



APPROVED

January 28, 2020 8:30 a.m.
Committee Room, 2nd Floor, City Hall
101 City Hall Plaza, Durham, NC

I. Call to Order

Vice Chair Meadows called the meeting to order at 8:40 a.m.

II. Roll Call

Members Present:

Chad Meadows, Vice Chair
Regina deLacy
Chris Burnham
Fredrick Davis
Ian Kipp

Members Absent:

Jessica Major
Michael Retchless
Jacob Rogers, Chair
Myca Jeter
Teisha Wymore

Staff Present:

Jessica Dockery, Planning Manager
Crista Cuccaro, City Attorney's Office
Cole Renigar, Planner
Susan Cole, Clerk

III. Adjustments to the Agenda

Mr. Davis requested a hard stop at 9:40 a.m.

IV. Swearing-In of Witnesses

Vice Chair Meadows 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 Vice 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

Case B1900027 – City: A minor special use permit to allow a school within a place of worship located in a residential zoning district. The subject site is located at 1415 Holloway Street, is zoned Residential Urban – 5(2) [RU-5(2)], and in the Urban Tier.

Seated: Burnham, Davis, deLacy, Kipp and Meadows

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: Grayson Baur spoke in support and no one spoke in opposition.

MOTION: deLacy made a motion that case **B1900027**, an application for a **minor special use permit** on property located at **1415 Holloway 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 plans, case D1900160, and all information submitted to the Board as part of the application.
- Students of Empowered Minds Academy shall be limited to 5 to 14 years of age.
- A maximum of 40 students permitted to attend the academy.

(Burnham, 2nd)

ACTION: Carried, 5-0.

Case B1900048 - City: A minor special use permit to request a parking reduction greater than 20%. The subject site is located at 105 W NC 54 HWY, is zoned Commercial Center (CC-D) and Office & Institutional (OI-D); is in the Falls of the Neuse/Jordan Lake Protected Area (F/J-B) and Major Transportation Corridor I-40 (MTC I-40) Overlay Districts, and in the Suburban Tier.

Seated: Burnham, Davis, deLacy, Kipp and Meadows

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: Tim Summerville and Joe DeStasio spoke in support and no one spoke in opposition.

MOTION: Burnham made a motion that case **B1900048**, an application for a **minor special use permit** on property located at **105 W NC 54 Hwy** 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.

(Davis 2nd)

ACTION: Carried, 5-0.

Case B1900050 - County: A minor special use permit requested for a development with new project floor area over 5,000 square feet within the Commercial Neighborhood (CN) zoning district without a development plan. The subject site is located at 12907 N. Roxboro Road, 12807 N. Roxboro Road & 123 Bill Poole Road, is zoned Commercial Neighborhood (CN); is in the Little River Protected Area (M/LR-B) and Rougemont Rural Village, and in the Rural Tier.

Seated: Burnham, Davis, deLacy, Kipp and Meadows

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: George Venters, Matt Lowder, and Rynal Stephenson spoke in support. Russell Markham spoke in opposition due to traffic and pedestrian safety, and community well concerns.

MOTION: Burnham made a motion that case **B1900050**, an application for a **minor special use permit** on properties located at **12907 North Roxboro Road, 12807 North Roxboro Road, and 123 Bill Poole 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.

(Davis 2nd)

ACTION: Carried, 5-0.

Case B1900051 - County: A minor special use permit requested for a development with new project floor area over 5,000 square feet within the Commercial Neighborhood (CN) zoning district without a

development plan. The subject site is located at 12907 N. Roxboro Road, 12807 N. Roxboro Road & 123 Bill Poole Road, is zoned Commercial Neighborhood (CN); is in the Little River Protected Area (M/LR-B) and Rougemont Rural Village, and in the Rural Tier.

Seated: Burnham, Davis, deLacy, Kipp and Meadows

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: Rynal Stephenson spoke in support.

MOTION: deLacy made a motion that case **B1900051**, an application for a: **minor special use permit for a parking reduction** on properties located at **12907 North Roxboro Road, 12807 North Roxboro Road, and 123 Bill Poole 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.

(Burnham, 2nd)

ACTION: Carried, 5-0.

VI. Approval of Orders

Case B1900027

MOTION: Approve the order for case B1900027 (deLacy, Davis 2nd).

ACTION: Carried, 5-0.

Case B1900048

MOTION: Approve the order for case B1900048 (deLacy, Davis 2nd).

ACTION: Carried, 5-0.

Case B1900051

MOTION: Approve the order for case B1900051 (Davis, Burnham 2nd).

ACTION: Carried, 5-0.

(At this point, Davis leaves and there is no longer a quorum. Case B1900052 is continued until the February 25, 2020, BOA meeting.)

VII. Approval of Summary Minutes from December 10, 2019

Minutes will be approved next month due to a quorum not being present.

VIII. Old Business -

IX. New Business -

X. Adjournment

The meeting adjourned at 9:45 AM. (Meadows, deLacy 2nd)

Respectfully Submitted,
Susan Cole, Clerk to the Board