September 24, 2019, 8:30 a.m.
Committee Room, 2nd Floor, City Hall
101 City Hall Plaza, Durham, NC

I. Call to Order
Chair Rogers called the meeting to order at 8:32 a.m.

II. Roll Call
Members Present:  
Jacob Rogers, Chair  
Chad Meadows, Vice Chair  
Fredrick Davis  
Regina deLacy  
Ian Kipp  
Michael Retchless  
Jessica Major, Designated Alternate  
Teisha Wymore

Members Absent:  
Chris Burnham

Staff Present:  
Bo Dobrzenski, DSC Senior Manager  
Jessica Dockery, Planning Manager  
Bryan Wardell, County Attorney’s Office  
Crista Cuccaro, City Attorney’s Office  
Eliza Monroe, Planner  
Cole Renigar, Planner  
Susan Cole, Clerk

III. Adjustments to the Agenda
None

IV. Swearing-In of Witnesses
Chair Rogers 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

Case B1800025 - City: A minor special use permit for a place of worship within a residential zoning district. The subject site is located at 5000 Southpark Drive, is zoned Residential Suburban (RS-20); within the Falls of the Neuse/Jordan Lake Protected Area (F/J-B) Watershed Protection Overlay District, and in the Suburban Tier.

Seated: Davis, deLacy, Kipp, Meadows, Rogers, Retchless, Major

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: Charlie Yokley spoke in support. Carolyn Carver-Tann, Mary Rollins, Charles Barnes and Jessica Glass spoke with opposition centering on home values being impacted, increased traffic, speeding, animal welfare and climate change.

MOTION: To continue to October 22, 2019 meeting. (Meadows, deLacy 2nd)

ACTION: Failed 4-3. (Davis, Kipp, Rogers, Retchless voting no)

MOTION: Davis made a motion that case B1800025, an application for a minor special use permit on property located at 5000 Southpark 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 information submitted to the Board as part of the application and the site plan case D1800165.

(Davis, Retchless, 2nd)

**ACTION:** Motion failed 4-3. (DeLacy, Meadows, Major voting no)

**Case B1900024, B1900025, B1900039 - City:** Three variance requests to decrease the required rear yard setbacks and from the street tree requirements in order to construct a single-family detached house on each lot. The subject sites are located at 108 and 112 N. Plum Street, are zoned Residential Urban [RU-5(2)], and in the Urban Tier.

**Seated:** Davis, deLacy, Kipp, Meadows, Rogers, Retchless, Major

**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:** Jim Elza spoke in support. No one spoke in opposition.

**MOTION:** Meadows made a motion that case **B1900024**, an application for a **variance to decrease the required rear yard setback and from the street tree requirement in order to construct a single-family detached house on a lot** on property located at **108 Plum Street** has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted without conditions.

(Meadows, Kipp 2nd)

**ACTION:** Motion carried, 7-0.

**MOTION:** Meadows made a motion that case **B1900025**, an application for a **variance to decrease the required rear yard setback and from the street tree requirement in order to construct a single-family detached house on a lot** on property located at **112 Plum Street** has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject without conditions.

(Meadows, Kipp 2nd)

**ACTION:** Motion carried, 7-0.

**MOTION:** Meadows made a motion that case **B1900039**, an application for a **variance to decrease the required rear yard setback and from the street tree requirement in order to construct a single-family detached house on a lot**, on property located at **108 and 112 N. Plum Street**, which will become its own lot addressed as **110 N. Plum Street**, has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted without conditions.

(Meadows, deLacy, 2nd)

**ACTION:** Motion carried, 7-0.

**Case B1900033 - County:** A reasonable accommodation request from the dimensional standards of the Rural Residential zoning district in order to place a residence on a legal non-conforming lot.
The subject site is located at 306 Red Mountain Road, is zoned Commercial Neighborhood (CN), within the lake Michie/Little River Protected Area (M/LR-B) Watershed Protection Overlay District, and in the Rural Tier.

**Seated:** Davis, deLacy, Kipp, Meadows, Rogers, Retchless, Major

**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:** Whitney O’Briant spoke in support. No one spoke in opposition

**MOTION:** Meadows made a motion that case **B1900033**, an application for a *reasonable accommodation from the dimensional requirements of the rural residential zoning district* on property located at **306 Red Mountain 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.

