



APPROVED

January 22, 2019, 8:30 a.m.
Committee Room, 2nd Floor, City Hall
101 City Hall Plaza, Durham, NC

I. Call to Order

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

II. Roll Call

Members Present:

Regina deLacy, Chair
Fredrick Davis, Vice-Chair
Phillip Harris, Jr.
Ian Kipp
Michael Kriston
Chad Meadows
Jacob Rogers, Alternate
Alisa Thomas
Chris Burnham, Designated Alternate
Michael Retchless, Alternate

Members Absent:

Staff Present:

Bo Dobrzanski, Planning Supervisor
Danny Cultra, Senior Planner
Emily Struthers, Senior Planner
Eliza Monroe, Planner
Bryan Wardell, County Attorney's Office
Crista Cuccaro, City Attorney's Office
Susan Cole, Clerk

III. Adjustments to the Agenda

None.

IV. Swearing-In of Witnesses

Chair deLacy asked: Are there any Board members that would have any conflicts of interests with regard to the cases before us today? Chair deLacy then asked if there were any early dismissals. No early dismissals or conflicts of interest were noted.

Chair deLacy 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 B1800004-

Seated: Mr. Davis, Ms. deLacy, Mr. Harris, Mr. Kriston, Ms. Thomas, Mr. Kipp, Mr. Meadows.

Staff Report: Mr. Cultra 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, and or corrections that may be necessary.

Speakers: Mr. Patrick Byker, Mr. Carl Simmons and Mr. David Smith. No one spoke in opposition.

MOTION: Mr. Kriston made a motion that case **B1800004**, an application for a **minor special use permit** on property located at **4343 Garrett 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 site plan, case D170382, and information submitted to the Board as part of the application.

(Kriston, Davis 2nd)

ACTION: Motion carried, 7-0.

b. Case B1800028 -

Seated: Mr. Davis, Ms. deLacy, Mr. Harris, Mr. Kriston, Ms. Thomas, Mr. Kipp, Mr. Meadows.

Staff Report: Ms. Struthers 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, and or corrections that may be necessary.

Speakers: Mr. Grayson Baur spoke with concerns but not in opposition. Jim Vickery and Jeremy Anderson spoke in support. No one spoke in opposition.

MOTION: Mr. Davis made a motion that case **B1800028**, an application for a **minor special use permit** on property located at **1004 North Mangum 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 site plan, case D1700249, and information submitted to the Board as part of the application.

(Davis, Thomas 2nd)

ACTION: Motion carried, 7-0.

c. Case B1800030 -

Seated: Ms. Burnham, Ms. deLacy, Mr. Davis, Mr. Harris, Ms. Thomas, Mr. Kipp, Mr. Meadows.

Staff Report: Mr. Cultra 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, and or corrections that may be necessary.

Speakers: Bill M. Penny spoke in support. No one spoke in opposition.

MOTION: Mr. Meadows made a motion that case **B1800030**, an application for a **minor special use permit** on property located at **127 Barnhill 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.

(Meadows, Harris 2nd)

ACTION: Motion carried, 7-0.

d. Case B1800031 -

Seated: Ms. Burnham, Ms. deLacy, Mr. Davis, Mr. Harris, Ms. Thomas, Mr. Kipp, Mr. Meadows.

Staff Report: Mr. Cultra 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, and or corrections that may be necessary.

Speakers: Mr. Percy Lunsford spoke in support. No one spoke in opposition.

The applicant is now deceased. Mr. Lunsford will need to provide the will and have his name as the applicant.

MOTION: Mr. Harris made a motion that case **B1800031**, be continued to the February 26, 2019 meeting.

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

e. Case B1800034 -

Seated: Ms. Burnham, Ms. deLacy, Mr. Davis, Mr. Harris, Ms. Thomas, Mr. Kipp, Mr. Meadows.

Staff Report: Mr. Cultra 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, and or corrections that may be necessary.

Speakers: Mr. Michael Schwartz and Stacy Murphy spoke in support. No one spoke in opposition.

