

**MEETING MINUTES**  
**GREENSBORO BOARD OF ADJUSTMENT**  
**January 25, 2021**

The meeting of the Greensboro Board of Adjustment was held on Monday, January 25, 2021 at 5:30 p.m. online via Zoom. Board members present were: Chairman Chuck Truby, Mary Skenes, James Waddell, Leah Necas, Vaughn Ramsey, Ted Oliver, and Terry Savoy. City staff present were Shayna Thiel, Mike Kirkman, and Luke Carter of the Greensboro Planning Department. Alan Andrews, Chief Deputy City Attorney.

Chairman Chuck Truby welcomed everyone to the virtual meeting and advised of the policies and procedures in place for the Board of Adjustment. Chairman Truby further explained the manner in which the Board conducts its hearings and methods of appealing any ruling made by the Board. Chairman Truby advised that each side, regardless of the number of speakers, were allowed a total of 20 minutes to present evidence. Board members may ask questions at any time.

**APPROVAL OF MINUTES (DECEMBER 14, 2020):** Mr. Waddell a motion to approve the December 14, 2020, minutes, seconded by Ramsey. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Savoy. Nays: 0.) Chair Truby advised the minutes were approved.

**SWEARING IN OF STAFF:** Shayna Thiel and Mike Kirkman of the Planning Department were sworn in for testimony in the following cases.

**CONTINUANCES / WITHDRAWALS:** None

**OLD BUSINESS:** None

**NEW BUSINESS**

**1. VARIANCE**

**a. BOA-21-01: 2506 BYRON PLACE (APPROVED)**

Ms. Thiel stated in **BOA-21-01, 2506 Byron Place**, Charles and Wanda Jeffries, request two variances. (i) To allow a proposed carport addition to encroach 2.3 feet into a required 5 foot side setback. The carport addition will be 2.7 feet from the side property line. (ii) To allow a proposed porch addition to encroach 2.9 feet into a required 20 foot rear setback. The porch addition will be 17.1 feet from the rear property line.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance Reference was Section 30-7-3.2 – Table 7-2: In the R-5 District, the minimum side setback is 5 feet and the minimum rear setback is 20 feet.

**Background and Site Information:** The subject lot is located on the south side of Byron Place, west of Woodridge Avenue, and is zoned R-5 (Residential Single-Family). Tax records indicate the lot contains approximately 11,326 square feet, and the house was constructed in 1968. The applicants propose to add a carport on the west side of the house on top of the existing concrete driveway that will encroach 2.3 feet into a required 5 foot side setback and be 2.7 feet from the side property line. The applicants also propose to add a screen porch at the rear of the house over the existing patio that will encroach 2.9 feet into a required 20 foot rear setback and be 17.1 feet from the rear property line. Per the Land Development Ordinance, patios can encroach into required setbacks, but structures, such as screened porches, are not allowed to encroach without a variance. If the variances are granted, the applicants will submit a residential building permit application and proceed with the permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties and noted there were no applicable overlay or plans.

Chairman Truby swore in Wanda Jeffries for her testimony in this application.

**Wanda Jeffries, 2506 Byron Place**, is petitioning to add a carport on the right side and a screened porch on the rear of the house that do not meet the setback requirements. Ms. Jeffries would like a cover for her car on the existing driveway. The patio is already there, but when making a change, it needs meet the ordinance. Chair Truby inquired if Board members had questions for Ms. Jeffries. Mr. Ramsey asked if the driveway had been there since the house was built in 1968. Ms. Jeffries responded that was correct. Mr. Ramsey asked if the patio on the house was built at the same time. Ms. Jeffries responded it was not. Chair Truby inquired if there were any further questions for Ms. Jeffries. Seeing none, Chair Truby asked if there was anyone to speak in favor of the request. Seeing none, Chair Truby inquired if there was anyone to speak in opposition to the request. Chairman Truby swore in Claudia Cundiff for her testimony in this application.

**Claudia Cundiff, 2504 Byron Place**, stated there are questions she and her mother, Sandra Cundiff, would like to have answered due to friction between neighbors. They would like to know how far the carport would come into her mother's property and if it would decrease the value of her mother's home. Chairman Truby swore in Sandra Cundiff for her testimony in this application.

**Sandra Cundiff, 2504 Byron Place**. Chair Truby asked if Ms. Cundiff was directly beside Ms. Jeffries on the driveway side of her house. Ms. Cundiff responded the side of her house was on the driveway side of the Jeffries' house. Her driveway is on the other side of her house. Chair Truby stated what is being proposed was to put a carport over the existing driveway, which is 2.7 feet off the property line at the back and roughly 6 feet off the property line at the front. The Jeffries' are not proposing to put the carport on the Cundiff's property. It appeared to Chair Truby, based on the maps, the carport would sit right on top of where the existing driveway is and there would not be any construction on the Cundiff's property. Chair Truby asked Ms. Jeffries if the carport would be open. Ms. Jeffries responded it would be. Chair Truby asked if the carport would be open to be able to see through it and only have a roof on it. Ms. Jeffries responded that was correct. Chair Truby asked Ms. Cundiff if that answered her questions. Ms. Cundiff responded it did. Ms. Cundiff stated there have been so many problems between herself and Ms. Jeffries about the yard and she does not want any more problems with her. Chair Truby advised the Board of Adjustment's responsibility was to review and approve only variance requests and what is being asked. The Board cannot make judgments on personalities or conflicts, but hoped the two of them would work through any issues amongst themselves. Ms. Cundiff's daughter stated her mother only wanted to make sure it would not be on her property. Chair Truby responded it was not on her property. Chair Truby stated the other request from Ms. Jeffries was to cover her deck in the back of her house and are not adding on to the deck, only building a roof on it. Chair Truby did not think that would impact Ms. Cundiff at all. Chair Truby inquired if there were any questions for the opposition by the Board members. Seeing none, Chair Truby inquired if there was anyone else to speak on this matter. Ms. Thiel advised there was no one else to speak on this matter. Chair Truby inquired if there was any discussion or any Board questions for the applicant or the opposition. Chair Truby closed the public hearing.

**DISCUSSION:** Chair Truby inquired if there were any comments or questions from Board members. Mr. Ramsey stated if there were not comments or questions, he had a motion.

**MOTION:** Mr. Ramsey moved that in BOA-21-01, 2506 Byron Place, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and both variances be granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the applicant has no other viable option for a covered carport or covered patio. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the driveway was set out prior to the applicants' purchase of the house and the patio cover will be over the existing patio. Both the carport and patio are currently nonconforming. (3) The hardship is not the result of the applicant's own actions because the house was constructed in 1968 prior to the purchase by the applicant. (4) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the addition of a covered carport would increase safety for the occupant of the property in inclement weather and the covered patio will allow for greater use in the summer months. Both additions will

increase the property value and be consistent with the neighborhood. Seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Savoy. Nays: 0.)

**b. BOA-21-02: 3710 WHITWORTH DRIVE (APPROVED)**

Ms. Thiel stated in **BOA-21-02, 3710 Whitworth Drive**, Rodney Hairston requests a variance to allow a proposed fence located within 15 feet of a street right of way to exceed the maximum 4 foot height requirement by 2 feet.

Evidence provided by the applicant included Exhibits A through D. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance Reference was Section 30-9-4.6(A): No fence or wall may exceed 4 feet in height within 15 feet of any public or private street right-of-way.

**Background and Site Information:** The subject lots are located on the south side of McKnight Mill Road, east of Whitworth Drive, and is zoned R-3 (Single-Family Residential). Tax records indicate the corner lot contains approximately 9,583 square feet and the house was constructed in 2008. The applicant proposes to install a 6-foot high fence along the rear and side property lines to create an enclosed back yard and to enhance privacy and safety. The proposed fence will be located within 15 feet of the street right-of-way along Whitworth Drive, so a variance is required to allow the fence to exceed the maximum 4 foot height by 2 feet. Portions of the proposed fence are located within stream and wetland buffers, and the City's Water Resources Department will require that the fence be designed to allow water to freely flow under the fence.

Ms. Thiel provided the land use and zoning for this property and surrounding properties and noted there were no applicable overlay or plans.

Chairman Truby swore in Rodney Hairston for his testimony in this application.

**Rodney Hairston, 3710 Whitworth Drive**, stated his home sits on the corner of McKnight Mill Road and Whitworth Drive. The backyard is exposed to a lot of traffic coming out of Whitworth, the development he lives in. Mr. Hairston was attempting to provide privacy for his family and make it safe for his children to play in the backyard. A 4 foot tall fence would not provide the privacy needed. Mr. Hairston requested that the Board allow him to go forward with a 6 foot fence to provide privacy.

Chair Truby inquired of Ms. Thiel if there was anyone else in opposition. Ms. Thiel responded there were no other speakers. Chair Truby closed the public portion of the hearing for Board discussion. Chair Truby inquired if any Board members had questions for the applicant. Chair Truby asked Ms. Thiel if there was anyone to speak in favor or opposed. Ms. Thiel responded there was no one else to speak. Chair Truby closed the public hearing and requested discussion amongst the Board.

**DISCUSSION:**

Chair Truby stated he did not see any issues with the request and felt the 4 foot height has more to do with sight distance and protecting drivers from not being able to see. Ms. Necas stated the Board has had two of these cases recently and that Ms. Skenes had also talked about this issue in the past. In the Land Development Ordinance, it is specifically stated in 30-9-4.6 "on lots where the rear or side yard adjoins a major thoroughfare or a minor thoroughfare, and there is no driveway access and no sight distance interference, no fence or wall may exceed 6 feet in height." Ms. Necas stated in looking at the pictures provided, the fence may block their view of the intersection at McKnight Mill Road and Whitworth Drive. More discussion was had regarding the intersections and the fence. Ms. Thiel referred to Exhibit B and stated the fence is the white line from the back of the house in the back yard. Mr. Ramsey referred to the bottom right of Exhibit C depicting the site distance of 10.5 feet in from the road and indicated how the fence would work regarding being on Whitworth Drive. Chair Truby stated the fence is offset far enough off the drive and would still be able to see down the road. If the fence was right on the edge of the driveway, he would be more concerned. Chair Truby stated based on what he saw on the photographs, there would be adequate sight distance to back out of the driveway. If after the fence is up, the applicants cannot safely get out of their driveway, Chair Truby was sure the applicants would change the fence. Mr. Waddell agreed with Chair Truby. The distance from McKnight Mill Road to where the corner of the fence would be constructed

would be approximately 10 car lengths and traffic would slow down coming around the corner. Mr. Waddell advised he was in support of the application.

Mr. Andrews advised had Ms. Necas requested verbal confirmation from Mr. Hairston regarding the fence. Mr. Hairston stated his home sits 25 feet off of the road and the fence will be 10 feet from Whitworth Drive. Even with cars in the driveway the fence would not block his view at all. Ms. Necas asked if the decline in the yard was going away from McKnight Mill Road toward the back of the property going down. Mr. Hairston advised it was from Whitworth Drive. The yard declines slightly at the end of the driveway which slants down. Mr. Waddell stated in looking at Exhibit 3, it depicted where it slopes down slightly. Mr. Oliver asked Mr. Hairston if the fence would be solid. Mr. Hairston responded the fence would be vinyl and would not be able to see through it. Chair Truby asked Mr. Hairston to confirm that if the fence were to become a hazard for him to back out of his driveway, he would take appropriate steps to remedy the fence. Mr. Hairston responded absolutely. Chair Truby inquired if there were any further questions. Ms. Skenes commented that she had been opposed to the previous request that was very similar because there were two driveways, side by side. Based on what she observed their adjacent property owner would have a problem backing out for the reasons just mentioned. This case has only one driveway to be concerned with, which is the applicant's. Chair Truby asked Ms. Thiel if there was anyone else to speak in favor or opposition to this request. Ms. Thiel responded there was none. Chair Truby inquired if there was any further discussion or a motion.

**MOTION:** Ms. Necas moved that in BOA-21-02, 3710 Whitmore Drive, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the property is a corner lot and a 4 foot fence would not provide enough privacy at the location. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the road to the front of the property is a thoroughfare and due to traffic volume, a higher fence is necessary for privacy. (3) The hardship is not the result of the applicant's own actions because the owner feels that a 6 foot fence is necessary for privacy and safety. (4) The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the owner intends to keep the fence to assure the safety of drivers by keeping the fence well away from the intersection in his backyard. If there are safety issues, the owner will address them in the future. Seconded by Ms. Skenes. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Savoy. Nays: 0.)

**c. BOA-21-03: 2422 BYWOOD ROAD (APPROVED)**

Ms. Thiel stated in **BOA-21-03, 2422 Bywood Road**, Marion and Janie Gaymon, request two variances. (i) To allow a proposed carport addition to encroach 3 feet into a required 5-foot side setback. The carport addition will be 2 feet from the side property line. (2) To allow overhanging eaves of a proposed carport addition to encroach 2 feet into a required 3 foot side setback. The overhanging eaves will be 1 foot from the side property line.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance References were Section 30-7-3.2 – Table 7-2: In the R-5 District, the minimum side setback is 5 feet and the minimum rear setback is 20 feet and Section 30-7-1.4(C)(6): Cornices, overhanging eaves and gutters, window sills, bay windows, or similar architectural features, chimneys and fireplaces, fire escapes, fire balconies, and fire towers may project up to 2.5 feet into any required setback, but must remain at least 3 feet from any property line.

**Background and Site Information:** The subject lot is located on the west side of Bywood Road, north of Larkspur Drive, and is zoned R-5 (Residential Single-Family). Tax records indicate the lot contains approximately 8, 712 square feet, and the house was constructed in 1964. The applicants propose to add a carport on the north side of the house on top of the existing concrete driveway that will encroach 3 feet into a required 5 foot side setback and be 2 feet from the side property line. The overhanging eaves of the proposed carport addition will also

encroach into a required setback. They will encroach 2 feet into a required 3 foot side setback and be 1 foot from the side property line. If the variances are granted, the applicants will submit a residential building permit application and proceed with the permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties and noted there were no applicable overlay or plans.

Chairman Truby swore Marion and Janie Gaymon for their testimony in this application.

**Marion Lee Gaymon and Janie Gaymon, 2422 Bywood Road.** Ms. Gaymon stated she was disabled and her husband was also a disabled veteran. Ms. Gaymon is his caregiver. The carport is needed because it will help getting out of the vehicle. Ms. Gaymon stated she would feel safer on the carport going in and out and have cover from the elements going up the steps. Chair Truby inquired if any Board members had questions for the applicant. Mr. Oliver asked if both cars currently on the driveway would be covered by the carport. Ms. Gaymon responded it would only be the car closest to the house.

Chair Truby swore Janice Gaymon for her testimony in the application.

