



# **Board of Adjustment**

## **Meeting Agenda**

July 18, 2023 6:30

Council Chambers, 201 S Main St

1. Approve minutes of the June 20, 2023 meeting
2. New Business
  - A. Appoint Temporary Chair
3. 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.
4. Public comment on non-agenda items

*A complete agenda packet is available at [www.cityofgraham.com](http://www.cityofgraham.com)*

CITY OF GRAHAM  
BOARD OF ADJUSTMENT  
June 20, 2023

The meeting was called to order by Dean Ward, Chair, at 6:30 p.m. Board Members present were Dean Ward, Eric Crissman, Michael Benesch and Chad Huffine. Alternates present were Jerome Bias. Member absent Tony Baily John Wooten. 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 May 16, 2023 Board of Adjustment Meeting. Dean Ward moved to approve the minutes from May 16, 2023. Second by Eric Crissman. (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

Cameron West presented the projected. Chad Huffine requested to recuse himself from the board as he was assisting the applicant with the hearing. Dean Ward made the motion to recuse Mr. Huffine. Seconded by Mr. Crissman. (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 Jerome Bias. Seconded by Michael Benesch. (Vote - aye 3, nay 0). Motion Passed. Jerome Bias 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 July 18 Board of Adjustment meeting until 6:00 Seconded by Eric Crissman. (Vote - aye 3, 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. Micheal Bensch made the motion to adjourn. Seconded by Eric Crissman.. Motion Passed. Meeting adjourned at 6 : 3 4 p.m.



# STAFF REPORT

Prepared by Cameron West, Planner

## GFL Waste Industries (VR2301)

**Type of Request:** Variance

## Meeting Dates

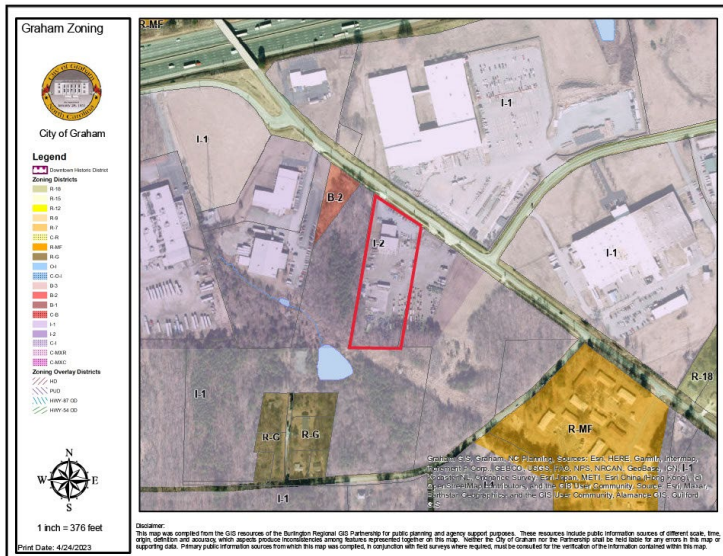
Board of Adjustment on May 16, 2023, June 20, 2023,  
& July 18, 2023