MOTION: Mr. Harris made a motion that case **B1800034**, an application for a **variance to permit an accessory dwelling use in a nonconforming accessory structure** on property located at **1011 West Knox 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.

(Harris, Thomas 2nd)

ACTION: Motion carried, 7-0.

f. Case B1800029 -

Seated: Ms. Burnham, Ms. deLacy, Mr. Davis, Mr. Harris, Ms. Thomas, Mr. Kipp, Mr. Meadows.

Staff Report: Mr. Cultra 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, and or corrections that may be necessary.

Speakers: Mr. Bill Gordon and Mr. Doug Whitted spoke in support. No one spoke in opposition.

MOTION: Mr. Harris made a motion that case **B1800029**, an application for a **minor special use permit** on property located at **2104 Riddle 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.

(Harris, Kipp, 2nd)

ACTION: Motion carried, 7-0.

g. Case B1800035 -

Seated: Ms. Burnham, Ms. deLacy, Mr. Davis, Mr. Harris, Ms. Thomas, Mr. Kipp, Mr. Meadows.

Staff Report: Ms. 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, and or corrections that may be necessary.

Speakers: Mr. Sam Dooley spoke in support. No one spoke in opposition.

MOTION: Mr. Harris made a motion that case **B1800035**, an application for a **minor special use permit** on property located at **1211 Glendale 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.

(Thomas, Meadows, 2nd)

ACTION: Motion carried, 7-0.

h. Case B1800036 -

Seated: Ms. Burnham, Ms. deLacy, Mr. Davis, Mr. Harris, Ms. Thomas, Mr. Kipp, Mr. Meadows.

Staff Report: Mr. Cultra 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, and or corrections that may be necessary.

Speakers: Mr. Emerson spoke in support. No one spoke in opposition.

MOTION: Mr. Harris made a motion that case **B1800036**, an application for a **variance from the required building frontage type for a portion of the Duke Street right-of-way frontage; a variance from the required forecourt placement along the Duke Street frontage; a variance from the required forecourt fence or wall for the Duke Street frontage; and a variance from the primary or secondary access of the forecourt building units to the forecourt along the Duke Street frontage** on property located at **600 and 608 S Duke 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 site plan (case 01800273) and information submitted to the Board as part of the application.

(Harris, Burnham, 2nd)

ACTION: Motion carried, 7-0.

VI. Approval of Summary Minutes from October 23, 2018

Motion: Approve the Minutes as amended from October 23, 2018. (Thomas, Harris, 2nd)

Action: Motion carried, 7-0.

VII. Approval of Orders

Case B1800004

Motion: Approve the order for case B1800004 (Thomas, Davis 2nd)

Action: Motion carried, 7-0.

Case B1800028

Motion: Approve the order for case B1700028 (Thomas, Harris 2nd)

Action: Motion carried, 7-0.

Case B1800030

Motion: Approve the order for case B1800030 (Harris, Thomas 2nd)

Action: Motion carried, 7-0.

Case B1800034

Motion: Approve the order for case B1800034 (Harris, Thomas 2nd)

Action: Motion carried, 7-0.

Case B1800029

Motion: Approve the order for case B1700029 (Thomas, Harris 2nd)

Action: Motion carried, 7-0.

Case B1800035

Motion: Approve the order for case B1800035 (Harris, Thomas 2nd)

Action: Motion carried, 7-0.

Case B1800036

Motion: Approve the order for case B1700036 (Thomas, Harris 2nd)

Action: Motion carried, 7-0.

VIII. Old Business – None.

IX. New Business –

a. Re-approval of 07/2/2018

MOTION: Approve minutes from July 2, 2018. (Mr. Davis, Ms. Thomas)

ACTION: Motion carried, 7-0.

b. Approve 2019 Meeting Schedule

MOTION: Approve 2019 Meeting Dates. (Mr. Harris, Mr. Davis)

ACTION: Motion carried, 7-0.

X. Adjournment

The meeting adjourned at 11:42 a.m.

Respectfully Submitted,
Susan Cole, Clerk to the Board