

City of Wilmington

Board of Adjustment

Item #2



Board of Adjustment
September 18th, 2025

REQUEST FOR A VARIANCE

BADV-4-925

Grace Lamay, (910) 341-0186, grace.lamay@wilmingtonnc.gov

REQUEST

<i>Code Section(s)</i>	Land Development Code: Section 18-43 Dimensional Standards Section 18-44(C) District-specific standards Section 18-615 Board of adjustment	
<i>Subject Property</i>	420 North 3rd Street	
<i>Parcel ID</i>	R04813-032-002-000	
<i>Zoning</i>	CBD, Central Business District	
<i>Request</i>	Variance to City Code Section 18-44(C): Design standards [Central Business District] to allow a shipping container to remain as built.	
<i>Owner</i>	Joseph Apkarian	(910) 386-6884 Joseph.ra.b2@gmail.com
<i>Agent</i>	Rob Romero 1006 N 3 rd Street Wilmington, NC 28401	(910) 228-3137 rob@romeroarchitecture.com

GENERAL INFORMATION

Subject Property Area	Approximately 0.40 acres or 17,699 square feet
Annexation Date	December 31 st , 1945
History if Applicable	N/A

ANALYSIS & RESEARCH

1. The subject property at 420 North 3rd Street is zoned Central Business District (CBD) and contains a nightclub with an outdoor seating area.
2. According to Google imagery, the applicant placed a shipping container on the property in 2022, located approximately 45 feet and 7 inches from the front property line along North 3rd Street. The shipping container is intended to be used as an outdoor bar and storage space.
3. Land Development Code Section 18-43 allows a maximum front setback of 5 feet.
4. **The applicant has requested a variance to Land Development Code Section 18-43 to allow the container to remain as placed, a variance of 40 feet and 7 inches.**
5. The applicant states that moving the container to meet the setback requirement would necessitate trimming several of the trees around the property.
6. Land Development Code Section 18-44 requires a minimum ground floor height of 13 feet.

7. **The applicant has requested a variance to Section 18-43 to allow the container to remain as built at 8 feet tall, a variance of 5 feet.**
8. The applicant states that increasing the height of the structure to meet this standard would require the removal of two existing trees, if left at its current location.
9. Land Development Code Section 18-44 (C) requires that street-level facades facing a public street, riverwalk, or sidewalk shall have fenestration for a minimum 50 percent of the facade area.
10. **The applicant has requested a variance to Section 18-44(C) to allow the container to remain as built, a variance of 50 percent to the fenestration requirement.**
11. The applicant states that the facade of the container facing the street has doors which complicates the installation of fenestration.
12. Land Development Code Section 18-44(C) prohibits metal as the primary building material.
13. **The applicant has requested a variance to Land Development Code Section 18-44 (C) to allow the container to remain as built, with painted metal facades.**
14. This matter is set for hearing before the Board of Adjustment on September 18th, 2025.

FINDINGS OF FACT

The Board of Adjustment, in granting a variance, shall find that the following four findings of fact required by North Carolina General Statutes §160D-705 and City Code Chapter 18, Land Development Code, Section 18-615 Board of adjustment have been met by the applicant:

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 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; and
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.

NEIGHBORHOOD CONTACT

City Notifications:

Adjacent Letters
Property Posted
Advertisement Dates

Board of Adjustment

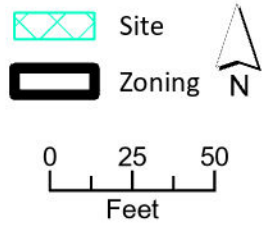
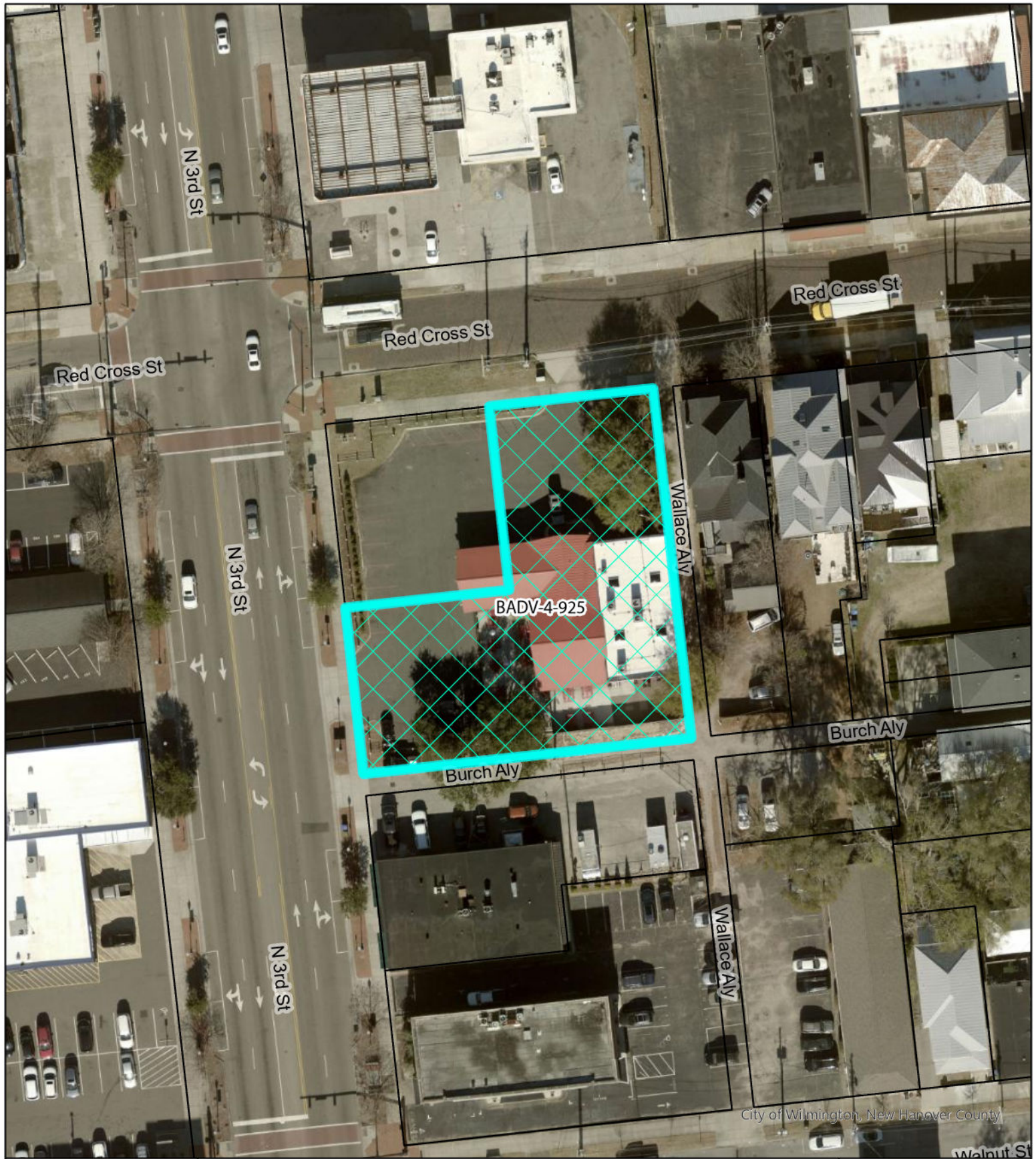
9/5/2025
9/5/2025
9/12/2025

ATTACHMENTS

- 1.) Location and Zoning Map (2021)
- 2.) Application (received 8/5/2025)
- 3.) Site plan (8/5/2025)
- 4.) City Code Chapter 18, Land Development Code references:
 - a. Section 18-43 Dimensional standards
 - b. Section 18-44 (C) District-specific standards
 - c. Section 18-615 Board of adjustment

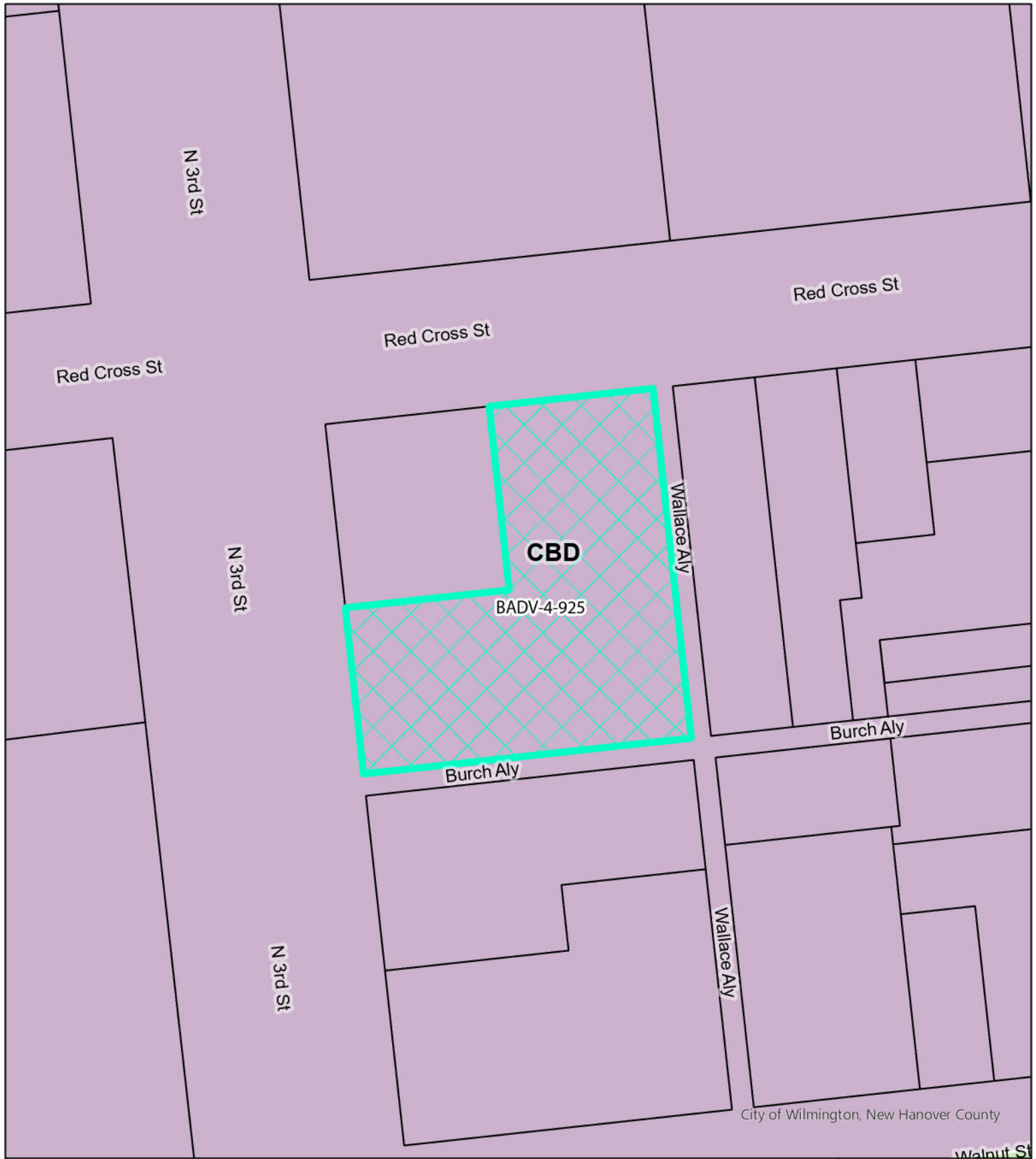
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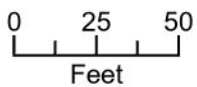
Board of Adjustment	
BADV-4-925 — Aerial Map	
420 North 3rd Street	

