



Board of Adjustment Case Report

City of Raleigh
Department of City Planning
One Exchange Plaza
Raleigh, NC 27601
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Case File: A-111-15

Property Address: 623 Hillsborough Street

Property Owner: Armitage Development Group, LLC

Project Contact: Michael Birch

Nature of Case: A request for a variance from the right-of-way dedication requirements of Section 8.5.1. of the Part 10A Unified Development Ordinance resulting in no right-of-way dedication along Hillsborough Street and Boylan Avenue frontages of a .28 acre property zoned Neighborhood Business and Downtown Overlay.

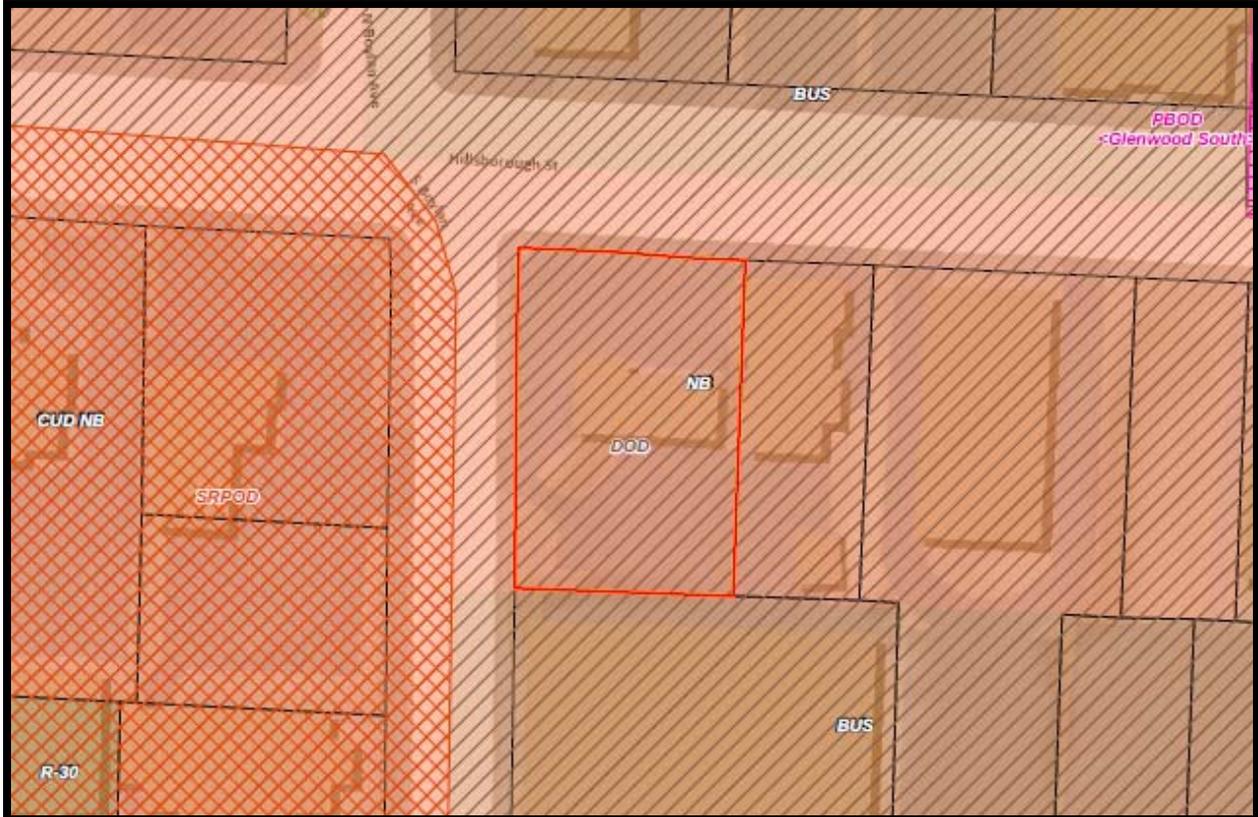


623 Hillsborough Street – Location Map

To BOA: 12-14-15

Staff Coordinator: Eric S. Hodge, AICP

ZONING DISTRICTS: Neighborhood Business and Downtown Overlay District



623 Hillsborough Street – Zoning Map

VARIANCE STANDARDS: In accordance with UDO [§10.2.10 Variance](#), before a variance request is granted, the Board of Adjustment shall show all of the following:

To Legalize the Existing Structure:

1. 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.
2. 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.

3. 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.
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.

Article 8.5 Existing Streets

8.5.1. General Provisions

This Article describes guidelines for the construction of street improvements and streetscapes for existing streets throughout the City. It is intended to address when street and streetscape improvements are appropriate through the application of the pre-approved street types in this chapter. The City has an approved Street Design Manual which provides further details.

A. Intent

1. The intent of the existing streets regulations is to provide the application of the street typology map and the streetscapes to existing streets to reflect the character and context of areas in the City.
2. The existing street regulations provide adequate travel lanes for vehicles, cyclists and pedestrians.
3. Administrative Design Adjustments approved by the Public Works Director pursuant to Sec. 8.5.1.G. may be appropriate when an existing building would impede expansion, when transitioning from a different street section or where strict compliance with this UDO and the Raleigh Street Design Manual would pose a safety hazard.

B. Applicability

1. General

- a. Any new development activity and any addition or repair subject to the requirements of Sec. 10.2.5. and Sec. 10.2.8. must meet street type and streetscape standards of this Article for existing streets abutting the subject property.
- b. The streetscape types of Sec. 8.5.2. shall be applied based on the zoning and frontage type applied to the subject property.
- c. Unless otherwise specifically provided, no permit for the construction, reconstruction, extension, repair or alteration of any building, structure or use of land and no building or land or any part of any building or land, may be occupied or used until the streetscape requirements of this Article have been met.

d. Gated public streets shall not be permitted.

e. Administrative design adjustments approved by the Public Works Director pursuant to Sec. 10.2.18. may be appropriate when an existing building would impede roadway expansion; when transitioning from a different street section; or where strict compliance with this UDO and the Raleigh Street Design Manual would pose a safety hazard.

2. Additions and Repairs

a. A building or site may be renovated or repaired without meeting the streetscape standards, provided there is no increase in gross floor area or improved site area.

b. When a building or site is increased in gross floor area or improved site area cumulatively by more than 10%, the streetscape provisions of this Article must be met.

3. Change in Use Exempt

A change in use does not trigger application of the **streetscape** requirements of this Article.

C. Letter of Acceptance

1. Sidewalks, streets and street trees must be installed prior to the issuance of a letter of final acceptance.

2. A conditional letter of acceptance may be issued in accordance with Sec. 8.1.3. where the Public Works Director determines that landscaping in the public right-of-way cannot be installed due to inclement weather conditions, a surety in the amount of 125% of the value of the landscaping shall be provided to the City, in accordance with Sec. 8.5.1.B. The landscaping improvements shall be installed within 12 months of issuance of the conditional letter of acceptance.

3. Where determined appropriate by the Public Works Director, the sidewalk and street tree planting area may occur on private property subject to an easement for public access.

D. Tree Planting

1. Unless otherwise noted below, all trees planted in accordance with this Article must be shade trees.

2. Where overhead utilities exist, 1 understory tree shall be planted every 20 feet on center, on average.

3. All required street trees must meet the design and installation requirements of Sec. 7.2.7. 4. Where development abuts a street controlled by the North Carolina Department of Transportation, street trees may not be required in the right-of-way, at the discretion of the North Carolina Department of Transportation. In this instance, a Type C2 street protective yard is required in accordance with Sec. 7.2.4.

