



DRAFT

July 23, 2019, 8:30 a.m.
Committee Room, 2nd Floor, City Hall
101 City Hall Plaza, Durham, NC

I. Call to Order

Chair Rogers called the meeting to order at 8:30 a.m.

II. Roll Call

Members Present:

Jacob Rogers, Chair
Chad Meadows, Vice Chair
Regina deLacy
Fredrick Davis
Ian Kipp
Chris Burnham
Michael Retchless
Jessica Major, Alternate
Teisha Wymore, Alternate

Members Absent:

Staff Present:

Bo Dobrzanski, DSC Senior Manager
Jessica Dockery, Planning Manager
Bryan Wardell, County Attorney's Office
Crista Cuccaro, City Attorney's Office
Eliza Monroe, Planner
Susan Cole, Clerk

III. Adjustments to the Agenda

IV. Swearing-In of Witnesses

Chair Rogers read the following statement:

This Board is a quasi-judicial Board of record and, as such, all testimony will be recorded. The proceedings of this Board will be governed by the Unified Development Ordinance, as recorded.

As Chair of the Durham Board of Adjustment, I would like to explain the procedures used for Board hearings. The hearings are quasi-judicial. The process is similar to a court proceeding. First, a staff member of the City-County Planning Department will present an overview of the case. Then the applicant presents its evidence. The opponents, if there are any, will present their evidence. The applicant may then present its rebuttal. Board members are asked to refrain from questions until each speaker has completed his or her presentation. All testimony is given under oath. In a few moments, I will give the oath to all witnesses as a group. All witnesses are asked to sign the roster at the podium if you have not done so.

Testimony should consist of facts each witness knows, not hearsay. All witnesses should come forward to the podium, and identify themselves each time they approach the podium. Speak directly into the microphone so their testimony can be recorded on tape. Before each application, I will read the findings that must be made to approve an application, and any testimony should be relevant to the criteria that the Board uses to determine whether to approve an application.

Any written evidence or exhibits must be presented to the Chair (Vice Chair) and a determination will be made whether it should be accepted. Written evidence or exhibits can be inspected by the opposing party. All evidence, written or oral, or exhibits can be objected to.

Witnesses are subject to cross-examination. Opposing representatives will have an opportunity to question witnesses after all witnesses for the other side have testified. If you wish to cross-examine, you may raise your hand when I ask for other speakers in favor or against the application and I will recognize you. I would also like to remind everyone in attendance to be courteous and ask questions respectfully. If there are numerous people who will be providing the same or similar testimony either for or against an application, in the interest of time, I would request that you please select a representative to present that testimony.

I would like to note that Board members may have visited each site under consideration as part of their preparation for this meeting.

The Board will vote on each case after the presentation of all the evidence, for and against an application, and discussion among themselves concerning the case. North Carolina law requires that in order for an applicant's request to be granted for a City application before the Board, five (5) of the seven (7) voting Board members must approve the request. For a County variance request, North Carolina law requires that in order for an applicant's request to be granted, six (6) of the seven (7) voting Board members must approve the request. For other County requests, including applications for a minor special use permit, four (4) of the seven Board members, or a simple majority, must approve the request.

All decisions of this Board are subject to appeal to the Durham Superior Court. Anyone in the audience, other than the applicant, who wishes to receive a copy of the formal order issued by this Board on a particular case, must submit a written request for a copy of the order at this hearing. Forms for this purpose are available from the City-County Planning Staff.

V. Hearing and Determination of Cases

a. **Case B1900015** - City: A minor special use permit for a place of worship within a residential zoning district. The subject site is located at 709 Hanson Road, is zoned Residential Suburban - 20 (RS-20), and in the Suburban Tier.

Seated: Burnham, Davis, deLacy, Kipp, Meadows, Rogers, Retchless

Staff Report: Monroe presented the case and asked that all staff reports and materials submitted at the meeting be made part of the permanent record with any additions, deletions, or corrections that may be necessary.

Speakers: Rynal Stephenson, Patrick Byker, John Blackley, Jarvis Martin, and Jessie Burwell spoke in support. No one spoke in opposition.

MOTION: Davis made a motion that case **B1900015**, an application for a **minor special use permit** on property located at **709 Hanson Road** has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject to the following conditions:

- The improvements shall be substantially consistent with the plans and information submitted to the Board as part of the application and the site plan case D1800395.

ACTION: Motion carried, 7-0.
(Davis, deLacy)

b. Case B1900018 - City: A request for a variance from the side yard setback requirements for an existing single-family home converting to a duplex in the RU-5(2) residential zoning district. The subject site is located at 618 Troy Street, is zoned Residential Urban – 5(2)(RU-5(2)), and in the Urban Tier.

Seated: Burnham, Davis, deLacy, Kipp, Meadows, Rogers, Retchless

Staff Report: Monroe presented the case and asked that all staff reports and materials submitted at the meeting be made part of the permanent record with any additions, deletions, or corrections that may be necessary.

Speakers: Mairo Bori spoke in support. No one spoke in opposition.

MOTION: Davis made a motion that case **B1900018**, an application for a **variance request from the side yard setback requirements for an existing single-family home converting to a duplex in the RU-5(2) residential zoning district** on property located at **618 Troy Street** has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject to the following conditions:

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

ACTION: Motion carried, 7-0.
(Davis, Burnham 2nd)

c. Case B1900019 - County: A minor special use permit for a government facility to be located within a residential zoning district. The subject site is located at 11894 and 12018 N. Roxboro Road, is zoned Residential Suburban – 20 (RS-20) and Rural Residential (RR), and in the Rural Tier.