8/6/2025



City of Wilmington, New Hanover County

Walnut St



Board of Adjustment

BADV-4-925 — Zoning Map

420 North 3rd Street

8/6/2025



ATTACHMENT

2



1006 NORTH THIRD STREET
WILMINGTON NORTH CAROLINA 28401
910 228 3131

VARIANCE APPEAL

August 5, 2025

CLIENT:

Eagle's Dare
420 N. 3rd Street
Wilmington, NC 28401

Attn:

Board of Adjustment – Wilmington, North Carolina
VARIANCE APPEAL to existing shipping container used as bar/storage on site

We would like to request variances to the following elements:

1. Setback – the current location is 45'-7" from the front property line which is what we think is best for the use of the business and not obstructive to traffic nor visually unappealing.
2. Fenestration – there is a service window on the bar side which is all we propose to have. The end of the container facing the street has doors which are not optimal for windows in terms of function or appearance.
3. Material – the metal of the container is currently painted, and we propose that metal is a suitable material for buildings, especially in the CBD.
4. Building height – the container is 8' tall which we would propose to maintain as is to not draw unneeded attention to it, furthermore, adding to the height would require cutting two large diameter existing trees.

Four hardships and responses:

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;
 - Due to the size and location of the container, it does not meet design standards, but we think the current design is better than attempting to meet the standards.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from conditions that are common to the neighborhood, or the general public may not be the basis for granting a variance;
 - If the container would be moved and/or altered in height, there are several existing trees around the property that would have to be trimmed.
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;
 - With the redesign of this property, we created a beer garden to activate the streetscape and the container being used as a bar fits best where it is currently located.
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.
 - The design, location and orientation are appropriate in scale to the existing building which was once a one-story gas station and is an improvement to the vitality of Third Street.

thank you,

Rob Romero



ROMERO
ARCHITECTURE
WWW.ROMEROARCHITECTURE.COM

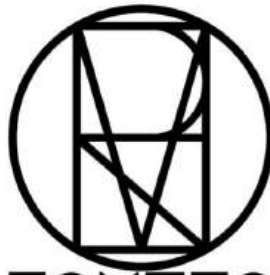
1006 NORTH THIRD STREET
WILMINGTON NORTH CAROLINA 28401
910 228 3131

VARIANCE APPEAL



EAGLE'S DARE

CURRENT AND
PROPOSED CONTAINER
LOCATION AND APPEARANCE



ROMERO
ARCHITECTURE
WWW.ROMEROARCHITECTURE.COM

1006 NORTH THIRD STREET
WILMINGTON NORTH CAROLINA 28401
910 228 3131

VARIANCE APPEAL



EAGLE'S DARE

ALTERNATE DESIGN
WITH STRUCTURE
BUILT AROUND
SHIPPING CONTAINER

AUTHORITY FOR APPOINTMENT OF PERSON TO ACT ON MY BEHALF

The undersigned owner, Joseph Apkarian,
does hereby appoint Rob Romero to act on my
behalf for the purpose of making application to the Wilmington Board of Adjustment for a
variance or for an appeal to the Board of Adjustment as described in the attached application.

The owner does hereby covenant and agree with the City of Wilmington that said
person has the authority to do the following acts for and on behalf of the owner:

1. To submit a proper application and the required supplemental materials.
2. To appear at quasi-judicial hearings to give testimony and make commitments on
behalf of the owner.
3. To accept conditions or recommendations of the Board of Adjustment regarding the
owner's property.
4. To act on the owner's behalf without limitation regarding any and all things directly or
indirectly connected with or arising out of any application
for a variance from the City regulations or any appeal to the Board of Adjustment.

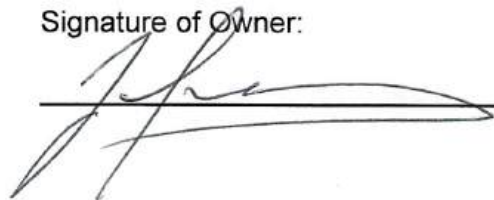
This appointment agreement shall continue in effect until final disposition of the
application submitted in conjunction with this appointment.

5 Aug 25
Date

Appointee's Name, Address & Telephone:

Rob Romero
1006 N. 3rd St.
Wilmington, NC 28401
910. 228. 3137

Signature of Owner:



ATTACHMENT

3

NORTH THIRD STREET



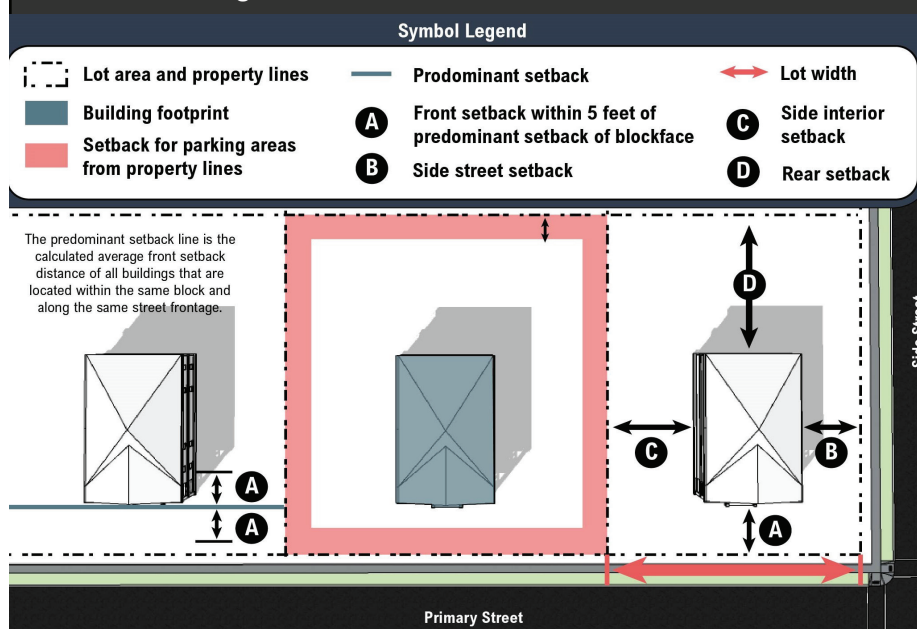
ATTACHMENT

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Land Development

Code References

Figure 18-43.5: RO district dimensions



C. Central business district

Development and new lots in the central business district shall conform to the standards prescribed in Table 18-43.4. In some cases, standards specific to the special character areas and lots with three or more street frontages shall also apply (see figures 18-43.7 CBD district dimensions and 18-43.8 CBD district example).

1. Maximum setbacks may be adjusted if a pedestrian-oriented area is provided according to Section 18-44: District-specific standards, subsection C.
2. There is no minimum or maximum rear setback when not adjacent to single-dwelling residential zoning or an alley.

