



**APPROVED**

January 26, 2021, 8:30 a.m.  
Zoom – Virtual Meeting

**I. Call to Order**

Vice Chair Meadows called the meeting to order at 8:31 a.m.

**II. Roll Call**

**Members Present:**

Chad Meadows, Vice Chair  
Regina deLacy  
Myca Jeter  
Ian Kipp  
Jessica Major, Alternate  
Teisha Wymore  
Natalie Beauchaine, Alternate  
Michael Tarrant, Designated Alternate

**Members Absent:**

Jacob Rogers, Chair  
Michael Retchless

**Staff Present:**

Jessica Dockery, Planning Manager  
Crista Cuccaro, City Attorney's Office  
Bryan Wardell, County Attorney's Office  
Don O'Toole, City Attorney's Office  
Landus Robertson, Planning Manager  
Karen Swope, Zoning Enforcement Officer  
Eliza Monroe, Planner  
Cole Renigar, Planner  
Susan Cole, Clerk

**Vice Chair Meadows read the following statement:**

The meeting will now come to order. Welcome to the January 26, 2021 meeting of the City of Durham Board of Adjustment. My name is Chad Meadows and I am the Vice Chair of the board.

I would like to start by acknowledging that we are conducting this meeting using a remote, electronic platform as permitted by Session Law 2020-3. This is the second remote meeting of the Durham Board of Adjustment and the first remote BOA meeting with quasi-judicial hearings. I would ask for your patience today as we proceed. There may be slight delays as we transition between speakers.

The Board of Adjustment is a quasi-judicial body that is governed by the North Carolina General Statutes and the City's Unified Development Ordinance. The Board typically conducts evidentiary hearings on requests for variances special use permits, among other requests.

Today's meeting will proceed much like an in-person meeting of the Board of Adjustment. On the screen, you will see the members of the Board of Adjustment. Additionally, Planning staff and representatives from the City and County Attorney's Offices are attending in the remote meeting. Applicants were required to register in advance and are also attending the remote meeting. When a case is called for its hearing, applicants and witnesses will be promoted within the remote platform so their video can be seen. The Chair will swear in applicants and witnesses at the beginning of each

case. Staff will present each case and applicants will then provide their evidence. Control of the presentation and screen sharing will remain with Planning staff. Today's meeting is being broadcast live on the City's YouTube site and a link to this broadcast is on the website for the Board of Adjustment.

Before we begin the evidentiary hearings on today's agenda, I would like to provide some important information about the steps taken to ensure that each parties' due process rights are protected as we proceed in this remote platform.

Each applicant on today's agenda was notified that this meeting would be conducted using a remote, electronic platform. During registration, every applicant on today's agenda consented to the Board conducting the evidentiary hearing using this remote platform. We will also confirm today at the start of each evidentiary hearing that the participants in the evidentiary hearing consent to the matter proceeding in this remote platform. If there is any objection to a matter proceeding in this remote platform, the case will be continued.

Notice of today's meeting was provided by publishing notice in the newspaper, mailed to property owners within 600 feet of the subject properties, posting a sign at the property, and posting on the City's website. The newspaper, website, and mailed notices for today's meeting contained information how the public can access the remote meeting, as the meeting occurs. These notices also contained information about the registration requirement for the meeting, along with information about how to register.

All individuals participating in today's evidentiary hearings were also required to submit a copy of any presentation, document, exhibit or other material that they wished to submit at the evidentiary hearing prior to today's meeting. All materials that the City received from the participants in today's cases, as well as a copy of City staff's presentations and documents, were posted on the Board of Adjustment website, as part of the agenda. No new documents will be submitted during today's meeting.

No case is proceeding today in which the City has been contacted by an individual with an objection to the case or an objection to the matter being heard in this remote meeting platform.

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.

**MOTION:** To excuse Chair Rogers. (Wymore, deLacy 2<sup>nd</sup>)

**ACTION:** Carried 8-0. **[The Rules of Procedure do not require a vote for such an absence, but the vote and outcome are included in the minutes for accuracy of the record.]**

**MOTION:** To excuse Michael Retchless. (Wymore, deLacy 2<sup>nd</sup>)

**ACTION:** Carried 8-0. **[The Rules of Procedure do not require a vote for such an absence, but the vote and outcome are included in the minutes for accuracy of the record.]**

### III. **Approval of Summary Minutes from December 15, 2020.**

**MOTION:** Approve the December 15, 2020 minutes.

**ACTION:** Carried, 7-0. (Beauchaine, Wymore 2<sup>nd</sup>) (Kipp not yet present, Major and Jeter were not at that meeting).

### IV. **Adjustments to the Agenda**

None.

#### IV. Hearing and Determination of Cases

**Case B2000046** – City: A request for a variance from the required rear yard and street yard setbacks in order to construct a single-family dwelling structure. The subject site is located at 2806 Cannada Avenue, is zoned Residential Urban -5 (RU-5), and in the Falls of the Neuse/Jordan Lake Protected Area (F/J-B) and in the Urban Tier.

