



APPROVED

March 26, 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 8:37 a.m.

II. Roll Call

Members Present:

Regina deLacy, Chair
Ian Kipp
Chad Meadows
Jacob Rogers, Alternate
Alisa Thomas
Chris Burnham, Designated Alternate
Michael Retchless, Alternate

Members (Excused) Absent:

Fredrick Davis, Vice-Chair
Phillip Harris, Jr.
Michael Kriston

Staff Present:

Bo Dobrzanski, DSC Manager
Jessica Dockery, 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

Staff noted that the applicant had requested to move Case B1800026 before Case B1800033.

Ms. Burnham requested to be recused from Cases B1800026 and B1800033. Mr. Retchless requested to be recused from Case B1800027. Ms. Thomas and Ms. Burnham have a hard stop at 12:00 PM.

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 (7) 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 B1700024

Seated: Chair deLacy, Ms. Thomas, Mr. Kipp, Mr. Meadows, Mr. Rogers. Ms. Burnham, and Mr. Retchless

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: Joe Faulkner, George Munn and Oliver Alphin spoke in support. No one spoke in opposition.

MOTION: Mr. Rogers made a motion that case **B1700024**, an application for a **minor special use permit** on property located at **2215 Sedwick 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.
- The fence height shall be a maximum of six feet
- The fence shall be substantially consistent with the fence examples submitted to the Board as part of the application.

(Rogers, Kipp 2nd)

ACTION: Motion carried, 7-0.

b. Case B1800027-

Seated: Chair deLacy, Ms. Thomas, Mr. Kipp, Mr. Meadows, Mr. Rogers., and Ms. Burnham (Mr. Retchless, recused)

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: Nick Tennson and Dan Jewell spoke in support. No one spoke in opposition.

MOTION: Mr. Meadows made a motion that case **B1800027**, an application for a **minor special use permit** on property located at **1811 and 1815 James Street and 1800 and 1801 Sycamore 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 D1800179, and information submitted to the Board as part of the application.

(Meadows, Thomas 2nd)

ACTION: Motion carried, 6-0.

c. Case B1800019

Seated: Seated: Chair deLacy, Ms. Thomas, Mr. Kipp, Mr. Meadows, Mr. Rogers., Ms. Burnham, and Mr. Retchless

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: Hashim Naqui, Steve Eley, Dr. A. G. Chaudhry and Frank Leathernman spoke in support. Katherine Hale, Preston Hubble, Larry Martin, Lawrence Levin, and Robert Kimery spoke in opposition.

MOTION: Mr. Rogers made a motion that case **B1800019**, an application for a **minor special use permit** on property located at **3104 Page 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, Case D1800164, and information submitted to the Board as part of the application.

(Rogers, Retchless 2nd)

ACTION: Motion carried, 5-2. (Thomas and Meadows voting no)

d. Case B1800020

Seated: Chair deLacy, Ms. Thomas, Mr. Kipp, Mr. Meadows, Mr. Rogers, Ms. Burnham, and Mr. Retchless

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: Steve Epley and Hashim Naqui spoke in support. Lawrence Levine, Katherine Hale, Preston Hubble, and Larry Martin spoke in opposition.

MOTION: Mr. Harris made a motion that case **B1800020**, be continued to the April, 2019 meeting.

ACTION: Motion failed, 7-0.

(Thomas, Meadows 2nd)

MOTION: Mr. Rogers made a motion that case **B1800020**, an application for a **minor special use permit** on property located at **3104 Page 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, Case D1800164, and information submitted to the Board as part of the application.
- Student enrollment shall be limited to a maximum of 105 students.

(Rogers, Kippnd)

ACTION: Motion carried, 5-2. (Thomas and Meadows voting no)

e. Case B1800026

Seated: Chair deLacy, Mr. Retchless, Mr. Rogers, Mr. Kipp, and Mr. Meadows. (Ms. Burnham, recused, and Ms. Thomas not present.)

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: David Smith, Patrick Byker, and Steve Epley spoke in support. No one spoke in opposition.