## 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

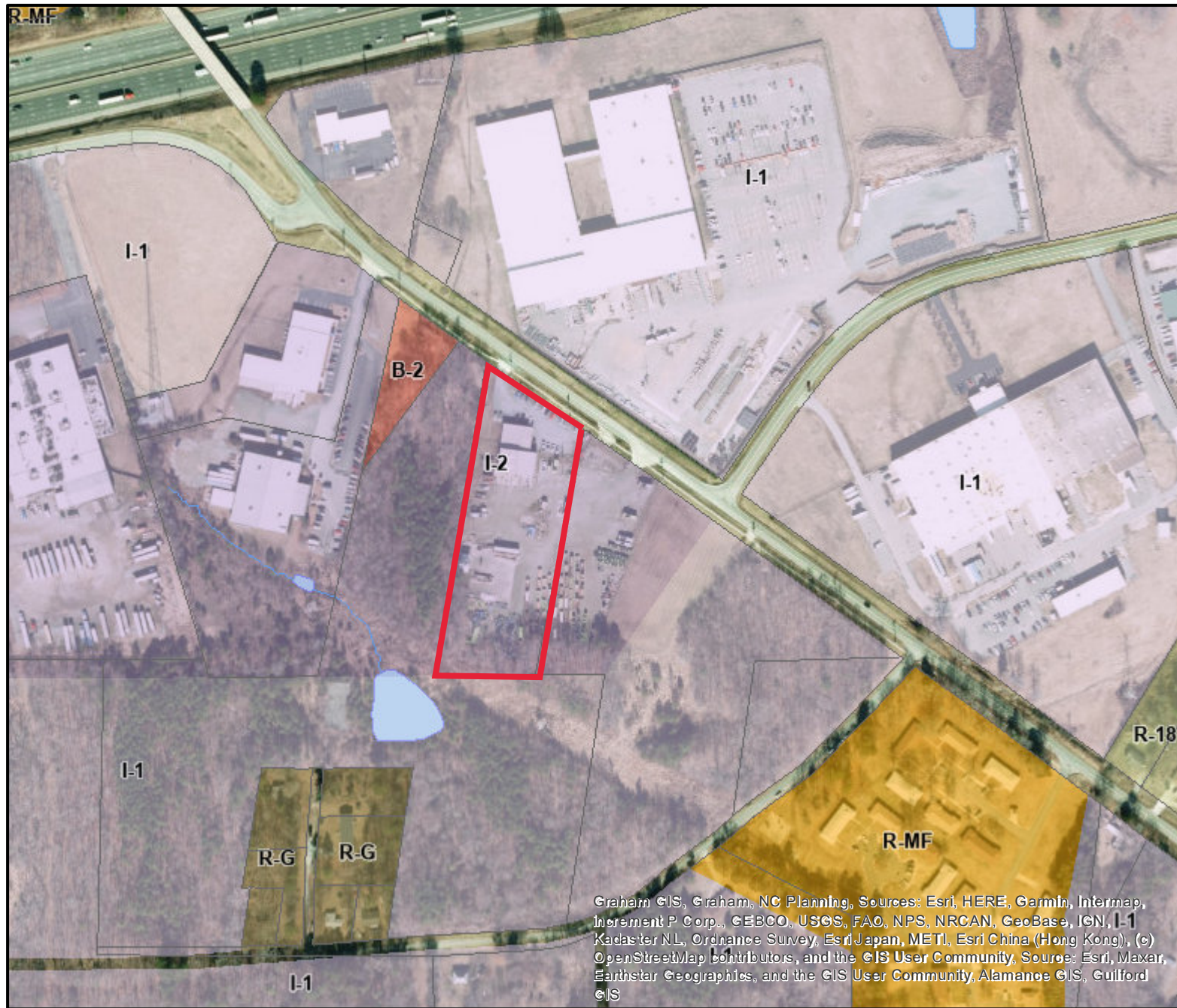
### Zoning Overlay Districts

- 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>		
<b>Zoning District</b>	<b>Single-family Dwelling</b>	<b>Two-Family Dwelling</b>	<b>Multi-Family Dwelling</b>	<b>Minimum Lot Width (Feet)</b>	<b>Maximum Building Height</b>	<b>Yard Depth Front</b>	<b>Side Yard Width</b>	<b>Side Yard Width Abutting Street</b>	<b>Rear Yard Depth</b>
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

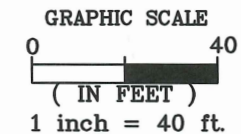


Parcel ID: 146709  
 GPIN: 8884409335  
 Property Address: 703 E Gilbreath St, Graham, NC 27253  
 Property Area: 2.69 Acres  $\pm$   
 City of Graham Zoning: I-2 -Heavy Industrial  
 (Per City of Graham GIS Zoning Map)

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@gfllenr.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.

Edmund Larsey  
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 20<sup>th</sup> day of June, 2023.

Attest:

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Dean Ward, Chair

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Debbie Jolly, Secretary