Figure 18-43.6: RO district example



Table 18-43.4: Central business district dimensional standards

	CBD
Lot requirements	
Maximum residential density (units/acre)	None
Minimum lot area (square feet)	None
Minimum lot width (feet)	20
Maximum lot width (feet)	0
Setbacks (feet)	
Front (maximum)	5
Side street (maximum)	5
Side interior, residential adjacent (minimum)	5
Rear (minimum), single-dwelling zoning adjacent	5
Rear, alley adjacent (minimum)	5
Building size	
By-right height (feet)	See Figure 18-43.9: CBD height map
Minimum ground floor height (feet)	13

Figure 18-43.7: CBD district dimensions

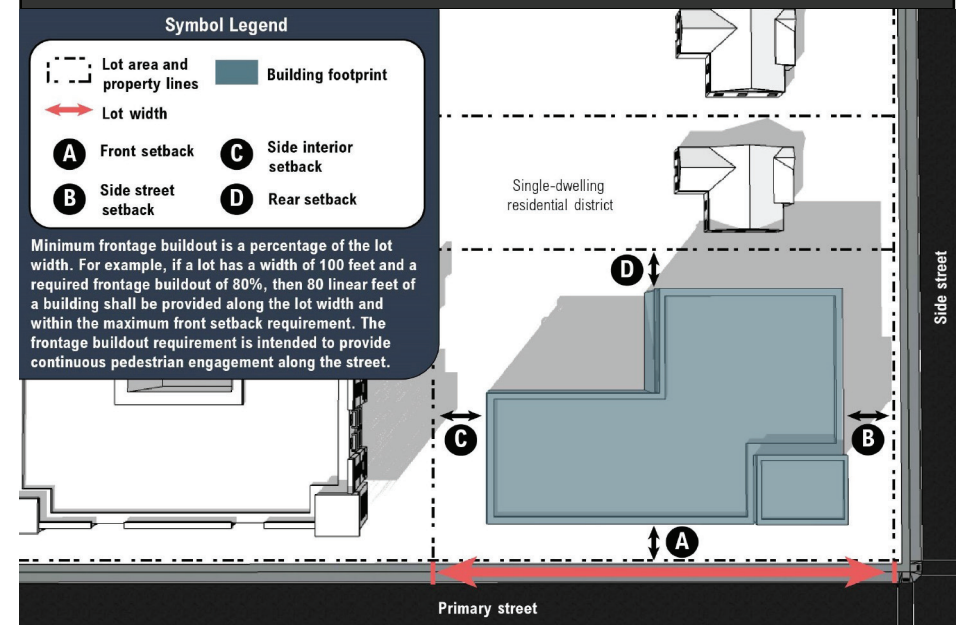
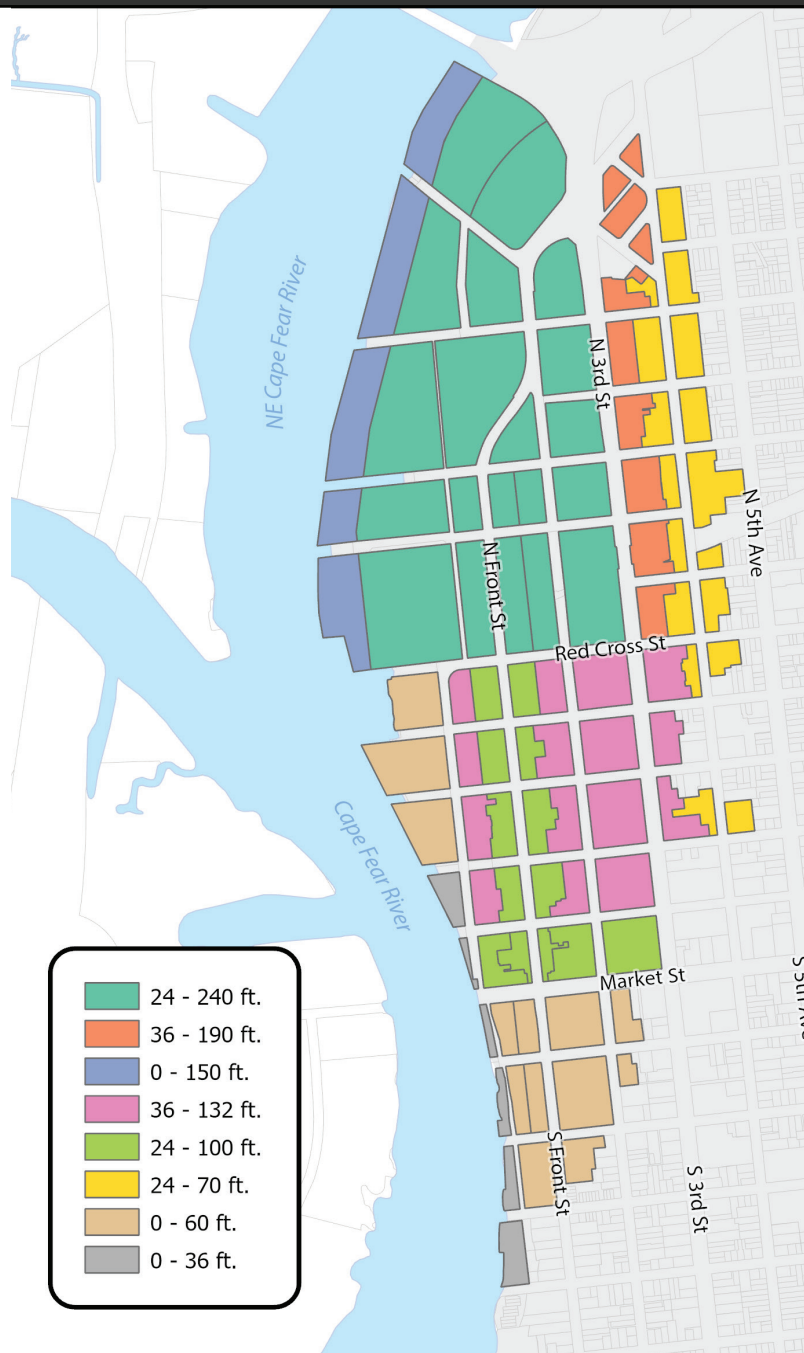


Figure 18-43.8: CBD district example

This image is for illustrative purposes and provides a general visualization of the character of the CBD. The maximum building height varies based on the character of existing development in distinct parts of the CBD. Dimensional standards facilitate urban development with maximum setback requirements, a minimum building placement along the frontage, and other requirements. These requirements enhance the character of the CBD by engaging pedestrians with buildings, parks, and plazas.



Figure 18-43.9: CBD height map



Section 18-44: District-specific standards

A. UMX district

The following standards apply to all UMX development. Along certain streets, applicable frontage standards shall also be applied.

1. Building design

- a. All new construction, excluding detached single-dwelling and duplex dwelling units, shall comply with the following design standards, where applicable.
- b. Entrances
 - i. Primary building entrances shall be clearly defined and distinctive by using at least two of the following architectural elements (See Figure 18-44.2: Primary building entrance architectural elements):
 1. A recession of the entrance of at least five feet;
 2. Entrance roofs such as awnings, overhangs, canopies, or eaves;
 3. A chamfered corner;
 4. Sidelight, transom, or adjacent windows;
 5. Additional moldings with expression lines; or
 6. A bay of unique width.
 - ii. Primary building entrances shall be oriented toward public sidewalks along primary street frontages.

C. CBD district. The following standards apply to all CBD development.

1. Building placement

a. Pedestrian-oriented spaces

Maximum setbacks may be voluntarily increased and minimum frontage buildouts may be decreased to provide one of the following types of pedestrian-oriented spaces, provided that a forecourt, plaza, or arcade is installed, subject to the following criteria:

i. Forecourt

1. Up to 50 percent of the building wall may setback a maximum depth of 15 percent of the building height (see figures 18-44.8: Forecourt dimensions and 18-44.9: Forecourt example).
2. Non-planter areas of the forecourt shall be surfaced with materials approved by the city engineer, such as concrete, brick, or stone pavers.

ii. Plaza

1. Plazas shall not occupy more than 25 percent of the lot area (see figures 18-44.10: Plaza dimensions and 18-44.11: Plaza example).
2. Plazas shall be surfaced with materials approved by the city engineer, such as concrete, brick, or stone pavers.
3. Non-paved areas of the plaza shall be landscaped.
4. Canopy or understory trees may be provided at a maximum rate of one tree per 1,200 square feet of plaza area.

Figure 18-44.8: Forecourt dimensions

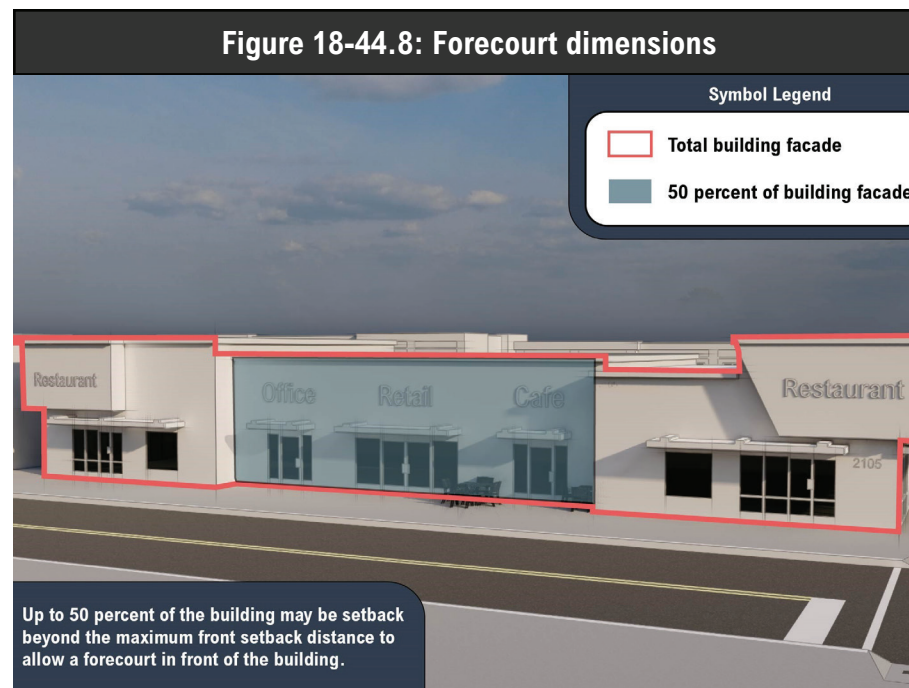
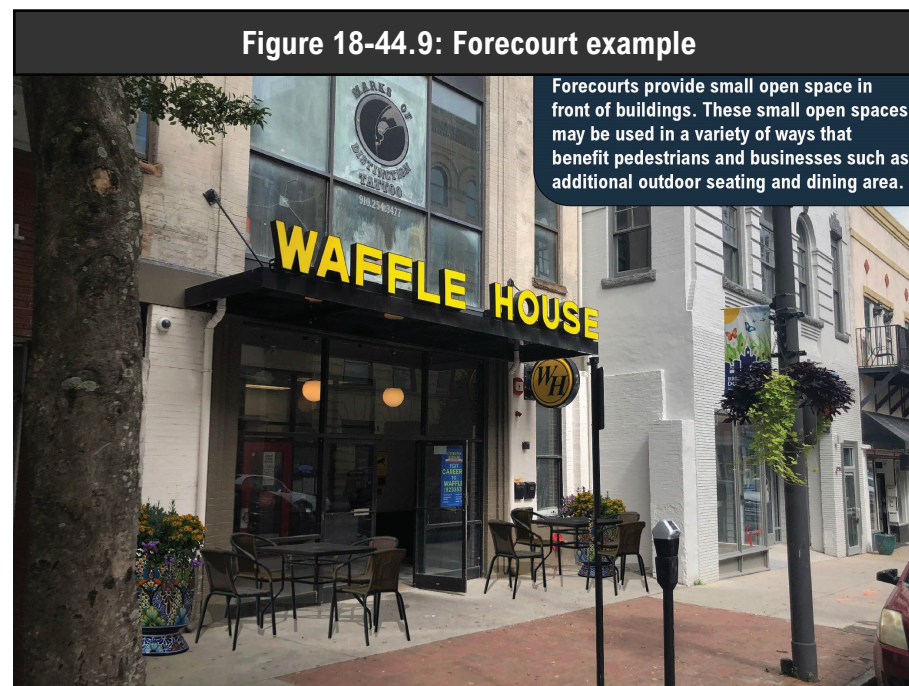