Seated: Burnham, Davis, deLacy, Kipp, Meadows, Rogers, Retchless

Staff Report: Monroe presented the case and asked that all staff reports and materials submitted at the meeting be made part of the permanent record with any additions, deletions, or corrections that may be necessary.

Speakers: Jeffrey Murray spoke in support. No one spoke in opposition.

MOTION: Meadows made a motion that case **B1900019**, an application for a **minor special use permit** on property located at **11894 and 12018 N Roxboro Road** has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject to the following conditions:

- The improvements shall be substantially consistent with the information submitted to the Board as part of the application and the site plan case D1900109.

ACTION: Motion carried, 7-0.
(Meadows, Retchless 2nd)

d. Case B1900023 - City: A request for a minor special use permit to increase the number of occupants previously approved with a minor special use permit. The subject site is located at 1200 W. Cornwallis Road, is zoned Residential Suburban – 10 (RS-10), and in the Suburban Tier.

Seated: Burnham, Davis, deLacy, Kipp, Meadows, Rogers, Retchless

Staff Report: Monroe presented the case and asked that all staff reports and materials submitted at the meeting be made part of the permanent record with any additions, deletions, or corrections that may be necessary.

Speakers: Krissy Snyder and Paul Young spoke in support. Heath Knight spoke in opposition.

MOTION: Meadows made a motion that case **B1900023**, an application for a **minor special use permit** on property located at **1200 W. Cornwallis Road** has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject to the following conditions:

- The improvements shall be substantially consistent with the information submitted to the Board as part of the application and site plan case D1900144.
- The maximum number of children will be 45 at the location; 1200 W Cornwallis Road.

ACTION: Motion carried, 7-0.
(Meadows, Davis 2nd)

- e. **Case B1900026** - City: A variance request from the lot width infill development requirements to allow a lot within the RU-5(2) to be subdivided into two lots for future residential development. The subject site is located at 1301 South Street, is zoned Residential Urban - 5(2) [RU- 5(2)], and in the Urban Tier.

Seated: Burnham, Davis, deLacy, Kipp, Meadows, Rogers, Retchless

Staff Report: Monroe presented the case and asked that all staff reports and materials submitted at the meeting be made part of the permanent record with any additions, deletions, or corrections that may be necessary.

Speakers: Jim Elza spoke in support. No one spoke in opposition.

MOTION: Retchless made a motion that case **B1900026**, an application for a **variance request from the lot width infill development requirements to allow a lot within the RU-5(2) to be subdivided into two lots for future residential development** on property located at **1301 South Street** has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject to the following conditions:

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

ACTION: Motion carried, 6-1 (Meadows voting no).
(Retchless, deLacy 2nd)

MOTION: Reorder agenda to allow orders to be approved due to Burnham requesting to leaving early.

ACTION: Motion carried, 7-0.
(deLacy, Burnham 2nd)

Approval of Orders

Case B1900003

Motion: Approve the order for case B1900003 (deLacy, Burnham 2nd).

Action: Motion carried, 4-0. **Case B1900015**

Motion: Approve the order for case B1900015 (Meadows, Burnham 2nd).

Action: Motion carried, 7-0.

Case B1900018

Motion: Approve the order for case B1900018 (Davis, deLacy 2nd).

Action: Motion carried, 7-0.

Case B1900019

Motion: Approve the order for case B1900019 (Burnham, Meadows 2nd).

Action: Motion carried, 7-0.

Case B1900023

Item on hold until new order is drafted.

Case B1900026

Motion: Approve the order for case B1900026 (Davis, Burnham 2nd).

Action: Motion carried, 6-0.

A BREAK OCCURRED FROM 10:36 AM TO 10:43 AM.

- f. **Case B1900028** - City: A variance request from the required 15-foot maximum street yard, the longest building façade not parallel to or located within the maximum street yard, and the building occupying less than 60% of the total street frontage. The subject site is located at 2741 Campus Walk Avenue, is zoned Office Institutional (OI), and in the Compact Neighborhood Tier.

Seated: Davis, deLacy, Kipp, Meadows, Rogers, Retchless, Majors

Staff Report: Monroe presented the case and asked that all staff reports and materials submitted at the meeting be made part of the permanent record with any additions, deletions, or corrections that may be necessary.

Speakers: Matt Jones and Vernon Averett spoke in support. No one spoke in opposition.

MOTION: Retchless made a motion that case **B1900028**, an application for a **variance request from the required 15-foot maximum street yard, the lowest building façade not parallel to or located within the maximum street yard, and the building occupying less than 60% of the total street frontage** on property located at **2741 Campus Walk Avenue** has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject to the following conditions:

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

ACTION: Motion carried, 7-0.

(Retchless, deLacy 2nd)

VI. Approval of Orders

Case B1900028

Motion: Approve the order for case B1900028 (Meadows, deLacy 2nd).

Action: Motion carried, 7-0.

VII. Approval of Summary Minutes from June 25, 2019

Motion: Approve the amended Minutes from June 25, 2019 (Davis, Kipp 2nd).

Action: Motion carried, 6-0 (Major not eligible to vote).

VIII. Old Business – None.

IX. New Business –

- Chair Rogers welcomed the two newest members to the Board of Adjustment (Teisha Wymore and Jessica Major).
- Meadows requested that staff change the hatching on the aerial maps in the staff report to not obstruct the view of identified areas.
- Discussion was held regarding limiting the time for non-expert testimony during each case.
- Wardell notified the Board that a case that was appealed could potentially be coming back to the BOA.
- The next BOA meeting is on August 27, 2019.

X. Adjournment

The meeting adjourned at 11:11 a.m. (deLacy, Davis 2nd)

Respectfully Submitted,
Susan Cole, Clerk to the Board