E. Fee-in-Lieu

Where the Planning and Development Officer determines that construction of improvements would result in the improvement of less than ½ of a linear block face; an equivalent payment in lieu of construction may be required.

F. Adopted Streetscape Plans

1. In the event an adopted streetscape plan regulates streetscape improvements, the adopted Plan shall control. The adopted streetscape plans are contained within the Raleigh Street Design Manual.
2. The requirements of this Article are intended to serve as minimum standards. Where a streetscape plan adopted before the effective date of this UDO sets a lower standard, the standard in this Article shall prevail.
3. The City Council may modify an adopted Streetscape Plan following written notice to property owners along the street.

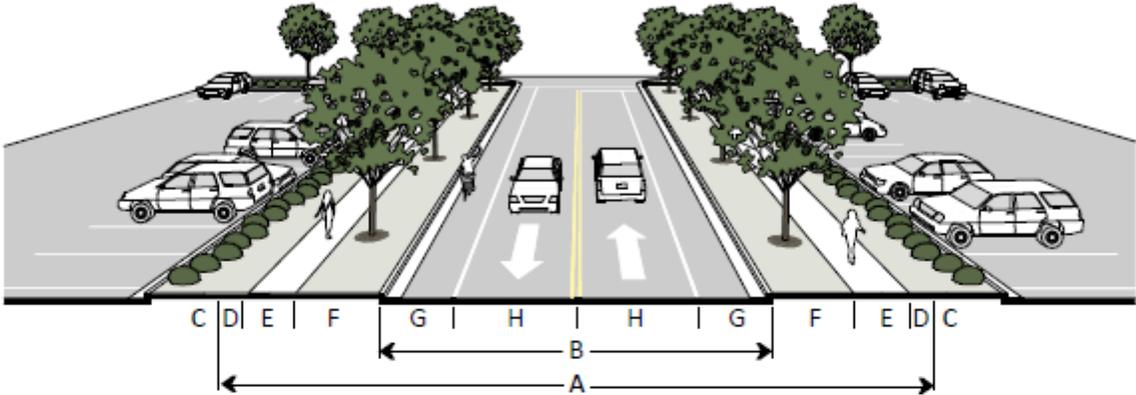
G. Administrative Design Adjustment Findings

1. The Public Works Director may in accordance with Sec. 10.2.18. approve an existing street design adjustment, subject to all of the following findings:
 - a. The approved adjustment meets the intent of this Article;
 - b. The approved adjustment conforms with the Comprehensive Plan and adopted City plans;
 - c. The approved adjustment does not increase congestion or compromise safety;
 - d. The approved adjustment does not create additional maintenance responsibilities for the City; and
 - e. The approved adjustment has been designed and certified by a Professional Engineer.

Boylan Avenue - Street Type:

Sec. 8.4.5. Mixed Use Streets

A. Avenue 2-Lane, Undivided



Width	
A Right-of-way width	64'
B Back-of-curb to back-of-curb	36'
Streetscape	
C Utility placement, easement (min)	5'
D Maintenance strip (min)	2'
E Sidewalk (min)	6'
F Planting area (min)	6'
Travelway	
G Bike lane	7'
H Travel lane	11'
General	
Walkway type	Sidewalk
Planting type	Tree lawn
Tree spacing	40' o.c. avg

Hillsborough Street - Street Type:

C. Avenue 3-Lane, Parallel Parking



Width	
A Right-of-way width	
With center turn lane	90'
With median	94'
B Back-of-curb to back-of-curb	
With center turn lane	62'
With median	66'
Streetscape	
C Sidewalk (min)	8'
D Planting area (min)	6'
Travelway	
E Parallel parking lane	8.5'
F Bike lane	6'
G Travel lane	11'
H Center lane	
Striped turn lane	11'
Median	15'
General	
Walkway type	Sidewalk
Planting type	Tree grate / lawn
Tree spacing	40' o.c. avg
Parking type	Parallel