Figure 18-44.9: Forecourt example



5. Trees and additional vegetation in the plaza shall meet the general landscaping requirements of article 5 of this chapter.
6. Seat deterrents such as spikes or rails are prohibited.
7. No driveways, parking spaces, passenger drop-off, garage entrances, loading areas, mechanical equipment, dumpsters, or trash compactors shall be located within a plaza.

iii. Arcade

1. The ground floor building face may be recessed up to 20 feet from the property line (see Figure 18-44.12 Arcade dimensions and 18-44.13 Arcade example).
2. There shall be a minimum of 10 feet of clearance between the ground surface and the underside of the arcade roof.
3. Arcades shall not encroach on a public right-of-way.

2. Sidewalks

- a. North of Red Cross Street, where no sidewalks currently exist, sidewalks shall be installed within the right-of-way at a minimum width of 12 feet between the property line and the back of the curb (see Figure 18-44.14: CBD sidewalks north of Red Cross Street).
- b. Within the CBD, where sidewalks exist on the same side of the block, the width of newly installed sidewalks, including existing sidewalk that is removed and replaced, shall align with or be greater than the existing sidewalk width.

Figure 18-44.10: Plaza dimensions

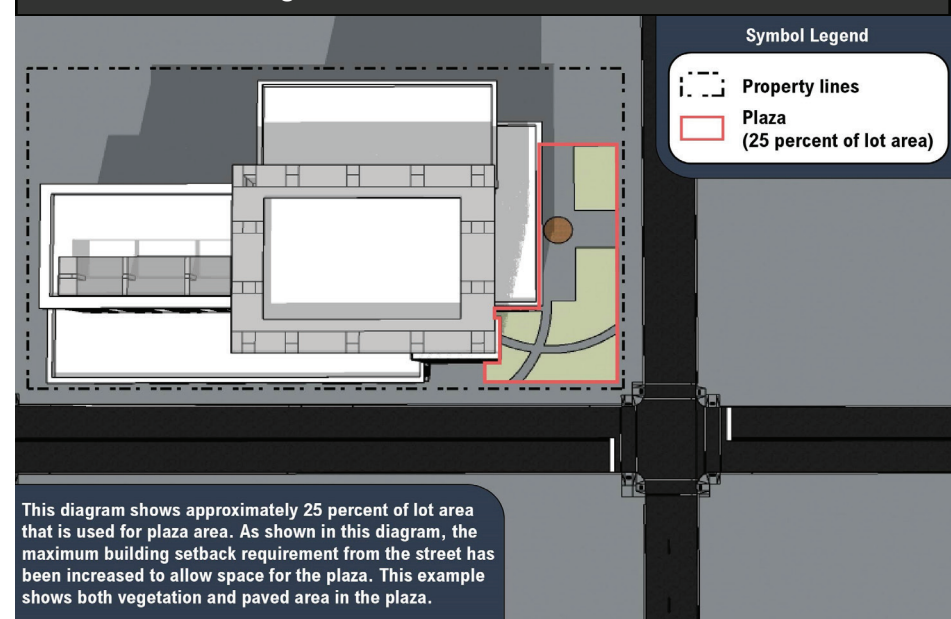


Figure 18-44.11: Plaza example



3. Building height

- a. Except for the provisions for build-back following demolition of contributing buildings, building heights shall be permitted according to Figure 18-43.9: CBD by-right height map.
- b. Height restriction for demolition of buildings with contributing historic resource status. If the owner of a building identified as contributing in the National Register of Historic Places inventory elects to demolish it, building height for new construction shall be limited. Any new building or portion thereof within the footprint of the demolished contributing historic building shall be subject to the following additional restrictions:
 - i. The height of any new building shall be restricted to the height of the demolished historic building plus half of the difference between the height of the demolished building and the by-right height prescribed in figure 18-49.9: CBD by-right height map.
 - ii. For the purposes of this section, the height of the existing building shall be measured from the average adjacent sidewalk elevation to the highest point of the parapet, or in the case of a building with a sloped roof, to the average roof height.
 - iii. Properties located within the CBD-historic district overlay (CBD-HDO) shall be subject to review by the historic preservation commission, per article 7 of this chapter.
 - iv. Removal of build-back height restriction
- c. To retain all allowable building height, a property owner demolishing a contributing building may make application to remove the height restriction according to the steps outlined in Section 18-597: Historic preservation.

Figure 18-44.12: Arcade dimensions



Figure 18-44.13: Arcade example

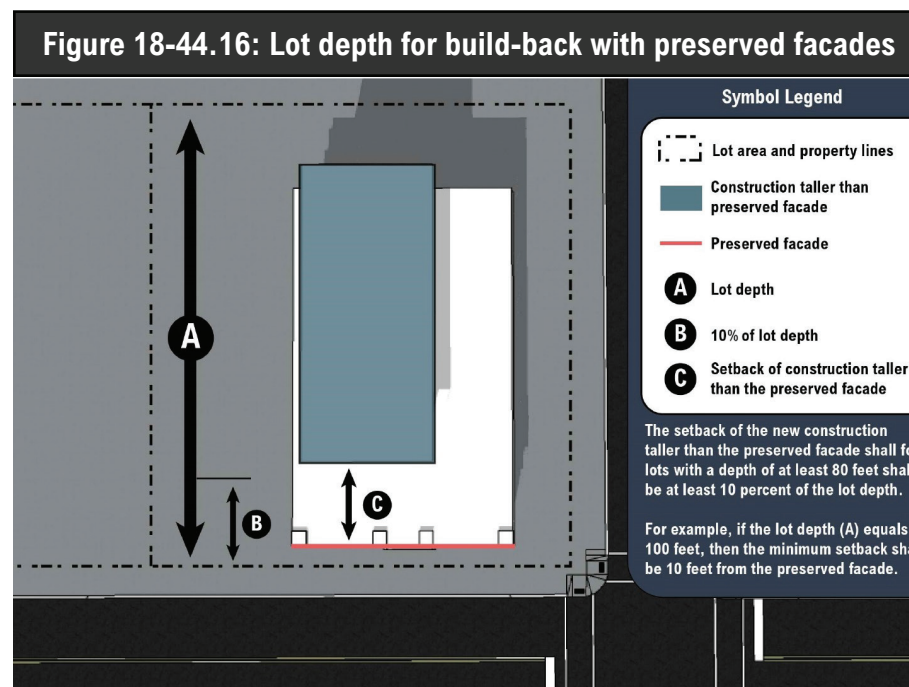


- d. If height restriction is removed, the by-right height prescribed on the CBD by-right height map (Figure 18-43.9) may be allowed for new construction.
- e. If the city adopts a condemnation ordinance for the building pursuant to the provisions of Chapter 16 of the city of Wilmington Code of Ordinances, the contributing historic resource status shall be removed for the purpose of this section upon adoption of the ordinance.
- v. Redevelopment with preservation of historic building facades
 - a. To retain all allowable building height, building facade(s) fronting on any public street shall be preserved. For purposes of this section, a facade includes the building's exterior finish materials and veneer, fenestration, exterior embellishment, and the wall structure that serves as the substrate for the aforementioned items.
 - b. Within the CBD-HDO, demolition and new building design must be approved by the historic preservation commission.
 - c. The height of any new construction above and behind the preserved facade(s) shall be allowed up to the maximum building height shown in Figure 18-43.9: CBD by-right height map.
 - d. For the purposes of this section, construction that is taller than the preserved historic facade(s) shall be stepped back a minimum of eight feet from the face of the facade(s).



- e. If the depth of the lot is greater than 80 feet, the new construction that is taller than the preserved facade(s) shall be stepped back a distance equal to 10 percent of the depth of the lot up to a maximum 20 feet (see figures 18-44.15: Building step-back with preserved facades and 18-44.16: Lot depth for build-back with preserved facades).

- vi. The height of any new construction above and behind the preserved facade(s) shall be allowed up to the maximum building height shown in Figure 18-43.9: CBD by-right height map.
- vii. For the purposes of this section, construction that is taller than the preserved historic facade(s) shall be stepped back a minimum of eight feet from the face of the facade(s).
- viii. If the depth of the lot is greater than 80 feet, the new construction that is taller than the preserved facade(s) shall be stepped back a distance equal to 10 percent of the depth of the lot up to a maximum 20 feet (see figures 18-44.15: Building step-back with preserved facades and 18-44.16: Lot depth for build-back with preserved facades).
- ix. If more than one facade of a building fronts on a right-of-way, the 10 percent step-back (with 20 feet maximum) shall apply to new construction behind the facade fronting the greater property depth and only an eight-foot setback shall apply to construction behind any other facade fronting a right-of-way.
- x. In the case of recombined lots of varying depth, an average depth measurement may be utilized in determining the step back, or alternatively, the new construction above the preserved facade may have varying step backs relative to the property depths.
- xi. Balconies and other similar architectural elements may encroach into the required new construction step back up to a distance equal to 25 percent of the step back depth, but in no case may these elements encroach into the eight-foot minimum step back.