- The single-family detached house will maintain a minimum setback of fifteen (15) feet from all lot lines.

(Meadows, deLacy 2nd)

**ACTION:** Motion carried, 7-0.

**Case B1900034** - City: A variance request from the frontage requirement in which a minimum 60% of the build-to zone shall be occupied by the building podium. The subject site is located at 725 Ninth Street, zoned Compact Design Pedestrian Business [CD-P(N)], and in the Ninth Street Compact Neighborhood tier.

**Seated:** Davis, deLacy, Kipp, Meadows, Rogers, Retchless, Major

**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:** David Perry and Ryan Repp spoke is support. No one spoke in opposition.

**MOTION:** Major made a motion that case **B1900034**, an application for a *variance request from the frontage requirement in which a minimum 60% of the build-to zone shall be occupied by the building podium* on property located at **725 Ninth 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.

(Major, Retchless 2nd)

**ACTION:** Motion carried, 6-1 (Meadows voting no).

A BREAK WAS TAKEN FROM 10:39 AM to 10:47 AM
Case B1900035 - City: A variance request to permit service area for a development on a corner lot to occupy more than 20% of the street frontage and be located within 20 feet of a building corner. The subject site is located at 214 and 216 Hunt Street, zoned Design District-Core (DD-C), and in the Downtown Tier.

Seated: Davis, deLacy, Meadows, Rogers, Retchless, Major, Wymore (Kipp recused due to conflict of interest).

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: Will Andersen, Jeremy Anderson and Jared Martinson spoke in support. Doug Henderson James spoke in opposition with traffic concerns.

MOTION: Mr. Retchless made a motion that case B1900035, an application for a variance request to permit service area for a development on a corner lot to occupy more than 20% of the street frontage and be located within 20 feet of a building corner on property located at 214 and 216 Hunt 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.

(Retchless, Meadows 2nd)

ACTION: Motion carried, 6-1 (Wymore voting no).

Case B1900036 - City: A minor special use permit request for an addition of more than 10% of the existing floor area to a non-conforming single-family structure and a four-foot height increase from the original structure. The subject site is located at 1112 Wells Street, is zoned Residential Suburban-10 (RS-10), and in the Urban Tier.

Seated: deLacy, Kipp, Meadows, Rogers, Retchless, Major, Wymore (Davis absent).

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 Merrigan and Bridgette Walz spoke in support and no one spoke in opposition.

MOTION: Ian Kipp made a motion that case B1900036, an application for a minor special use permit on property located at 1112 Wells Street has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted without conditions.

(Kipp, Retchless 2nd)

ACTION: Motion carried, 7-0.

VI. Approval of Summary Minutes from August, 2019

Motion: Approve the Minutes from August, 2019 (Meadows, Retchless 2nd).

Action: Motion carried, 7-0.
VII. Approval of Orders

Case B1900022
MOTION: Approve the order for case B1900022 (Retchless, deLacy 2nd).
ACTION: Motion carried, 4-0.

Case B1900024
Motion: Approve the order for case B1900024 (deLacy, Meadows 2nd).
Action: Motion carried, 7-0.

Case B1900025
Motion: Approve the order for case B1900025 (Meadows, deLacy 2nd).
Action: Motion carried, 7-0.

Case B1900039
Motion: Approve the order for case B1900039 (Retchless, Meadows 2nd).
Action: Motion carried, 7-0.

Case B1900033
Motion: Approve the order for case B1900033 (deLacy, Retchless 2nd).
Action: Motion carried, 7-0.

Case B1900034
Motion: Approve the order for case B1900034 (deLacy, Kipp 2nd).
Action: Motion carried, 6-0.

Case B1900035
Motion: Approve the order for case B1900035 (deLacy, Retchless 2nd).
Action: Motion carried, 6-0.

Case B1900036
Motion: Approve the order for case B1900036 (deLacy, Meadows 2nd).
Action: Motion carried, 7-0.

VIII. Old Business – None.

IX. New Business – Chair Rogers noted that the next regular meeting will be on October 22, 2019.

X. Adjournment
The meeting adjourned at 12:13 (deLacy, Kipp 2nd)

Respectfully Submitted,
Susan Cole, Clerk to the Board