

CITY-COUNTY OF DURHAM
ORDER GRANTING A REQUEST FOR A VARIANCE FROM THE INFILL STANDARDS
TO PERMIT A DRIVEWAY EXCEEDING 400 SQUARE FEET AND LOCATED IN FRONT
OF THE FRONT BUILDING LINE AND CLOSER THAN 20 FEET FROM THE FRONT
PROPERTY LINE
(B2500037)
REID: 110933

The Board of Adjustment (“Board”) of the City and County of Durham, having conducted a hearing on “604 E. Geer St. Driveway Variance” (Case B2500037) on January 27, 2026, and having considered all written and oral evidence presented at such hearing, hereby determines that the Durham Unified Development Ordinance (UDO) requirements for the granting of a Variance in this case have been met, and that the Variance is approved upon certain conditions.

THE BOARD HEREBY MAKES THE FOLLOWING FINDINGS AND CONCLUSIONS, based on the evidence presented and testimony heard at the public hearing:

Findings of Fact:

1. The application location is 604 East Geer Street, Durham, NC.
2. The Durham Unified Development Ordinance (UDO) § 6.8.1C.1 requires a new project in the Urban development tier that is located on a site of less than four acres in a residential district to comply with the UDO infill standards
3. UDO § 6.8.4.A.2 restricts the maximum width of vehicular use areas for projects subject to the infill standards. Vehicle use areas, including driveways, may not be greater than 12 feet in width; however, the vehicular use area can expand up to 24 feet in width to accommodate garage access or parking if the total additional vehicular use area beyond 12 feet in width is 1) located behind the front building line; 2) located at least 20 feet from the front property line; and 3) does not exceed 400 square feet.
4. The Applicant proposes construction of a 28-foot-wide driveway to be located in front of the front building line of the house and less than 20 feet from the front property line. The proposed total area of the driveway is 515 square feet.
5. An unnecessary hardship would result from the strict application of the UDO. In correspondence to Applicant from July 2025—which was reviewed and accepted as evidence by the Board—the North Carolina Department of Transportation (NC DOT) stated it would require a “turn-around” driveway for this property due to the traffic conditions on East Geer Street. Turn-around driveways allow vehicles to completely turn around on the property, in order to avoid reversing into the public right-of-way. Turn-around driveways are wider than the 12 feet permitted for properties subject to the infill standards in UDO § 6.8. The turn-around driveway cannot be constructed behind the front building line because this site is encumbered by a riparian buffer that strictly limits where

development can occur on the site. On October 1, 2024, North Carolina Division of Water Resources (NC DWR), the reviewing agency for the riparian buffer authorization a buffer authorization for this site. The Authorization Certificate, which was reviewed and accepted as evidence by the Board, permits the construction of a single-family detached house and a driveway on the site. However, constructing the driveway to meet UDO and NC DOT standards would require the proposed house to be shifted south and west, which would encroach further into the riparian buffer than what has been permitted by NC DWR.

6. The hardship results from conditions that are peculiar to the property because the property is more narrow than neighboring properties and has a substantially larger portion of the stream located on the site than neighboring properties, greatly reducing the area available for development in a manner not experienced by the community at large.
7. The hardship did not result from actions taken by the Applicant or Property Owner. The hardship results from conflicting state and local agency requirements, specifically the size of the driveway required by NC DOT, the location of development authorized by NC DWR, and the location of driveways of a certain size required by the UDO infill standards.
8. The requested variance is consistent with the spirit, purpose, and intent of the UDO because the Applicant has provided sufficient evidence to show that all reasonable attempts have been made to deviate from the UDO as little as possible while still securing a reasonable use of the property. The Applicant has secured the required approval from NC DWR to permit encroachment into the riparian buffer. The turn-around driveway is required by the reviewing authority, NC DOT, to secure safe ingress and egress into the East Geer Street corridor. The purpose of the infill standards in the UDO is to maintain the character of existing residential neighborhoods in Durham by regulating the size, scale, and location of new development in these areas. The proposed development meets all other infill standards and is a permitted land use in a Residential Urban – 5(2) zoning district. The Applicant has provided sufficient evidence that the granting of the requested variance would achieve substantial justice for the Property Owner while also providing the best solution for the mitigation of traffic.