MOTION: Mr. Retchless made a motion that case **B1800026**, an application for a **minor special use permit** on property located at **3116 Academy 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, Case D1800228, and information submitted to the Board as part of the application.
- Student enrollment shall be limited to a maximum of 425 students.

(Retchless, Kipp 2nd)

ACTION: Motion carried, 5-0.

f. Case B1800033

Seated: Chair deLacy, Mr. Kipp, Mr. Meadows, Mr. Rogers, and Mr. Retchless. (Ms. Burnham, recused, and Ms. Thomas not present.)

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: Steven Medlin spoke in support. No one spoke in opposition.

MOTION: Mr. Rogers made a motion that case **B1800033**, an application for a **variance from the required project boundary buffer along the western parcel boundary** on property located at **3116 Academy 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, Case D1800228, and information submitted to the Board as part of the application.

(Rogers, Kipp, 2nd)

ACTION: Motion carried, 5-0.

g. Case B1900010

Seated: Chair deLacy, Mr. Retchless, Mr. Rogers, Mr. Kipp, and Mr. Meadow (Ms. Burnham and Ms. Thomas not present)

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: Richard Jimenez spoke in support. No one spoke in opposition.

MOTION: Mr. Meadows made a motion that case **B1900010**, an application for a **variance from the required accessory structure location** on property located at **4211 Holder 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.

(Meadows, Retchless 2nd)

ACTION: Motion carried, 5-0.

h. Case B1900007

Seated: Chair deLacy, Mr. Retchless, Mr. Rogers, Mr. Kipp, and Mr. Meadow (Ms. Burnham and Ms. Thomas not present.)

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: Scott McFarland spoke in support. No one spoke in opposition.

MOTION: Mr. Kipp made a motion that case **B1900007**, an application for a **variance from the required project boundary buffers along the northern, southern, eastern, and western parcel boundaries** on property located at **3300 Spector 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 and information submitted to the Board as part of the application.

(Kipp, Rogers, 2nd)

ACTION: Motion carried, 5-0.

i. Case B1900005

Seated: Chair deLacy, Mr. Retchless, Mr. Rogers, Mr. Kipp, and Mr. Meadow (Ms. Burnham and Ms. Thomas not present.)

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: Scott McFarland spoke in support. No one spoke in opposition.

MOTION: Mr. Retchless made a motion that case **B1900005**, an application for a **minor special use permit** on property located at **3300 Spector 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.
- The fence height shall be a maximum of six feet.
- The fence will be substantially consistent with the fence examples submitted to the Board as part of the application.

(Retchless, Rogers 2nd)

ACTION: Motion carried, 5-0.

VI. Approval of Summary Minutes from January 22 , 2019

Motion: Approve the Minutes as amended from January 22, 2019. (Rogers, Meadows 2nd)

Action: Motion carried, 7-0. (Voted on before Ms. Thomas and Ms. Burnham left)

VII. Approval of Orders

Case B1700024

Motion: Approve the order for case B1700024 (Rogers, Meadows 2nd)

Action: Motion carried, 5-0.

Case B1800027

Motion: Approve the order for case B1800027 (Rogers, Meadows 2nd)

Action: Motion carried, 5-0.

Case B1800033

Motion: Approve the order for case B1800033 (Rogers, Meadows 2nd)

Action: Motion carried, 5-0.

Case B1800026

Motion: Approve the order for case B1800026 (Rogers, Meadows 2nd)

Action: Motion carried, 5-0.

Case B1900010

Motion: Approve the order for case B1900010 (Rogers, Meadows 2nd)

Action: Motion carried, 5-0.

Case B1900007

Motion: Approve the order for case B1900007 (Rogers, Meadows 2nd)

Action: Motion carried, 5-0.

Case B1900005

Motion: Approve the order for case B1900005 (Rogers, Meadows 2nd)

Action: Motion carried, 5-0.

VIII. Old Business – None.

IX. New Business – None.

X. Adjournment

The meeting adjourned at 1:03 p.m.

Respectfully Submitted,
Susan Cole, Clerk to the Board