



BOARD OF ADJUSTMENT APPROVED MINUTES

October 6, 2022, 8:30 a.m.
Committee Room, 101 City Hall Plaza

I. **Call to Order**

Chair Meadows 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
George Kolasa
Michael Tarrant
Jessica Major, Designated Alternate

Members Absent:

Chase Pickett, Alternate

Staff Present:

Jessica Dockery, Planning Manager
Don O'Toole, City Attorney's Office
Cole Renigar, Planner
Leigha Larkins, Planner
Terri Elliott, Clerk

Chair Meadows read the following statement:

The meeting will now come to order. Welcome to the October 6, 2022, 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: Are there any Board members that would have any conflicts of interests with regard to the cases before us today? Chair Meadows then asked if there were any early dismissals. No early dismissals were noted.

i. Adjustments to the Agenda:

None

ii. Hearing and Determination of Cases

B2200026 - City: A request for a Minor Special Use Permit for the development of a single-family or two-family residence on a legally-established lot of record. The property is located at 2212 Edwin Avenue Lot 11 and within the Urban Development Tier.

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

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

Staff Report: Leigha Larkins presented this and the following case (B2200034) 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: Michael Klein and the applicant (Tyler White) spoke in support. Meredith Richburg spoke in opposition.

MOTION: Meadows made a motion that case number B2200026, an application for a Minor Special Use Permit to the development of a single-family residence on a legally established nonconforming lot of record, on property located at Lot 11, 2212 Edwin Avenue, has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject to the following conditions:

1. The improvements shall be substantially consistent with the plans and all information submitted to the Board as part of the application.
2. Principal uses should be limited to a single-family residential development
3. The applicant will retain mature trees on the lot 11 in required side and rear yard areas.

ACTION: Carried, 7-0, (Meadows, Beauchaine 2nd)

B2200034 – City: A request for a Minor Special Use Permit for the development of a single-family or two-family residence on a legally-established lot of record. The property is located at 2212 Edwin Drive Lot 12 and within the Urban Development Tier.

Applicant and all witnesses swore or affirmed their testimony.

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

MOTION: Meadows made a motion that case number B2200034, an application for a Minor Special Use Permit to the development of a single-family residence on a legally established nonconforming lot of record, on property located at Lot 12, 2212 Edwin Avenue, has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject to the following conditions:

1. The improvements shall be substantially consistent with the plans and all information submitted to the Board as part of the application.
2. Principal uses should be limited to a single-family residential development.
3. The applicant will retain mature trees on the lot 12 in required side and rear yard areas.

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

BREAK 9:55-10:00

B2200037 – City: A request for a Minor Special Use Permit for the construction of an addition to a nonconforming structure. The property is located at 201 W. Carver Street, in the Falls/Jordan District B Watershed Protection Overlay, and within the Urban Development Tier.

Applicant and all witnesses swore or affirmed their testimony.

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

Staff Report: Leigha Larkins presented the case.

Speakers: Jenna Zeigler spoke in support. No one spoke in opposition.

MOTION: Retchless made a motion that case number B2200037, an application for a Minor Special Use Permit to permit the construction of an addition to a nonconforming structure, on property

located at 201 W Carver St., has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject to the following conditions:

1. The improvements shall be substantially consistent with the plans and all information submitted to the Board as part of the application.
2. The improvements shall comply with all relevant Limited Use Standards, including UDO Section 5.4.1, Accessory Structures, and UDO Section 5.4.2, Accessory Dwellings.

ACTION: Carried, 6-1. (Retchless, Kolasa 2nd) (Meadows voting no)

B2200027 – City: A request for a Minor Special Use Permit for the construction of an addition to a nonconforming structure. The property is located at 1300 W. Club Boulevard, is zoned Residential Urban – 5(2) (RU-5(2)), and within the Urban Tier.

Applicant and all witnesses swore or affirmed their testimony.

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

Staff Report: Leigha Larkins presented the case.

Speakers: Morgan Haynes, Melissa Southern, Marcus Southern, and Valita Homes spoke in support. Rick Peacock and Hermes Illana spoke in opposition.

MOTION: Meadows made a motion that case number B2200027, an application for a Minor Special Use Permit to permit the construction of an addition to a nonconforming structure, on property located at 1300 W. Club Boulevard, has successfully met the applicable requirements of the Unified Development Ordinance and is hereby granted subject to the following conditions:

1. The improvements shall be substantially consistent with the plans and all information submitted to the Board as part of the application.
2. The property owner shall remove the landscaping currently encroaching into the adjacent alley right-of way located north of the north property boundary.
3. The applicant requests the ability to grade in the ally from the City's Public Works department.

ACTION: Carried, 5-2. (Meadows, Beauchaine 2nd) (Meadows, Retchless voting no)

B2200030 – County: A Minor Special Use Permit to allow for a non-concealed, freestanding wireless communication facility in a residential zoning district. The property is located at 723 Goodwin Road, is zoned Residential Rural (RR), and within the Suburban Tier.

Applicant and all witnesses swore or affirmed their testimony.

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

Staff Report: Cole Renigar presented the case.

Speakers: Ralph Wyngarden and Keven Tonn spoke in support. No one spoke in opposition.

MOTION: Beauchaine made a motion that case number B2200030, an application for a minor special use permit for a non-concealed, freestanding Wireless Communication Facility in residential zoning district, on property located at 723 Goodwin Road, has successfully met the applicable

requirements of the Unified Development Ordinance and is hereby granted subject to the following conditions:

1. 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. (Beauchaine, Tarrant 2nd)

III. Old Business - None

IV. New Business - None

III. Approval of Orders

Case B2200029

MOTION: Approve the order for case B2200029 (Tarrant, Beauchaine 2nd)

ACTION: Carried, 7-0.

Case B2200030

MOTION: Approve the order for case B2200030 (Beauchaine, Kolasa 2nd)

ACTION: Carried, 7-0.

Case B2200037

MOTION: Approve the order for case B2200037 (Kolasa, Tarrant 2nd)

ACTION: Carried, 6-0.

V. Adjournment

The meeting adjourned at 11:32 a.m.

The next meeting will be October 25, 2022, in the Committee Room

Respectfully Submitted,
Terri Elliott, Clerk to the Board