available at www.cityofgraham.com

CITY OF GRAHAM
BOARD OF ADJUSTMENT
May 16, 2023

The meeting was called to order by Dean Ward, Chair, at 8:21 p.m. Board Members present were Dean Ward, Eric Crissman, Michael Benesch, Tony Bailey and Chad Huffine. Alternates present were John Wooten. Alternates absent were Jerome Bias. Staff members present were Cameron West, Planner, Bryan Coleman, City Attorney, and Debbie Jolly, Zoning/Inspections Technician.

The Chair called for a Motion to Approve the minutes from the November 20th, 2018 Board of Adjustment Meeting. Michael Benesch moved to approve the minutes from November 20th, 2018. Second by Dean Ward. (Vote – aye 5, nay 0). Motion passed.

City Attorney, Bryan Coleman, read through the Quasi-Judicial Hearing guidelines prior to opening up discussion of the proposed Variance

The Chair requested that members wishing to provide evidence for the case to come up and be sworn in by Debbie Jolly, Notary Public and Secretary to the Board of Adjustment. The following persons were sworn in; Cameron West, Edmund Larsey, and Chad Huffine.

Dean Ward surveyed the Board on potential conflict of interest. Chad Huffine requested to recuse himself from the board as he was assisting the applicant with the hearing. Eric Crissman made the motion to recuse Mr. Huffine. Seconded by Benesch. (Vote - aye 4, nay 0). Motion Passed. Dean Ward requested to recuse himself due to a conflict of interest being a direct competitor of the company applying for the variance. Eric Crissman made the motion to recuse Mr. Ward. Seconded by Benesch. (Vote - aye 4, nay 0). Motion Passed.

With two board members recused, Eric Crissman became chair of the board and made a motion to bring in alternate John Wooten. Seconded by Michael Benesch. (Vote - aye 3, nay 0). Motion Passed. John Wooten was appointed on the Board in replacement of Dean Ward. With the other alternate absent, there was no replacement for Chad Huffine's position.

City Attorney, Bryan Coleman, noted that the item could still be heard by the 4 Board of Adjustment members, but would need all 4 votes for the variance for it to be passed due to a super majority vote being needed in Board of Adjustment/Variance decisions.

Chad Huffine made a request to table the item of discussion to the next month Board of Adjustment meeting due to the lack of a full Board and requirement of unanimous vote to approve the Variance. Michael Benesch made a motion to table the Variance until the June, 20th Board of Adjustment meeting. Seconded by Tony Bailey. (Vote - aye 4, nay 0). Motion Passed.

Eric Crissman asked if there were any non-agenda items of discussion. None were proposed. Eric Crissman asked for a motion to adjourn. John Wooten made the motion to adjourn. Seconded by Tony Bailey. (Vote - aye 4, nay 0). Motion Passed. Meeting adjourned at 8:34 p.m.



STAFF REPORT

Prepared by Cameron West, Planner

GFL Waste Industries (VR2301)

Type of Request: Variance

Meeting Dates

Board of Adjustment on May 16, 2023

& June 20, 2023

Summary

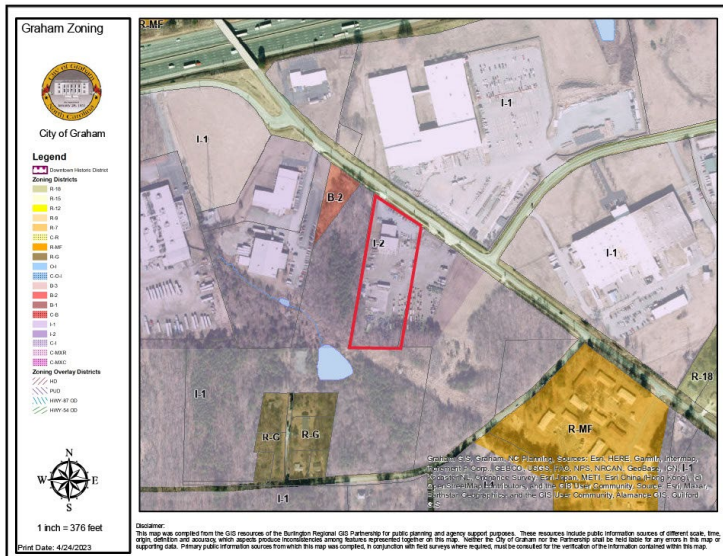
This is a request for a variance for the reduction of the front setback requirement in the I-2 zoning district.

