



# Durham Board of Adjustment

August 26, 2008

**Memo To: Durham City Council  
Durham Board of Commissioners**

**From:** William John Brian, Jr., Chair, Durham Board of Adjustment

**Subject:** Board of Adjustment 2007-2008 Annual Report

In compliance with the Rules of Procedures, we, the Durham Board of Adjustment submit the following Annual Report for July 1, 2007 through June 30, 2008.

The Board of Adjustment during the period July 1, 2007 through June 30, 2008 processed 44 cases. A breakdown of those cases is attached. As you will see, this year the Board handled more appeals from administrative zoning decisions than in past years.

Also, the Board still is dealing with the issue of vacancies. Two positions have been vacant for approximately two years: one County alternate and one City alternate. The Board is fortunate to have dedicated members with excellent attendance records, making it possible to hear most cases with a full Board seated. However, these vacancies have resulted in several cases being continued because a full Board could not be seated, and in one case, the Board was barely able to maintain a quorum in order to take the action necessary to continue the case. Unfortunately, this case was hotly contested and over 100 members of the public were present to watch or testify. It was an embarrassing moment. In short, the staff and the chair struggle before every meeting to insure full attendance of existing board members, and there is little flexibility for dealing with the occasions when Board members have conflicts of interest in cases. If a Board member has a conflict of interest in a case on a day when one other member is absent, the Board effectively becomes less than a full Board.

The Board understands there is a limit to what the City and County can do to advertise these vacancies, and simply asks that those efforts be renewed and that the process by which these vacancies are advertised be reviewed. In this regard, it should be noted that the number of cases the Board has considered in which one or both parties are represented by attorneys has increased. Therefore, it is important that future Board appointees understand and be dedicated to continue meeting the high standards that present Board members have set in their decision-making process, so that Board decisions can be defended in Court if necessary.

**BOARD OF ADJUSTMENT ATTENDANCE REPORT**  
**July, 2007 through June, 2008**

Compensation increased to \$50 per meeting July 1, 2007

MEMBER NAME	Jul 24	Aug 28	Sep 25	Oct 23	Nov 27	Dec 11	Jan 22	Feb 26	Mar 25	Apr 22	May 27	Jun 24
Lynn Andrews	P	P	P	P	N	P	P	P	P	P	P	P
William Brian, Jr.	P	P	P	P	O	P	P	P	P	P	P	P
Furney Brown, Jr.	P	P	P	P	M	P	P	P	P	P	P	P
Daniel Edwards	P	P	P	P	E E	P	P	P	P	P	P	A
George Kolasa	P	P	P	P	T	P	P	P	P	P	P	A
David Neill	P	P	P	P	I	P	P	A	P	P	P	P
Spurgeon Thurston	P	P	A	P	N	P	P	P	A	P	P	P
Rebecca Winders	P	P	P	P	G	P	P	P	P	P	P	P

- P = Present
- A = Absent

## 2007-2008 Cases Heard by the Board of Adjustment

Case	Meeting_Date	Type of Request	Requested_Use	Action Taken	Vote
B0800018	6 /24/2008	Use Permit	Nonconforming Structure Addition	Granted	5-0
B0800006	6 /24/2008	Use Permit	Place of Worship	Granted	5-0
B0800002	5 /27/2008	Variance	existing accessory structure front of new sf dwell	Granted	7-0
B07-54	5 /27/2008	Use Permit	Elementary School Expansion	Granted	6-1
B08000016	5 /27/2008	Use Permit	Fence height	Granted	7-0
B07-61	5 /27/2008	Use Permit	Day Care	Granted	5-2
B0800003	5 /27/2008	Use Permit	Day Care	Granted	7-0
B0800008	5 /27/2008	Use Permit	School	Granted	7-0
B0800009	5 /27/2008	Use Permit	Place of Worship	Granted	7-0
B08000012	5 /27/2008	Appeal	Overturn denial of Certificate of Appropriateness	Withdrawn	
B08000013	5 /27/2008	Use Permit	Reconstruction of nonconforming structure	Granted	7-0
B08000015	5 /27/2008	Use Permit	Single family addition to nonconforming structure	Granted	6-1
B07-60	5 /27/2008	Use Permit	Place of Worship	Granted	7-0
B0800005	4 /22/2008	Use Permit	Day Care	Granted	7-0
B07-49	4 /22/2008	Use Permit	Elementary School Addition; addition to nonconforming structure	Granted	7-0
B07-48	4 /22/2008	Appeal	Administrative Decision Appeal	Denied	7-0
B0800007	3 /25/2008	Use Permit	Nonconforming Structure Expansion	Granted	7-0
B07-44	3 /25/2008	Use Permit	Place of Worship	Granted	6-1
B07-41	2 /26/2008	Appeal	Approval of Interpretation	PH closed and deferred indefinitely	
B07-43	2 /26/2008	Use Permit	Single Family Dwelling	Granted	7-0

B07-38	1 /22/2008	Use Permit	Day Care - 50 children	Granted	7-0
B07-47	1 /22/2008	Variance	Buffer reduction along the east side boundary	Granted	7-0
B07-59	1 /22/2008	Variance	Street yard	Denial	2-5
B07-57	1 /22/2008	Use Permit	Fence 6 feet	Granted	7-0
B07-46	1 /22/2008	Use Permit	Bed & Breakfast	Granted	7-0
B07-50	1 /22/2008	Use Permit	Fence over 4 feet	Granted	7-0
B07-53	12/11/2007	Use Permit	Place of Worship	Granted	5-2
B07-18	12/11/2007	Use Permit	Elementary School	Granted	7-0
B07-16	10/23/2007	Use Permit	Daycare	Granted	7-0
B07-17	10/23/2007	Use Permit	Private School	Granted	7-0
B07-26	10/23/2007	Variance	Street and Rear Yards	Granted	7-0
B07-28	10/23/2007	Variance	Street and rear yards	Granted	7-0
B07-29	10/23/2007	Variance	Street and side yards	Granted	7-0
B07-40	10/23/2007	Use Permit	Private School - Expansion	Granted	7-0
B07-51	10/23/2007	Use Permit	Fence over 4 feet	Granted	7-0
B07-35	9 /25/2007	Use Permit	Elementary and Middle School Expansion	Granted	7-0
B07-39	9 /25/2007	Use Permit	Place of Worship	Granted	7-0
B07-31	9 /25/2007	Variances	Side yard, & reduction of parking	Granted	6-1
B07-34	8 /28/2007	Variance	To encroach into required street yard	Denial	1-6
B07-15	8 /28/2007	Use Permit	Place of Worship	Granted	7-0
B07-33	7 /24/2007	Use Permit	Group Home	Granted	5-2
B07-25	7 /24/2007	Use Permit	Fence height	Granted	6-1
B06-21	7 /24/2007	Use Permit	Permit Density Above 16 DU/ac.	Denial	2-5
B06-22	7 /24/2007	Use Permit	Permit Height Above Four Stories	Denial	2-5