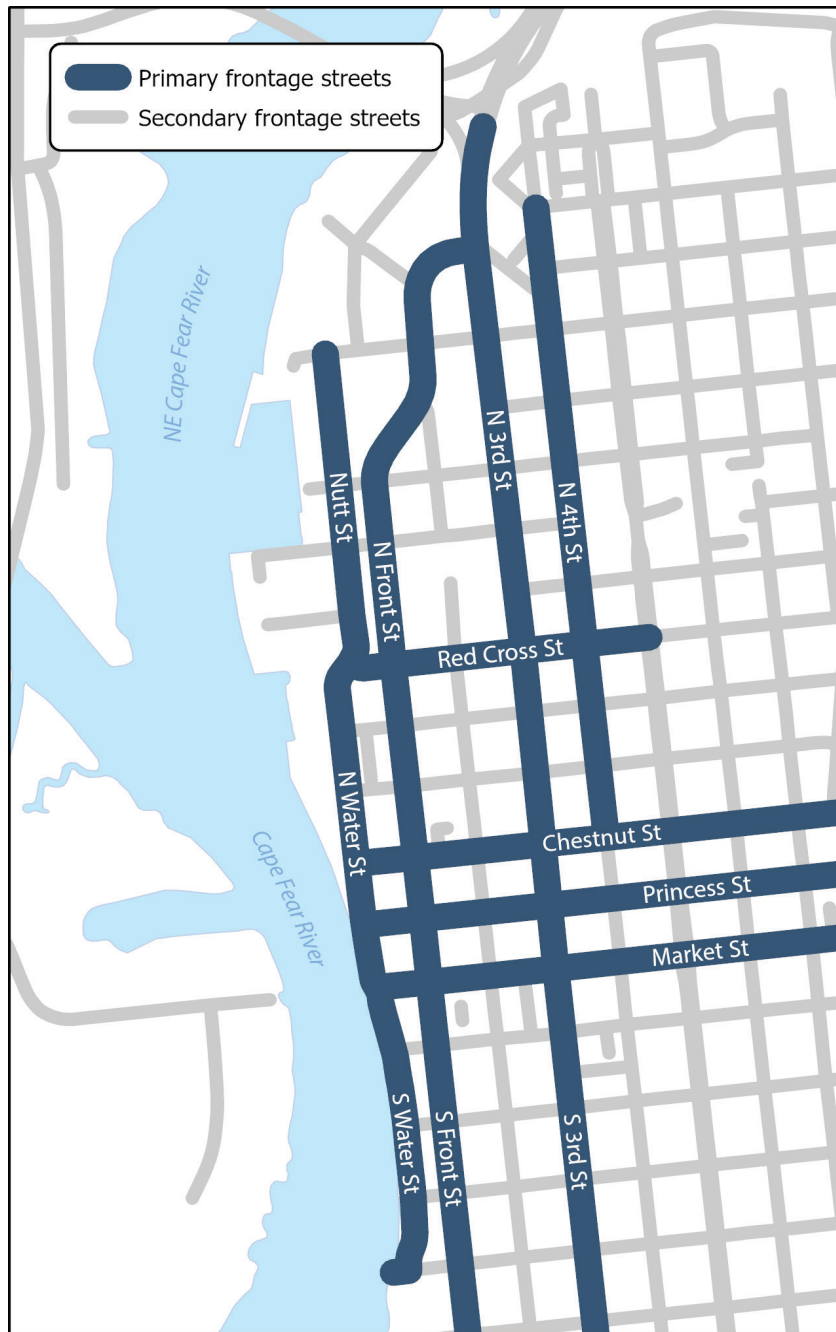
- xii. The roof of the contributing building that is within the step back area may be utilized as an open air, aboveground plaza unless historic features of the building would be obscured by any physical elements necessitated by the use.
- xiii. If the lot is developed with a contributing historic building that is a one-story or two-story wood frame dwelling, the dwelling may be relocated in lieu of preserving the facade in order to preserve the maximum permitted building height.
- f. Demolition requirements and procedures. For demolition of all or a portion of a contributing historic building for which the contributing status has not been removed, the following requirements and procedures shall apply.
 - i. Prior to city sign-off of a demolition permit, the following shall be required:
 - 1. Either a site plan or a greenspace plan shall be submitted to and approved by the technical review committee.
 - 2. A site plan shall be submitted that complies with the provisions of Section 18-588: Site plans and all other applicable provisions of this chapter, and the *Technical Standards and Specifications Manual*.
 - 3. A greenspace plan shall indicate seeding or sod over at least 80 percent of the lot, grading to prevent significant ponding of water, and retention of existing sidewalks or replacing if damaged or removed. The greenspace shall remain in place until such time as the site is developed.
 - 4. A financial guarantee or surety in an amount satisfactory to replace sidewalks and curbing, install erosion control features and grass, and maintain

the site as a green space for a period of two years from submittal of the financial guarantee to the city. The financial guarantee or surety shall be in a form approved by the city attorney.

- ii. During and after demolition, the following shall be required.
 - 1. All slabs and foundations shall be removed during building demolition unless they are to be incorporated into the new construction or unless a report of structural inadequacy prepared and sealed by a structural engineer licensed in the State of North Carolina demonstrates that removal would create a public safety hazard.
 - 2. Silt fencing sufficient to prevent silt from washing into the public right-of-way until permanent seeding is established shall be installed immediately following demolition.
 - 3. The site shall be graded level to within one-tenth of a foot and install other erosion control measures, including temporary seeding of grass of a type approved by the city manager, within 30 days following completion of demolition.
 - 4. Construction shall begin on the new development within 180 days of completion of demolition, with one 30-day extension allowed for circumstances beyond the control of the property owner as determined by the city manager. For purposes of this subsection, a parking lot as approved by the city is considered new development, but in no case shall the unimproved site be used for vehicle parking or storage.

5. The site shall be maintained in a well-kept manner and shall not create a public nuisance as set forth in chapter 10 of the city of Wilmington Code of Ordinances. Maintenance of the site includes, but is not limited to, removal of debris and trimming and upkeep of grass.
6. If, after 180 days from demolition and the expiration of any approved extensions, no construction has begun, the property owner shall replace any sidewalks that were removed or damaged, as well as remove chain link or other construction fencing and replace with a railing or fencing type approved by the city, within 30 days.
- iii. Post-demolition procedures. After demolition, the following procedures shall be required for the site:
 1. Implementation of the approved green space plan shall occur within 60 days of demolition, including planting and maintaining permanent seeding or sod, grading, and replacing sidewalks, as indicated on the approved plan; and
 2. Any slopes or drop-offs exceeding five percent shall be cordoned with a railing, as approved by the technical review committee on the site or greenspace plan. If fencing is needed for screening or security, the fence shall be indicated on the site or greenspace plan and approved by the technical review committee. Chain link fencing shall be prohibited for this purpose.
4. Multiple frontage lots
 - a. Primary frontage streets For lots with three or more street frontages, one street frontage shall be designated as a primary frontage street that applies front facade standards.
 - i. The following factors shall be used to determine which streets shall be designated as primary frontage streets:
 1. Any street shown as a primary frontage street in Figure 18-44.17: CBD primary and secondary frontage streets shall be designated as a primary frontage street.
 2. If a lot has no adjacent primary frontage street designated in Figure 18-44.17, a primary frontage street shall be designated on the street adjacent to the blockface with the greatest number of buildings with street frontage (see Figure 18-44.18: Blockface orientation).
 3. If all the streets adjacent to a lot are designated as primary frontage streets in Figure 18-44.15, a secondary frontage street shall only be designated along the blockface with the least number of buildings with street frontage (see Figure 18-44.16: Blockface orientation).

Figure 18-44.17: CBD primary and secondary frontage streets



- ii. The following shall be prohibited along primary street frontages:

1. New alleys;
2. New driveways;
3. Ground-floor parking, structured or surface within 20 feet of the primary street frontage; parking decks shall be permitted if the ground-floor, street-facing facade is lined with active uses;
4. Dumpsters; and
5. Trash compactors.