Variance Findings pursuant to UDO § 3.14.8:

In granting any variance, the Board of Adjustment shall make the following findings:

1. Unnecessary hardship would result from the strict application of the UDO. 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 granting 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 UDO, such that public safety is secured, and substantial justice is achieved.

Conclusions:

The Board found that unnecessary hardship would result from the strict application of the UDO; the hardship results from conditions that are peculiar to the property; the hardship did not result from actions taken by the Applicant or the Property Owner; and the requested variance is consistent with the spirit, purpose, and intent of the UDO.

The Applicant met its burden of persuasion with regard to the criteria for granting of a variance.

IN SUPPORT OF THESE FINDINGS AND CONCLUSIONS, THE BOARD finds that the descriptions and statements set forth in the staff report presented as evidence to the Board, and the testimony presented at the hearing, are the facts describing the proposed use, surrounding conditions, and ordinance requirements and the Board adopts by reference and includes in this decision and order all such facts and, in particular, the conclusions in the staff report entitled “Staff Analysis” as if set forth therein.

THEREFORE, THE DURHAM CITY AND COUNTY BOARD OF ADJUSTMENT HEREBY GRANTS THE VARIANCE WITH THE CONDITIONS THAT MAY BE SET FORTH BELOW:

1. The improvements shall be substantially consistent with all information submitted to the Board as part of the application.

(Continued on the next page)

**WRITTEN CONSENT TO CONDITIONS IMPOSED THROUGH A DEVELOPMENT PERMIT
N.C. GEN. STAT. § 160D-1403.2**

Type of development permit: Variance

Case # (B2500037):

Applicant Information (should mirror the application):

Name: Gene Mack

Firm: Abiel LLC

Phone: 770-769-7234

Email: mack.gene@gmail.com

Mailing address: 4815 Revere Rd, Durham, NC 27704

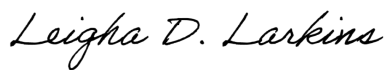
As the Applicant for this Case, I am providing my written consent to the following conditions or committed elements (The wording of conditions or text committed elements stated below shall match the language approved by the decision-making body. If committed elements are graphic, the documents that present the graphical committed elements shall be attached to this form or clearly included by reference to a specific set of documents identified below):

- 1. The improvements shall be substantially consistent with all information submitted to the Board as part of the application.**



03/09/26

(Applicant's signature and date of execution)



03/05/2026

(Planning staff signature and date of execution)

IN ADDITION, as indicated in Section 3.14.10 of the Ordinance this variance will become null and void in the following cases:

1. If a site plan, preliminary plat, or architectural review is not approved within 12 months of the date of approval of the variance.
2. If an approved site plan, preliminary plat, architectural review, or building permit expires.
3. In cases when a site plan, preliminary plat, or architectural review is not required:
 - a. If a building permit is not issued within two years of the date of approval.

b. If the Ordinance standard subject to the variance has been amended prior to the issuance of a building permit.4. If a substantial violation of the conditions of the variance approval is determined by the Planning Director or designee.

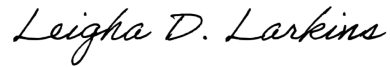
IN WITNESS WHEREOF, the Board of Adjustment of the City-County of Durham has caused this Variance to be issued in its name, together with all conditions, as binding on the Applicant, and their successors in interest.

An appeal of a Board of Adjustment action can be filed, pursuant to procedures outlined in the North Carolina General Statutes, Chapter 160D, Sections 406 and 1402, with the Durham Superior Court within thirty (30) days after the date this order is served on you.

Ordered this the 24th day of February, 2026



Chair



Staff Planner

Clerk

Date Adopted and Mailed by Clerk