



BOARD OF ADJUSTMENT APPROVED MINUTES

January 24, 2023, 8:30 a.m.
Committee Room, 101 City Hall Plaza

I. Call to Order

Chair Meadows called the meeting to order at 8:32 a.m.

II. Roll Call

Members Present:

Chad Meadows, Chair
Michael Tarrant, Vice Chair
Sherrod Banks
Natalie Beauchaine
George Kolasa
Nadera Salaam
Jessica Major, Designated Alternate
Justin Hall, Alternate
Chase Pickett, Alternate

Members Absent:

Ian Kipp

Staff Present:

Jessica Dockery, Planning Manager
Don O'Toole, City Attorney's Office (virtual)
Bryan Wardell, County Attorney's Office
Cole Renigar, Planner
Leigha Larkins, Planner
Terri Elliott, Clerk

Chair Meadows read the following statement:

The meeting will now come to order. Welcome to the January 24, 2023 meeting of the City of Durham Board of Adjustment. My name is Chad Meadows and I am the Chair of the board.

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 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, 5 of the 7 voting Board members must approve the request. (If less than 7 voting members present, state 5 of the 5 voting members or 5 of the 6 voting members). For a county variance request, North Carolina law requires that in order for an applicant's request to be granted, 6 of the 7 voting Board members must approve the request. For other county requests, including applications for a minor special use permit, 4 of the 7 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 wish 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 for the City/County Planning Staff.

Chair Meadows asked if any board members needed to note any *ex parte* communication for any of the cases? There was none. Chair Meadows asked if there was a need for recusals with regard to the cases before us today? Meadows asked for recusal from B2200049, 2050 Watchorn Street, and Pickett from B2200052/B2200053, 5617 Inverness Drive. Chair Meadows then asked if there were any early dismissals? No early dismissals were requested.

A vote to excuse Kipp's absence was held.

MOTION: To excuse Kipp's absence

ACTION: Carried, 8-0 (Major, Tarrant 2nd) (Salaam was not yet present)

III. **Adjustments to the Agenda:**

None.

IV. **Approval of Minutes from December 13, 2022**

MOTION: Approve the December 13, 2022 minutes

ACTION: Carried, 8-0 (Kolasa, Beauchaine 2nd)

(Salaam arrived)

V. **Hearing and Determination of Cases**

B2200048 – City: A request for a Minor Special Use Permit for additional building height. The Property is located at 5321, 5325, 5327, and 5421 Chin Page Road, zoned Office and Institutional (OI) and Office and Institutional – D (OI(D)), and within the Suburban Development Tier.

Applicant and all witnesses swore or affirmed their testimony.

Seated: Meadows, Tarrant, Kolasa, Beauchaine, Salaam, Banks, and Major

Staff Report: Leigha Larkins presented the case.

Speakers: Patrick Byker, Kelsey Westwood, Earl Lewellyn, and David Smith spoke in support. No one spoke in opposition.

MOTION: Banks made a motion that case number B2200048, an application for a Minor Special Use Permit to allow additional height, on property located at 5321, 5325, 5327, and 5421 Chin Page Road, has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject to the following conditions:

1. The improvements shall be substantially consistent with the plans and all information submitted to the Board as part of the application.
2. The height increase for all nine buildings shall be limited to a maximum of 45 feet.

ACTION: Carried, 7-0. (Banks, Kolasa 2nd)

B2200049 – City: A request for a Minor Special Use Permit to allow a hotel where the property line is 200 feet or less from a residential district or the property line of a single-family residential use. The property is located at 2050 Watchorn Street, zoned Commercial General – D (CG(D)), and within the Suburban Development Tier.

Applicant and all witnesses swore or affirmed their testimony.

Seated: Tarrant, Kolasa, Beauchaine, Salaam, Banks, Major, and Pickett

Staff Report: Cole Renigar presented the case.

Speakers: Steven Anderson, Matt Hook, Paul Duncan spoke in support. T.C. Morphis and Richard Bishop spoke in opposition.

MOTION: Kolasa made a motion that case number B2200049, an application for a Minor Special Use Permit, on property located at 2050 Watchorn Street, be continued to the February 28, 2023 BOA meeting.

ACTION: Failed, 2-5. (Kolasa, Major 2nd)(Tarrant and Major voting yes)

MOTION: Major made a motion that case number B2200049, an application for a Minor Special Use Permit, on property located at 2050 Watchorn Street, has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject to the following conditions:

1. The improvements shall be substantially consistent with the plans and all information submitted to the Board as part of the application.

ACTION: Failed, 0-7. (Major, Kolasa 2nd)

Break: 9:43a.m. – 9:50a.m.

B2200050 – City: A request for a Variance from the rear yard setback requirements. The property is located at 114 N. Plum Street, zoned Residential Urban – 5(2) (RU-5(2)), and within the Urban Development Tier.

Applicant and all witnesses swore or affirmed their testimony.

Seated: Meadows, Tarrant, Kolasa, Beauchaine, Salaam, Banks, and Major

Staff Report: Leigha Larkins presented the case.