**Janice Gaymon 2420 Bywood Road,** daughter of the applicants, stated additional pavement was placed on the properties years ago to help coming in and out of the driveway as they had multiple vehicles. It is even more paramount now as her mother had two knee surgeries and is the caregiver of her father. Ms. Gaymon stated she lives next door and the extra side pavement extends to her property. Everyone was in agreement years ago regarding the pavement. As their daughter and neighbor, Janice Gaymon had no problems with the request. Chair Truby asked if she was located right beside her parents. Janice Gaymon responded she owns the property. Janie Gaymon stated they owned the property before her daughter was married and sold the property to her after the driveway was put in. They are family and everything is good. Chair Truby inquired if there were any further questions for the applicant. Chair Truby inquired of Ms. Thiel if there was anyone in opposition to the request. Ms. Thiel responded there was no opposition. Chair Truby closed the public hearing.

**DISCUSSION:** Chair Truby inquired if there was any discussion or a motion.

**MOTION:** Mr. Savoy moved that in BOA-21-03, 2422 Bywood Road, based on the Findings of Fact, the Zoning Enforcement Officer be overruled and the variances granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the owners would have to exit from the back of their home to enter vehicles on the side of the home located on the existing concrete driveway without cover especially during inclement weather. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the current configuration from the back door to the driveway has no overhead cover or concrete walk to accommodate a wheelchair. Approval of the variances will provide cover from the carport to the covered walkway at the house entrance where a stairway is located. (3) The hardship is not the result of the applicant's own actions because the husband has severe problems walking due to suffering from a military service-connected disability and the wife has problems walking also. (4) The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the proposed carport will match the ambiance and character of the house and neighborhood. Seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Savoy Nays: 0.)

**d. BOA-21-04: 3757 OAKWOOD DRIVE (APPROVED)**

Ms. Thiel stated in **BOA-21-04, 3757 Oakwood Drive**, D.H. Griffin Sr. requests a variance to allow a proposed drive through stacking lane to be 20 feet from an abutting residential zoning district when at least 50 is required.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 6. The Land Development Ordinance Reference was Section 30-8-10.4 (1)(3)(a): Service areas and stacking lanes on lots abutting residential zoning districts must be set back at least 50 feet and landscaped in accordance with the Type B buffer planting standards.

**Background and Site Information:** The subject lot is located on the west side of Oakwood Drive, south of West Gate City Boulevard, and is zoned CD-C-M (Conditional District-Commercial-Medium). Tax records indicate the vacant lot contains approximately 27,007 square feet. The applicant intends to develop the subject property, in conjunction with the adjacent property at 3803 W. Gate City Boulevard, as a car wash facility. These two properties are still under different ownership, but an approved use condition requires that the properties be combined before site plan approval. The proposed car wash's drive-through stacking lane, which is entirely on 3757 Oakwood Drive, will be 20 feet from an abutting residential district when 50 feet is required, so the applicant is seeking a variance. If the variance is granted, the applicant will submit plans for review by the City's Technical Review Committee.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlay or plans.

**Marc Isaacson, 804 Green Valley Road**, representing the property owner, D.H. Griffin, Sr. who has a contract to sell this property to Five Star Wash, LLC. Mr. Isaacson advised the engineer who prepared the plans was available to answer any questions the Board may have. Mr. Isaacson stated this property is zoned Conditional District – Commercial Medium. There are no other drive through uses that could be utilized on this property and it is suitable for this particular activity with the only practical access from Oakwood Drive. Mr. Isaacson referred the Board members to Tab 1 depicting a layout of a buffer area installed along the back and would have an opaque fence to mitigate the impact of this use. Right of the retention pond was the stacking lane for vehicles to queue up. There are no loud speakers or any communication with anyone there, only a credit machine to select level of wash and to pay and then move toward West Gate City Boulevard to go through the tunnel. Exiting would be on Gate City Boulevard. Additional photographs were shown depicting the site and surrounding area. Letters were sent to neighbors and received no communications from anyone. The property recently went through a rezoning with no communications for that process either. Mr. Isaacson stated the significant stacking lanes setback ordinance was to mitigate the impact primarily of noise from loud speakers and other operations for a typical drive-through use. The nature of this proposed use would significantly reduce the potential of disturbances from speakers, etc. Absent a variance, the applicant would be required to redesign the site plan for the proposed car wash and relocate the vehicular entrance from Oakwood on to West Gate City Boulevard. The stacking lanes would have minimal impact on the one adjoining residential property and the denial of the variance would cause an unnecessary hardship. This commercial property is unique and allows the applicant to take advantage of high-volume traffic along West Gate City Boulevard without creating unnecessary traffic issues given the connectivity to Oakwood Drive. The hardship results from the application of the ordinance as the ordinance setback requirement for vehicles stacking prevents placement of the entrance to the car wash off of Oakwood Drive. This is not the result of the applicant's own actions because the applicant is developing the property as it was found and was the most efficient and safe way out for the proposed car wash, as reflected in the site plan that places the vehicle stacking lanes and access off of Oakwood Drive within 50 feet of residential property. This request is in harmony with the general purpose. The applicant's installation of a significant landscape buffer between the car wash and residential properties will help to ensure that the proposed location of the vehicle stacking lane will have a negligible impact on residential properties. The nature of the car wash stacking lane is unique as there are no anticipated noises or late-night fast food drive-throughs, as prohibited on this property. This request assures public safety and welfare in granting a variance that allows the applicant to make appropriate use of the commercial property while minimizing traffic hazards on West Gate City Boulevard. The applicant anticipates no disturbance to neighboring residential properties as a result of this proposed placement of the vehicles stacking lane.

Chair Truby inquired if any of the Board members had questions for Mr. Isaacson. Mr. Oliver asked if that building would be torn down or had the land not been purchased yet. Mr. Isaacson responded the properties are still under the owner's name and his client has not closed on the property. The City's Technical Review Committee (TRC) made a preliminary review and this was the only significant issue staff identified that should be addressed at this time. Subject to approval from this Board, they would acquire the properties. The Zoning Commission requires for them to be combined and the resultant property would be redeveloped as indicated on the site plan. Mr. Oliver

asked if the property on the corner would remain. Mr. Isaacson advised it is not included. They have attempted to purchase it and there were discussions, but the woman was not willing to sell. Chair Truby inquired if there were any other questions for Mr. Isaacson. Ms. Necas asked if the proposed fence went beyond the Type B landscaping required buffer. If there was 50 feet, would it not be required to put up a fence and if the fence a way to provide an opaque barrier between the residential area and the stacking lanes of the car wash. Mr. Isaacson responded that was correct. If only complying with the 50-foot setback, no fence is required. The applicant is adding the fence as an addition to further mitigate any impact. Ms. Necas stated this area is zoned RM-12 for multifamily dwellings and asked if the property was owned by one person who did not reply or by renters with individual notices. Ms. Necas was concerned that no residents were complaining because they are temporarily renting. Mr. Isaacson responded the applicant went by the city's notification list and did their own research on the tax parcel ownership of the parcels. Letters were sent to the management company. Mr. Isaacson stated they did not have the right to look at leases. It was not known exactly who was in each of the units, but the management company was aware and the sign was up for anyone to call staff if there were questions. Ms. Thiel responded that no one called. Ms. Necas expressed concern regarding the LDO. A commentary, 30-8-10.4 specifies drive-through facilities are not a right for each site. The size of the site or the size and location of existing structures may make it impossible to meet the regulations of this ordinance section. Ms. Necas understood it is only possible to make this site a car wash, with none of the other uses available, but having 20 feet of what originally would have been 50 feet between a business and a resident seems like a lot. It is over 50% variance, not just a little bit. Ms. Necas was concerned because if it is a residential multifamily, it is speaking to people that do not feel like they can easily come forward. Long term residents of Greensboro may not know how to contact the city or know how to attend a meeting like this on Zoom. Ms. Necas would not want to be one of the residents and discover there was going to be a stacking lane with cars possibly running through at any time of day or night. Even if cars cannot be heard, the cars are still polluting. Mr. Isaacson pointed out these properties could be utilized for a number of commercial uses with none of the restrictions that the applicant has imposed in anticipation of this particular use. Mr. Isaacson advised Commercial-Medium allows the broadest permitted uses and in the past was a term for general business. If it were not a drive-through use with that kind of buffer requirement, it could be a number of other commercial uses that would have potentially significant impacts on nearby residential. Up and down West Gate City Boulevard are other drive-through uses and other commercial uses, storage trailers, loading docks and other uses adjoining residential properties, including single-family residential properties. Off a heavily traveled thoroughfare, it is not an uncommon development pattern to see single-family residential uses abutting heavy commercial uses. The occupancy at this location has continued to thrive and is seen as an affordable residential area. Mr. Isaacson understood the concern but stated the applicant has taken appropriate steps to mitigate any potential impacts by limiting the uses significantly. This is the only pragmatic access for this property and use and a hardship contemplated by the ordinance. Ms. Necas asked if Mr. Isaacson was referring to the safety of the vehicles entering the stacking lane from Oakwood Drive being safer than West Gate City Boulevard. Mr. Isaacson responded that was correct. A traffic study was not needed to apply for a variance but anyone who travels major thoroughfares in Greensboro could attest to the lining up of vehicles on major thoroughfares to get into certain uses. This will make a big difference in the safety of the traveling public and the ease of access into and out of the property. Mr. Jarrett Senkbeil requested to address the Board.

Chair Truby swore in Jarrett Senkbeil for his testimony.

**Jarrett Senkbeil, 980 Birmingham Road, Milton, GA**, indicated on an aerial photograph, the multi-family building right of the yellow property line is approximately 40-feet off of the property line currently and is not immediately adjacent to the property line. It will be, a 60-foot buffer between the building and the stacking lane.

Chair Truby inquired if there were any questions from Board members. Mr. Oliver stated the residential area to the left of the stacking lane did not look heavily occupied and asked if there was a way to know if there many people living there. The driveway also appeared empty. Mr. Isaacson responded he did not know how the occupancy, terms of the leases or how long the leases are for could be determined. Mr. Kirkman stated he felt this was a land use question and the assumption is that multifamily could be occupied and also a question of how that stacking lane relates to the multifamily that the Board would need to focus on. Mr. Oliver asked if the Board should

assume it is 100% occupied. Mr. Kirkman stated for purposes of this evaluation, that should be assumed. Chair Truby asked if there were any other questions from Board members. Chair Truby inquired of Ms. Thiel if there was anyone to speak in opposition to this request. Ms. Thiel advised there was none. Chair Truby closed the public hearing and requested if there was Board discussion.

**DISCUSSION:** Chair Truby stated Mr. Isaacson made a good point. The conditions of the rezoning are only allowed for drive-throughs of car washes as part of the rezoning. For the applicant to have any other drive through, they would need to go back and have the property rezoned. Chair Truby thought the 50 feet in the ordinance was set up for more drive-throughs to have windows with speakers which are loud and very noisy. It is a pretty significant request but since it is a car wash, Chair Truby was in support of the application. If it was fast food or something like that, he probably would not. Chair Truby inquired if there was any other discussion. Ms. Necas agreed with Chair Truby. She had not considered the noise impact and the nuisance impact. The LDO is clearly highly aware that it could be a car wash and discuss the required stacking spacing. Ms. Necas had a better understanding but was still not in favor of the application. Mr. Savoy stated has this one been one block further than Oakwood, he would have disagreed; but it appears to be a perfect location for this particular car wash. Mr. Savoy stated he was in support. Chair Truby inquired if there were any more questions of a motion.

**MOTION:** Mr. Oliver moved that in BOA-21-04, 3757 Oakwood Drive, based on the Findings of Fact, the Zoning Enforcement Officer be overruled and the variance granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because to be used as a car wash, the best place clearly for the stacking lane is on Oakwood Drive. The property is now vacant and there will be little noise from activities in the stacking lane. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because Gate City Boulevard has much more traffic than Oakwood, putting the stacking lane on Oakwood is the most logical place. (3) The hardship is not the result of the applicant's own actions because the way the property is situated, the only other option is to use Gate City Boulevard for the stacking lane. (4) The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because there will be an 8 foot wall constructed so there is less impact on the residential properties. Also, there will be a landscaping buffer to keep noise away from the residential property nearby. Seconded by Ms. Skenes. The Board voted 6-1 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, and Savoy Nays: Necas, 1.)

**OTHER BUSINESS:** None

**ADJOURNMENT:** The meeting was adjourned by Chairman Truby at approximately 6:48 p.m.

Respectfully submitted,

Chuck Truby, Chair  
Board of Adjustment  
CT/cgs

**MEETING MINUTES**  
**GREENSBORO BOARD OF ADJUSTMENT**  
**February 22, 2021**

The meeting of the Greensboro Board of Adjustment was held on Monday, February 22, 2021 at 5:30 p.m. online via Zoom. Board members present were: Chairman Chuck Truby, Mary Skenes, James Waddell, Leah Necas, Vaughn Ramsey, Ted Oliver, and Terry Savoy. City staff present were Shayna Thiel, Mike Kirkman, and Luke Carter (Planning Department) and Alan Andrews (Chief Deputy City Attorney).

Chairman Chuck Truby welcomed everyone to the virtual meeting and advised of the policies and procedures in place for the Board of Adjustment. Chairman Truby further explained the manner in which the Board conducts its hearings and methods of appealing any ruling made by the Board. Chairman Truby advised that each side, regardless of the number of speakers, was allowed a total of 20 minutes to present evidence. Board members may ask questions at any time.

**APPROVAL OF THE MINUTES (January 25, 2021)**

Mr. Ramsey made a motion to approve the minutes of January 25, 2021s; seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Savoy. Nays: 0.) Chair Truby advised the minutes were approved.

**SWEARING IN OF STAFF**

Shayna Thiel and Mike Kirkman of the Planning Department were sworn in for testimony in the following cases.

**CONTINUANCES/WITHDRAWALS**

None.

**OLD BUSINESS**

None.

**NEW BUSINESS**

**1. VARIANCE**

**a. BOA-21-05: 2110 CARLISLE ROAD. (APPROVED)**

Ms. Thiel stated in **BOA-21-05, 2110 Carlisle Road**, James T. Brooks, Jr. requests a variance to allow a proposed carport addition to encroach 8.9 feet into a required 10 foot side setback. The carport addition will be 1.1 feet from the side property line.

Evidence provided by the applicant included Exhibits A through D. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance Reference was Section 30-7-3.2 – Table 7-1: In the R-3 District, the minimum side setback is 10 feet.

**Background and Site Information:** The subject lot is located on the east side of Carlisle Road, south of Kimberly Drive, and is zoned R-3 (Residential Single-Family). Tax records indicate the lot contains approximately 16, 117 square feet, and the house was constructed in 1959. The applicant proposes to add a carport on the north side of the house on top of the existing concrete driveway that will encroach 8.9 feet into a required 10 foot side setback and be 1.1 feet from the side property line. Based on feedback from the Chief Building Inspector, the applicant has indicated that he will move the posts of the proposed carport addition closer to the house to eliminate the need to be fire-rated. However, the amount of encroachment into the side setback will remain the same, based on the proposed carport addition's roof placement. If the variance is granted, the applicant will submit a residential building permit application and proceed with the permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted the applicable overlay and plans.

