



APPROVED

April 27, 2021, 8:30 a.m.
Zoom – Virtual Meeting

I. Call to Order

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

II. Roll Call

Members Present:

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

Members Absent:

Teisha Wymore

Staff Present:

Jessica Dockery, Planning Manager
Crista Cuccaro, City Attorney's Office
Bryan Wardell, County Attorney's Office
Eliza Monroe, Planner
Cole Renigar, Planner
Susan Cole, Clerk

Chair Rogers read the following statement:

The meeting will now come to order. Welcome to the April 27, 2021 meeting of the City of Durham Board of Adjustment. My name is Jacob Rogers and I am the 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.

MOTION: To excuse Teisha Wymore. (Meadows, Retchless 2nd) **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 March 23, 2021.**

MOTION: Approve the March 23, 2021 minutes.

ACTION: Carried, 8-0. (Jeter, Meadows 2nd)

IV. **Adjustments to the Agenda**

None

IV. **Hearing and Determination of Cases**

Case B2000043 - City: A request for a minor special use permit for a government facility to be located within a residential zoning district. The subject site is located at 6919 Herndon Road, zoned Residential Suburban - 20 (RS-20), and in the Falls of the Neuse/Jordan Lake Protected Area, and in the Suburban Tier.

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

Seated: Kipp, Meadows, Rogers, Retchless, Jeter, Major, 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: Don O'Toole, Jimmy Edwards, Brian Eaton, Tim Summerville, David Smith spoke in support. Floyd McKissick, and Cheryl Summers spoke in opposition.

MOTION: Retchless made a motion that application number **B2000043**, an application for a **Minor Special Use Permit** on property located at **6919 Herndon 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 D2000199, and all information submitted to the Board as part of the application.

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

Break from 10:00 am to 10:19 am

Case B2100013 – City: A request for a variance from the requirement that a minimum of 70% of the build-to-zone shall be occupied by the building podium. The subject site is located at 512 W. Geer Street, zoned Downtown Design – Support 1 (DD-S1), and in the Downtown Tier.

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

Seated: Kipp, Meadows, Rogers, Retchless, Jeter, Major, 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: Ellen Weinstein, Dan Jewell, Mike Cincala, Jim Wiley, Brian Scherich, and George Davis spoke in support and no one spoke in opposition.

MOTION: Meadows made a motion that application number **B2100013**, a **request for a variance from the requirement that a minimum of 70% of the build-to-zone shall be occupied by the building podium**, on property located at **512 W. Geer 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 all information submitted to the Board as part of the application.

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

Case B2100014 – City A request for a minor special use permit for a development of a legal nonconforming lot with a width less than 30 feet. The subject site is located at 712 Kent Street, zoned Residential Urban – 5(2) (RU-5(2)), and in the Urban Tier.

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

Seated: Kipp, Meadows, Rogers, Retchless, Jeter, Major, 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: Peter Gitto spoke in support. No one spoke in opposition.

MOTION: Retchless made a motion that application number **B2100014**, a request for a minor special use permit for development of a legal nonconforming lot with a width less than 30 feet property located at 712 Kent 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 all information submitted to the Board as part of the application.

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

Case B2100015 – City: A request for a variance from the required structured parking ground floor design standards. The subject site is located at 130 S. Mangum Street, zoned Downtown Design – (DD-C) and in the Downtown Tier.

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

Seated: Kipp, Meadows, Rogers, Retchless, Jeter, Major, 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: Dan Jewell, Andrew Porter, and Scott Harmon spoke in support. No one spoke in opposition.

MOTION: Jeter made a motion that case number **B2100015**, a request for a variance from the required structured parking ground floor design standards, on property located at 130 S. 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 plans and all information submitted to the Board as part of the application.

ACTION: Carried, 6-1. (Jeter, Kipp, 2nd) (Meadows voting no)

V. Old Business – None

VI. New Business

Crista Cuccaro will be bringing revisions to the BOA *Rules of Procedure* to the Board for a vote of approval.

Jacob Rogers discussed with the Board having an upcoming training for the members that had not yet received training from staff. A more extensive training was requested for the entire Board. Staff will look into a half day retreat.

VII. Approval of Orders

Case B2100010 – (from last month)

MOTION: Approve the order for case B2100010 (Meadows, Retchless 2nd)

ACTION: Carried, 5-0.

Case B2100013

MOTION: Approve the order for case B2100013 (Retchless, Meadows 2nd)

ACTION: Carried, 7-0.

Case B2100014

MOTION: Approve the order for case B2000014 (Meadows, Kipp 2nd)

ACTION: Carried, 7-0.

Case B2100015

MOTION: Approve the order for case B2100015 (Retchless, Beauchaine 2nd).

ACTION: Carried, 6-0. (Meadows could not vote)

Case B2000043 – Order coming back.

VIII. Adjournment

The meeting adjourned at 12:22 p.m.

Respectfully Submitted,
Susan Cole, Clerk to the Board