



## BOARD OF ADJUSTMENT APPROVED MINUTES

May 23, 2023, 8:30 a.m.  
Committee Room, 101 City Hall Plaza

### I. Call to Order

Chair Meadows called the meeting to order at 08:31 a.m.

### II. Roll Call

#### Members Present:

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

#### Members Absent:

Chase Pickett, Alternate  
Jessica Major, Alternate

#### Staff Present:

Jessica Dockery, Planning Manager  
Don O'Toole, City Attorney's Office  
Bryan Wardell, County Attorney's Office  
Leigha Larkins, Planner  
Chezney UpChurch, Clerk

#### Chair Meadows read the following statement:

The meeting will now come to order. Welcome to the May 23, 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.

**MOTION:** Approve an excused absence for Major

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

**III. Adjustments to the Agenda:**

None

**IV. Approval of Minutes from April 25, 2023**

**MOTION:** Approve the April 25, 2023, minutes as submitted

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

**V. Hearing and Determination of Cases**

**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 (RS-8), and within the Suburban Development Tier.

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

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

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

**Speakers:** Dayne Filer, Sean Carter, and Kathleen Brown (Windsor Commons HOA Member At-Large) spoke in support; and Joan Brand spoke in opposition.

**MOTION:** Kolasa made a motion that case number B2300012, an application for a Variance from the minimum lot width standards, on property located at 3730 Old Chapel Hill 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, Banks 2<sup>nd</sup>)

**EXHIBITS:**A – Sean Carter’s Resume

**B2300018**– City: A Variance for sewer access. This property is located at 3724 Old Chapel Hill Road, zoned Residential Suburban – 8 (RS-8) 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, which links to case B2300012.

Chair Meadows requested to incorporate evidence and testimony from Case B2300012 into case B2300018.

**MOTION:** Banks made motion to incorporate evidence and testimony from Case B2300012 into case B2300018.

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

**MOTION:** Beauchaine made a motion that case number B2300018, an application for a request to link this parcel to a variance application for a reduced lot width at 3730 Old Chapel Hill Road to allow this parcel to access sewer service along Bettie Ln., on property located at 3724 Old Chapel Hill 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 site plan and all information submitted to the Board as part of the application.

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

**Break from 9:42 a.m. – 9:47 a.m.**

**B2300016** – City: A request for a Minor Special Use Permit to allow for a building height of 50 feet within 75 feet of the adjacent non-Design District zoning. The property is located at 6 Grace Lane and 601 Liberty Street, zoned Design District – Support 2 (DD – S2) and within 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:** Will Anderson, Jeremy Anderson, Jared Martinson, Rynal Stephenson, and Nick Kirkland spoke in support. No one spoke in opposition.

**MOTION:** Kolasa made a motion that case number B2300016, an application for a Minor Special Use Permit to allow for a building height of 50 feet within 75 feet of the adjacent non-Design District zoning, on property located at 6 Grace Lane and 601 Liberty Street, 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 site plan and all information submitted to the Board as part of the application.

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

**EXHIBITS:** A: Expert Resume: Jeremy Anderson, Jared Martinson, Rynal Stephenson, and Nick Kirkland

B: Appraisal Report

**VI. Old Business - None**

**VII. New Business**

Farewell to Ms. Beauchaine

**VIII. Approval of Orders**

Case B2300008

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

**ACTION:** Carried, 6-0

Case B2300012

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

**ACTION:** Carried, 7-0

Case B2300018

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

**ACTION:** Carried, 7-0

Case B2300016

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

**ACTION:** Carried, 7-0

**IX. Adjournment**

The meeting adjourned at 10:39 a.m.

The next meeting will be June 27, 2023, in the Committee Room

Respectfully Submitted,

Chezneu UpChurch, Clerk to the Board