Chair Truby requested anyone in favor of the application to come forward and provide their name and address for the record. Chairman Truby swore in James T. Brooks Jr. and John Lamont for their testimony in this application.

**James T. Brooks Jr., 2110 Carlisle Road**, deferred questions and information to his project coordinator, John Lamont.

**John Lamont, 4004-K Spring Garden Street**, thanked staff for all of their help. Mr. Lamont advised that Mr. Brooks was asking for a carport to be on the side of the building. The site plan was displayed to indicate carport would be to the left of the existing structure. There is an existing driveway adjacent to the door on the structure. The proposed carport will be set back approximately 21 feet from the front corner of the residence and be close to the property of Robert Stickley. Mr. Lamont went to all of the neighbors within 150 feet listed in the application with copies of everything submitted to the Commissioners and explanations of the proposed plan. Information was also provided for the neighbors to participate in the Zoom meeting or to have a notary sign for them. The neighbors did not choose to use a notary, but everyone provided verbal support for this request. Mr. Lamont was unsure if anyone from the neighborhood was attending this meeting.

Chair Truby asked if any Board members had questions for the applicant. Mr. Waddell stated that the staff report indicated that the proposed carport addition would be moved closer to the house to eliminate the need to be fire-rated and requested to hear more regarding that. Mr. Lamont stated that 3 feet was the minimum distance a wall could be from a property line without having to be fire-rated. If wall had to be fire-rated, it would encroach into the driveway itself. Referring to the site plan, there is roughly 1.6 feet to the property line from the proposed 2 foot overhang on the carport. The carport will be a 12foot structure, but the posts will place it within required setback area. If the proposed posts were 3 foot or more from the property line, they would not require a fire rating of kind. Chair Truby inquired if there were any other questions for the applicant. Ms. Skenes stated that there was not a letter addressed to Robert Stickley in the application packet and asked if Mr. Stickley was spoken to. Mr. Brooks stated Mr. Stickley is his next door neighbor and he has spoken to him and received his verbal approval. Mr. Lamont stated he also spoke to Mrs. Stickley and provided a copy of all the plans.

Chair Truby asked if there were any further questions. Seeing none, Chair Truby asked Ms. Thiel if there was anyone to speak in opposition to the request. Ms. Thiel advised she was not aware of any opposition Chair Truby closed the public hearing.

#### **DISCUSSION:**

Chair Truby inquired if there were any comments or questions from Board members.

#### **MOTION:**

Since there were no comments or questions, Mr. Waddell moved that in BOA-21-05, 2110 Carlisle Road, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the existing ordinance would not allow the carport to be constructed. The layout of the subject property limits the building location. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the existing side door is next to the driveway, making it the most suitable location for the carport to provide protection from the elements. (3) The hardship is not the result of the applicant's own actions because the subject property was constructed in 1959. The side door and driveway were in place prior to the owner acquiring the property. (4) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because no harm will come to public, the proposed carport would be enclosed by a 6foot privacy fence and landscaping. The post to the proposed carport addition is closer to the house and will eliminate the need to be fire rated. Seconded by Ms. Skenes. The Board voted 7-0 in favor to approve the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Savoy. Nays: 0.)

#### **b. BOA-21-06: 6004 GRANDOVER VILLAGE ROAD. (APPROVED)**

Mr. Ramsey requested recusal from this item. Ms. Skenes made a motion to recuse Mr. Ramsey from this item; seconded by Mr. Waddell. The Board voted 6-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Oliver, Necas, and Savoy. Nays: 0.)

Ms. Thiel stated in **BOA-21-06, 6004 Grandover Village Road**, Koury Ventures Limited Partnership, requests a variance to allow two proposed free-standing development entrance signs to exceed the maximum 6 foot height requirement by up to 6 feet. Zoning PUD (Planned Unit Development).

Evidence provided by the applicant included Exhibits A through D. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance References were Section 30-14-7.3 – Table 14-2: Maximum height of freestanding development entrance signs for residential subdivisions must be no more than 6 feet in height. Section 30-14-7.3(B)(4): All signs 6 feet or less in height must be monument style signs. Section 30-

7-7.2 (E)(12): Specifications for signs in predominantly residential sections of PUD must be no less restrictive than RM-12 regulations.

**Background and Site Information:** The subject lot is located on the east side of Grandover Village Road, south of West Gate City Boulevard, and is zoned PUD (Planned Unit Development). Tax records indicate the lot contains approximately 13.43 acres. The entire Grandover Village development is located within the City of Greensboro and the Town of Jamestown jurisdictions. The applicant proposes to install two free-standing development entrance signs for a multi-family residential section of the development that will exceed the maximum 6-foot height required by the City of Greensboro. Per the Land Development Ordinance, sign height is calculated as the vertical distance from the finished grade to the highest component of the sign. The applicant wishes to provide consistent signage throughout the entire Grandover Village development and indicated that the proposed signs are similar to those in other areas of the development approved by the Town of Jamestown. If the variance is granted, the applicant will proceed with the sign permit application process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlay or plans.

Chairman Truby swore in Mr. Richard Vanore for his testimony in this application.

**Richard Vanore, 1807 Nottingham Road.**

**Michael Fox, 400 Bellemeade Street**, applicant's attorney, advised that this request arose out of a compilation of facts. Mr. Fox stated Grandover is a large development that includes a hotel, golf course, offices, commercial center, multi-family, and single-family homes along the southern boundary of Greensboro and the northeastern boundary of Jamestown. A zoning map was projected that indicated the property within the City of Greensboro and on the top right of the map was the Town of Jamestown. It is one large development in two jurisdictions. Koury is attempting to have consistency within the development to appear as one development. The road going through Grandover was built by Koury, who entered into an agreement to swap land to try to clean up the lines so the road would not weave in and out of Jamestown and Greensboro. Under the Greensboro Land Development Ordinance, if there was residential, there would need to be a monument sign not more than 6-feet tall. The sign depicted was 8feet, 6 inches tall, but depending on the county, could be up to 10 feet tall if counting the brick column displayed. Koury would like to install 10 foot signs and is why the variance was being requested. There would be one on each of the entrances to the apartment complex. An aerial picture depicting the commercial area was shown. Coming into the development along Grandover Village Road, there needs to be one consistent development and that is why the two signs were being requested to be located well within the development. There would be a hardship arising from the strict letter of the Land Development Ordinance in that there has been a lot of effort to create a unified development that is mixed-use with retail, housing, hotel, and highway. Uniformed signage is very beneficial to the development, and signage is confusing if not uniform. The sign shown in Exhibit C is in the Town of Jamestown, which meets its requirements, but would not do so if it was residential. There is a master signage plan approved by the Town of Jamestown, as part of the latest portion of the development. The hardship results from a condition that is peculiar to the property. Based on the plan that says location size and topography, jurisdictional boundaries are adding to this and peculiar because the street divides Jamestown from High Point. Koury Corporation was asking to be able to place a sign across the street in Jamestown as part of the same development. The hardship results from the application of the ordinance to the property. Under Greensboro's Land Development Ordinance, a sign of that type and size would not be allowed and would be dramatically different, at 6 feet tall, from the rest of the property. This was not a result of their own actions as the jurisdictional boundaries split the development. In an attempt to do a first-class, high-quality development, things need to be consistent within the development. It is in harmony with the purpose and intent of the ordinance. Signage regulations within ordinances are generally to promote uniformity and pleasing aesthetics. This request promotes uniformity and is a nice aesthetic. Granting of the variance would ensure public safety, welfare and substantial justice, and would not be out of character with the development. The sign would not be a hazard to the property. Mr. Fox respectfully requested the Board of Adjustment to grant the variance.

Chair Truby inquired if any Board members had questions for the applicant. Ms. Necas asked if there was other residential property that has already been built that follows Town of Jamestown requirements or was this the only residential property in the Grandover Village development. Mr. Vanore responded this property is the only residential development in this portion of the Grandover Village development, adjacent to retail and commercial construction. Ms. Necas referred to Exhibit D and asked if the entrance signs would be shorter than those across the street. Mr. Vanore responded that was correct. Koury Corporation wanted to stick with the criteria already approved by the Town of Jamestown and because there was residential development there, wanted it to stay consistent. Mr. Waddell stated in the staff report it was indicated this was approved by the Town of Jamestown, but had not seen anything regarding the Jamestown records in the presentation. Mr. Fox advised it was in Exhibit D under notes and the sign regulations. Mr. Fox stated this sign meets Town of Jamestown ordinance and is slightly different than that of

Greensboro. Mr. Vanore stated it was actually approved by the Town Jamestown approximately 3 years ago, prior to Koury submitting plans for the Publix shopping center development. Chair Truby asked to have Exhibit E displayed to indicate where the existing apartments were built in Jamestown as part of this development and used the same sign. Mr. Vanore advised it is Millis and Main Apartments, near Jamestown Parkway and East Main Street. Mr. Vanore advised that Exhibit F shows the apartments more clearly. Chair Truby stated he believed Koury Corporation was attempting to match up with what was done in the other parts of their development. Mr. Fox responded that was correct. The goal was to be able to drive through the entire development and have continuity. A variance is needed to have the same signage throughout the development.

Chair Truby inquired if there were any further questions for the applicant. Seeing none, Chair Truby inquired of Ms. Thiel if there was anyone in opposition to the request. Ms. Thiel responded there was no opposition expressed. Chair Truby closed the public hearing and asked if there was Board discussion.

**BOARD DISCUSSION:**

Chair Truby stated there were many apartment projects desiring this type of signage and it may be a new thing. In the past, signs were low monuments, and now there are a lot of column types that makes the signs slightly higher. The ordinance may be behind the times, but this type of signage is in other municipalities across the state and is attractive. The square footage of the sign does meet the requirements and the applicant is only asking to go slightly higher. Chair Truby stated for him personally, it was not a problem. Mr. Waddell stated he was in support as there was no opposition from the public. For him, personally, it did not meet the full criteria of being a hardship.

**MOTION:**

With no further discussion, Ms. Necas moved that in BOA-21-06, 6004 Grandover Village Road, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the signage would not be consistent with signs in a larger development, which are governed by a different criterion. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the property straddles two municipalities and is governed by two different sign ordinances. (3) The hardship is not the result of the applicant's own actions because the property, which is part of a larger development is partly within Greensboro's jurisdiction and partly in Jamestown's jurisdiction. (4) The variance is harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the sign criteria in a larger development could be applied consistently across the entire property. Seconded by Ms. Skenes. The Board voted 6-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Oliver, Necas, and Savoy. Nays: 0.)

Mr. Ramsey resumed his participation in the Zoom meeting.

**2. SPECIAL EXCEPTION**

**a. BOA-21-03: 1103 AMITY DRIVE. (DENIED)**

Ms. Thiel stated in **BOA-21-07, 1103 Amity Drive**, Megan Moravian requests a special exception to allow a proposed family care home to be 1,301 feet from another family care home located at 3909 Bears Creek Road when 2, 640 feet is required.

Evidence provided by the applicant included Exhibit A. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance Reference was Section 30-8-10.1(B)(1): No new family care home may be located within one-half mile of an existing family care home, unless a Special Exception is granted by the Board of Adjust for reduced separation.

**Background and Site Information:** The subject lot is located on the south side of Amity Drive, east of Rehobeth Church Road and is zoned R-5 (Residential Single-Family). Tax records indicate the lot contains approximately 15,246 square feet and the house was constructed in 1965. The applicant wishes to establish a family care home at the subject property, which is located within 1/2 mile of one other existing facility. A family care home, Blessed Alms, II LLC, operates at 3909 Bears Creek Road, which is 1,301 feet away. To approve a special exception for reduced separation, the Board of Adjustment must find that a reduced separation will not promote the clustering of home which could lead the resident persons to cloister themselves and not interact with other members of the community.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlay or plans.

Ms. Skenes stated on Exhibit A, the Special Exception form states, "to allow family care home to be located within a half mile of another family care home." Ms. Skenes advised it is less than a quarter of a mile and asked if that was correct. Ms. Thiel responded it was intended to be less than a half mile. The applicant did not give a specific distance, only indicating it was less than what the ordinance requires. Mr. Oliver stated it would probably be more than a mile if one was to drive there, and that there was also a creek and a park in-between the homes.

Chairman Truby swore in Megan Moravian and James Williams for their testimony in this application.

**James Williams, 2003 Otter Creek Drive, Whitsett**, property owner, was sworn in, but did not speak.

**Megan Moravian, 515 Soaring Street, McLeansville**, is the owner of a mental health agency that provides residential services to individuals with special needs in the community. The plan for this property is to have a residential care facility to service the IDD community, who are children with intellectual developmental disabilities and low IQs. Daily skills will be taught that are needed to integrate them into the community as they become adults, and the children range from 8 to 17 years old. They will be equipped with the necessary skills and things to be able to work and do those things necessary to live normal lives as adults. Juvenile delinquents are not serviced. Referrals are provided to her company by Medicaid, and it will be a medically based facility, not a facility to house any delinquents in the community. It is solely to service the IDD population. Mr. Ramsey asked how many residents would be in the house and how would it be staffed. Ms. Moravian responded they do not have a confirmed capacity as they have to go through the state licensing process. The previous facility housed 4 residents, and she is hopeful to have that same number. They have not gone through the process of state licensing, which would provide them their capacity based on square footage of the home. Mr. Ramsey asked about staffing. Ms. Moravian responded there would be two awake staff members per shift for 24 hours supervising the children. Mr. Oliver asked how old the children would be. Ms. Moravian stated there is only one child placed in this home currently who is 15, and is very amenable and entered into high school this year. He is an A student who has been in their facility for two years and has been a joy to work with. There have been no issues from him, his family, or anything of that nature. Mr. Oliver inquired how her company was funded. Ms. Moravian responded they are funded through Medicaid, and that if the child's guardian is DSS, DSS will fund their stay. Residential services and treatment are funded through Medicaid. Her company has a contract and partnership with Medicaid. Mr. Ramsey asked why the move from the other home. Ms. Moravian responded the owners of the other house are doing something else. It is a family owned property and they want to do something different than what they are doing with the house. Chair Truby inquired if Ms. Moravian was renting the house from Mr. and Mrs. Williams. Ms. Moravian responded that she would be. Chair Truby inquired if there were any further questions for the applicant.

Chair Truby inquired if there were questions for the owner. Seeing none, Chair Truby asked Ms. Thiel if there was any opposition. Ms. Thiel responded there was. Chair Truby asked the first person speaking to provide their name and address for the record. Chair Truby swore in Joe Banks for his testimony.