- b. Secondary frontage streets

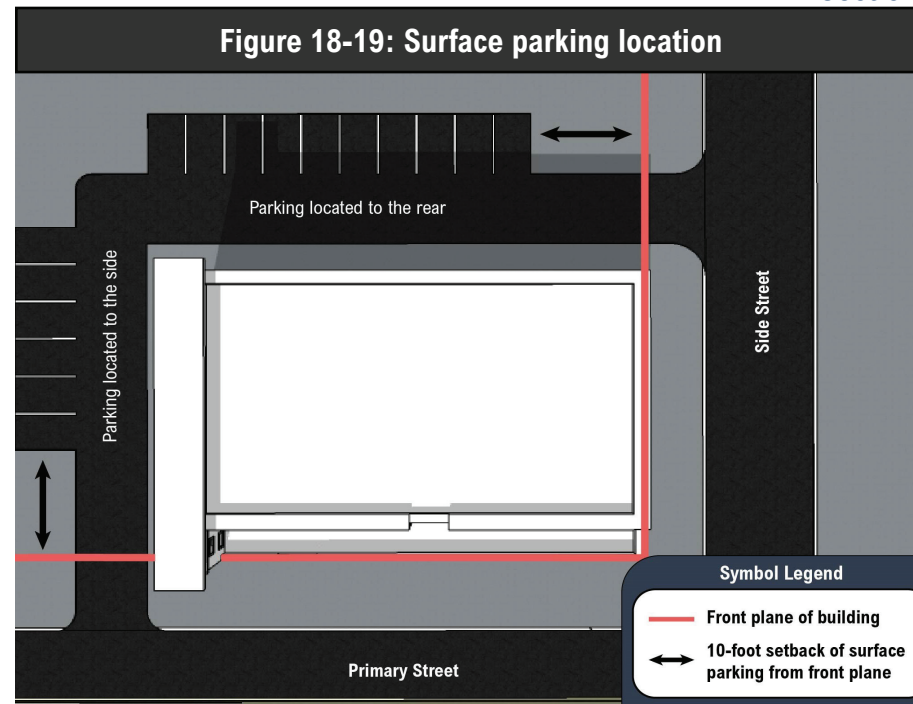
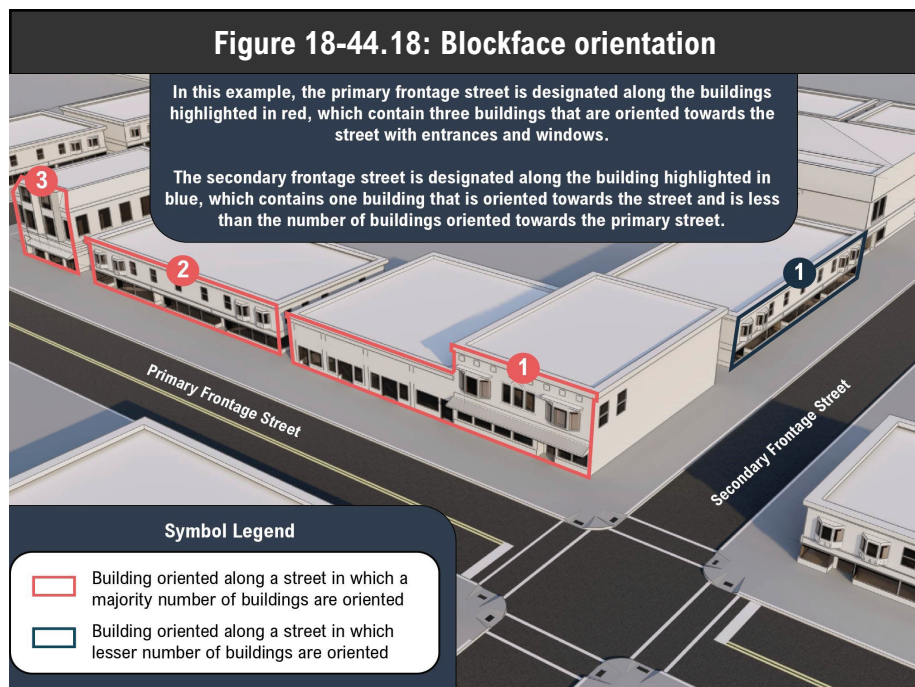
Non-primary frontage streets shall be designated as secondary frontage streets to which secondary street standards are applied.

- i. One secondary frontage street may be exempt from meeting the maximum side street setback and minimum frontage buildout requirements.
- ii. The minimum fenestration requirement outlined in Section 18-44-C.2.d: Fenestration may be reduced from 50 percent to 30 percent along one secondary frontage street with the inclusion of additional architectural treatment to the facade outlined in this section.

5. Parking

All off-street parking shall adhere to the following requirements.

- Surface parking shall be set back a minimum of 10 feet from the front plane of all street-facing facades (see Figure 18-44.19: Surface parking location) and shall not be located between a building and the street.
- Parking at the street level shall be screened from public streets by permanent walls, shrubbery, or hedges at least three feet but not more than five feet in height (see figure 18-44.20: Surface parking illustration).
- Surface parking shall be accessed via existing public or private alleyways, where they exist or are proposed.
- All surface parking lots shall meet the parking lot landscaping requirements of Section 18-321: Parking lot landscaping.



6. View corridors

- a. All developments shall provide and protect view corridors of the Cape Fear River along existing or proposed streets that terminate at the river.
- b. View corridors shall remain fully unobstructed by buildings or structures from the ground to the sky.
- c. Along any new street that terminates within 50 feet of the riverwalk, a clearly defined, publicly accessible pedestrian path shall be provided as an entry point to the riverwalk. In the case where a property is located between the street and the riverwalk, a pedestrian path shall be provided from the street to the abutting property line (see figures 18-44.21: View corridors and 18-44.22: Public access to riverwalk).

7. Trash equipment screening

All developments within the CBD are subject to the following screening requirements.

- a. Trash and recycling containment areas shall be located within a building.
- b. If trash and recycling containment cannot be accommodated within a building, it shall be placed on the rear or side of the building and screened from view from the right-of-way, subject to the provisions of Section 18-324: Screening for dumpsters, equipment, and outdoor storage areas.

Figure 18-44.21: View corridors

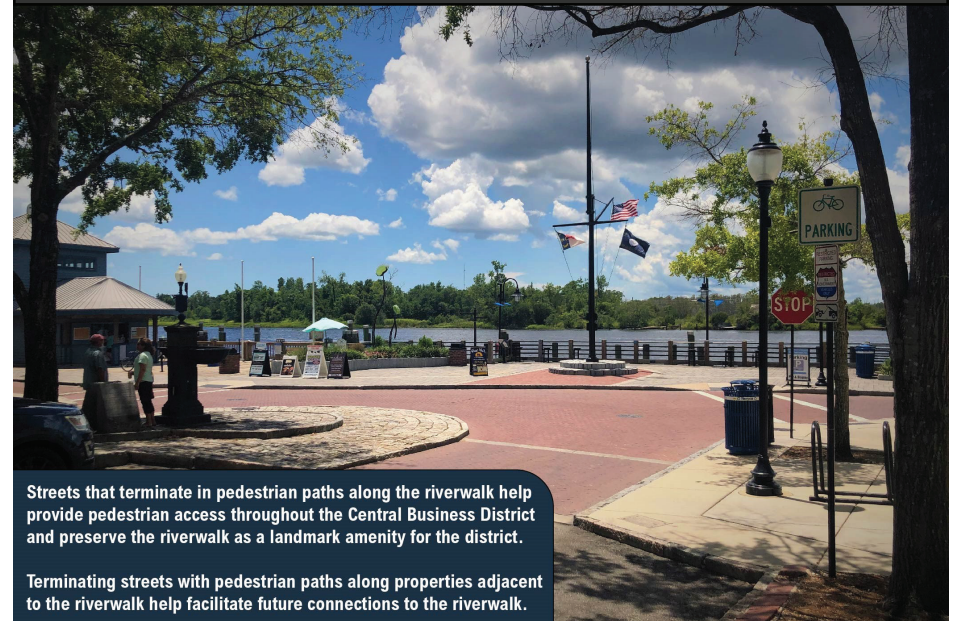
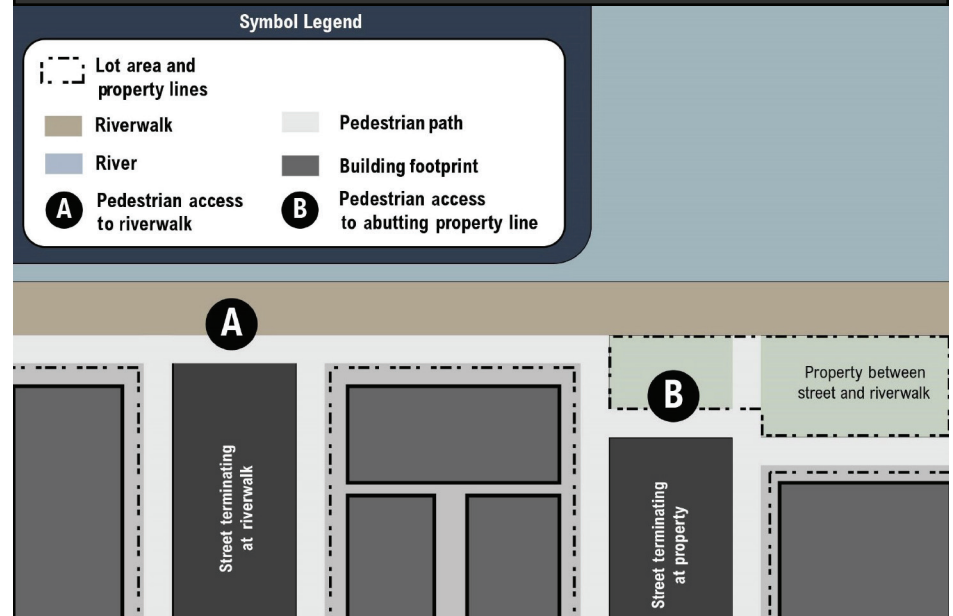


Figure 18-44.22: Public access to riverwalk



8. Electric and communication utilities
 - a. Any required utility easements shall be along rear or side lot lines.
 - b. The width of such easements shall be based upon the type of utility installed and the area required for adequate maintenance of those utilities.
 - c. Electric power lines shall be buried unless the following criteria are met:
 - i. The power lines existed above ground at the time of first approval of the development plan, whether the lines are subsequently relocated during the construction of the development plan; and
 - ii. The power lines are located outside the boundaries of the subject lot or lots containing the development.
9. Building design
 - a. All new construction in the CBD shall comply with the following design standards where applicable. Within the historic district overlay, building design is subject to review by the historic preservation commission.
 - b. Exceptions to these standards may be approved by the design adjustment committee.
 - c. When considering exceptions to these standards, the design adjustment committee shall consider whether adequate and safe public access would be provided, any demonstrated historic development or design patterns based on photographic or other evidence, and the character of the surrounding area.
 - d. Building entrances
 - i. Primary building entrances
 1. Primary building entrances shall be provided along street fronting facades at a minimum rate of one entrance per 100 feet (See Figure 18-44.23: Primary building entrance rate along facade).
 2. Primary building entrances shall be clearly defined and distinctive by using at least two of the following architectural elements (see Figure 18-44.22: Primary building entrance architectural elements):
 - i. A recession of the entrance of at least five feet;
 - ii. Entrance cover, no higher than the second story, such as awnings, overhangs, canopies, or eaves;
 - iii. A chamfered corner;
 - iv. Sidelight, transom, or adjacent windows;
 - v. Additional moldings with expression lines; or
 - vi. A bay of unique width.
 - ii. Secondary outside building entrances to upper floors, if located on the front facade, shall align with the outermost window on the front facade (see figures 18-44.24 and 18-44.25: Aligned second story entrance examples).
 - e. Massing and scale
 - i. Expanses of blank walls facing streets (excluding alleys) or public civic spaces may not exceed 20 feet in length.
 - ii. Building facades shall incorporate periodic transitions across the facade as stated by incorporating the following elements:

1. Building facades shall be divided into distinct massing elements utilizing at least two methods including, but not limited to:

- i. Facade offsets with each offset between 20 percent and 30 percent of the total length of the facade;
- ii. Building projections such as pilasters, columns, and awnings;
- iii. Change in building materials;
- iv. Change in roofline; and
- v. Change in fenestration (see Figure 18-44.26: Massing and scale).