Contact Information

Edmund Larsey

703 E Gilbreath Street, Graham NC 27253

(336) 779-5208



Location

703 E Gilbreath Street

GPIN: 8884409335

Current Zoning

Heavy Industrial (I-2)

Current Use

Storage Yard, Warehouse

Surrounding Zoning

I-1, I-2, B-2, R-G, R-MF

Surrounding Land Uses

Warehouse, and Vacant Land

Attached is a **draft of a Resolution for the Board to consider** when making its decision. This draft Resolution should be modified as the Board sees fit and is only provided by staff as a template.

Graham Zoning



City of Graham

Legend

Downtown Historic District

Zoning Districts

- R-18
- R-15
- R-12
- R-9
- R-7
- C-R
- R-MF
- R-G
- O-I
- C-O-I
- B-3
- B-2
- B-1
- C-B
- I-1
- I-2
- C-I
- C-MXR
- C-MXC

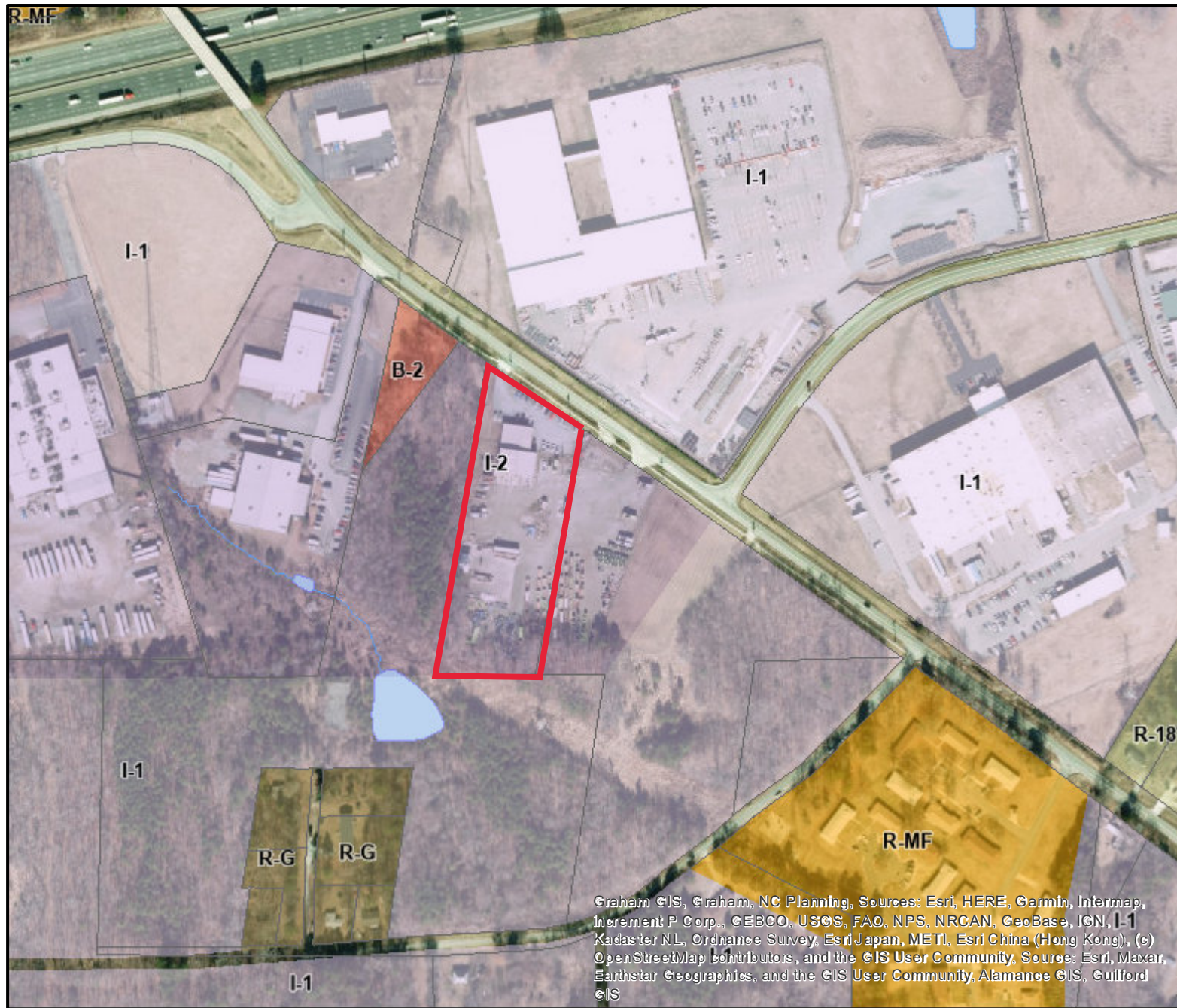
Zoning Overlay Districts

- HD
- PUD
- HWY-87 OD
- HWY-54 OD



1 inch = 376 feet

Print Date: 4/24/2023



Graham GIS, Graham, NC Planning, Sources: Esri, HERE, Garmin, Intermap, Increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community, Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community, Alamance GIS, Guilford GIS

Disclaimer:

This map was compiled from the GIS resources of the Burlington Regional GIS Partnership for public planning and agency support purposes. These resources include public information sources of different scale, time, origin, definition and accuracy, which aspects produce inconsistencies among features represented together on this map. Neither the City of Graham nor the Partnership shall be held liable for any errors in this map or supporting data. Primary public information sources from which this map was compiled, in conjunction with field surveys where required, must be consulted for the verification of the information contained within this map.

	<i>Minimum Lot Area (Square Feet)</i>						<i>Minimum Yard Size (Feet from Property Line)</i>		
Zoning District	Single-family Dwelling	Two-Family Dwelling	Multi-Family Dwelling	Minimum Lot Width (Feet)	Maximum Building Height	Yard Depth Front	Side Yard Width	Side Yard Width Abutting Street	Rear Yard Depth