**Joe Banks, 1100 Amity Drive**, advised he lives directly across from this location and asked Ms. Moravian if she was funded through a 501c3 organization and Medicaid or the health department. Mr. Banks was unsure how many residents would be housed at the location and if there were enough bedrooms in the facility to house safely. Chair Truby advised Mr. Banks when Ms. Moravian speaks in rebuttal those questions will be asked and answered.

Chair Truby inquired if there was anyone else who wished to speak in opposition to this request. Chair Truby swore in Teresa Lockamy for her testimony.

**Teresa Lockamy, 3616 Inverness Drive**, asked if the level of care proposed at this potential facility was the same level of care at the Bears Creek Road facility, which is Level 3. Ms. Lockamy expressed her concern regarding parking arrangements for staff and if residents had vehicles to drive. This is a single-family neighborhood and Amity Drive is a major egress and ingress road. Street parking would create congestion throughout the neighborhood. Ms. Lockamy inquired if there were any other family care facilities within a half mile of this facility beyond the one previously mentioned.

Chair Truby asked Ms. Thiel to address Ms. Lockamy's last question. Ms. Thiel responded there was only the Bears Creek facility within one-half mile of this location at 1103 Amity Drive. Chair Truby inquired if there was anyone else to speak in opposition to this application. Chair Truby swore in Ollie Johnson for his testimony.

**Ollie Johnson, 1101 Amity Drive**, asked how many children would be in each room in this home. Mr. Johnson asked if two males or two females together and would there be enough bathrooms for everyone. Mr. Johnson stated he has lived in this neighborhood for 36 years that has always been quiet. Currently, there are no children within this neighborhood. Chair Truby advised that Ms. Moravian will respond to these questions during her rebuttal period.

Chair Truby inquired if there was any other comments or concerns. Chair Truby swore in Chairwoman Hightower for her comments.

**Councilwoman Sharon Hightower**, stated in listening to the questions from the opponents, it appears there has been no neighborhood outreach, as people appear to be very much in the dark about this. Chairwoman Hightower stated to be a good neighbor, approaching the neighbors should be done and was concerned what the outreach was within the community. When talking about bringing a facility of this magnitude into the neighborhood and so close to another facility right around the corner. Councilwoman Hightower stated how concerned she was that no one seems to know anything other than the sign in the yard.

Chair Truby assured Councilwoman Hightower the Board takes neighborhood communication very seriously and is very much a part of how the case is looked at. Councilwoman Hightower stated it is very important that neighbors are engaged and see the transparency of what is occurring within their community. Chair Truby inquired if there was anyone else to speak in opposition to this request. Chair Truby swore in Diane Harvey for her testimony.

**Diane Harvey, 817 Mystic Drive**, has lived in this community since 1970, before Bears Creek neighborhood was there. Ms. Harvey drove by the house on Bears Creek Road to note the traffic where that facility is located and expressed her concerns regarding road congestion, as Amity Drive is one of two ways out of the neighborhood. This proposed house is near Amity Court, where is very congested with cars parked on the street continuously. Ms. Harvey stated she was curious regarding visitation to these children from parents and expressed concern regarding transients who use the neighborhood as a gateway to Randleman Road and the safety issue of the children, as she does not feel safe in her neighborhood. There is a very good community watch program, and it is not far from the house on Bears Creek Road. People walk through the park, up to Randleman Road, and there is a way to cross the creek. There have been problems with gangs and shootings. It traumatizes her, and she cannot imagine how children would be affected. Ms. Harvey was concerned with crime statistics within their area, which does have police presence. Ms. Harvey stated her concerns are traffic, safety, current issues of keeping gang activity out of the neighborhood and transients from stealing and breaking into places. Ms. Harvey stated when she spoke to someone, she was advised this would be up to six residents and was very concerned with traffic.

Chair Truby inquired if there was anyone to speak in opposition to this request. Seeing none, Chair Truby advised there was a 5 minute rebuttal period for those in favor of the request, and the Board will ask questions of the applicant. Chair Truby swore in Lisa Elliott Perkins for her testimony.

**Lisa Elliott Perkins, 1131 Westridge Road**, advised she was a realtor and property manager familiar with the property and the area. Ms. Perkins stated the driveway on Amity Drive where this property is located could handle at least four cars as it is a very long driveway. Mr. Perkins advised she is familiar with the group care home facility that is requesting to be housed at this location. The children do not have vehicles. It is a very clean facility and the children are very well mannered. No one would know children were living there, as they are being schooled and do not have interactions with the neighbors. Ms. Perkins knows this because she has assisted a Moravian Care facility in the past. No one can control what happens in any community, but there have not been any problems with this particular property. There are children in the neighborhood because she has a person who lives across the street who has a child. He is not a functioning child that mingles with people, but lives in a home across the street on Amity Drive. Ms. Perkins stated she did not see a problem with this facility relocating to this particular area.

Chair Truby asked what type of organization this was. Ms. Moravian responded that it is a private organization and not a non-profit or a 501c3 organization. They have a contract with Medicaid for them to provide services to individuals who receive Medicaid. Chair Truby asked how many bedrooms are in the home. Ms. Moravian responded it is a three-bedroom, two-bathroom home, and it also has a basement. Chair Truby asked what the level of care would be. Ms. Moravian responded the level of care for an Innovations client would be Levels 1 to 4. Chair Truby asked about parking for staff and residents. Ms. Moravian stated the residents are all minors and there would be two staff per 12-hour shift. Innovations has company vehicles. There would only be two to three cars on the premises at a time. Chair Truby inquired how many children would be in each room. Ms. Moravian responded the state requires that each room has 100 square feet per child. If they do share a room, the room has to be 160 square feet. The capacity has not been determined to date by the state, and Innovations does not know what the capacity will be at this time. They are allowed to have up to six residents in a home, but would never put six residents in one home because of different personalities. Chair Truby asked how many bathrooms were in the home. Ms. Moravian responded two. Chair Truby asked if the adjoining property owners in the neighborhood were reached out to. Ms. Moravian responded she did not and apologized for not creating that relationship. Everything happened so abruptly with the other owners' last-minute notice, and the need to find housing in a suitable area for these children, which is extremely difficult. Once this home was found, they jumped on the opportunity to be able to present it to the Board. Chair Truby inquired if Ms. Thiel recommended contacting the neighborhood. Ms. Moravian responded she did.

Chair Truby asked if there were questions from the Board members for the applicant. Mr. Oliver stated there was one resident currently, but would go to four and asked how it goes from one to four. Ms. Moravian responded they come in through Medicaid as referrals. A referral and information on the clients are provided. Innovation determines whether they will be accepted in their home and does not have to accept every client that Medicaid sends to them. Discretion is used and everything is based on whether they are a good fit for each other. The personality in the home currently is a very low key, very calm, with an amenable child. They would not place another child there that was a level four and had severe needs or anything like that in this home with the other child. Mr. Oliver asked if he was the only child in this home at the other location. Ms. Moravian stated there have been other children that have been discharged. This child's situation is slightly different because of his guardianship. He has not been adopted yet. Mr. Oliver asked if they were foster children. Ms. Moravian responded they were not foster children; this particular child is in DSS custody and has not been deemed by the state court system as a foster child. Chair Truby inquired if there were additional questions. Ms. Necas inquired if there was a specific reason this property was chosen, as there was another home within a half mile of this property. Ms. Moravian responded there are other homes in Greensboro, but this house fit their criteria. This was a person who rents property that Innovations has worked with before. Normal factors are considered when renting a property, as well as cost. The residents have to pay for their stay, and Innovations needs to have a place that would be within their cost range. Mr. Waddell asked what the average length of stay was for a resident. Ms. Moravian responded it would depend on the level of care they need, but the average was one year. Chair Truby inquired if there were any further questions for Ms. Moravian. Seeing none, Chair Truby advised the opposition had 5 minutes for rebuttal.

**Diana Harvey** stated there is someone in the home currently and saw a light on in the front room on the left corner with no vehicles in the driveway and asked if a person was with the child. Chair Truby responded the child could not be staying there. Ms. Perkins advised the previous tenant was there, but is moving out and will leave the house vacant. Ms. Perkins stated she thought one gentleman may still be there, but he is relocating somewhere else.

**Joe Banks** stated he heard Ms. Moravian say she did not take the time to reach out to the neighborhood to speak to them regarding the proposed request. Mr. Banks stated it should be requirement or a suggestion for a person to do that before attending the meeting. Mr. Banks referenced his background in dealing with mental health and substance abuse and the whole curriculum of dealing with people. Mr. Banks stated he did not hear about the rehabilitation, if that was the purpose for this home or was it just only housing. It is farfetched to even think this house would fit in with the crime here. Most of the people in this area are retired and have lived in the neighborhood for a long time. They do not want all of the activity that most youths would be involved in. One of the main issues was not reaching out to the neighbors to provide a clear picture of the housing for these youths. Children are the future. Mr. Banks stated they have problems within that house. Knowing this and knowing these things is a problem when you look at children, the youth being involved in that with no real solution for their health and environment, especially with Covid-19. It is something to be considered by the Board of Adjustment. Chair Truby advised the rebuttal time was over and closed the public hearing for discussion by the Board.

#### **DISCUSSION:**

Ms. Skenes advised she was very uncomfortable with the request and upset that no attempt was made to reach out to the neighbors. There have been a number of group home requests over the last year, year and a half. In this particular request, the opposition posed very good point. The neighborhood had to ask questions in what is not necessarily the easiest of ways via Zoom. Ms. Skenes was not comfortable supporting this request. Chair Truby stated he felt the same way and could not support the request, particularly because Ms. Thiel told the applicant she should reach out to the neighborhood and did not do so. Mr. Waddell highlighted the fact there have been a lot of these cases coming before this Board. There is a mental health crisis that needs attention in the community. Many of these homes are starting to crop up for the same request through this Board and are looking for suitable spaces to train and mentor these children so they can become active citizens and adults to move on. As citizens, everyone has work to do. Mr. Waddell stated with this much opposition from the neighbors, the Board could not support it. There is a bigger job and crisis that the Board needs to deal with, and it is very important not to labor these children who are attempting to become adults. At the same time, the Board needs to support the community. Mr. Waddell challenged everyone to open their eyes and hearts to what the solution to this could be. At this time, Mr. Waddell could not support the request. Mr. Oliver stated that was correct and asked if this request is turned down, where these people will go next. Mr. Oliver pointed out that it is 8/10 mile to walk or drive to the facility. It is 1,301 feet walking straight through, but you have to go over a creek and through a wooded park. Mr. Savoy stated there is a desperate need for this type of housing. If done right, you do not even know they're in your neighborhood. The fact that the neighbors were not contacted and is so close to another facility, he could not agree with the request. Chair Truby inquired if there were any other comments. If not, Chair Truby requested a motion.

**MOTION:**

Mr. Ramsey moved that in BOA-21-07, 1103 Amity Drive, based on the stated Finding of Fact, the Zoning Enforcement Officer be upheld and the special exception denied based on the following: (1) The special exception is not in harmony with general purpose and intent of this ordinance and does not preserve its spirit because the Board finds the placement of the home will result in the concentration of group homes in the area that is not beneficial to the neighborhood or community and is disruptive to the neighborhood. (2) The granting of the special exception does not ensure public safety and welfare and does not do substantial justice because the concentration of group homes will diminish the quality of life within the neighborhood. Seconded by Mr. Waddell. The Board voted 6-1 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Necas, and Savoy. Nays: Oliver).

**OTHER BUSINESS:**

Conflict of Interest Training – Al Andrews, Chief City Deputy Attorney

Mr. Andrews advised he has received questions during different meetings for things such as what happens when an applicant does not have a matter go their way, which is addressed in the Rules and Regulations. Chapter 160D is a newly created section of the North Carolina General Statutes. There is a provision that captures the appellate rules or the appeal rules for people coming before the Board when their matters are denied. People have dual options; they can seek a rehearing or they can go to court. If they go to court, Mr. Andrews could not represent them, but would suggest they get counsel before going to court. The Board doesn't hear many Special Exception request, but may receive more in the future. Mr. Andrews strongly urged the Board members to review the materials provided, as there are standards located on the bottom of the application form.

Mr. Andrews stated the intent of this presentation was to deal with the statutory rules and some case law dealing with conflicts of interest, which most people know as a concept at some level, but manifests itself primarily before the Board of Adjustment in recusals. Mr. Andrews stated Chapter 160D has attempted to unify prior codifications existing in two separate statutes, one for cities and one for counties. The Conflict of Interest is "A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected person's constitutional rights to be an impartial decision maker." Mr. Andrews stated this Board sits quasi-judicially and is why people are sworn and why things are attempted to be done in a certain way.

Due process is what Board of Adjustment members owe to applicants coming before the Board. Violations have consequences. An impartial decision-maker is required for quasi-judicial decisions. Example: It is not impermissible bias for a board member to announce they intend to vote against a permit after the evidence has been presented in the hearing, but before a vote is called, and there is no evidence that these members had a fixed decision prior to the hearing.

Impermissible violations of due process include, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, any undisclosed ex-parte communications, a close familial, business, or other associational relationship with an affect per or a financial interest in the outcome of the matter.

Ex-parte means communications of one side and not the other that are not disclosed. A close or other familiar association or relationship with an affected person means that you have a family connection to someone affected by the result, such as the applicant or someone in opposition, a business connection with the applicant or someone opposed, or a financial interest in the outcome of the matter. Discussions regarding conflicts and avoiding the appearance of propriety ensued. Mr. Andrews stated a member with a bias or conflict of interest makes that determination and seeks recusal per the BOA Rules and Regulations.

**ITEMS FROM PLANNING DEPARTMENT:**

Ms. Thiel spoke on the issue of separate meters for accessory structures and provided a summary of what staff has done since this issue was last discussed. Staff researched what has been done for every case over the last three years, and the Board has voted favorably. The LDO requires the variance for applicants to have a separate meters for accessory structures. Most of the municipalities Ms. Thiel reached out do not get involved in the decision of whether or not to allow separate meters for accessory structures. Only High Point has a similar ordinance as Greensboro, but does not issue variances for them. The Greensboro Chief Electrical Inspector did recommend that a process be kept in the ordinance, as it is the only way to track the uses for accessory structures. As long as there is language in the ordinance, whether it be by the Board of Adjustment or some type of staff review, tracking can be done for home occupations, accessory dwellings, or any kind of use that may or may not be conforming. Staff would like to keep language in the ordinance to recommend that instead of a separate meter request going to the

Board of Adjustment, staff could examine certain factors to allow the separate meter. This would diminish situations where the Board has decided that a separate meter might be closer to a utility box/pole, that there may be extensive landscaping or hardscaping that would need to be demolished or ruined to branch the power from the house, or that the house itself may not have enough capacity on its meter to handle the accessory structure's needs. Ms. Thiel stated that is the current situation. To do anything other than what is in the ordinance now would require a text amendment to the Land Development Ordinance. Staff would appreciate feedback regarding factors to consider or any comments from Board regarding the current process or a future process.

