



BOARD OF ADJUSTMENT APPROVED MINUTES

March 28, 2023, 8:30 a.m.
Committee Room, 101 City Hall Plaza

I. Call to Order

Vice Chair Tarrant called the meeting to order at 08:31 a.m. due to the absence of the Chair

II. Roll Call

Members Present:

Michael Tarrant, Vice Chair
Sherrod Banks
Natalie Beauchaine
Ian Kipp
George Kolasa
Nadera Salaam
Chase Pickett, Designated Alternate
Jessica Major, Alternate

Members Absent:

Chad Meadows, Chair
Justin Hall, Alternate

Staff Present:

Jessica Dockery, Planning Manager
Wayne Fenton, Assistant Director, Solid Waste
Don O'Toole, City Attorney's Office
Bryan Wardell, County Attorney's Office
Leigha Larkins, Planner
Robin Schultze, Senior Planner/Arborist
Joanne Gordon, Clerk

Vice Chair Tarrant read the following statement:

The meeting will now come to order. Welcome to the March 28, 2023 meeting of the City of Durham Board of Adjustment. My name is Michael Tarrant and I am the Vice 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 Vice 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.

Vice Chair Tarrant asked if any board members needed to note any *ex parte* communication for any of the cases? There was none. Vice Chair Tarrant asked if there was a need for recusals with regard to the cases before us today? No recusals. Vice Chair Tarrant then asked if there were any early dismissals? No early dismissals were requested.

A vote to excuse Hall's absence was held.

MOTION: To excuse Hall's absence

ACTION: Carried, 8-0

III. Adjustments to the Agenda:

None

IV. Approval of Minutes from February 28, 2023

MOTION: Approve the February 28, 2023, minutes as submitted

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

V. Hearing and Determination of Cases

B2200054 – City: A request for a Minor Special Use Permit to allow for the development of a government facility in a residential zone. The property is located at 3301 Glenn Road, zoned Residential Rural (RR), in the Falls/Jordan District B (F/J-B) Watershed Overlay District, and within the Suburban Development Tier.

Applicant and all witnesses swore or affirmed their testimony.

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

Staff Report: Leigha Larkins presented the case.

Speakers: Don O’Toole, Wayne Fenton, Don Sever, and David Smith spoke in support. No one spoke in opposition.

MOTION: Kolasa made a motion that case number B2200054, an application for a Minor Special Use Permit to permit the development of a government facility in a residential zone, on property located at 3301 Glenn 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 plans and all information submitted to the Board as part of the application.

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

B2300008 – City: A Variance from the tree preservation standards. The property is located at 2705, 2725 E US 70 Hwy; 4309, 4708 Leesville Road, zoned Planned Development Residential 5.949 (PDR 5.949), in the Falls/Jordan District B (F/J-B) Watershed Overlay District, and within the Suburban Development Tier.

Applicant and all witnesses swore or affirmed their testimony.

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

Staff Report: Leigha Larkins presented the case.

Speakers: Nil Ghosh and Beth Blackman spoke in support. No one spoke in opposition.

MOTION: Kolasa made a motion that case number B2300008, a Variance from the tree preservation standards, be continued to the April 25, 2023, BOA meeting.

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

VI. Old Business - None

VII. New Business – Discussion of proposed revisions to the Rules of Procedure

VIII. Approval of Orders

Case B2200054

MOTION: Approve of the order for case B2200054

ACTION: Carried, 7-0.

Case B2300005

MOTION: Approve the order for case B2300005

ACTION: Carried, 5-0.

IX. Adjournment

The meeting adjourned at 10:44 a.m.

The next meeting will be April 25, 2023, in the Committee Room

Respectfully Submitted,
Joanne Gordon, Clerk to the Board