Speakers: Nicole Tyra spoke in support. Randolph Lynch spoke in opposition.

MOTION: Beauchaine made a motion that case number B2200050, an application for a Variance from the rear yard requirements, on property located at 114 North Plum Street, has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject to the following conditions:

1. 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. (Beauchaine, Kolasa 2nd)

B2200051 – City: A request for a Variance from the rear yard setback requirements. The property is located at 116 N. Plum Street, zoned Residential Urban – 5(2) (RU-5(2)) and within the Urban Development Tier.

Applicant and all witnesses swore or affirmed their testimony.

Seated: Meadows, Tarrant, Kolasa, Beauchaine, Salaam, Banks, and Major

Staff Report: Leigha Larkins presented the case.

Speakers: Nicole Tyra spoke in support. No one spoke in opposition.

MOTION: Banks made a motion that case number B2200051, an application for a Variance from the rear yard requirements, on property located at 116 North Plum Street, has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject to the following conditions:

1. 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. (Banks, Beauchaine 2nd)

B2200052 – County: A request for a Variance from the riparian buffer protection standards in order to construct a pool, screened porch, deck, path, and a new parking area. The property is located at 5617 Inverness Drive, zoned Residential Rural (RR), and within the Suburban Development Tier.

Applicant and all witnesses swore or affirmed their testimony.

Seated: Meadows, Tarrant, Kolasa, Beauchaine, Salaam, Banks, and Major

Staff Report: Leigha Larkins presented the case.

Speakers: Sophie Piesse and Marshall Michener spoke in support. No one spoke in opposition.

MOTION: Meadows made a motion that case number B2200052, an application for a Variance from riparian buffer standards, on property located at 5617 Inverness Drive, has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject to the following conditions

1. The improvements shall be substantially consistent with the plans and all information submitted to the Board as part of the application.
2. Necessary digging for all improvements, other than the proposed pool and driveway removal, will be done by hand and materials will be hand carried into the site.
3. Vegetation in the undisturbed portions of the buffer will not be compromised by the activity associated with this proposal.
4. At completion of the project, any disturbed area will be stabilized with native vegetation.
5. Any fence replacement that is proposed as part of this effort will be compliant with all applicable city and state rules.

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

B2200053 – County: A request for a Minor Special Use Permit for the construction of an addition to a nonconforming structure. The property is located at 5617 Inverness Drive, zoned Residential Rural (RR), and within the Suburban Development Tier.

Applicant and all witnesses swore or affirmed their testimony.

Seated: Meadows, Tarrant, Kolasa, Beauchaine, Salaam, Banks, and Major

Staff Report: Leigha Larkins presented the case.

Speakers: Sophie Piesse and Marshall Michener spoke in support. No one spoke in opposition.

MOTION: Beauchaine made a motion that case number B2200053, an application for a Minor Special Use Permit to permit the construction of an addition to a nonconforming structure, on property located at 5617 Inverness Drive, has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject to the following conditions:

1. 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. (Beauchaine, Kolasa 2nd)

B2200055 – City: A request for a Variance from the infill standards in order to construct a single-family detached house on a corner lot. The property is located at 2222 Woodrow Street, zoned Residential Suburban – 8 (RS-8), and within the Urban Development Tier.

Applicant and all witnesses swore or affirmed their testimony.

Seated: Meadows, Tarrant, Kolasa, Beauchaine, Salaam, Banks, and Major

Staff Report: Leigha Larkins presented the case.

Speakers: Cliff Credle and Kirk West spoke in support. Chris Weintrob, Tom Miller, Robert Frame, Dot Doyle, and Emery Bare spoke in opposition.

MOTION: Kolasa made a motion that case number B2200055, an application for a Variance from the infill standards, on property located at 2222 Woodrow Street, has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject to the following conditions:

1. The improvements shall be substantially consistent with the plans and all information submitted to the Board as part of the application.

ACTION: Failed, 0-7. (Kolasa, Salaam 2nd)

Break 12:39p.m. 12:42p.m.

VI. Old Business - None

VII. New Business – None

VIII. Approval of Orders

Case B2200046

MOTION: Approve the order for case B2200046 (Tarrant, Beauchaine 2nd)

ACTION: Carried, 6-0.

Case B2200047

MOTION: Approve the order for case B2200047 (Beauchaine, Meadows 2nd)

ACTION: Carried, 6-0.

Case B2200050

MOTION: Approve the order for case B2200050 (Beauchaine, Salaam 2nd)

ACTION: Carried, 7-0.

Case B2200051

MOTION: Approve the order for case B2200051 (Beauchaine, Salaam 2nd)

ACTION: Carried, 7-0.

Case B2200053

MOTION: Approve the order for case B2200053 (Salaam, Beauchaine 2nd)

ACTION: Carried, 7-0.

IX. Adjournment

The meeting adjourned at 12:45 p.m.

The next meeting will be February 28, 2023, in the Committee Room

Respectfully Submitted,
Terri Elliott, Clerk to the Board