Ms. Skenes stated staff has done an excellent job of fine tuning and could not think of any that has been approved that did not fall into one of the four factors mentioned. Ms. Skenes highly recommended that the Board proceed to request a text amendment outlining the situations in which staff could approve with those exceptions. Ms. Thiel also added that perhaps if applicants are not happy with the decision staff makes, the Board of Adjustment could be the avenue to appeal that decision. Ms. Skenes stated the Board would be the appeal end if an applicant was not happy with a decision. Mr. Oliver and Mr. Ramsey stated they were in agreement. Ms. Thiel advised that staff will continue working on this issue and encouraged Board members to reach out if there are other comments or suggestions. Mr. Oliver thanked Ms. Thiel and Mr. Kirkman for all of the efforts in working this issue out.

Ms. Thiel advised that the next meeting was March 22, 2021, with five cases currently scheduled.

**ADJOURNMENT:**

The meeting was adjourned by Chairman Truby at approximately 7:46 p.m.

Respectfully submitted,

Chuck Truby, Chair  
Board of Adjustment  
CT/cgs

**MEETING MINUTES**  
**GREENSBORO BOARD OF ADJUSTMENT**  
**March 22, 2021**

The meeting of the Greensboro Board of Adjustment was held on Monday, March 22, 2021 at 5:30 p.m. online via Zoom. Board members present were: Chairman Chuck Truby, Mary Skenes, James Waddell, Vaughn Ramsey, Ted Oliver, Terry Savoy and Stephen Barkdull. City staff present were Shayna Thiel, Mike Kirkman, and Luke Carter of the Greensboro Planning Department. Alan Andrews, Chief Deputy City Attorney.

Chairman Chuck Truby welcomed everyone to the virtual meeting and advised of the policies and procedures in place for the Board of Adjustment. Chairman Truby further explained the manner in which the Board conducts its hearings and methods of appealing any ruling made by the Board. Chairman Truby advised that each side, regardless of the number of speakers, were allowed a total of 20 minutes to present evidence. Board members may ask questions at any time.

**APPROVAL OF THE MINUTES (February 22, 2021)**

Mr. Barkdull abstained as he was not present at the February meeting.

Mr. Ramsey made a motion to approve the February 22, 2021, minutes; seconded by Mr. Savoy. The Board voted 6-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, and Savoy. Nays: 0.) Chair Truby advised the minutes were approved.

Mr. Barkdull resumed in the Zoom Meeting

**SWEARING IN OF STAFF**

Shayna Thiel and Mike Kirkman of the Planning Department were sworn in for testimony in the following cases.

**CONTINUANCES / WITHDRAWALS**

None.

**OLD BUSINESS**

None.

**NEW BUSINESS**

**1. VARIANCE**

**a. BOA-21-08: 5802 HIDDEN ORCHARD DRIVE (APPROVED)**

Ms. Thiel stated in **BOA-21-08**, 5802 Hidden Orchard Drive, Steven and Andrea Drew request a variance to allow an accessory structure to install a separate meter when branching utility service from the principal dwelling is required.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance Reference was Section 30-8-11.1(G)(1): Accessory structures to single-family, twin homes, duplexes, and traditional houses must take utility service such as water, sewer and electrical by branching service from the principal dwelling.

**Background and Site Information:** The subject lot is located on the north side of Hidden Orchard Drive, east of Green Meadow Drive, and is zoned R-3 (Residential Single-family). Tax records indicate the lot contains approximately 13,068 square feet and the house was constructed in 1992. The applicants recently constructed an accessory structure in the backyard, in accordance with approved building permit 202016421. The applicants indicated that the main power panel serving the primary dwelling is insufficient to serve the accessory structure. To accommodate the load requirements of the accessory structure, the applicants propose to install a separate electrical meter.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlay or plans.

Chairman Truby swore in Steven and Andrea Drew for their testimony in this application.

**Steven Drew, 5802 Hidden Orchard Drive**, stated their house was built in 1992 and has a 125 Amp service. Mr. Drew indicated that over his shoulder in the workshop where he was sitting was a 100 Amp box for service with a meter box on the other side of the wall. Mr. Drew advised that the structure will be used as a hobby workshop for woodworking and other electronic equipment. There is a heat pump and some refrigeration in this workshop. The main dwelling electrical structure is insufficient to handle this. It would cost \$3100, not including trenching, and would then be approximately \$4000.00 to change things at the main house. The wiring is already present in the workshop. The accessory structure is approximately 50 feet to the house and approximately 60 feet to the Duke Energy transformer, which is located in the corner of their property. It is on their property line and there would not be any neighbors nearby that would be affected. The line will make a straight run across. It is not only the most cost effective method, but would not be possible otherwise, as the main dwelling infrastructure cannot handle this load.

Chair Truby inquired if any Board members had questions for the applicant. Seeing none, Chair Truby asked if there was anyone to speak in favor the request. Seeing none, Chair Truby inquired of Ms. Thiel if there was any opposition to the request. Ms. Thiel advised has not received any calls on this case. Chair Truby inquired if anybody would like to make a motion.

**MOTION:**

Mr. Savoy moved that in BOA 21-08, 5802 Hidden Orchard Drive, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the underground service utility transmission is located at the back corner of the property, in proximity to the recently constructed accessory building in the backyard. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicants' property because the main power panel serving the primary residence is insufficient to serve the accessory building and associated requirements. (3) The hardship is not the result of the applicant's own actions because the existing infrastructure will not support the service needed for the accessory building and requiring expensive upgrades and trenching. (4) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice a separate meter placed on the rear of the accessory building would not be visible, and will not impact the neighbors, and would preserve the character of the neighborhood. Seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Savoy and Barkdull. Nays: 0.)

**b. BOA-21-09: 625 FRANKLIN BOULEVARD (APPROVED)**

Ms. Thiel stated in **BOA-21-09**, 625 Franklin Boulevard, Ardeanna Wideman, request two variances. (1) To allow an accessory structure to encroach 14.28 feet into a required 15 foot rear setback. The structure is 0.72 foot from the rear property line. (2) To allow an accessory structure to encroach 14.87 feet into a required 15 foot street setback. The structure is 0.13 foot from the property line along Afton Drive.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance References were Section 30-8-11.1(B) (3): Accessory structures may be located in front of the principal structure but are not allowed in a required street setback. Section 30-8-11.1 (C) (3): Accessory structures must meet the required setbacks for the zoning district. Section 30-7-5.1 – Table 7-14: in the O District, minimum street setback is 15 feet and the minimum rear setback adjacent to all R-Districts is 15 feet.

**Background and Site Information:** The subject lot is located on the east side of Franklin Boulevard, north of Afton Drive, and is zoned CD-O (Conditional District – Office). Tax records indicate the lot contains approximately 16,553 square feet, and the structures were constructed in 1938 (principal) and 2000 (accessory). Without obtaining the necessary permits, the applicant converted an accessory structure into occupiable space and is now trying to bring the structure into compliance. On February 1, 2021, after approval from the Zoning Commission, the use conditions of the subject property were amended to allow an additional building area to be utilized for office uses. Per the Land Development Ordinance, accessory structures must meet the required setbacks for the zoning district and are not allowed in required street setbacks. Since the accessory structure encroaches into a required 15 foot street setback and a 15 foot rear street setback, the applicant is seeking variances to allow the structure to be used as occupiable space. If the variances are granted, the applicant will work with the Engineering & Inspections Department to proceed with the change of use process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlay or plans.

Chair Truby stated it appeared the property was recently rezoned and asked if the intent all along was to get the rezoning and bring a request to the Board of Adjustment for this accessory structure or was it not known at the time they applied for zoning. Mr. Kirkman stated basically at the time that they applied for the rezoning to expand the square footage for the use, it was not immediately known, but was discovered as part of the conversation. Once the zoning was in place, this was the next step.

Chairman Truby swore in Ardeanna Wideman for her testimony in this application.

**Ardeanna Wideman, 5591 Friendship Glen Drive**, stated they were unaware until the rezoning discussion that they needed to follow through with seeking a variance for the back building. Ms. Wideman stated she is a licensed professional counselor working with children that have social, emotional and leadership needs. They provide services to those students and have noticed that the clientele has increased, which has necessitated more space. They would like to use the space in the outer building as a place for the clients to wait for pickup. The structure was a part of this property and a good space coral the children and have them wait there for pickup as there is very little space in the primary building. The uses for this building will enable them to properly serve their growing client population of children ages 5 to 16.

Chair Truby inquired if any Board members had questions for the applicant. Chair Truby asked what was the building used for before. Ms. Wideman responded when they first obtained the building, the building already had flooring and all the things that are there now. All they did was improve some of the areas to make sure there were appropriate lights. Ms. Wideman was not sure what it had been used for prior to being obtained by her. Chair Truby inquired if there were any questions for the applicant from the Board members. Seeing none, Chair Truby inquired if there was anyone else to speak in favor this request.

**Valerie Fearrington, 208 Heritage Creek Way**, stated she has worked with the Academy and Ms. Wideman since its inception and her children go to this Academy. The Academy does a great job and the accessory space was there. A couple of updates have been done. Ms. Fearrington stated it would be wonderful for the children to be picked up fairly soon after they are done. Ms. Fearrington has assisted Ms. Wideman during this process and they have been doing what the county government told them to do at each step. Ms. Fearrington expressed her hope that this building will be approved for its use.

Chair Truby swore in Ms. Fearrington for her testimony in the above case. Ms. Fearrington affirmed her prior testimony. Chair Truby stated as there was no one else to speak in opposition, the public hearing was closed and requested to Board discussion. There was no discussion and Chair Truby requested a motion.

**MOTION:**

Ms. Skenes moved that in BOA-21-09, 625 Franklin Boulevard, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the existing accessory building could no longer be used as additional space for the business. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the accessory building was in place when the property was purchased in 1994. On February 1, 2021, the Zoning Commission amended the use conditions to allow the additional building area to be used and currently is going to be used as a pickup area for students. (3) The hardship is not the result of the applicant's own actions because the accessory building was already in place when the property was purchased in 1994. (4) The variance is harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the accessory building will be used in the same manner as the primary structure and the community will continue to be served. Ms. Skenes stated this motion covers both of the requested variances. Seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Savoy, and Barkdull. Nays: 0.)

**c. BOA-21-10: 101 COUNTRY PARK ROAD (APPROVED)**

Ms. Thiel stated in **BOA-21-10**, 101 Country Park Road, Garland and Nancy Coble request a variance to allow a proposed carport addition to encroach 20.5 feet into a required 42-foot front setback. The carport addition will be 21.5 feet from the front property line.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance Reference was Section 30-7-1.4: Setback computations.

**Background and Site Information:** The subject lot is located on the north side of Country Park Road, east of Lake Jeanette Road, and is zoned R-3 (Residential Single-family). Tax records indicate the lot contains approximately

20,473 square feet, and the house was constructed in 1956. In building permit application #202102420, the applicants propose to add an attached carport to their house that will encroach 20.5 feet into a required 42-foot front setback. The proposed carport addition will align with the existing gravel driveway and be 21.5 feet from the front property line. If the variance is granted, the applicants will proceed with the building permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlay or plans.

Chairman Truby swore in Nancy Coble for her testimony in this application.

**Nancy Coble, 101 Country Park Road**, stated she was attempting to get a double carport with a short breezeway between the carport and her house built because her husband is 97 and she is 87. The gravel driveway is not sufficient and they would like to have the car covered to be protected from weather elements. Her husband uses a walker that is not feasible on the gravel driveway.

Chair Truby inquired if there was anyone else to speak in favor of this request. Ms. Coble asked her builder to speak.

Chairman Truby swore in Donny Root for his testimony in this application.

**Donny Root, 5519 Stigall Road, Kernersville**, stated the necessity was to protect from weather elements. Both residents are elderly and need to be out of the weather when getting to and from their car for whatever appointments they have or anything else.

Chair Truby asked what the carport would look like. Mr. Root responded it would be 24 feet by 24 feet square concrete slab that would match the house. There would be a small closet at the end of the concrete slab. Chair Truby asked if there would be a pitched roof or a flat roof. Mr. Root responded it will have a pitched gable roof with the gable facing the street. The breezeway will be attached from the house roof to the carport roof. It will be Truss design and cricket areas built on both the existing roof and the new carport roof. The breezeway area will be 8 feet wide, plus the overhang of a foot on either side. The carport will also have a 12-inch overhang on every side. Chair Truby inquired if there were any further questions from Board members. Ms. Skenes asked if the builder could elaborate as to why the carport will be moved closer to the street, which is the reason why they need the variance. Mr. Root responded there are several windows that would be blocked if it was not close to the street, blocking the light to the house. Natural light is very beneficial. It would be right up against the screened porch that is built there. They will be able to park and get right to the door. If it was deeper in off of the street, then they would be parked too far from the door. Chair Truby inquired if there were any further questions for the applicant. Seeing none, Chair Truby asked Ms. Thiel if there was any opposition to this request. Ms. Thiel advised she had not heard any opposition to this request. Chair Truby closed the public hearing and asked if there was Board discussion. Seeing none, Chair Truby inquired if there was a motion.

#### **MOTION:**

Mr. Waddell moved that in BOA-21-10, 101 Country Park Road, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because compliance with the ordinance will cause the structure to block existing windows and natural lighting. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the carport is needed to be closer to the main entry for safety, protection from the elements and decreased walking distance. (3) The hardship is not the result of the applicant's own actions because the home was constructed in 1956. The size and position of the carport are needed for safe travel of the home owners. (4) The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the carport, roofing and trim will match the existing home and will improve the appearance. The breezeway will also increase safe entry and exit. Seconded by Ms. Skenes. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Savoy, and Barkdull. Nays: 0.)

#### **d. BOA-21-11: 3108 MADISON AVENUE (APPROVED)**

Ms. Thiel stated in **BOA-21-11, 3108 Madison Avenue**, David and Anna Caton request three variances. (1) To allow a proposed addition to encroach 2.5 feet into a required 15 foot side street setback. The addition will be 12.5 feet from the side property line along East Avondale Drive. (2) To allow a proposed accessory structure to be separated 7.6 feet from any other structure on the site when at least 10 feet is required. (3) To allow a proposed accessory structure to use a separate meter when branching utility service from the principal dwelling is required.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance References are Section 30-2-4 (A)(2): Any enlargement of a nonconforming structure must conform to the dimensional requirements of the zoning district unless the Board of Adjustment grants a variance. Section 30-7-3.2 – Table 7-1: In the R-3 District, the minimum side street setback is 15 feet. Section 30-8-11.1 (E)(2): Accessory structures 600 square feet or greater in floor area must be separated by at least 10 feet from any other structure on the site. Section 30-8-11.1 (G)(1): Accessory structures to single-family, twin homes, duplexes, and traditional houses must take utility service such as water, sewer and electrical by branching service from the principal dwelling.