I-1 (See Note 10)				Sufficient width for building and required side yards		50 feet for buildings; parking areas shall be set back at least 10 feet from the property line	50 adjacent to a lot zoned residential or any residence on a lot otherwise zoned; 20 elsewhere	50	50 adjacent to a lot zoned residential or any residence on a lot otherwise zoned; 20 elsewhere
I-2 (See Note 10)				Sufficient width for building and required side yards		100 feet for buildings; parking areas shall be set back at least 50 feet from the property line	50 adjacent to a lot zoned residential or any residence on a lot otherwise zoned; 20 elsewhere	50	50 adjacent to a lot zoned residential or any residence on a lot otherwise zoned; 20 elsewhere

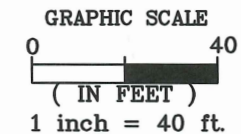


Parcel ID: 146709
 GPIN: 8884409335
 Property Address: 703 E Gilbreath St, Graham, NC 27253
 Property Area: 2.69 Acres \pm
 City of Graham Zoning: I-2 -Heavy Industrial
 (Per City of Graham GIS Zoning Map)

Overhead power easement and Existing Building Line are not parallel and tend to converge with increasing setback into the site.



Charles D. Huffine
 C-1939



Schematic drawing for illustration and variance request / planning only.

PROJECT: GFL ENVIRONMENTAL
 703 E Gilbreath St
 Graham, NC 27253

PLAN: PROPOSED MODULAR LOCATION

3-09-2023
 Date:

1" = 40'
 Scale:

1-23-1008
 Project:

Verbal
 Proposal Number:

GFL ENVIRONMENTAL

Prepared By:

THE L.E.A.D.S. GROUP, P.A.
 Land Engineering And Development Services

505 EAST DAVIS STREET
 BURLINGTON, NC 27215
 phone: (336) 227-8724
 fax: (336) 222-9917
 C#1939



Application for a VARIANCE

P.O. Drawer 357
201 South Main Street
Graham, NC 27253
(336) 570-6705
Fax (336) 570-6703
www.cityofgraham.com

Variance requests are heard by the Board of Adjustment. This is a quasi-judicial process, meaning that it is similar to a court of law. Decisions are based on evidence and testimony presented during the hearing. Applicants should submit enough evidence to support the request for a variance. Types of evidence might include maps, drawings, pictures, cost estimates, or other information that will clearly demonstrate that the four criteria for a variance, listed below, are met. Applicants should also refrain from discussing the request with any member of the Board of Adjustment.

