



BOARD OF ADJUSTMENT APPROVED MINUTES

February 22, 2022, 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
Ian Kipp
David Paletta
Michael Retchless
Teisha Wymore
Michael Tarrant, Designated Alternate
Natalie Beauchaine, Alternate

Members Absent:

Jessica Major, Alternate

Staff Present:

Jessica Dockery, Planning Manager
Crista Cuccaro, City Attorney's Office
Bryan Wardell, County Attorney's Office
Cole Renigar, Planner
Terri Elliott, Clerk

Chair Rogers read the following statement:

The meeting will now come to order. Welcome to the February 22, 2022 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.

III. **Approval of Summary Minutes from January 25, 2022.**

MOTION: Approve the January 25, 2022 minutes.

ACTION: Carried, 8-0. (Meadows, Retchless 2nd)

IV. **Adjustments to the Agenda - None**

MOTION: To excuse Jessica Major. (Beauchaine, Wymore 2nd)

ACTION: Carried 8-0.

IV. **Hearing and Determination of Cases**

B2100055 – City: A request for a variance from parking requirements. The subject site is located at 3409 Hillsborough Road, is zoned Industrial Light (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, Paletta, Rogers, Retchless, Wymore, 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: Danielle Hammond and Richard Adams spoke in support. No one spoke in opposition.

MOTION: Retchless made a motion that application number B2100055, a request for a variance from the parking requirements, on property located at 3409 Hillsborough 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.

ACTION: Failed, 5-1. (Retchless, Rogers 2nd) (Rogers voting yes; Wymore lost connection and did not vote)

B2100056 – City: A request for a variance from the infill development street yard standards. The subject site is located at 1315 Clarendon Street, is zoned Residential Urban - 5(2) (RU-5(2)), and in the Urban Tier.

Applicant and all witnesses swore or affirmed their testimony and consented to the remote meeting format.

Seated: Kipp, Meadows, Paletta, Rogers, Retchless, Tarrant, 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: Joe Berini spoke in support. No one spoke in opposition.

MOTION: Meadows made a motion that application number B2100056, a request for a variance from the infill development street yard standards, on property located at 1315 Clarendon 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. (Meadows, Beauchaine 2nd)

BREAK from 9:42 to 9:50

B2100057 – City: A request for a minor special use permit for an increase in height of a non-conforming structure. The subject site is located at 3308 Virginia Avenue, is zoned Residential Suburban - 8 (RS-8), and in the Urban Tier.

Applicant and all witnesses swore or affirmed their testimony and consented to the remote meeting format.

Seated: Kipp, Meadows, Paletta, Rogers, Retchless, Tarrant, 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: Darrell Fruth spoke in support. No one spoke in opposition.

MOTION: Beauchaine made a motion that application number B2100057, a request for a minor special use permit, on property located at 1308 Virginia Avenue, 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, Meadows 2nd)

B2200001 – City: A request for a variance from the ceiling height for structured parking ground floor frontage uses in design districts. The subject site is located at 331 Roney 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, Paletta, Rogers, Retchless, and Beauchaine (Tarrant recused)

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: Tim Summerville and Darren Lathan spoke in support. No one spoke in opposition.

MOTION: Paletta made a motion that application number B2200001, a request for a variance from the ceiling height for structured parking ground floor frontage uses in design districts, on property located at 331 Roney 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, 6-0. (Paletta, Retchless 2nd)

V. Old Business – None

VI. New Business – Teisha Wymore is resigning after the next meeting.

BREAK from 10:37 to 10:55

VII. Approval of Orders

Case B2100056

MOTION: Approve the order for case B2100056 (Meadows, Tarrant 2nd)

ACTION: Carried, 7-0.

Case B2100057

MOTION: Approve the order for case B2100057 (Meadow, Beauchaine 2nd)

ACTION: Carried, 7-0.

Case B2200001

MOTION: Approve the order for case B2200001 (Paletta, Retchless 2nd)

ACTION: Carried, 6-0.

VIII. Adjournment

The meeting adjourned at 10:58 a.m.

The next meeting will be March 22, 2022

Respectfully Submitted,
Terri Elliott, Clerk to the Board