**Applicant and all witnesses swore or affirmed their testimony and consented to the remote meeting format.**

**Seated:** deLacy, Kipp, Meadows, Wymore, Jeter, Major, and Tarrant

**Staff Report:** Eliza 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:** Peter Gitto spoke in support. No one spoke in opposition.

**MOTION:** Tarrant made a motion that application number **B2000046**, a request for a variance from the required rear yard and street yard setbacks on property located at 2806 Cannada 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 plans and all information submitted to the Board as part of the application.

**ACTION:** Carried, 7-0. (Tarrant, Kipp 2<sup>nd</sup>)

**Case B2000048** – City: A request for a minor special use permit for a place of worship in a residential zoning district. The subject sites are located at 3261, 3263, 3301, 3305 and 3311 Rose of Sharon Road, is zoned Residential Suburban (RS-20) and in the Suburban Tier.

**Applicant and all witnesses swore or affirmed their testimony and consented to the remote meeting format.**

**Seated:** deLacy, Kipp, Meadows, Wymore, Jeter, Tarrant, and Beauchaine.

**Staff Report:** Cole Renigar 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:** David Wagner and Jonathan Allen, spoke in support. Jeffrey Maness and Pete Rehm spoke in opposition.

**MOTION:** Tarrant made a motion that application number **B2000048**, an application for a minor special use permit on property located at 3261, 3263, 3301, 3305, and 3311 Rose of Sharon Road has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject to the following conditions:

1. The improvements shall be substantially consistent with plans and all information submitted to the Board as part of the application.

**ACTION:** Carried, 7-0. (Tarrant, Jeter 2<sup>nd</sup>)

**Case B2000051** – City: A request for a minor special use permit to allow a school to be located within a residential zoning district. The subject site is located at 4622 and 4804 N. Roxboro Street, is zoned Residential Suburban –10 (RU-10), and in the Suburban Tier.

**Applicant and all witnesses swore or affirmed their testimony and consented to the remote meeting format.**

**10 minutes Recess 10:45 AM to 10:55 (deLacy, Tarrant 2<sup>nd</sup>)**

**Seated:** deLacy, Kipp, Meadows, Wymore, Jeter, Tarrant, and Beauchaine.

**Staff Report:** Eliza 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:** Joshua Reinke, Lindsay Smith, Kyle Forrester, Jarvis Martin, Frederick Davis, Kenneth Loring, and Keith Downing spoke in support. Julius and Diane Bartell, Mary Abrams, Leon C. King, Carolyn Young, Davis Harris, Gary Corsi-O'Conner, and Mary Vickers spoke in opposition.

**MOTION:** deLacy made a motion to continue case B2000051 to the February 23<sup>rd</sup> meeting to allow NCDOT to be present to answer questions.

**ACTION:** Carried, 5-2. (deLacy, Jeter 2<sup>nd</sup>) (Meadows and Tarrant voting no).

**The Board took a 30-minute break from 1:05 AM to 1:35 PM**

**Case B2000052** – City: Appeal of an administrative decision to administer a Notice of Violation for operating a business from a residential zoning district and the storage of heavy equipment on residentially zoned property. The subject site is located at 1828 James Street, is zoned Residential Suburban-M (RS-M), and in the Urban Tier.

**Applicant and all witnesses swore or affirmed their testimony and consented to the remote meeting format.**

**Seated:** deLacy, (via teleconference) Meadows, Kipp, Jeter, Wymore, Tarrant, and Beauchaine. (Major recused herself)

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

**Appellant** Calvin Faison and Daron Satterfield (attorney)

**Appellee, City of Durham** Don O'Toole (attorney in the Durham City Attorney's Office) represented the City. Durham Code Enforcement Office, Karen Swope, presented the basis for the Notice of Violation at 1828 James Street and confirmed on the record that all photographs submitted as part of the staff report were taken by her.

Both Calvin Faison and Karen Swope appeared as witnesses and were cross-examined by opposing counsel.

**MOTION:** The NOV (Notice of Violation) be upheld for 1828 James Street.

**ACTION:** Carried, 7-0. (Meadows, Jeter, 2<sup>nd</sup>)

## **V. Old Business – None**

**VI. New Business - None**

**VII. Approval of Orders**

Case B2000042

MOTION: Approve the order for case B2000042 (Kipp, Wymore 2<sup>nd</sup>)

**ACTION:** Carried, 3-0.

**Case B2000046**

MOTION: Approve the order for case B2000046 (Tarrant, Kipp 2<sup>nd</sup>).

**ACTION:** Carried, 6-0.

**VIII. Adjournment**

The meeting adjourned at 3:02 p.m.

Respectfully Submitted,  
Susan Cole, Clerk to the Board