



BOARD OF ADJUSTMENT APPROVED MINUTES

Planning

July 26, 2022, 8:30 a.m.
Zoom – Virtual Meeting

I. Call to Order

Vice Chair Retchless called the meeting to order at 8:30 a.m.

II. Roll Call

Members Present:

Chad Meadows, Chair
Michael Retchless, Vice Chair
Natalie Beauchaine
Ian Kipp
Michael Tarrant
George Kolasa, Alternate
Jessica Major, Designated Alternate
Chase Pickett, Alternate

Members Absent:

Staff Present:

Jessica Dockery, Planning Manager
Don O’Toole, City Attorney’s Office
Bryan Wardell, County Attorney’s Office
Cole Renigar, Planner
Leigha Larkins, Planner
Terri Elliott, Clerk
Chris Peterson, Technology Liaison
Carl Kolosna, Technology Liaison

Vice Chair Retchless read the following statement:

The meeting will now come to order. Welcome to the July 26, 2022 meeting of the City of Durham Board of Adjustment. My name is Michael Retchless and I am the Vice 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.

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 letters mailed to property owners and residents within 600 feet of the subject properties, posting a sign at the property, and posting on the City's website. The website and mailed notices for today's meeting contained information about 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.

Vice Chair Retchless calls for any necessary recusals or disclosure of any *ex parte* communication.

III. Approval of Summary Minutes – June 21, 2022 and June 28, 2022

MOTION: Approve the June 21, 2022 minutes
ACTION: Carried, 7-0 (Tarrant, Meadows 2nd)

MOTION: Approve the June 28, 2022 minutes
ACTION: Carried, 7-0 (Meadows, Beauchaine 2nd)

IV. Adjustments to the Agenda – B2200021 was withdrawn and hear New Business after the first case to vote and elect Chair.

Hearing and Determination of Cases

Appeals of three (3) Planning Director's Interpretations regarding the Development Plan (B2000018), Density (B2100043), and Uses (B2100044) related to the Black Meadow (Westpoint) residential development, and an Appeal of the Administrative Approval of the Westpoint Site Plan (Site Plan Case D19000225) (BOA Case B2200015).

Appellants requested a continuance until the September 27 BOA meeting.

MOTION: Beauchaine made a motion to continue the 4 cases to a date certain of September 27.

ACTION: Carried, 6-0, (Beauchaine, Major 2nd) (Meadows and Kolasa recused)

Election of Chair

Nomination from Retchless to elect Meadows as Chair. Meadows accepted the nomination.

MOTION: Elect Meadow as Chair.

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

Hearing and Determination of Cases

B2200025 – City: A request for a variance from impervious surface limits. The property is located at 902 Littleleaf Lane, is zoned Planned Development Residential 2.390 (PDR 2.390); Falls/Jordan District B Watershed Protection Overlay and is within the Suburban Development Tier.

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

Seated: Kipp, Meadows, Retchless, Tarrant, Major, Beauchaine, Pickett, and Kolasa

Staff Report: Leigha Larkins 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: Jennifer Mando-Vandrick and Robert Vandrick spoke in support. No one spoke in opposition.

MOTION: Meadows made a motion that case number B2200025, an application for a variance from impervious surface limits, on property located at 902 Littleleaf Lane, has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject to the following conditions:

1. That to total amount of additional impervious surface be limited to that associated with coping around the pool and the two equipment pads necessary, up to a maximum of 200 square feet of additional impervious surface on the lot.

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

V. Old - None

VI. New Business

a. Election of Chair

VII. Approval of Orders

Case B2000022

MOTION: Approve the order for case B2000022 (Retchless, Kolasa 2nd)

ACTION: Carried, 5-0.

Case B2200011

MOTION: Approve the order for case B2200011 (Beauchaine, Major 2nd)

ACTION: Carried, 5-0.

Case B2200014

MOTION: Approve the order for case B2200014 (Tarrant, Retchless 2nd)

ACTION: Carried, 5-0.

Case B2200016

MOTION: Approve the order for case B2200016 (Beauchaine, Kipp 2nd)

ACTION: Carried, 5-0.

VIII. Adjournment

The meeting adjourned at 9:51 a.m.

The next meeting will be August 23, 2022, in-person in the Committee Room

Respectfully Submitted,
Terri Elliott, Clerk to the Board