**Background and Site Information:** The subject lot is located on the north side of Madison Avenue, east of East Avondale Drive, and is zoned R-3 (Residential Single-family). Tax records indicate the lot contains approximately 20,038 square feet, and the house was constructed in 1941. The existing house is considered a nonconforming structure as it encroached into a required 15 foot side street setback. Per the Land Development Ordinance, any enlargement of a nonconforming structure must conform to the dimensional requirements of the zoning district unless the Board of Adjustment grants a variance. On April 28, 1975, the Board of Adjustment granted a variance to allow the now existing chimney to encroach into the side street setback. The applicants are proposing an addition at the rear of the house that is aligned with the current building line. It will encroach 2.5 feet into a required 15 foot side street setback and be 12.5 feet from the side property line along East Avondale Drive. They also propose to construct an accessory structure, including a garage, storage, and porte-cochere, in the backyard that will be separated by 7.6 feet from the house when at least 10 feet is required. The applicants indicated that the existing storage building on the property, as shown on the site plan, will be removed if the proposed accessory structure is approved and constructed. At this time, the applicants are also seeking a variance to allow a separate meter to be installed on the proposed accessory structure. If the variance is granted, the applicants will proceed with the building permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans.

Chairman Truby swore in Anna and David Caton for their testimony in this application.

**Anna and David Caton, 3108 Madison Avenue**, stated their builder, Pat Parr with Classic Construction, was present as were Jim and Marion King, neighbors in support of their request. Ms. Caton stated they would like to build on the street side existing structures. The house was built in 1941 and they are asking for the distance between the screened porch and the detached garage to be less than the required 10 foot separation at 7.6 feet. They were also asking for the detached garage to be separately metered, so it would not be pulled from the right side of the property.

Chair Truby inquired if there were questions for the applicants from the Board members. Mr. Oliver asked if in 1975 it was only the chimney that encroached and now the kitchen addition is encroaching or the garage. Mr. Parr responded it was the addition on the wall that the chimney is on that will be continued down Avondale. Mr. Oliver asked if the issue was the wall itself would encroach or was the chimney still encroaching. Mr. Parr responded with his testimony.

Chairman Truby swore in Pat Parr for his testimony in this application.

**Pat Parr, Classic Construction, 721 Hood Place**, stated what was being done is extending the addition. The existing fireplace has nothing to do with it, but the house is being extended 2.5 feet on the side. The garage is not in the setback. Chair Truby asked why was it they were not able to meet the 10 feet and why was it 7.6 feet on the separation. Mr. Parr responded because of the way it was defined and the topography that was there. They are attempting to make the steps work out. Chair Truby asked if they were limited by the 30 foot rear setback. Mr. Parr responded that was correct.

Chair Truby inquired if there were any further questions for the applicant from the Board members. Seeing none, Chair Truby inquired if there was anyone else wishing to speak in favor of the request. Chair Truby asked Ms. Thiel if there was anyone in opposition to the request. Ms. Thiel responded there was no one in opposition, but the Kings wished to speak in favor.

Chairman Truby swore in Jim and Marion King for their testimony in this application.

**Jim and Marion King, 3200 Madison Avenue**, advised they were neighbors just west and across the other side of East Avondale from the Catons. The Kings were in support of the addition as proposed as it will enhance the neighborhood. The Kings are excited for the Catons.

Chair Truby inquired if there was anyone else to speak. Seeing none, Chair Truby closed the public hearing. Chair Truby inquired if there was Board discussion. Chair Truby stated this was a well-presented case with a lot of information and architectural information. It appears this will be a really good project and Chair Truby did not see any issues with it. Chair Truby inquired if there was any other Board discussion. Seeing none, Chair Truby inquired if there was a motion.

**MOTION:**

Mr. Oliver moved that in BOA-21-11, 3108 Madison Avenue, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because by following the setback standards, the applicant would either not be able to build the desired garage or addition, or would have to build something that does not conform to the current structure. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because they want to build an addition that will use the current setback of the existing structure that was approved by the Board of Adjustment in 1975. (3) The hardship is not the result of the applicant's own actions because the house was built in 1941, before the setback rules existed. The BOA granted a variance in 1975 for current chimney encroachment that is the same as this request. (4) The variance is harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because a similar variance was granted 46 years ago. The variance will be in harmony, public safety will remain the same, and this covers all requested variances. Seconded by Mr. Barkdull. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Savoy, and Barkdull. Nays: 0.)

**e. BOA-21-12: 308 WOODLAWN AVENUE (APPROVED)**

Ms. Thiel stated in **BOA-21-12**, 308 Woodlawn Avenue, Renovate Square, LLC, requests a variance to allow an existing house and proposed addition to encroach 6.9 feet into a required 15-foot side street setback. The house and addition will 8.1 feet from the side property line along Courtland Street.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance References were Section 30-2-4 (A) (2): Any enlargement of a nonconforming structure must conform to the dimensional requirements of the zoning district unless the Board of Adjustment grants a variance. Section 30-7-3.2 – Table 7-2: In the R-5 District, the minimum side street setback is 15 feet.

**Background and Site Information:** The subject lot is located on the east side of Woodlawn Avenue, south of Courtland Street and is zoned R-5 (Residential Single-family). Tax records indicate the lot contains approximately 7,405 square feet, and the house was constructed in 1921. The existing house is considered a nonconforming structure as it encroaches into a required 15 foot side street setback. Per the Land Development Ordinance, any enlargement of a nonconforming structure must conform to the dimensional requirements of the zoning district unless the Board of Adjustment grants a variance. The applicant proposes a second story addition that will align with the existing building line. The existing house and proposed addition will encroach 6.9 feet into a required 15foot side street setback and be 8.1 feet from the side property line along Courtland Street. As part of pending building permit application # 202103037, the applicant also proposes to construct a deck at the rear of the house that will meet setback requirements. If the variance is granted, the applicant will proceed with the building permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted the applicable overlays or plans.

Chairman Truby requested the applicant to come forward.

**Marsh Prause, Attorney representing Renovate Square, LLC**, stated an affidavit of Pamela Frye, managing member of Renovate Square, LLC was submitted to the Board as her sworn testimony for this application. Mr. Prause stated this is a classic case of what happens when you have a 100-year-old house and are attempting to mesh it with modern day land use regulations. The house at issue is a single-family residence. It has been there for 100 years, before UDO, LDO or any type of ordinance included heightened setbacks for corner lots.

The house as constructed 100 years ago is already 6 to 7 feet into the setback that was established with a LDO about 10 or 15 years ago. Mr. Prause stated his client brought this house to renovate it. The plans included adding on a second floor. For design reasons, his client wants to build the second floor directly about the first floor as opposed to having it in the back. When Renovate Square first acquired the property they were working with an architect. It was not until the initial designs were submitted to the City as part of a building permit that they became

informed about the 15 foot side setback. Renovate Square then proceeded to move the proposed new deck and the side steps out of the setbacks. Renovate Square has done everything they could to get out of the side setback except they would like to build the second floor directly above the first floor, which is the reason they are seeking a variance. The second floor will not protrude past the existing footprint and maintain the footprint as it already exists. This is not a case to encroach further than what is there or even closer to the property line.

Mr. Prause stated he was not going to read the affidavit, as it was already in the record. There was an email submitted by at least one neighbor in favor of the application that Mr. Prause advised was from Cecelia Thompson. I'm writing to express my support of the variance request for 308 Woodlawn Avenue. Due to work commitments, I am unable to attend the Board of Adjustments meeting on Monday, March 22. I have lived in the Westerwood neighborhood for the last thirteen years. I lived at 602 North Mendenhall for eleven years. It was my first home and I was lucky enough to buy the renovated home from Pam Frye. When the opportunity to buy my current home at 909 Fairmont presented itself in 2019, I took the risk to purchase the dilapidated 1924 home knowing that Pam Frye would help me bring it back to life. She did a fantastic job. Over many years, Pam Frye has renovated many houses in Westerwood, preserving character and bringing new life to our historic homes. I'm confident that she will do the same for 308 Woodlawn Avenue. The improvements to 308 Woodlawn Avenue align with the City of Greensboro Comprehensive Plan's Big Idea of Creating Great Spaces, particularly Goal A Strategy One: To protect and enhance the unique character of every neighborhood. As downtown neighborhoods become more appealing to young talent looking to build their lives in Greensboro, and contribute to the tax base, we need renovated housing stock in Westerwood. 6.9 feet should not get in the way of our progress. I encourage the Board of Adjustments to grant the variance request for 308 Woodlawn Ave. Thank you, Cecelia Thompson.

Mr. Prause stated that was indicative of the overall support for the variance. As to unnecessary hardship, the applicant cannot undo the first-floor encroachment and cannot undo how the house was built 100 years ago. This property has a 100-year-old house on a corner lot that does encroach the same amount that is being sought by the variance into the setback. If the house was not on a corner lot, it would be a 5 foot side setback. There is no other factor that is causing the hardship other than the application of the ordinance to the property. This was not due to the applicant's own actions. Renovate Square did not exist in 1921 when the house was built. The variance has to be in harmony with the purpose and intent of the ordinance and preserve its spirit. As seen from the client's comments in the variance application, the reason the variance is being sought is they want something that is consistent with the neighborhood design aesthetic and does not look out of character with the prevailing 1920s architecture. The variance would follow the existing encroachment on a more vertical level and would not have any impact on visibility or a sight triangle for the motorists at the intersection of Courtland and Woodlawn and would assure public safety. The second-floor addition will not increase any visibility issues at that corner as it only follows the existing footprint. There was some concern regarding the lack of a sidewalk. By building a second level above where the house is already would not limit the City's ability to fill that missing link in the neighborhood sidewalk. Mr. Prause requested approval of the variance application.

Chair Truby inquired if there were any questions from the Board members. Alan Andrews, Chief Deputy City Attorney advised Chair Truby that the affidavit was not a part of the packet referred to. It either needed to be accepted by the Board or read into the record. Ms. Thiel advised the affidavit was not in the Board's packet. Mr. Andrews stated someone could read it into the record or the Board accept it. Chair Truby stated since the Board had not read it, he did not feel it could be accepted.

Mr. Prause read into the record the following affidavit: "Before the City of Greensboro, Board of Adjustment, March 22, 2021 meeting. A variance request of Renovate Square, LLC, BOA-21-12, 308 Woodlawn Avenue, affidavit of Pamela D. Frye.

Pamela D. Frye being first duly sworn deposes and says I'm over 21 years of age, and otherwise competent to testify. I make this affidavit knowingly as a member/manger of Renovate Square, LLC, a limited liability company organized and existing under the laws of the state of North Carolina. The variance applicant in the matter referenced above for 308 Woodlawn Avenue, which is referred to herein as the property. All matters stated in this affidavit are true and correct and within my personal knowledge. Renovate Square, LLC is the property's current owner. Upon preparation of its initial plans for renovation of the detached single-family residential structure on the property, Renovate Square was unaware of the relatively large 15-foot side setback that applied to 308 Woodlawn Avenue because the property is a corner lot. Renovate Square initial plans currently call for the construction of a set of exterior steps on the northern side of the house and deck on the back eastern side of the house that were not

setback at least 15 feet from the property's northern boundary line. After Renovate Square learned of the 15-foot side setback, Renovate Square modified its plan to the project. So, neither the steps, nor the deck encroach into the 15-foot side setback as reflected on the revised site plans submitted to the Board with Renovate Square's variance application. Now that the steps and the deck have been moved out of the side setback, the only encroachment that will still occur into the side setback in connection with project to renovate the house, will be the new second floor construction which will be located above the house existing first floor footprint. The new second floor construction will be directly above and will not protrude beyond the existing first floor construction. However, because the existing first floor of the house encroaches roughly 6 to 7 feet into the side setback, as the house was originally constructed approximately 100 years ago, the new construction directly above the existing first floor will also encroach roughly 6 to 7 feet into the side setback. Based on my extensive experience renovating historic homes in the neighborhoods surrounding downtown Greensboro, having the new second floor construction not follow the original existing first floor footprint would yield an architecturally incongruous result that many would find displeasing and incompatible with the original prevailing design esthetic. Further, I can say this, the 18th day of March 2021, Pamela D. Frye." Mr. Prause advised there was a notarization as of March 18 by Lisa M. Haywood, North Carolina, notary of public. Her commission expires April 9, 2023.

Chair Truby stated the affidavit was in the record. Chair Truby inquired if there was anyone else wishing to speak in favor of the request.

Chairman Truby swore in Mr. Pickard for his testimony in this application.

**Tom Pickard, 200 South Chapman Street,** Mr. Pickard was attesting to the quality of work done by Ms. Frye. Ms. Frye renovated one home for Mr. Pickard and built another from the ground up. Ms. Frye keeps an impeccably clean work site. All of her homes in the historic district match up well with the aesthetics of the neighborhood. Mr. Pickard could not say enough good things about Ms. Frye's work.

Chair Truby inquired of Ms. Thiel is there was anyone wishing to speak. Ms. Thiel stated she was not aware of anyone. Seeing none, Chair Truby closed the public hearing and asked for Board discussion.

#### **BOARD DISCUSSION:**

Mr. Oliver asked if there was a certain buffer between the road and the house before the setback is counted. Chair Truby stated it was the side street setback. It is supposed to be 15 feet off the side street. Mr. Oliver stated he stepped it off and it appears to be roughly 20 and wondered if there was something else. Ms. Thiel stated there is right-of-way and that the property line generally doesn't come up to the edge of the road.

Mr. Oliver stated he sees Pam Frye's signs all over the neighborhood. She has done multiple homes and asked Mr. Prause or Mr. Pickard if they had any idea how many homes she has worked on in that neighborhood. Mr. Pickard responded in Westerwood at least 20, maybe 25. Mr. Prause agreed and stated Ms. Frye has done a lot of work in College Hill, Fisher Park and Sunset Hills, neighborhoods around downtown Greensboro.

Chair Truby inquired if there was any other discussion. Chair Truby stated Ms. Frye cannot add a second floor without building it on top of the first floor. Chair Truby stated he was in support of this application. Chair Truby asked if there was a motion or any further discussion.

#### **MOTION:**

Mr. Ramsey moved that in BOA-21-12, 308 Woodlawn Avenue, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the existing house is currently over the setback from when it was constructed and compliance will result in a non-aesthetically pleasing second floor addition. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the house is on a corner lot with a 15 foot setback. Were it not on a corner the setback would be 5 feet and the addition would be in compliance. And the house was constructed before the adoption of the setback. (3) The hardship is not the result of the applicant's own actions because the setback was implemented years before the current occupant acquired the property and the addition will not father encroach into existing property line setback. (4) The variance is harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the addition will be more in conformity with other houses in the neighborhood. If the variance is granted, it will increase the property tax values and be more aesthetically consistent. Seconded Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Savoy, and Barkdull. Nays: 0.)