Property on which a Variance is sought

Street Address: 703 E. GILBREATH
Tax Map#: 146709 GPIN: 8884409335
Current Zoning District(s): F-2
Overlay District, if applicable:
☐ Historic ☐ S Main St/Hwy 87 ☐ E Harden St/Hwy 54
Current Use: WASTE INDUSTRIES
Property Owner: WASTE INDUSTRIES / GFL
Mailing Address: PO BOX 80615
City, State, Zip: INDIANAPOLIS IN 46280

Applicant

☒ Property Owner ☐ Other _____
Name: Edmund Larsey, Facility Mgr.
Mailing Address: 703 E. GILBREATH
City, State, Zip: GRAHAM NC 27253
Phone # 336-779-5208
Email: edmund.larsey@gflenv.com

I, the applicant, hereby petition the Board of Adjustment for a variance from the strict letter of the *Development Ordinance*, as described in this application.

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information and belief.

[Signature]
Signature of Applicant

4/24/2023
Date

Purpose of Variance Request

Describe the purpose of this variance request. *What are you trying to do that the Development Ordinance is prohibiting? Attach evidence to illustrate and support your case.*

FIGURE ATTACHED
CONVERGING EASEMENT AND
BUILDING LINES, ZONING

Nature of Variance Request

List the specific part(s) of the *Development Ordinance* from which you are seeking a variance (for example, setbacks).

FRONT SETBACK REDUCTION
SITE CONSTRAINTS, SET BACK

Criteria for a Variance

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

- Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- 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.

Office Use Only. DEVID#

300



Board of Adjustment Resolution of Findings of Fact, Conclusions of Law and Decision

The Board of Adjustment for the City of Graham, North Carolina, having held a public hearing on **May 16, 2023** to consider **case number VR2301**, submitted by **Edmund Larsey of GFL Waste Industries** at 703 E Gilbreath Street, for a **variance from Development Ordinance section 10.245, Front Setback Reduction for an accessory structure**, and having heard all the evidence and arguments presented at the hearings, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS OF LAW:

FINDINGS OF FACT

NOTE: These Findings of Fact were prepared by staff and should be modified by the Board as it sees fit.

1. The property that is the subject of this variance request, 703 E Gilbreath Street., GPIN: 8884409335, is zoned Heavy Industrial (I-2). (Exhibit 1)
2. The property contains a nonconforming warehouse building and storage yard for trash service. It also contains the accessory structure, which was erected without a site plan or building permit approvals.
3. The minimum front yard setback in the I-2 zoning district is 100 feet, as shown in Section 10.245 of the *City of Graham Development Ordinance*. (Exhibit 2)
4. The accessory structure is located 87 feet from the front property line, according to the site plan provided by the applicant. This is less than the 100 feet required by the *Development Ordinance*. (Exhibit 3)
5. The application for a variance was filed with the Planner on April 24, 2023. The applicant provided a site plan showing the location of the structure and notes the “converging easement and building lines” act as a hardship in this request. (Exhibit 3)(Exhibit4)

[insert additional Findings of Fact, if any are made]

CONCLUSIONS OF LAW

The Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

NOTE: These Conclusions of Law were prepared by staff and should be modified by the Board as it sees fit.

1. The application for Variance in case number **VR2301**, is properly before the Board of Adjustment who has jurisdiction to hear and determine this application.
2. The Board of Adjustment as constituted at the hearing is a fair and impartial board, without conflicts or ex parte communications.
3. Variances from zoning requirements can be allowed by the Board of Adjustments for the reasons set out in Section 10.97 (2) of the City of Graham development Ordinance.
4. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. *Under the strict application of the ordinance, the property owner would have to tear down the structure and reconstruct/move the structure about 13 feet from the current location. The lot size according to the site plan provided is 225 feet by 664.30 feet.*

5. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. *The size of the lot is large enough to house the building within the required setback lines.*
6. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. *The structure was erected prior to any planning or inspections review.*
7. 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. *The request will permit a structure within the required front yard setback.*

DECISION

In exercising its powers, the Board of Adjustment may grant or deny a variance and may impose any appropriate conditions on the variance, provided that the conditions are reasonably related to the variance. The concurring vote of four-fifths of the Board shall be necessary to grant a variance.

For the above reasons, the Board of Adjustment (Grants/Denies) the variance that is the subject of this application.

Staff recommends that, the variance be denied on the aforementioned grounds.

The resolution reflects the decision of the Board of Adjustment, made the 20th day of June, 2023.

Attest:

Dean Ward, Chair

Debbie Jolly, Secretary