STATE OF NORTH CAROLINA

TRANSYLVANIA COUNTY

BEFORE THE CITY OF BREVARD
BOARD OF ADJUSTMENT
CASE NO. Variance #25-002

IN RE: APPLICATION of
1700, LLC on behalf of
YOLE PROPERTIES, LLC
for a VARIANCE

ORDER

This matter coming on for hearing before the **City of Brevard Board of Adjustment** ("Board) on the application of **1700, LLC**, ("Applicant") on behalf of **Yole Properties, LLC** requesting a variance from Chapter 2.7.2 of the City of Brevard Unified Development Ordinance ("UDO") to allow for a reduction of the required side-yard setback from 25' to 14' on the northern portion of the real property identified as tax parcel number 8586-53-2891-000 with an address of 15 Burrell Avenue, Brevard, North Carolina ("Property"). The Property is in the General Industrial (GI) Zoning District within the zoning jurisdiction of the City of Brevard.

A quasi-judicial hearing was held on April 1, 2025. The Applicant represented itself and presented evidence through its agent, Andrew Mericle. The following additional persons were sworn as witnesses and presented testimony in this matter: City of Brevard Planner, Stephanie Holland, and Benjamin Poe, witness for the Applicant.

Testimony in this case is accurately reflected in the minutes of the April 1, 2025 meeting and based upon the testimony presented, the documentary evidence and related material submitted along with the Application, the Board does hereby make the following:

FINDINGS OF FACT

1) Notice of the quasi-judicial public hearing, pursuant to the UDO and state law, was duly and timely given. The Property was properly posted and the hearing was properly advertised.

2) The Property is identified as tax parcel number 8586-53-2891-000 with an address of 15 Burrell Avenue, Brevard, North Carolina within the General Industrial (GI) Zoning District.

3) The Applicant submitted an application for a variance to allow for a reduction of the required side-yard setback from 25' to 14' on the northern portion of the Property.

4) The Applicant offered testimony that unnecessary hardship would result from the strict application of the UDO in that:

   a) Complying with the side-yard setback would prevent the renovation of a structurally unsafe building;
   b) Complying with the side-yard setback would prevent the use of approximately 3250 square feet of an existing building.

5) The Applicant testified that hardship results from conditions that are peculiar to the Property in that:

   a) The existing building was constructed prior to zoning in that area being adopted by the City of Brevard;
   b) The location of the Property next to a General Residential zoning district is the reason for the increase in the side-yard setback on the northern portion of the Property.

6) The Applicant testified that the hardship did not result from actions taken by the Property owner in that:

   a) The hardship is not the result of the Applicant, as it did not designate the zoning district for the Property; and
   b) Since the construction of the building on the Property, the City of Brevard has adopted the Property into its zoning jurisdiction.

7) Competent testimony was presented that the requested variance is consistent with the spirit, purpose and intent of the UDO, with the spirit of the UDO preserved.

Further, the requested variance will not be injurious to the public health, safety and welfare and achieves substantial justice in that:

a) The reduction in the side-yard setback will allow the building to be renovated to repair its unsafe condition; and
b) Adequate trees and shrubbery will be planted if necessary.

8) The Applicant and parties with standing were all given the opportunity to offer oral testimony and documentary evidence as well as submit questions to each other, City staff and Board members.

Pursuant to the foregoing FINDINGS OF FACT and UDO Chapter 16.8.E, the Board makes the following:

CONCLUSIONS OF LAW

1) The Board has jurisdiction to hear and decide this Application for a Variance under the UDO.

2) That without the proposed variance unnecessary hardship would result from the strict application of the regulations.

3) The hardship results from conditions that are peculiar to the Property.

4) The hardship did not result from actions taken by the Applicant.

5) The requested variance is consistent with the spirit and intent of the regulations such that public safety is secured and substantial justice achieved.

6) All applicable standards within the UDO have been satisfied.

DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, the application of application of **1700, LLC** on behalf of **Yole Properties, LLC** requesting a variance from Chapter 2.7.2 of the City of Brevard UDO to allow for a reduction of the required side-yard setback from 25’ to 14’ on the northern portion of the real property identified as tax parcel number 8586-53-2891-000 with an address of 15 Burrell Avenue, Brevard, North Carolina Brevard, North Carolina is hereby **GRANTED** to the extent represented in the Application and plans included therewith and subject to the following:

CONDITION

Existing landscape on the Property adjacent to the General Residential district on the northern portion of the Property is to be documented by the City planning department and the same is to remain intact; however, if any such landscape is damaged or removed, it is to be replaced with a sufficient amount of vegetative buffer as determined by City planning staff.

ORDERED this _____ day of _____, 2025.

CITY OF BREVARD BOARD OF ADJUSTMENT

By: _____
Peter Offer, Chair

Attest:

_____
Madalin Baker, Clerk to the Board

We consent to the conditions stated herein:

1700, LLC - Applicant

_____

By: _____

Its _____

Yole Properties, LLC - Owner

_____

By: _____

Its _____