



APPROVED

June 25, 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 8:30 a.m.

II. Roll Call

Members Present:

Regina deLacy, Chair
Fredrick Davis, Vice-Chair
Phillip Harris, Jr.
Ian Kipp
Chad Meadows
Jacob Rogers, Alternate
Alisa Thomas
Chris Burnham, Designated Alternate
Michael Retchless, Alternate

Members Absent:

Michael Kriston

Staff Present:

Bo Dobrzanski, DSC Senior Manager
Jessica Dockery, Planning Manager
Bryan Wardell, County Attorney's Office
Crista Cuccaro, City Attorney's Office
Eliza Monroe, Planner
Susan Cole, Clerk
Maie Armstrong, Development Coordination Engineer

III. Adjustments to the Agenda

Mr. Harris made a Motion to postpone Case B1900018 to the July meeting due to a possible notification error (Kipp, 2nd). Motion carried 7-0.

Mr. Harris made a Motion to move Case B1900002, B1900003 and B1900004 to the end of the agenda (Rogers 2nd). Motion carried, 7-0.

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.

There were no requests made for early dismissals or concerns of a conflict with any cases from the Board members.

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 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 B1900020** - City: A variance request from the 50-foot riparian buffer and 10-foot no-build setback requirements to construct an accessory structure in front of the rear building line of the primary structure. The subject site is located at 5020 Butternut Road, is zoned PDR 3.620; Falls/Jordan Watershed Protection Overlay District – B (F/J-B); Major Transportation Corridor I-40 (MTC I-40); and in the Suburban Tier.

Seated: Mr. Davis, Ms. deLacy, Mr. Harris, Ms. Thomas, Mr. Kipp, Mr. Meadows, Ms. Burnham

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: Mr. Nil Ghosh and Ms. Donette Bowers spoke in support. No one spoke in opposition.

MOTION: Ms. Thomas made a motion that case **B1900020**, an application for a **variance from the 50-Foot riparian buffer and 10-foot no-build setback requirements to construct an accessory structure in front of the rear building line of the primary structure** on property located at **5020 Butternut 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.
- Mitigation will be required as part of the variance in accordance with the standards listed in UDO Section 8.5.11.

(Thomas, Harris 2nd)

ACTION: Motion carried, 6-1 with Meadows voting no.

b. Case B1900021 - City: A request for a fence height greater than 4-foot high in the street frontage yard of a single family home located in the Urban Tier. The subject site is located at 225 W. Woodridge Drive, is zoned Residential Suburban -10(RS-10); and in the Urban Tier.

Seated: Mr. Davis, Ms. deLacy, Mr. Harris, Ms. Thomas, Mr. Kipp, Mr. Meadows, Ms. Burnham

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: Ms. Kathleen Green spoke in support. No one spoke in opposition.

MOTION: Mr. Harris made a motion that case **B1900021**, an application for a **minor special use permit** on property located at **225 W. Woodridge Drive** 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 all information submitted to the Board as part of the application.

(Harris, Meadows 2nd)

ACTION: Motion carried, 7-0.

c. Case B1900002 - City: A minor special use permit to permit the development of a new project over 5,000 square feet within the Commercial Neighborhood (CN) zoning district without a development plan. The subject site is located at 3034 Fayetteville Street; and in the Urban Tier.

Seated: Mr. Davis, Ms. deLacy, Mr. Harris, Ms. Thomas, Mr. Kipp, Mr. Meadows, Ms. Burnham

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: Mr. Sean Dolle spoke in support. No one spoke in opposition.

MOTION: Mr. Davis made a motion that case **B1900002**, an application for a **minor special use permit** on property located at **3034 Fayetteville 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.
(Davis, Harris 2nd)

ACTION: Motion carried, 7-0.

Chair deLacy made a motion at 10:24 a.m. to break for 10 minutes.
Meeting reconvened at 10:34 a.m.

d. Case B1900003 - City: A minor special use permit to allow fill in the floodway fringe, non-encroachment area fringe, Future Conditions Flood Hazard Areas, or Areas of Shallow Flooding. The subject site is located at 3034 Fayetteville Street; is zoned Commercial Neighborhood (CN); and in the Urban Tier.

Seated: Mr. Davis, Ms. deLacy, Mr. Harris, Ms. Thomas, Mr. Kipp, Mr. Meadows, Ms. Burnham

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: Mr. Sean Dolle, Mr. Patrick Hobgood, Mr. Nazeeh Abdul-Hakeem, Ms. Becky Ward spoke in support. Mr. Jarvis Martin spoke with concerns regarding the potential flooding of his property. Mr. Jarvis would like staff to send him a copy of the As-Built certificate.

MOTION: Mr. Harris made a motion that case **B1900003**, an application for a **minor special use permit** on property located at **3034 Fayetteville 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.

(Harris, Davis 2nd)

ACTION: Motion carried, 6-1 with Mr. Meadows voting no.

e. Case B1900004 - City: A variance request from the required 15-foot maximum street yard, with the longest façade of the building not parallel to or located within the maximum street yard, and the building occupying less than 60% of the total street frontage. The subject site is located at 3034 Fayetteville Street, is zoned Commercial Neighborhood (CN); and in the Urban Tier.

Seated: Mr. Davis, Ms. deLacy, Mr. Harris, Ms. Thomas, Mr. Kipp, Mr. Meadows, Ms. Burnham

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: Mr. Sean Dolle spoke in support.

MOTION: Mr. Harris made a motion that case **B1900004**, an application for a **variance request from the required 15-foot maximum street yard, with the longest façade of the building not parallel to or located within the maximum street yard, and the building occupying less than 60% of the total street frontage** on property located at **3034 Fayetteville 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.

(Harris, Burnham 2nd)

ACTION: Motion carried, 7-0.

VI. Approval of Summary Minutes from April 23, 2019

Motion: Approve the amended Minutes from April 23, 2019 (Rogers, Harris 2nd).

Action: Motion carried, 7-0.

VII. Approval of Orders

Case B1900002

Motion: Approve the order for case B1900002 (Davis, Thomas 2nd).

Action: Motion carried, 7-0.

Case B1900004

Motion: Approve the order for case B1900004 (Thomas, Davis 2nd).

Action: Motion carried, 7-0.

Case B1900020

Motion: Approve the order for case B1900020 (Burnham, Thomas 2nd).

Action: Motion carried, 6-1.

Case B1900021

Motion: Approve the order for case B1900021 (Kipp, Harris 2nd).

Action: Motion carried, 7-0.

VIII. Old Business – None.

IX. New Business – Election of 2019/2020 Officers

Chair deLacy opened Chair Nominations:

Chair deLacy nominated Chad Meadows.

Mr. Harris nominated Jacob Rogers.

Mr. Harris closed nominations, Burnham 2nd.

A poll was held and by a vote of 5-4 Jacob Rogers was elected Chair.

Mr. Harris nominated Chad Meadows for Vice Chair. No other nominations were made and with an unanimously vote of 9-0 Chad Meadows was elected Vice Chair.

X. Adjournment

The meeting adjourned at 11:08 a.m. (Rogers, Harris 2nd)

Respectfully Submitted,
Susan Cole, Clerk to the Board