Background

Bread of Life owns a 0.83 acre property at 31 W Morgan St in Brevard. The property is zoned Downtown Mixed Use (DMX) and is not within the Downtown Development Overlay District. The parcel identification number is 8586-40-2694-000.

The property is at the corner of W Morgan St and Duckworth Ave. The Unified Development Ordinance Chapter 5.7.8-A limits the overall building width of a Neighborhood Business to 60 feet. The City Code of Ordinances Schedule XIX, Section 66-87 lists Morgan St from Hamlin to S Caldwell St as 25 MPH. UDO 9.3 requires 60 feet between driveways and 120 between driveway and intersections on roads with a 25 MPH speed limit.

The applicant is requesting a variance of the UDO's Chapter 5.7.8-A for building width to be increased from 60' to 67'-10".

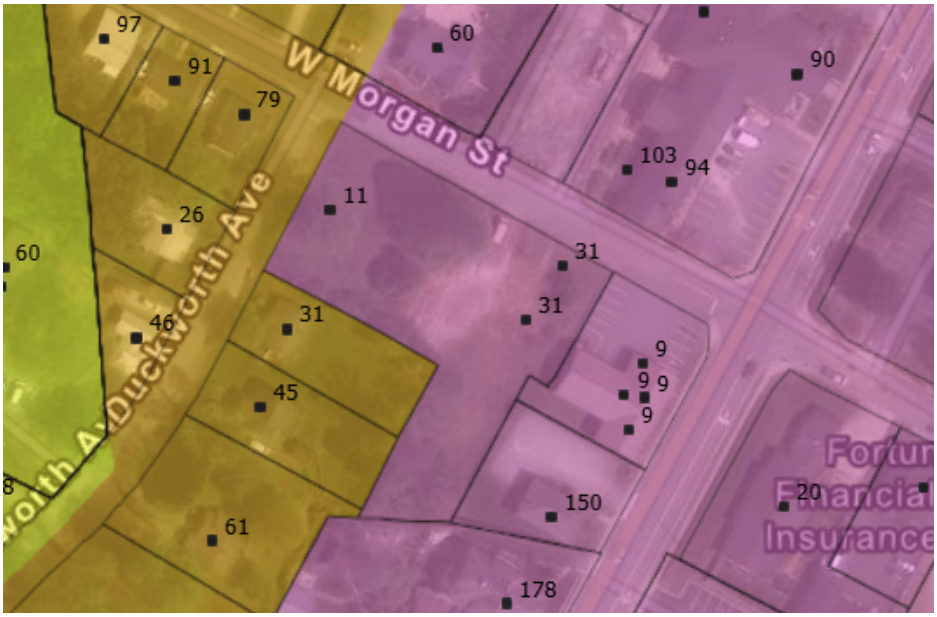
The applicant is requesting a variance of the UDO's Chapter 9.3.A for driveway separation from an intersection to be decreased from 120' to 64'.

Notice of the hearing was advertised and posted on the property in accordance with North Carolina General Statute §160D-406.

Discussion

Bread of Life currently operates out of a building located at 238 S Caldwell St in Brevard. They are planning to expand their operation to the new property at 31 W Morgan St with the development of a new two-story building with a one-way driveway around the building and parking to one side. The proposed vehicular circulation results in two driveway curb cuts on W Morgan St.

Investigation



The property is zoned DMX and is adjacent to Residential Mixed Use (RMX) and in the nearby vicinity of General Residential (GR). The property is at the corner of W Morgan St and Duckworth Ave.





Context photos looking down Morgan St from Caldwell and the neighboring business.





Context photos of a single-family home across Morgan St and of Bread of Life property.





Context photos of the single-family home across Duckworth and looking down Duckworth.





Context photos of the parking and business directly across Morgan St from the property.

Building Width:

5.5.2. Permitted building types by zoning district.

A. For properties located outside of Architectural Character Areas, the permitted building typologies vary by zoning district in accordance with the following table:

TABLE 5.5.2-A: PERMITTED BUILDING TYPES BY ZONING DISTRICT								
BUILDING TYPE	SECTION (a)	ZONING DISTRICT*						
		GR	RMX	NMX	DMX	CMX	IC	GI
Civic**	5.7.1	YES	YES	YES	YES	YES	YES	YES
Institutional	5.7.2	YES	YES	—	—	YES	YES	YES
Warehouse	5.7.3	—	—	—	—	YES	YES	YES
Main Street Building	5.7.4	—	—	—	YES	YES	YES	YES
Flex Building	5.7.5	—	—	—	—	YES	YES	YES
Liner Building	5.7.6	—	—	YES	YES	YES	YES	YES
Live/Work Building	5.7.7	—	YES	YES	YES	YES	YES	YES
Neighborhood Business	5.7.8	—	—	YES	YES	YES	YES	YES
Large-Scale Commercial	5.7.9	—	—	—	—	YES	—	—
Roadside Business	5.7.10	—	—	YES	—	YES	—	YES
Stacked Flats	5.7.11	—	—	—	YES	YES	—	—
Multiplex	5.7.12	—	YES	YES	YES	YES	YES	—
Small Multiplex	5.7.13	—	YES	YES	YES	YES	YES	—
Accessory Building	5.7.14	YES	YES	YES	YES	YES	YES	YES

(a) This column refers to the section of this ordinance that contains the building type definition and standards.
**The Pisgah Gateway Mixed-Use (PGX) Zoning District is intended to coincide with the boundaries of the Pisgah Gateway Character Area. Permitted Building Types for PGX are listed in Section 5.4.3.*
*** For all government uses, see Section 5.7.1.*

There are nine building types allowed in DMX. All but Civic and Liner buildings have a maximum width allowed which varies from 50'-150'. Stacked Flats, Multiplex, Small Multiplex are all multifamily housing. Live/Work is residential with limited commercial. Liner Building is a shallow structure around a big box retail, or convention center. Main Street building is medium to large scale that vertically integrates multiple land uses within one building. Civic buildings are important landmarks. Neighborhood Business buildings are small scale businesses.

