



BOARD OF ADJUSTMENT APPROVED MINUTES

June 27, 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
Justin Hall, Alternate
Ian Kipp
George Kolasa
Jessica Major, Designated Alternate
Chase Pickett, Alternate
Nadera Salaam

Members Absent:

None

Staff Present:

Jessica Dockery, Planning Manager
Aarin Miles, City Attorney's Office
Beth Hyland, 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 June 27, 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 May 23, 2023

MOTION: Approve the May 23, 2023, minutes as submitted

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

V. Hearing and Determination of Cases

B2300019 – City: A Variance from the street yard setback standards. The property is located at 418 Potter St., 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, Kipp, Banks, Salaam, and Major

Staff Report: Leigha Larkins presented the case.

Speakers: Camille Allen spoke in support. No one spoke in opposition.

MOTION: Kolasa made a motion that case number B2300019, an application for a Variance from the street yard setback standards, on property located at 418 Potter 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 plans and all information submitted to the Board as part of the application.

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

B2300020 – County: A Variance from the accessory structure location standards. This property is located at 6898 Stagville Rd., zoned Planned Development Residential 1.440 (PDR 1.440), in the Falls/Jordan District B (F/J-B) Watershed Protection Overlay, and within the Suburban Development Tier.

Applicant and all witnesses swore or affirmed their testimony.

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

Staff Report: Leigha Larkins presented the case.

Speakers: Erik Mehlman and Eric Noble spoke in support. No one spoke in opposition.

MOTION: Salaam made a motion that case number B2300020, , an application for a Variance from the accessory structure location standards, on property located at 6898 Stagville 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.
- Healthy, mature specimen trees located north of the rear building line of the proposed accessory structure shall be preserved.

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

VI. Old Business - None

VII. New Business

- a. Attorney Bryan Wardell announced that this was his last BOA meeting as County attorney due to his acceptance of a new position in Pitt County.

b. Election of Chair

Tarrant nominated Meadows as Chair. Meadows accepted the nomination.

MOTION: Elect Meadows as Chair.

ACTION: Carried, 9-0 (Tarrant, Kolasa 2nd)

c. Election of Vice Chair

Kolasa nominated Tarrant as Vice Chair. Tarrant accepted the nomination.

MOTION: Elect Tarrant for Vice Chair.

ACTION: Carried, 9-0 (Kolasa, Pickett 2nd)

VIII. Approval of Orders

Case B2300013

MOTION: Approve of the order for case B2300013

ACTION: Carried, 6-0 (Kolasa, Tarrant 2nd)

Case B2300019

MOTION: Approve of the order for case B2300019

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

Case B2300020

MOTION: Approve of the order for case B2300020 as amended.

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

IX. Adjournment

The meeting adjourned at 9:33 a.m.

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

Respectfully Submitted,
Chezney UpChurch, Clerk to the Board