



**APPROVED**

August 24, 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  
Myca Jeter  
Ian Kipp  
Michael Retchless  
Jessica Major, Alternate  
Michael Tarrant, Designated Alternate  
Natalie Beauchaine, 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

**Chair Rogers read the following statement:**

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

Chair Rogers called for any necessary recusals or disclosure of any *ex parte* communication. Retchless noted that he had been copied on a neighborhood list-serve email regarding case B2100041 but had had no direct communication.

### **III. Approval of Summary Minutes from July 27, 2021.**

**MOTION:** Approve the July 27, 2021 minutes.

**ACTION:** Carried, 7-0. (Beauchaine, Retchless 2<sup>nd</sup>)

### **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 B2000020** – City: A request for a minor special use permit to allow a project over 5,000 square feet in size within a Commercial Neighborhood (CN) zoning district without a development plan. The subject site is located at 4802, 4818, 4852, 4904, 4916, and 4950 Durham Chapel Hill

Boulevard, is zoned Commercial Neighborhood (CN), Residential Suburban – 20 (RS-20), and PDR 6.030, and in the Suburban and Patterson Place Compact Neighborhood 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 Tarrant

**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:** Tom Tolley, Earl Lewellyn, Jeremy Anderson, and Patrick Byker spoke in support. No one spoke in opposition.

**MOTION:** Tarrant made a motion that application number B2000020, a request for a minor special use permit to allow a project over 5,000 square feet in size within a Commercial Neighborhood (CN) zoning district without a development plan, on property located at 4802, 4818, 4852, 4904, 4916, and 4950 Durham Chapel Hill Boulevard, 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 D1900127.

**ACTION:** Carried, 7-0. (Tarrant, Kipp 2<sup>nd</sup>)

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

Break from 9:44 am - 9:53 am

**Case B2100036** – City: A request for a minor special use permit to allow a school within a residential zoning district. The subject site is located at 2722 and 2742 East Main Street, is zoned Residential Urban - 5 (RU-5); Falls of the Neuse/Jordan Lake Protected Area Watershed Protection Overlay (F/J-B), 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 Tarrant

**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:** Brandon McLamb and Deborah Watkins spoke in support. No one spoke in opposition.

**MOTION:** Meadows made a motion that application number B2100036, a request for a minor special use permit to a school within a residential zoning district, on property located at 2722 and

2742 East Main 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 D2100170, and all information submitted to the Board as part of the application.
- The educational facility shall serve the kindergarten through second grade levels only.
- The enrollment of the school shall be a maximum of 60 students.
- Any outdoor areas to be utilized by the school shall be shown on the associated site plan.

**ACTION:** Carried, 7-0. (Meadows, Kipp 2<sup>nd</sup>)

**Case B2100037** – County: A request for a variance from the street yard requirement. The subject site is located at 2705 Green Lane Drive, is zoned Residential Rural (RR) & 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 Tarrant

**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:** Jonathan Grier spoke in support. No one spoke in opposition.

**MOTION:** Jeter made a motion that case number B2100037, an application for a variance from the street yard requirement, on property located at 2705 Green Lane 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 plans and all information submitted to the Board as part of the application.

**ACTION:** Carried, 7-0. (Jeter, Retchless 2<sup>nd</sup>)

**Case B2100039** – City: A request for a variance from the front, rear, and side yards. The subject site is located at 2207 Inlet Avenue, is zoned Light Industrial (IL) & 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 Tarrant

**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:** Martha Healey-Schiltz and Wyatt Murphy spoke in support. No one spoke in opposition.

**MOTION:** Retchless made a motion that case number B2100039, a request for a variance from the front, rear, and side yards, on property located at 2207 Inlet 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 (Retchless, Kipp 2<sup>nd</sup>)

**Case B2100040** – City: A request for a variance from the requirement that retaining walls built to support grade eight feet or higher than the grade at the interior edge of the project boundary buffer shall also be set back 10 feet from the buffer. The subject site is located at 927 Ellis Road, is zoned Light Industrial (IL) 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 Tarrant

**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 Allen, La-Deidre Matthews, and Travis Caldwell spoke in support. No one spoke in opposition.

**MOTION:** Meadows made a motion that application number B2100040 be continued until the September 28, 2021 BOA meeting.

**ACTION:** Carried, 7-0. (Meadows, Retchless 2<sup>nd</sup>)

Break from 11:53 am - 12:05 pm

**Case B2100041** – City: A request for a variance from the 10’ no-build setback from a riparian buffer. The subject site is located at 2801 Legion Avenue, is zoned Residential Suburban - 8 (RS-8) & Tuscaloosa 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 Tarrant

**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:** John Witchger spoke in support. No one spoke in opposition.

**MOTION:** Tarrant made a motion that case number B2100041, a request for a variance from the 10’ no-build setback from a riparian buffer, on property located at 2801 Legion 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. (Tarrant, Meadows 2<sup>nd</sup>)

**V. Old Business – None.**

**VI. New Business –None.**

**VII. Approval of Orders**

**Case B2000020**

**MOTION:** Approve the order for case B2000020 (Tarrant, Retchless 2<sup>nd</sup>)

**ACTION:** Carried, 7-0.

**Case B2100022**

**MOTION:** Approve the order for case B2100022 (Meadows not voting; Retchless, Major 2<sup>nd</sup>)

**ACTION:** Carried, 5-0.

**Case B2100028**

**MOTION:** Approve the order for case B2100028 (Meadows, Beauchaine 2<sup>nd</sup>)

**ACTION:** Carried, 7-0.

**Case B2100033**

**MOTION:** Approve the order for case B2100033 (Jeter, Meadows 2<sup>nd</sup>).

**ACTION:** Carried, 7-0.

**Case B2100036**

**MOTION:** Approve the order for case B2100036 (Meadows, Retchless 2<sup>nd</sup>)

**ACTION:** Carried, 7-0.

**Case B2100037**

**MOTION:** Approve the order for case B2100037 (Retchless, Jeter 2<sup>nd</sup>)

**ACTION:** Carried, 7-0.

**Case B2100039**

**MOTION:** Approve the order for case B2100039 (Tarrant, Meadows 2<sup>nd</sup>)

**ACTION:** Carried, 7-0.

**Case B2100041**

**MOTION:** Approve the order for case B2100041 (Retchless, Jeter 2<sup>nd</sup>)

**ACTION:** Carried, 7-0.

**VIII. Adjournment**

The meeting adjourned at 12:36 p.m.

The next meeting will be September 28, 2021

Respectfully Submitted,  
Jessica Dockery, Staff Liaison to the Board