



## BOARD OF ADJUSTMENT APPROVED MINUTES

April 25, 2023, 8:30 a.m.  
Committee Room, 101 City Hall Plaza

### I. Call to Order

Chair Meadows called the meeting to order at 08:30 a.m. Chair

### II. Roll Call

#### Members Present:

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

#### Members Absent:

#### Staff Present:

Jessica Dockery, Planning Manager  
Aarin Miles, City Attorney's Office  
Bryan Wardell, County Attorney's Office  
Leigha Larkins, Planner  
Cole Renigar, Planner  
Terri Elliot, Clerk  
Chezney UpChurch, Clerk

#### Chair Meadows read the following statement:

The meeting will now come to order. Welcome to the April 25, 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? No recusals. Chair Meadows then asked if there were any early dismissals? No early dismissals were requested.

### **III. Adjustments to the Agenda:**

None

### **IV. Approval of Minutes from March 28, 2023**

**MOTION:** Approve the March 28, 2023, minutes as submitted

**ACTION:** Carried, 7-0 (Kolasa, Tarrant 2<sup>nd</sup>)

### **V. Hearing and Determination of Cases**

**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:** Kyle Finney, Nil Ghosh, Sean Hein, and Beth Blackmon spoke in support. No one spoke in opposition.

**MOTION:** Kolasa made a motion that case number B2300008, an application for a Variance from the major specimen tree preservation standards, on property located at 2705 and 2725 E US 70 Hwy and 4793 and 4709 Leesville 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.
- The 26 major specimen trees inside the project buffer, but outside the stream buffer, must be saved or replaced in a similar location in accordance with UDO 8.3.1E.

**ACTION:** Carried, 6-1. (Kolasa, Salaam 2<sup>nd</sup>) Beauchaine voting no.

**EXHIBITS:** A and B

**Break from 9:50 – 10:00 a.m.**

**B2300011**– City: A request for a Minor Special Use Permit to allow for a new building for an existing place of worship in a residential zoning district. The property is located at 2403 Lednum Street, zoned Residential Urban – Multi-family (RU-M), in the Falls/Jordan District B (F/J-B) Watershed Protection Overlay and within the Urban Development Tier.

**Applicant and all witnesses swore or affirmed their testimony.**

**Seated:** Meadows, Tarrant, Banks, Beauchaine, Kipp, Kolasa, and Salaam

**Staff Report:** Cole Renigar presented the case.

**Speakers:** Nil Ghosh, Mike Davidson, Jeff Hochenadel, and Jarvis Martin spoke in support. Amilda Knox Horne spoke in opposition.

**MOTION:** Beauchaine made a motion that case number B2300011, an application for a Minor Special Use Permit to allow for a new building for an existing place of worship in a residential zoning district. The property is located at 2403 Lednum Street, zoned Residential Urban – Multi-family (RU-M), in the Falls/Jordan District B (F/J-B) Watershed Protection Overlay and within the Urban Development Tier.

- The improvements shall be substantially consistent with the site plan, case D2200140, and all information submitted to the Board as part of the application.

**ACTION:** Carried, 7-0. (Beauchaine, Kolasa 2<sup>nd</sup>)

**EXHIBITS:** A, B, C, D and E

**B2300012** – City: A Variance from the minimum lot width standards. The property is located at 3730 Old Chapel Hill Road, zoned Residential Suburban – 20 (RS–20) and Residential Suburban – 8 (RS8), and within the Suburban Development Tier.

**Applicant and all witnesses swore or affirmed their testimony.**

**Seated:** Meadows, Tarrant, Banks, Beauchaine, Kipp, Kolasa, and Salaam

**Staff Report:** Leigha Larkins presented the case.

**Speakers:** Dayne Filer, Shawn Carter, and Regina Leonard (neighboring HOA) spoke in support. No one spoke in opposition.

**MOTION:** Meadows made a motion that case number B23000012 be continued to a date certain of May 23, 2023, to allow for a revised application to be submitted.

**ACTION:** Carried, 7-0. (Meadows, Kolasa 2<sup>nd</sup>)

**Break from 12:05 – 12:10 p.m.**

**B2300013** – City: A Variance from the rear yard setback standards. The property is located at 24 White Spruce Court, zoned Residential Urban – 5 (with a Development Plan) (RU – 5(D)) and Suburban Development Tier.

**Applicant and all witnesses swore or affirmed their testimony.**

**Seated:** Meadows, Tarrant, Banks, Beauchaine, Kipp, Kolasa, and Salaam

**Staff Report:** Leigha Larkins presented the case.

**Speakers:** Linda Van Gombos spoke in support. No one spoke in opposition.

**MOTION:** Kolasa made a motion that case number B2300013, an application for a Variance from the rear setback standards, on property located at 24 White Spruce Court, 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, Beauchaine 2<sup>nd</sup>)

**B2300014** – County: A Variance from the minimum side yard setback standards. The property is located at 9 Trappers Court, zoned Residential Rural (RR), in the Eno River District B (E-B) and Suburban Development Tier.

**Applicant and all witnesses swore or affirmed their testimony.**

**Seated:** Meadows, Tarrant, Banks, Beauchaine, Kipp, Kolasa, and Salaam

**Staff Report:** Leigha Larkins presented the case.

**Speakers:** Jacob and Danielle Sourber spoke in support. No one spoke in opposition.

**MOTION:** Beauchaine made a motion I hereby make a motion that case number B2300014, an application for Variances from the minimum side yard setback and accessory structure location standards, on property located at 9 Trappers Court, 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:** Failed, 3-4 (Beauchaine, Kipp 2<sup>nd</sup>) Tarrant, Meadows, Banks, and Kolasa voting no.

**B2300015** – City: A Variance from the public space and canopy tree standards. The property is located at 704 W. Pettigrew St. and 604 Burch Ave., zoned Downtown Design – Support 1 (DD – S1) and in the Downtown Development Tier.

**Applicant and all witnesses swore or affirmed their testimony.**

**Seated:** Meadows, Tarrant, Banks, Beauchaine, Kipp, Kolasa, and Salaam

**Staff Report:** Leigha Larkins presented the case.

**Speakers:** Nil Ghosh and Christy Turner spoke in support. No one spoke in opposition.

**MOTION:** Meadows made motion that case number B2300015, an application for a Variance from the open space and canopy tree standards, on property located at 704 West Pettigrew Street and 604 Burch Avenue, has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject to the following two conditions:

- The improvements shall be substantially consistent with the plans and all information submitted to the Board as part of the application.
- The development will include three understory trees in planters or pots, in addition to the canopy tree, distributed in locations adjacent to or within the proposed public space.

**ACTION:** Carried, 7-0 (Meadows, Salaam 2<sup>nd</sup>)

**EXHIBIT:** A

**VI. Old Business - None**

**VII. New Business – Vote on proposed revisions to the Rules of Procedure**

**MOTION:** Tarrant made motion to approve the Rules of Procedure as amended.

**ACTION:** Carried, 9-0 (Tarrant, Beauchaine 2<sup>nd</sup>)

**VIII. Approval of Orders**

Case B2300011

**MOTION:** Kolasa, Tarrant 2<sup>nd</sup>

**ACTION:** Carried, 7-0

Case B2300013

**MOTION:** Kolasa, Salaam 2<sup>nd</sup>

**ACTION:** Carried, 7-0

**IX. Adjournment**

The meeting adjourned at 1:47 p.m.

The next meeting will be May 23, 2023, in the Committee Room

Respectfully Submitted,  
Chezney UpChurch, Clerk to the Board