2. Transitions shall be no farther apart than two thirds of the height of the facade.

- vi. Upper floor step backs

1. Buildings with more than eight floors shall step back the upper floors of the building a minimum 15 feet from street facing facades.
2. The upper floor step back shall begin between the fourth and eighth floors (see Figure 18-44.27: Upper floor step backs).

- vii. The exterior expression of the ground floor shall be delineated by methods including, but not limited to:



1. Incorporation of a distinct horizontal architectural member;
2. Facade offsets; or

Figure 18-44.23: Primary building entrance rate along facade

Primary building entrances shall be provided at a minimum rate of one entrance per 100 linear feet along street fronting facades.

Primary building entrances placed at multiple locations along large buildings increases pedestrian accessibility. Furthermore, multiple options for ingress and egress are provided in case of an emergency.

Symbol Legend

-  Primary building entrance
-  Distance between entrances

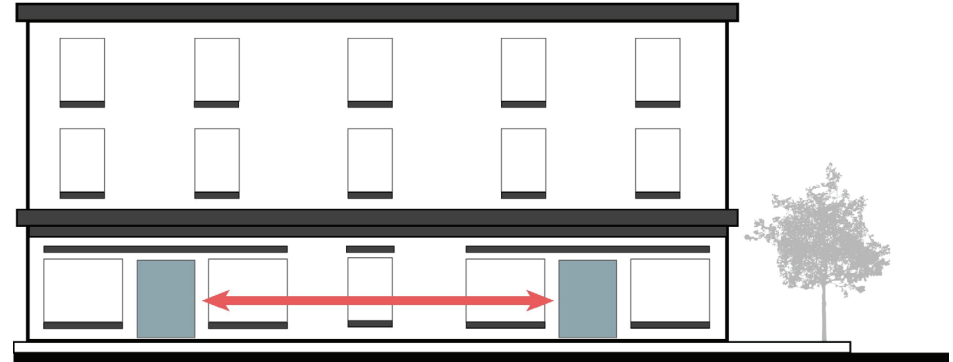


Figure 18-44.24: Aligned second story entrance example

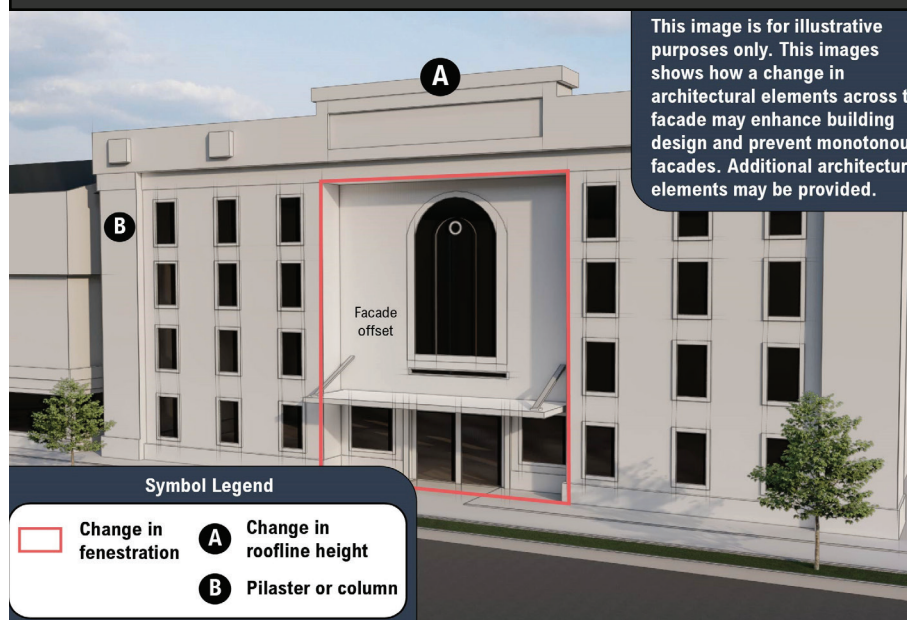


3. A change in materials (not solely color) or fenestration.
- viii. A vertical transition shall be provided between the ground floor and upper stories by utilizing one of the following methods:
 1. Building projections such as pilasters, columns, and awnings; or
 2. Additional moldings with expression lines.
 - ix. Flat roofs shall be enclosed by a parapet that is a minimum of three feet in height.
- f. Street-level facades
 - i. New buildings shall front onto public sidewalks to reinforce pedestrian activity along public streets and pedestrian ways in at least one of the following ways:
 1. Architectural treatment as outlined in this section; or
 2. Providing pedestrian-oriented space outlined in this section.
 - ii. Fenestration
 1. A street-level facade that faces a public street, riverwalk, or sidewalk shall have a minimum fenestration area of 50 percent of the facade area (see figure 18-44.28: Fenestration).
 2. Windows may extend from a sill or base. Any sill or base shall not exceed four feet in height from the adjacent grade.
 3. Glass shall be transparent with a maximum 15 percent reflectivity. Window tinting and interior affixed window shades that create a permanently opaque

Figure 18-44.25: Aligned second story entrance example detail



Figure 18-44.26: Massing and scale



or translucent condition are prohibited. Spandrel or colored glass may be used in transom areas above door headers only.

4. Exterior burglar bars, fixed riot shutters, or similar security devices shall not be visible from the public right-of-way.

- iii. Residential uses shall be prohibited on the ground floor fronting the Riverwalk. North of Orange Street, residential uses shall be prohibited on the ground floor fronting Water and Front streets.

g. Exterior building materials

The following materials are prohibited as primary building materials:

- i. Vinyl siding;
- ii. Shingle siding;
- iii. Faux wood-grained materials;
- iv. Metal; and
- v. Unparged concrete block.

h. Alterations to historic facades

Alterations or additions to buildings and structures that are designated as contributing resources to the Wilmington National Register Historic District or are more than 50 years old, should apply the Secretary of the Interior's Standards for Rehabilitation. These standards are included in the *Wilmington Design Standards for Historic Districts and Landmarks*.

i. Additional treatments

Figure 18-44.27: Upper floor step backs

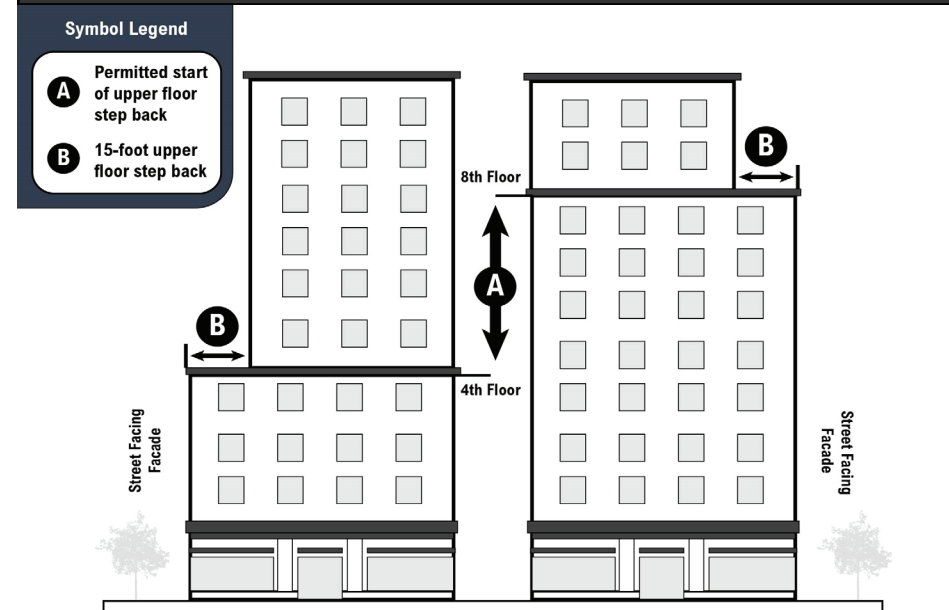


Figure 18-44.28: Fenestration



- i. Heating, ventilation, and air conditioning equipment, air conditioning window units, and other electrical equipment shall not be located on street frontages.
- ii. All such equipment shall be placed in the side interior of the building, in the rear of the building, or on the roof of the building and screened from the right-of-way.
- iii. Through-wall mechanical units are permitted on any facade if they are incorporated into the design of the building, flush with the facade on which they are located, concealed by a vent cover, and have an internal drip system for condensation.
- iv. Utility meters, transformers, and fixed trash disposal receptacles that cannot be concealed from the public right-of-way shall be screened with an opaque fence or wall.