TABLE 5.7.8-A: NEIGHBORHOOD BUSINESS BUILDING TYPE SPECIFICATIONS	
Building Dimensions / Configuration	
Building Orientation	Facing primary street
Number of Stories	2 min
Building Width	60 feet max
Building Extensions	
Tower (see Section 5.9.1)	Not Permitted
Cupola (see Section 5.9.2)	Not Permitted
Porte Cochere (see Section 5.9.3)	Not Permitted
Awning (see Section 5.9.4)	Required over Shopfront (see above)
Canopy (see Section 5.9.5)	Required over Shopfront (see above)
Balcony (see Section 5.9.6)	Permitted
External Staircase (not Stoop) (see Section 5.9.7)	Permitted
Building Frontages	
Shopfront (see Section 5.10.1)	Required
Gallery (see Section 5.10.2)	Permitted
Porch (see Section 5.10.3)	Permitted
Portico (see Section 5.10.4)	Not Permitted
Stoop (see Section 5.10.5)	Not Permitted
Courtyard (see Section 5.10.6)	Not Permitted

The above table defines the specifications of a Neighborhood Business building type.

Driveway:

66-87. Speed limits.

A. It shall be unlawful for any person to operate a vehicle on a street or highway within the city at a speed greater than is reasonable and prudent under the conditions then existing.

B. Unless otherwise provided in this section, it shall be unlawful to operate any vehicle in excess of the following speeds:

1. Twenty miles per hour in any business district.
2. Thirty-five miles per hour in any residential district.

C. Notwithstanding subsection 66-87.B, it shall be unlawful to operate any vehicle in excess of the following speeds:

1. Twenty miles per hour on the streets or portions of streets described in SCHEDULE XVIII-B, which is made a part of this article.
2. Twenty-five miles per hour on the streets or portions of streets described in SCHEDULE XIX, which is made a part of this article.
3. Thirty miles per hour on the streets or portions of streets described in SCHEDULE XX, which is made a part of this article.
4. Thirty-five miles per hour on the streets or portions of streets described in SCHEDULE XXI, which is made a part of this article.
5. Forty, forty-five, fifty or fifty-five miles per hour on the streets or portions of streets described in SCHEDULE XXII-A, SCHEDULE XXII-B, and SCHEDULE XXII-C respectively, which is made a part of this article.
6. Fifteen miles per hour on the streets or portion of streets described in SCHEDULE XXVIII, which is made a part of this article.

SCHEDULE XIX. TWENTY-FIVE (25) MPH SPEED LIMIT (Section 66-87)

M

East Main Street from Greenville Highway and Wilson Drive to Batson Road.

East Main Street from Johnson Street to Franklin Street.

Maple Street from Gallimore to South Gaston Street.

McLean Road.

McMinn Avenue.

Miner Street.

Monroe Street.

Montview Circle.

Morgan Street from Hamlin Avenue to South Caldwell Street.

Morningside Drive.

A. New driveways, on public streets with curbing, shall be limited in accordance with the following standards:

TABLE 9.3A: DRIVEWAY SEPARATION DISTANCES		
Posted Speed Limit (mph)	**Minimum Distance Between Driveways**	**Minimum Distance Between Driveways and Intersections***
15	20 feet	40 feet
20	40 feet	80 feet
25 to 35	60 feet	120 feet
40	120 feet	240 feet
45	140 feet	280 feet
50	160 feet	320 feet
55	180 feet	360 feet
Note: Access separation between driveways shall be measured from inside edge of curb cuts. Access separation between a driveways and intersecting streets shall be measured from the nearest inside edge of the driveway curb cut to the intersecting right-of-way lines.		

3. Parking lots with a one-way drive aisle that are required to have at least two driveways in accordance with Section 10.8 may be exempt from the "minimum distance between driveways" standards. The exemption may be granted by the administrator for local and private roads and by NCDOT for state roads.
4. The board of adjustment may modify these requirements only after the following are satisfactorily provided by an applicant:
   a. A transportation assessment performed by an certified professional licensed in the State of North Carolina containing sufficient detail to demonstrate that the modification request does not adversely impact public safety or traffic operation; and
   b. Evidence that the modification request represents the minimum necessary to address existing site constraints or to improve site circulation stemming from urban infill and/or redevelopment.

Morgan St is 25 MPH and therefore requires 120 feet from a driveway to the nearest intersection.

Board of Adjustment may modify separation distances in accordance with 9.3.D.4 as copied above.

Standards for the Granting of Variances
In order to grant the variance *all* of the conditions below must be met:

1. Unnecessary hardship would result from the strict application of the regulations. 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 regulations, such that public safety is secured, and substantial justice achieved. Substantial justice is not achieved when granting the variance would be injurious to the neighborhood or to the general welfare.

Economic hardship or the fact that property may be utilized more profitably with a variance shall not constitute an unnecessary hardship. In its motion the Board should include Findings of Fact to support each of the items listed above.