**OTHER BUSINESS:**

Mr. Oliver stated that Cecelia Thompson called him and he told her she could not tell him something everybody could not hear and he advised her to contact Ms. Thiel. Mr. Oliver asked if that was the proper thing to do. Ms. Thiel responded it was. Mr. Ramsey asked if there would be an in-person meeting for April. Mr. Kirkman advised City Council was looking at a hybrid meeting in April that would have all or some of the Council members in the Council chambers with limited staff. There would not be a public meeting in Council Chambers. Mr. Andrews advised Council Chambers will probably be configured with a type of plexiglass or acrylic separation devices. It is premised on the concept that there would not be as many spaces around the dais as seen on television. Not every spot could be occupied, plus there are members who have particular health issues where they may not want to attend in-person. The hybrid is an attempt to get back to the way things used to be. The challenge with a hybrid model is you still must use a format such as Zoom so everyone can participate. It's a big room of trying to hear people with one microphone and then individual boxes is a challenge. Everyone would sit like the Board members do now. It is the way schools are doing it also. Everyone will be in the room with their device and camera, even if sitting directly next to a person, so that it can be conveyed and projected to all members and the public.

Mr. Oliver asked if all of the public meetings would be virtual, with no one else in the room except for the Commission members and staff. Mr. Andrews stated he did not know the answer to that particular question. But even if there were 10 people present, there still is accessibility to the universe via Zoom. It would not be the case of a few council members present and only 10 or 12 members of the public present. There will still be a Zoom projecting throughout to anyone. The people in the room can eyeball, see and hear but there will still be a Zoom link. They can sit in the room and listen to the Zoom link or they can just sit there and listen live. There cannot be a chamber under spacing requirements that has more than 1/3 to 1/2 of the capacity.

Mr. Kirkman stated City Council and the Zoning Commission already broadcast the meetings using phones and networks. He stated the questions will need to be about the other Boards and Commissions that do not typically use the television portion. At this point, the Board should assume the meetings will continue to be virtual for April and probably May. Future meeting format may be determined from there.

Mr. Ramsey stated this is the second meeting where somebody, such as the 87 year old woman, would had to have come downtown, so Zoom was probably much easier. There have been disabled people where it would have been very difficult for them to come downtown, as well. Using Zoom is a positive. Mr. Ramsey stated his vote would be to continue meetings entirely online, unless they can go back to the way they used to be done. Chair Truby agreed. If it's not done the way it had been done and Zoom will still be effect, would just like to continue with Zoom on his computer. Mr. Oliver, Mr. Waddell, and Mr. Savoy agreed. Mr. Kirkman stated the meetings will continue with Zoom for now until staff is provided direction.

**ACKNOWLEDGEMENT OF ABSENCES:**

Chair Truby acknowledged the absence of Ms. Necas as an approved absence.

**ADJOURNMENT:**

The meeting was adjourned by Chair Truby at approximately 6:46 p.m.

Respectfully submitted,

Chuck Truby, Chair  
Board of Adjustment  
CT/cgs

**MEETING MINUTES**  
**GREENSBORO BOARD OF ADJUSTMENT**  
**APRIL 26, 2021**

The meeting of the Greensboro Board of Adjustment was held on Monday, April 26, 2021 at 5:30 p.m. online via Zoom. Board members present were: Chairman Chuck Truby, Mary Skenes, James Waddell, Vaughn Ramsey, Ted Oliver, Leah Necas, and Deborah Bowers. City staff present were Shayna Thiel, Mike Kirkman, and Luke Carter of the Greensboro Planning Department, and Alan Andrews, Chief Deputy City Attorney.

Chairman Chuck Truby welcomed everyone to the virtual meeting and advised of the policies and procedures in place for the Board of Adjustment. Chairman Truby further explained the manner in which the Board conducts its hearings and methods of appealing any ruling made by the Board. Chairman Truby advised that each side, regardless of the number of speakers, were allowed a total of 20 minutes to present evidence. Board members may ask questions at any time.

**APPROVAL OF MINUTES (March 22, 2021)**

Ms. Necas and Ms. Bowers abstained from approving the minutes as they were not present for that meeting.

Mr. Ramsey made a motion to approve the March 22, 2021, minutes; seconded by Mr. Waddell. The Board voted 5-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, and Oliver. Nays: 0.) Chair Truby advised the minutes were approved.

**SWEARING IN OF STAFF**

Shayna Thiel and Mike Kirkman of the Planning Department were sworn in for testimony in the following cases.

**CONTINUANCES / WITHDRAWALS**

None.

**OLD BUSINESS**

None.

**NEW BUSINESS**

**1. VARIANCE**

**a. BOA-21-13: 4015 WATAUGA DRIVE. (APPROVED)**

Ms. Thiel stated in **BOA-21-13**, 4015 Watauga Drive, Brent and Laura Skelton request a variance to allow a proposed carport addition to encroach 10 feet into a required 10 foot side setback. The carport addition will be 0 feet from the side property line.

Evidence provided by the applicant included Exhibits A through E. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance Reference was Section 30-7-3.2 – Table 7-1: In the R-3 district, the minimum side setback is 10 feet.

**Background and Site Information:** The subject lot is located on the south side of Watauga Drive, north of Tallwood Drive, and is zoned R-3. Tax records indicate the lot contains approximately 14,810 square feet, and the house was constructed in 1966. The applicants propose to add an attached carport, with storage and miscellaneous use areas, to their house that will encroach 10 feet into a required 10 foot side setback. The proposed carport addition will align with the existing side entrance to the house and with the existing driveway and will be 0 feet from the side property line. If the variance is granted, the applicants will submit a residential building permit application and proceed with the permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there was no applicable overlay or plan.

Chairman Truby asked the applicants to state their name and address. Brent Skelton was sworn in for his testimony in this application.

**Brent Skelton, 4015 Watauga Drive**, stated their cars are currently parked on their existing driveway. The site is narrow on that side, and a covered carport will come very close to the house. It makes sense to go ahead and cover

it to their side entry. They are attempting to keep it as low impact as possible, in keeping the existing footprint of the driveway and to keep it within the architectural of not only their home, but the character of the neighborhood, as well. There are carports throughout the neighborhood that are of a similar design with a brick veneer. A constraint with the site is that if they pushed the carport back, the grade starts to fall off and there would be about a 3 foot fall. The proposed location is the most logical spot for the carport and would be in keeping with their house.

Chair Truby inquired if any Board members had questions for the applicant. Seeing none, Chair Truby asked if there was anyone to speak in favor the request. Seeing none, Chair Truby asked Ms. Thiel if there was any opposition to the request. Ms. Thiel advised she was not aware any opposition. Chair Truby closed the public hearing for Board discussion. Chair Truby inquired if there was any discussion or a motion.

**MOTION:**

Ms. Necas moved that in **BOA 21-13**, 4015 Watauga, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the homeowners would be unable to avoid grading and retaining issues with any other area of the yard. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the lot size does not allow for a carport in other areas due to a utility easement and a drop-off directly behind the driveway. (3) The hardship is not the result of the applicant's own actions because the current driveway configuration already aligns with the side property line and pre-dates the purchase of the property by the current homeowners. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the proposed carport would use the existing driveway footprint and will be in keeping with the architectural style of the home and neighborhood. Seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Bowers. Nays: 0.)

**b. BOA-21-014: 4300 LAKE JEANETTE ROAD. (APPROVED)**

Ms. Thiel stated in case **BOA-21-14**, 4300 Lake Jeanette Road, BMS Investment Properties LLC, on behalf of Vestal Built LLC, requests four variances.

1. To allow the total building coverage of all accessory structures to be 1,110 square feet when no more than 1,026.5 square feet is permitted.
2. To allow an accessory structure to encroach 12.9 feet into a required 15 foot side street setback. The accessory structure is 2.1 feet from the property line along Pineburr Road.
3. To all allow a proposed principal dwelling located on Lot A, as shown on the submitted site plan, to encroach 62.5 feet into a required 92.5 foot front setback. The principal dwelling will be 30 feet from the front property line.
4. To allow a proposed principal dwelling located on Lot B, as shown on the submitted site plan, will encroach 68.9-feet into a required 98.8-foot front setback. The principal dwelling will be 30 feet from the front property line.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance References were Section 30-8-11.1(A)(3): The maximum building coverage of all accessory structures may not exceed 50% of the building coverage of the principal structure on the lot or 600 square feet, whatever is greater; Section 30-8-11.1(B)(1): Accessory structures must be located behind the front building line of the principal structure and are not allowed in a required street setback; and Section 30-7-1.4: Setback computations.

**Background and Site Information:** The subject lot is located on the east side of Lake Jeanette Road, north of Pineburr Road, and is zoned R-3. Tax records indicate the lot contains approximately 52,272 square feet and the house was constructed in 1922. The applicant proposes to subdivide the existing lot into three smaller lots that will each meet the R-3 minimum lot size and lot width requirements. The existing house and two accessory structures will remain on the lot facing Lake Jeanette Road and addressed as 4300 Lake Jeanette Road. The building coverage of the two accessory structures exceeds 50% of the building coverage of the principal structure. The total accessory structure building coverage is 1,110 square feet, when 50% of the principal structure building coverage is 1,026.5 square feet. Additionally, the larger accessory structure encroaches 12.9 feet into a required 15-foot side street setback along Pineburr Road. These nonconformities are allowed to remain as is if the subject lot configuration does not change. However, because the applicant proposes to add/adjust property lines, they must be addressed before subdivision can occur. On the two new proposed lots facing Pineburr Road, the applicant intends to construct

principal dwellings that will encroach into a required front setback. The proposed principal dwelling located on Lot A, as shown on the submitted site plan, will encroach 62.5 feet into a required 92.5 foot front setback and be 30 feet from the front property line. The proposed principal dwelling located on Lot B, as shown on the submitted site plan, will encroach 68.8 feet into a required 98.8 foot front setback and be 30 feet from the front property line. If the variances are granted, the applicant will proceed with the subdivision and building permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there was no applicable overlay or plan.

Chair Truby asked Ms. Bowers if she had received an answer from her question regarding conflict or recusal on this item. Ms. Bowers responded she did not and advised she did not see her friends listed. Her understanding was the Millisors are neighbors to this property and were in opposition to the request. Ms. Bowers stated she is friends with the Millisors. Ms. Bowers stated she felt the need to recuse herself from voting on this, if possible. Mr. Andrews, City Attorney, stated the standards for recusal was essentially whether or not Ms. Bowers had a fixed opinion that was not subject to change or financial involvement. Since it did not sound as though there was a financial component, the recusal decision would tend to deviate more toward the fixed opinion or something outside of this setting. Mr. Andrews advised if Ms. Bowers did not have a fixed opinion and no outside discussions, she was free to stay. If she wished to step away and the Board agreed, she could do so. Mr. Andrews advised he tends to not want people to step away. Ms. Bowers stated she did not have a fixed opinion and has had no ex-parte conversations regarding this subject, other than to direct the Millisors to the city for information. Ms. Bowers would like to hear what is said before making a final decision, if that was possible. Mr. Andrews advised Ms. Bowers she would need to make her decision now. Ms. Bowers responded she would continue.

Chair Truby asked the applicant to state their name and address. Sonny Vestal and Mason Schermerhorn were sworn in for their testimony in this application.

**Don Vaughan, Attorney, 612 West Friendly Avenue**, stated he was representing Mr. Vestal and the proponents of this matter. There are four different small variances on this property. Mr. Vaughn asked Mr. Vestal to explain the history of the property.

**Sonny Vestal, Vestal Built LLC, 501 Chancery Pl**, advised Mr. Schermerhorn actually resides at this address and would share the history.

**Mason Schermerhorn, BMS Investment Properties LLC, 4300 Lake Jeanette Road**, stated he purchased the property over a year ago. It was the consensus of the neighborhood to want to keep the carport and old barns on the property as the property is over 100 years old. Mr. Schermerhorn made extensive renovations in looking to build a house for himself and his sister next door, and keep the integrity of the corner lot and the neighborhood intact.

**Don Vaughan** asked how long Mr. Schermerhorn has owned the property. Mr. Schermerhorn responded over a year. Mr. Vaughan asked if Mr. Vestal had anything to add. Was any of this caused by him or was it a hardship before this on the property. Mr. Vestal responded there was no hardship. He builds a great value, quality home that would add more value to the neighborhood. Mr. Vestal saw no issues whatsoever. Mr. Schermerhorn and his sister visited a lot of the neighbors. Mr. Vaughan inquired if there was any opposition from any of the neighbors. Mr. Schermerhorn responded on one directly within walking distance. They did not go to everyone, but those he knew from living there within the year. Those names were provided to Mr. Vaughan.

Chair Truby inquired if there were any questions. Chair Truby stated the request is substantial and asked why the house wasn't pushed back, as it appears there was room between the back of the house and the rear setback that would have provided a little more of the front yard. It appeared they were asking for the most that could be obtained, when they could have asked for less. Chair Truby asked why are the houses located so close to the street. Mr. Vestal responded that Borum, Wade and Associates was hired to do the drawings, and the exact location was not chosen, as it is an average between the two houses. Mr. Schermerhorn stated the house is on Lake Jeanette and the driveway comes in off of Pinehurst. It could be moved if there was opposition, but they wanted to stay in line with the property on Lake Jeanette. When driving down Pineburr Road, it would be driveway after driveway. The intent was to keep in line with the current house, which could be the oldest one on the street and was brought up to code and renovated.

Chair Truby inquired if there were any other questions from Board members. Ms. Necas stated that their application contained a statement that said "due to prior right of way adjustments affecting only the applicant's property" and asked what was being referred to: the setbacks already present or was something special happening with the setbacks on the property. Mr. Schermerhorn stated he believed it was referring to the carport and a small shed that have been existing for years. They wanted to keep those due to a lot of feedback from the neighbors who said they

liked those structures. Ms. Necas was referring to the application and trying to determine what the adjustments referred to were and stated if you don't change the property lines, you are grandfathered in and the property is fine as-is. There would be no worries about how far back the accessory structures are from the road, but now it is being separated and you have to worry about the setbacks. Ms. Necas asked if he was referring to the new setbacks that would affect the property or something additional. Mr. Schermerhorn responded it was the new setbacks. Ms. Necas asked, regarding neighbors directly next to these two houses, what they said or if they are they present at this meeting. Mr. Schermerhorn spoke to his neighbor that backs up to the property and her response was she was not opposed, but did not want to see a lot of trees removed next to her lot line. The residents at 100 Pineburr Road, close to the new structure, were not opposed. The resident at 4209 Lake Jeanette Road, directly across the street, was not opposed. The residents at 4302 Lake Jeanette Road, the house directly behind the new construction that would be built, were not opposed. Those are the neighbors that he spoke to that would be most affected.

