



APPROVED

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

I. Call to Order

Chair Rogers called the meeting to order at 8:30 a.m.

II. Roll Call

Members Present:

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

Members Absent:

None

Staff Present:

- Bo Dobrzanski, Assistant City-County Planning Director
- Jessica Dockery, Planning Manager
- Crista Cuccaro, City Attorney’s Office
- Bryan Wardell, County Attorney’s Office
- Eliza Monroe, Planner
- Cole Renigar, Planner

Chair Rogers read the following statement:

The meeting will now come to order. Welcome to the July 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.

III. Approval of Summary Minutes from June 22, 2021.

MOTION: Approve the June 22, 2021 minutes.

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

IV. Adjustments to the Agenda

Eliza Monroe announced Case B2100031 would be removed from this Agenda and moved to the next meeting.

IV. Hearing and Determination of Cases

Case B2100011 - City: A request for a minor special use permit to allow fill in the floodway fringe. The subject site is located at 1730 TW Alexander Drive, is zoned Light Industrial (IL), 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, Wymore, Jeter 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: Jamie Schwedler, Ashton Smith, Earl Lewellyn, Jarvis Martin, and Travis Caldwell spoke in support. No one spoke in opposition.

MOTION: Jeter made a motion that application number B2100011, a request for 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, on property located at 1730 TW Alexander 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 the information submitted to the Board as part of the application and site plan case D2100009.

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

Case B2100025 - City: A request for a minor special use permit to permit an alternative street design. The subject site is located at 601 Willard Street, is zoned Downtown Design – Core (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, Wymore, 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: Patrick Byker, Tim Summerville, Earl Lewellyn, Jarvis Martin, and Kristina Whitfield spoke in support. No one spoke in opposition.

MOTION: Meadows made a motion that application number B2100025, a request for a minor special use permit to permit an alternative street design, on property located at 601 Willard 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 and site plan case D2100047.

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

Break from 10:28am -10:40 am

Wymore excused before next case.

Case B2100027 - City: A request for a variance from the infill standards for a reduced street yard. The subject site is located at 825 West Markham Avenue, is zoned Residential Urban – M (RU-M), 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, Major, Jeter, 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: Thomas Hennessey spoke in support. No one spoke in opposition.

MOTION: Jeter made a motion that case number B2100027, an application for a request for a variance from the infill standards for a reduced street yard, on property located at 825 West Markham Avenue, 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. (Jeter, Meadows 2nd)

Case B2100028 - City: A request for a variance from the 10' no-build riparian buffer setback. The subject site is located at 3820 Lochнора Parkway, is zoned Residential Suburban – 20 (RS-20), 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: 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: Jordaan Van Romburgh and Pamela Wyman spoke in support. Ann Light spoke in opposition.

MOTION: Retchless made a motion that case number B2100028, a request for a variance from the 10' no-build riparian buffer setback, on property located at 3820 Lochнора Parkway, 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 plans and all information submitted to the Board as part of the application.

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

Case B2100029 - City: A request for a minor special use permit for a daycare in a residential zoning district. The subject site is located at 82 Kimberly Drive, is zoned Residential Suburban – 10 (RS-10), is in the Falls of the Neuse/Jordan Lake Protected Area Watershed Protection Overlay (F/J-B), 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: 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, Marie Farmer, Kelsey Westwood Hall, Kevin Dean, and Jarvis Martin spoke in support. No one spoke in opposition.

MOTION: Beauchaine made a motion that application number B2100029, an application for a minor special use permit for a daycare in a residential zoning district, on property located at 82 Kimberly 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 the all information submitted to the Board as part of the application

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

Break from 12:02am -12:20 am

Case B2100030 - County: A request for a variance from the street yard setback. The subject site is located at 345 Continental Drive, is zoned Residential Rural (RR), is in the Eno River Protected Area Watershed Protection Overlay (E-B), 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: Robert DeWoskin and Janet DeWoskin spoke in support. No one spoke in opposition.

MOTION: Retchless made a motion that case number B2100030, a request for a variance from street yard setback, on property located at 345 Continental 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 plans and all information submitted to the Board as part of the application.

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

Case B2100031 – Removed from the agenda at the request of the applicant and moved to next month's meeting.

Case B2100033 - City: A minor special use permit request to allow for increased height and expansion of floor area more than 10% of an existing non-conforming structure. The subject site is located at 914 Oakland Avenue, is zoned Residential Urban – 5(2) (RU-5(2)), is in the Old West Neighborhood Protection Overlay, 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: John Black spoke in support. Cathleen Randall spoke in opposition.

MOTION: Meadows made a motion that case number B2100033, an application for a request for a minor special use permit to allow for increased height and expansion of floor area more than 10% of an existing non-conforming structure, on property located at 914 Oakland Avenue, 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 plans and all information submitted to the Board as part of the application.

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

V. Old Business – None.

VI. New Business –None.

VII. Approval of Orders

Case B2100011

MOTION: Approve the order for case B2100011 (Retchless, Kipp 2nd)

ACTION: Carried, 5-0.

Case B2100025

MOTION: Approve the order for case B21000025 (Meadows, Retchless 2nd)

ACTION: Carried, 6-0.

Case B2100027

MOTION: Approve the order for case B2100027 (Jeter, Beauchaine 2nd)

ACTION: Carried, 6-0.

Case B2100029

MOTION: Approve the order for case B2100029 (Retchless, Meadows 2nd).

ACTION: Carried, 7-0.

Case B2100030

MOTION: Approve the order for case B2100030 (Retchless, Jeter 2nd)

ACTION: Carried, 7-0.

VIII. Adjournment

The meeting adjourned at 1:00 p.m.

The next meeting will be August 24, 2021

Respectfully Submitted,
Terri Elliott, Clerk to the Board