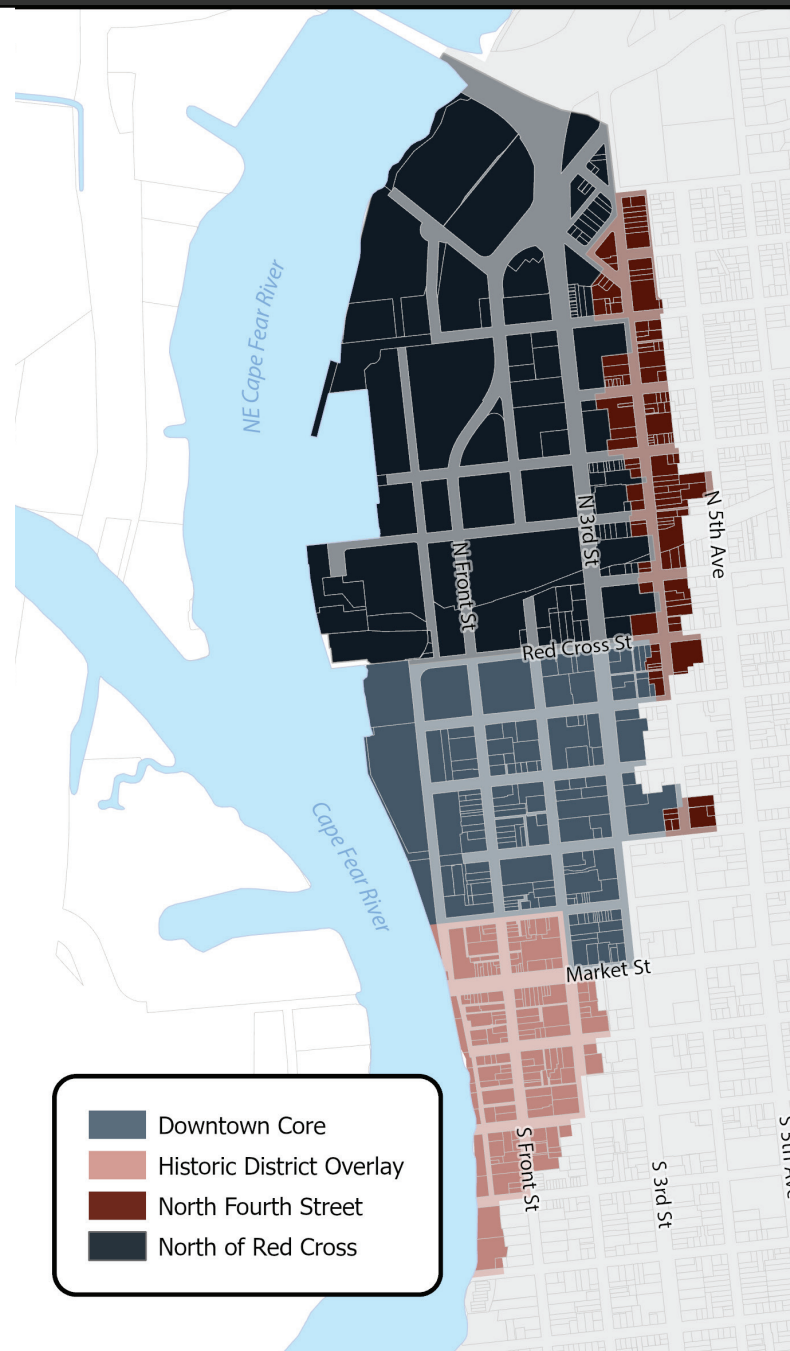
10. Special character areas

Four distinct character areas comprise the CBD: downtown core, historic district overlay, N. 4th Street, and north of Red Cross Street (see Figure 18-44.29: CBD special character areas). These special character areas are subject to the following additional provisions.

a. North of Red Cross Street

- i. In the area north of Red Cross Street, lots are often large, sometimes all or most of a block. This area is suited for dense development with a mix of prominent buildings and grand public spaces that define the urban landscape (see Figure 18-44.30: North of Red Cross Street example).
- ii. All residential uses shall be prohibited on the ground floor facing any right-of-way.

Figure 18-44.29: CBD special character areas



Section 18-44

Figure 18-44.30: North of Red Cross Street example



- iii. For development of one acre or more in area, a minimum 10 percent of total contiguous area under single ownership or under the control of a property owner's association shall be provided as public or private open space including but not limited to, parks, greenways, plazas, and on-site amenities such as recreation areas.
- iv. Pedestrian paths shall be provided within the development between principal uses and destinations including but not limited to, parking, adjoining streets, mailboxes, waste disposal, adjoining sidewalks or greenways, the riverwalk, and on-site amenities such as recreation areas.

b. Downtown core

- i. The downtown core is the historic urban center of the CBD with a mix of dense development that engages the community at the pedestrian level. Alluring shopfronts interspersed with focal community gathering spaces align each block in this area in order to create a vibrant

Figure 18-44.31: Downtown core example



Figure 18-44.32: North 4th Street example



and vivacious urban environment (see Figure 18-44.31: Downtown core example).

- ii. Residential uses shall be prohibited on the ground floor fronting any street right-of-way and the riverwalk.

c. North 4th Street

- i. Moderately-scaled development with diverse architectural styles make up the area along North 4th Street. This pattern provides a unique and appropriate transition to the adjacent residential development bordering the CBD (see Figure 18-44.32: North 4th Street example).

ii. Residential compatibility

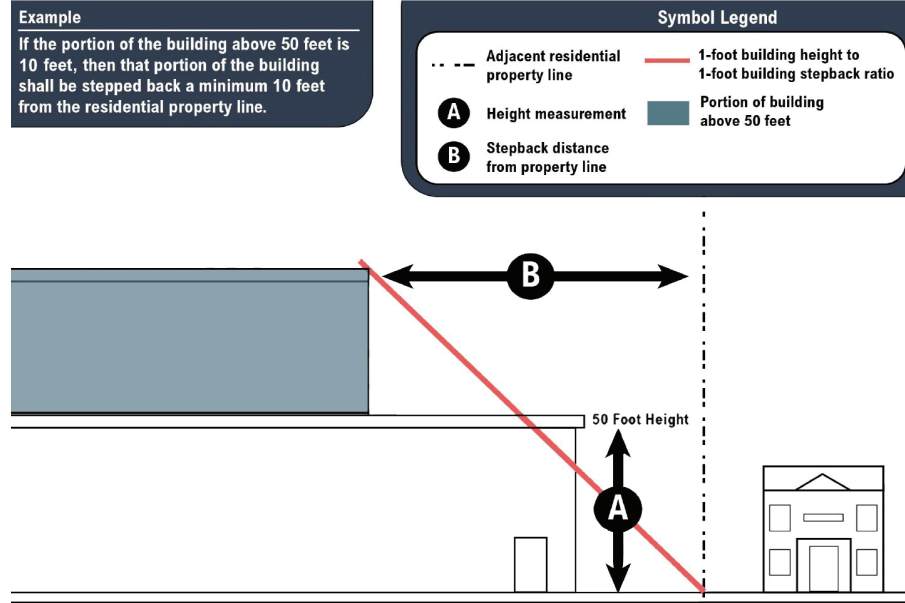
When nonresidential uses are proposed on lots adjacent to a single-dwelling zoned lot, the following standards shall apply:

- a. New buildings or developments that increase the building height above 50 feet shall provide a development transition using a graduated building height and mass by stepping back the portion of the building above 50 feet (see Figure 18-33: Residential compatibility).
- b. The portion of the building above 50 feet shall be stepped back from residentially-zoned lot lines at a ratio of one foot for every additional foot of building height.

iii. Historic district overlay

- a. The historic district overlay (HDO) is adjacent to the traditional urban neighborhood development patterns of historic residences. The overlay is developed primarily with smaller scale development that serves

Figure 18-44.33: Residential compatibility



as a transition from the downtown core to the historic residences just outside of the CBD.

b. Historic Preservation Commission review

Within the HDO, building design is subject to historic preservation commission review. Approvals for projects within the HDO may necessitate the meeting of a more restrictive standard than required by this section. The HPC shall not have the authority to waive the requirements of this section.

(Ord. No. O-2021-75, §1, 11-3-2021; Ord. No. O-2022-88, § 2(Att. A), 11-1-2022; Ord. No. O-2023-75, §§1--3, 11-8-2023 Ord. No. O-2024-22, §3, 5-21-2024)

Sections 18-45 - 18-55. Reserved.

ARTICLE 7. DIVISION 3.**BOARDS, COMMISSIONS, AND COMMITTEES****Section 18-615: Board of adjustment****A. Establishment**

The board of adjustment is established to fulfill the duties and powers prescribed by the city of Wilmington Code of Ordinances and by NCGS 160D-302.

B. Appointment and tenure

1. The board shall consist of five members and two alternate members, who shall be citizens and residents of the city, holding no other public office under the city government, and shall be appointed by the city council.
2. All members shall be appointed for staggered terms of three years, to serve in accordance with the city council policy on boards and commissions then in effect.
3. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member serving on behalf of any regular member has all the powers and duties of a regular member.
4. All appointments to fill vacancies shall be for the unexpired period of the term.

C. Compensation

Members of the board shall serve without compensation and may be removed by the city council at any time.

D. Organization

1. The board shall hold meetings in accordance with its rules of procedure for the purpose of transacting its duties assigned in this chapter and shall maintain a public record of its actions.

2. Rules of procedure shall be adopted by the board for the conduct of its business and for the election of its officers. The city council shall approve the rules of procedure and any amendments prior to implementation.
3. All meetings held by the board shall be held in accordance with the North Carolina open meetings law.
4. The board shall keep minutes of its proceedings suitable for review in court showing:
 - a. The factual evidence presented to the board by all parties concerned;
 - b. The findings of fact and the reasons for the determinations by the board; and
 - c. The vote of each member, or if absent or failing to vote indicating such fact, all of which shall be public record and be filed with the secretary to the board.

E. Duties

1. The board shall hear and decide all matters upon which it is required to pass under any statute or development regulation.
2. The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. Vacant positions on the board and members who are disqualified from voting on the quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.