



APPROVED

February 23, 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:

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

Members Absent:

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
Eliza Monroe, Planner
Cole Renigar, Planner
Susan Cole, Clerk

Chair Jacobs read the following statement:

The meeting will now come to order. Welcome to the February 23, 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.

Vice Chair Meadows will call the first case since Chair Rogers was not present when that case was heard in January.

III. Approval of Summary Minutes from January 26, 2021.

MOTION: Approve the January 26, 2021 minutes.

ACTION: Carried, 7-0. (Meadows, Wymore 2nd)

IV. Adjustments to the Agenda

None.

V. Hearing and Determination of Cases

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

To the extent applicable, 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: A staff report was not presented to the Board because the case had been continued; the staff report was previously presented during the public hearing at the January meeting. Eliza Monroe updated the Board on conversations and conclusions relevant to the purpose for the Board's continuance.

Speakers: The public hearing for the case had been closed at the January meeting. The Board began its deliberation and in response to Board questions and concerns, the following individuals spoke on behalf of the applicant: Lindsay Smith, Frederick Davis, Keith Downing and Josh Reinke.

MOTION: Tarrant made a motion, that application B2000051, an application for a minor special use permit on property located at 4622 and 4804 N. Roxboro Street 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 the site plan, case D2000059, and all information submitted to the Board as part of the application.
2. The educational facility shall serve the high school level.
3. The enrollment of the school shall be a maximum of 1,800 students.
4. A Transportation Management Plan be published and shared on the school's website and with the staff and parents, per MTSA Report recommendations
5. For the recreation facilities along the Roxboro Road frontage the fence height shall be 8 ft. tall as permitted by the UDO Section 9.9.1A.2

ACTION: Carried, 5-2. (Tarrant, Beauchaine 2nd) (deLacy, Wymore voting no)

Recess from 9:59 am to 10:05 am (deLacy, Tarrant)

VI. Case B2000050 – City: A request for variances from the Unified Development Ordinance (UDO), build-to-zone and frontage percentage requirements. The subject site is located at 3613 Witherspoon Boulevard and 5203 & 5211 McFarland Drive, is zoned Compact Suburban Design-Core (CSD-C) and Compact Suburban Design-Support 1 (CSD-S1), and is in the Patterson Place Compact Neighborhood Tier.

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

Seated: deLacy, Kipp, Meadows, Rogers, Retchless, Jeter, and Wymore

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: Patrick Byker and Jessica Hardesty spoke in support and no one spoke in opposition.

MOTION: Meadows made a motion that application B2000050, an application for a request for variances from the Unified Development Ordinance (UDO) build-to-zone and frontage percentage requirements on property located at 3616 Witherspoon Boulevard and 5203 & 5211 McFarland Drive, has successfully met the applicable requirements of the UDO 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. (Meadows, deLacy 2nd)

Case B2100001 – City: A request for a variance from the 10-foot no-build setback and the street yard setback infill development standards in order to construct a single-family dwelling structure. The subject site is located at 1034 Chalmers Street, is zoned Residential Urban-5 (RU-5), and is in the Urban Tier.

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

Seated: deLacy, Kipp, Meadows, Rogers, Retchless, Jeter, and Wymore

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: Meadows made a motion that application B2100001, a request for a variance from the 10-foot no-build setback and the street yard setback infill development standards in order to construct a single-family dwelling structure, on property located at 1034 Chalmers Street, 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. (Meadows, deLacy 2nd)

Case B2100002 – City: A request for a variance from the 15-foot maximum street yard requirement. The subject site is located at 2814 Hillsborough Road, is zoned Residential Urban-5(2) [RU-5(2)] and Commercial General (CG), and is in the Erwin Road Compact Neighborhood (CN) Tier.

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

Seated: deLacy, Kipp, Meadows, Rogers, Retchless, Jeter, and Wymore

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: Andrew Goolsby, Tammi Brooks, and Rob Emerson spoke in support and no one spoke in opposition.

MOTION: Meadows made a motion that application B2100002, a request for a variance from the 15-foot maximum street yard requirement, on property located at 2814 Hillsborough 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. (Meadows, Kipp, 2nd)

Case B2100006 – County: A request for a variance from the vehicular use area landscaping requirements. The subject site is located at 2152 & 2362 So Hi Drive and 224 Northeast Creek Parkway, is zoned Science Research Park (SRP), and is in the Suburban Tier.

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

Seated: deLacy, Kipp, Meadows, Rogers, Retchless, Jeter, and Wymore

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: William Arent, Gary Zurawski, and Kathryn McPherson spoke in support. No one spoke in opposition.

MOTION: To continue to March 23 meeting

ACTION: Carried, 7-0. (deLacy, Retchless 2nd)

Case B2100007 – County: A request for a minor special use permit to allow a parking reduction greater than 20%. The subject site is located at 2152 & 2362 So Hi Drive and 224 Northeast Creek Parkway, is zoned Science Research Park (SRP), and is in the Suburban Tier.

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

Seated: deLacy, Kipp, Meadows, Rogers, Retchless, Jeter, and Wymore

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: Gary Zurawski Spoke in support and no one spoke in opposition.

MOTION: Meadows made a motion that application B2100007, an application for a Minor Special Use Permit, on property located at 2242 Northeast Creek Parkway and 2152 & 2362 So Hi drive (soon to be 59 Moore Drive), 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 the site plan, case D2000189, and all information submitted to the Board as part of the application.

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

IV. Old Business – None

V. New Business

None

VI. Approval of Orders

Case B2000051 – coming back

Case B2000052 (Rogers and Retchless absent)

MOTION: Approve the order for case B2000052 (deLacy, Meadows) 2nd)

ACTION: Carried, 7-0.

Case B2000048 (Rogers and Retchless absent)

MOTION: Approve the order for case B2000048 (Jeter, Beauchaine 2nd)

ACTION: Carried, 7-0.

Case B2000050

MOTION: Approve the order for case B2000050 (Meadows, Retchless 2nd).

ACTION: Carried, 7-0.

Case B2000001

MOTION: Approve the order for case B2000001 (Jeter, Retchless 2nd)

ACTION: Carried, 7-0.

Case B2000002

MOTION: Approve the order for case B2000002 (Meadows, Jeter 2nd).

ACTION: Carried, 7-0.

Case B2000006 – Continued

Case B2000007

MOTION: Approve the order for case B2000007 (Retchless, Kipp 2nd).

ACTION: Carried, 7-0.

VII. Adjournment

The meeting adjourned at 12:03 p.m. (Kipp, Wymore 2nd).

Respectfully Submitted,
Susan Cole, Clerk to the Board