Chair Truby inquired if there were any further questions for the applicant. Seeing none, Chair Truby inquired if there was anyone else wishing to speak in favor of the request. Seeing none, Chair Truby inquired if there was anyone in opposition to the request. Chair Truby asked Ms. Thiel if she knew if anybody was in opposition. Ms. Thiel advised she not believe anyone was present at the meeting that was in opposition. Chair Truby closed the public hearing for Board discussion. With no discussion, Chair Truby inquired if there was a motion.

**MOTION:**

Ms. Necas moved that in **BOA-21-14**, 4300 Lake Jeanette Road, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the four variances be granted based on the following: (1) If the applicant complies with provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the new right of way adjustments would prevent the development over a third of the property in any productive manner. (2.) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because there is a 3 foot additional encroachment on the street right-of-way which is peculiar to the property and not present at other nearby properties. (3) The hardship is not the result of the applicant's own actions because the right-of-way, which places the proposed building just inside the required setback, was there after the purchase of the property by the owner. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because it will allow the property to be developed as residential housing, consistent with surrounding properties. Seconded by Ramsey. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Bowers. Nays: 0.)

**c. BOA-21-15: 218 NORTH CEDAR STREET. (APPROVED)**

Ms. Thiel stated in **BOA-21-15**, 218 North Cedar Street, Lehrer Properties LLC request two variances.

1. To allow the lot width of a lot proposed for a duplex use to be 50 feet when at least 70 feet is required.
2. To allow a proposed duplex to encroach 3.2 feet into a required 10 foot side setback. The duplex will be 6.8 feet from the side property line.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance Reference was Section 30-7-2.2 – Table 7-8: For a duplex use in the RM-26 district, the minimum lot width is 70 feet and the minimum side setback is 10 feet.

**Background and Site Information:** The subject lot is located on the east side of North Cedar Street, south of Bellemeade Street, and is zoned RM-26. Tax records indicate the lot contains approximately 7,841 square feet and the house was constructed in 1936. The applicant proposes to convert the existing single-family dwelling on the lot into a duplex, subject to pending building permit application #202103063. The existing lot and structure meet the RM-26 district dimensional requirements for a single-family dwelling, but not those for a duplex. The required minimum lot width increases from 45 feet to 70 feet and the required minimum side setback increases from 5 feet to 10 feet for a duplex. The lot width of the lot proposed for a duplex use is only 50 feet when 70 feet is required. Additionally, the proposed duplex encroaches 3.2 feet into a 10 foot required side setback. To allow the conversion of the single-family dwelling into a duplex, the applicant must seek variances to allow for a reduced lot of width and setback encroachment. If the variance is granted, the applicant will proceed with the permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted the applicable overlay and plans.

Chair Truby stated he pictured a duplex as side-to-side. It appears from the drawings that the duplex would be front and back and asked if they were creating a property line. Chair Truby asked how was this being done and why was

it classified as a duplex. Mr. Kirkman responded as long as there are two separate entrances and there is the ability to access those units separately, it can be a variety of different things. For the Board's understanding, Zoning allows for a duplex use. In this case they cannot meet the minimum dimensional requirements for a duplex, which is the reason they are before the Board.

Chair Truby requested the applicant to state their name and address. Chair Truby swore in Aaron Moore and Nathan Moore for their testimony in this application.

**Brian Elam, Attorney, 1901 Lendew Street, Suite 4**, advised the corporate representative, Lee Meley was present, as were Aaron Moore and Nathan Moore, who have pertinent information addressing some of the questions regarding the layout. Mr. Elam stated this request is based on the lot dimensions. The required width is 70 and they have 50 feet. The building encroaches into the 10 foot side setback. The majority of the housing on this block and across the street is either duplex or triplex use, with some multifamily use in the adjoining area. They are requesting a building permit for renovations to bring the property up to current code and have it become characteristic with the rest of the neighborhood. The home will appear from the street as a single-family residence and the entrance to the additional unit will be on the rear of the property. The side setback encroachment is close to a neighboring property owned by a common owner. The rear property owner actually owns the property next door and this structure would be too close. The remaining homes are already duplexes or triplexes on 50 foot wide lots. Originally when this neighborhood was laid out, it was all single-family residential mainly with 50 foot lots. As the neighborhood aged, many of the properties were turned into duplexes. This request is not out of character with the neighborhood. The financial investment it will take to fix the property and bring it to current code is not workable unless two rental units come out of it. That is the basic concept. Mr. Elam deferred to the owners of the property to provide more information.

**Nathan Moore, 3002 Reese Pond Court, Brown Summit**, stated with his brother, they flip real estate. They were trying to find a good neighborhood backup. The two houses next to each other have been abandoned for a long time. The brothers want to bring the neighborhood back up and have a lot of experience in that regard.

**Aaron Moore, 1003 Bear Hollow Road**, stated they will not be changing the footprint of the structure. It will take a substantial amount of capital to get it where they want to because the home was in such poor condition. The goal is to bring it to the standard of the other neighborhood duplexes. No changes will be made to the footprint. Unit A will park on the street. There will be a driveway going to the left and around to where the deck is, and lot B will park there. The parking situation should be easy and everything should work out as planned.

Chair Truby inquired if the Board had questions for the applicant. Mr. Oliver asked if the home had been occupied beforehand. Aaron Moore responded not before it was acquired. Mr. Moore was unaware of the exact timeframe of when it was occupied, but it had been vacant for a little while. Mr. Elam stated this property and the property directly south were both unoccupied for some time and are very much dilapidated. Lehrer Properties LLC is attempting to get the properties back into shape, improve the tax-base and also improve the quality of the neighborhood. Mr. Oliver asked if it was a single-family home when occupied. Mr. Elam responded that was his understanding. Chair Truby inquired if there were any further questions. Hearing none, Chair Truby inquired if there was anyone wishing to speak in favor of the request. Seeing none, Chair Truby asked Ms. Thiel if there was anyone in opposition to the request. Ms. Thiel responded Eric Peterson was in attendance, but was not sure of his position.

Eric Peterson was sworn in for his testimony in this application.

**Eric Peterson, 508 Woodlawn Avenue**, asked what the timeline would be to turn the property around. The houses have been sitting vacant, empty and dilapidated for years. Chair Truby advised that Mr. Peterson could not ask the applicants directly, but he will ask them to answer that question. Chair Truby asked if Mr. Peterson had anything else to add. Mr. Peterson responded that was the primary thing. He owns the property south of their two properties and wholeheartedly supported the refurbishment of the properties and was looking forward to it.

Chair Truby asked if Mr. Moore could answer that question regarding the timeline if the variance is approved. Mr. Moore responded that 218 North Cedar Street is actually closer to being finished. They need to go through the permitting process and all of that. Within 60 days of that, there should be a substantial difference and they will be going through the parts of making it habitable. As for 216 North Cedar Street, they will be working on it simultaneously, but it needs more work and would probably be a 90-100 day project. The curb appeal will be there. The last 10-20% of the project that isn't seen is the part of obtaining tenants, which takes the longest. There will be a difference shown very quickly. As soon as permits are obtained, work will be starting almost immediately.

Chair Truby inquired if there was anyone else to speak on this application in opposition. Ms. Thiel advised she was not aware of any opposition. Chair Truby closed the public hearing and requested board discussion.

**DISCUSSION:**

Chair Truby stated this was a good project. Anything to help clean up Cedar Street and make it look nicer is good for the neighborhood and was in support of the application. Chair Truby inquired if there was any other Board discussion. Mr. Oliver stated he thought it was great too. His daughter just moved to that area and was all for enhancing the neighborhood. Chair Truby inquired if there was any other discussion or a motion.

**MOTION:**

Ms. Bowers moved that in **BOA-21-15**, 218 North Cedar Street, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the two variances be granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the existing single-family home will not be allowed to be converted into a duplex, and a duplex is consistent with the types of housing in the area. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the lot size requirement for single-family homes was in place prior to the zoning of the property, which allowed for multi-family housing. (3) The hardship is not the result of the applicant's own actions because the lot size requirements were set by the city for single-family homes and the area is zoned now for multi-family. Zoning currently requires a wider lot. (4) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the other properties in the area have widths of less than 70 feet and include multi-family houses. Renovation to the duplexes will bring the houses up to code and improve their rundown condition and the footprint of the existing house will remain unchanged. Seconded by Mr. Oliver. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Bowers. Nays: 0.)

**d. BOA-21-16: 2305 DANBURY ROAD. (APPROVED)**

Ms. Thiel stated in case **BOA-21-16, 2305 Danbury Road**, Todd and Amy Klass, request a variance to allow an accessory structure to take utility service from a separate meter instead of branching service from the principal dwelling.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance Reference is Section 30-8-11.1 (G) (1): Accessory structures to single-family, twin homes, duplexes, and traditional houses must take utility service such as water, sewer, and electrical by branching service from the principal dwelling.

**Background and Site Information:** The subject lot is located on the west side of Danbury Road, north of Kimberly Drive and is zoned R-3. Tax records indicate the lot contains approximately 16, 553 square feet, and the house was constructed in 1956. The applicants are in the process of constructing an accessory structure in the backyard, in accordance with approved building permit #202014100. The applicants indicated that a utility pole is located directly behind the accessory structure and an existing concrete patio and driveway would be destroyed if electric service was branched from the house to the accessory structure. To provide access to the nearby utility pole and to avoid damage to the patio and driveway, the applicants propose to install a separate electrical meter on the accessory structure.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted the applicable overlays and plans.

Todd Klass and Todd Wolffis were sworn in for their testimony in this application.

**Todd Klass, 2305 Danbury Road**, stated they are building a carport on their property with attached storage. The storage area and workshop will have climate controlled with HVAC, refrigerator, and a charging station for an electric car. The hardship is running the electricity from the existing house to the carport will necessitate destroying a patio and driveway. There is a power pole at the back of the property behind the carport that he would like to run direct service to a meter from there and not from the house.

Chair Truby inquired of Ms. Thiel if there was anyone in opposition to this request. Ms. Thiel responded there was no opposition. Chair Truby inquired if there were questions from Board members for the applicant. Seeing none, Chair Truby closed the public hearing for Board discussion or a motion. Ms. Skenes advised she would make a motion if there was no additional discussion.

**MOTION:**

Ms. Skenes moved that in **BOA-21-16**, 2305 Danbury Road, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because if the variance is not granted to allow power to be taken from the pole behind the carport, it would have to be run from the main house, requiring destruction of the existing patio and driveway. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the existing patio and driveway were in place when the current owners purchased the property, and the utility easement actually runs along the rear of the property behind the new carport. (3) The hardship is not the result of the applicant's own actions because the driveway, patio, and utility easement were in place when the current owners purchased the property. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because carports are common additions in the neighborhood and will blend in with the surrounding homes. There will be no harm to neighbors. Seconded by Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Bowers. Nays: 0.)

**e. BOA-21-17: 1217 WESTRIDGE ROAD. (APPROVED)**

Ms. Thiel stated in case **BOA-21-17**, 1217 Westridge Road, Robert Allen and Cheryl Poole, request a variance to allow the total building coverage of all accessory structures on the lot to be 2,038 square feet when no more than 1,310 square feet is allowed.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance Reference is Section 30-8-11.1(A) (3): The maximum building coverage of all accessory structures may not exceed 50% of the building coverage of the principal structure on the lot or 600 square feet, whichever is greater.

**Background and Site Information:** The subject lot is located on the north side of Westridge Road, west of Hobbs Road, and is zoned R-3. Tax records indicate the lot contains approximately 56,192 square feet and the house was constructed in 1047. The applicant proposed to demolish an existing 520 square foot carport and replace it with a 1,008 square foot garage/workshop in roughly the same location. The applicants indicate that another existing accessory structure on the lot, a 950 square foot garage will remain. The building coverage of the proposed garage/workshop, plus the existing garage exceeds 50% of the building coverage of the principal structure. The total building coverage for all accessory structures will be 2,038 square feet, when 50% of the principal structure building coverage is 1,310 square feet. If the variance is granted, the applicants will submit a residential building permit application and proceed with the permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted the applicable overlays and plans.

Robert Allen and Michael Clapp were sworn in for their testimony in this application.

**Michael Clapp, 3616 Old Julian Road, Whitsett**, stated the owner purchased the house on December 22, 2020. At that time the two accessory structures were existing. There is an enclosed garage and a covered carport area. Mr. Allen would like to replace the covered carport with an enclosed structure that would serve as both storage and a workshop space. It would also provide another garage space to keep a car off the driveway. The intent is to make sure there are no additional cars visible from Westridge Road.

Chair Truby inquired if there were any questions for the applicant. Seeing none, Chair Truby inquired if there was anyone else to speak in favor of the request. Chair Truby asked Ms. Thiel if there was anyone in opposition. Ms. Thiel responded she had not heard any opposition. Chair Truby closed the public hearing and inquired if there was Board discussion or a motion. Chair Truby stated with no discussion, he would make a motion.

**MOTION:**

Chair Truby moved that in **BOA-21-17**, 1217 Westridge Road, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because he would not be allowed to build the new garage/workshop. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the existing building is unable to serve the purposes of a workshop without financial hardship due to the necessity of demolishing the current structure and then completely rebuilding it. (3)

The hardship is not the result of the applicant's own actions because the existing structure was on site upon the recent purchase by the current owner. Its non-conformance would have to be remediated and completely overhauled and overhauling utilities would be prohibitively expensive. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the proposed new structure is set well behind the primary structure on the lot. The existing structure is unsuitable for the intended use as a workshop and poses a safety concern based on the existing utilities available for such purposes. Seconded by Ramsey. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Bowers. Nays: 0.)

**f. BOA-21-18: 2007 EAST WENDOVER AVENUE. (APPROVED)**

Ms. Thiel stated in case **BOA-21-18**, 2007 East Wendover Avenue, Top Gear Express Wash, LLC, on behalf of Dub Properties LLC, requests two variances.

1. To allow a proposed building to be 25 feet from an interior rear property line adjoining residentially zoned property when at least 75 feet is required.
2. To allow a proposed drive-through stacking lane to be 25 feet from an abutting residential zoning district when at least 50 feet is required.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance References were Section 30-18-10.4(G)(2): Buildings must be set back at least 75 feet from any interior side or rear property line adjoining residentially zoned property; and Section 30-18-10.4(I)(3)(A): Service areas and stacking lanes on lots abutting residential zoning districts must be set back at least 50 feet and landscaped in accordance with the "B" buffer planting yard standards.

**Background and Site Information:** The subject lot is located on the north side of East Wendover Avenue, west of North Raleigh Street, and is zoned LI. Tax records indicate the lot contains approximately 31,363 square feet and the building was constructed in 1994. The applicant proposes to demolish the existing car wash and replace it with a new, automatic car wash with a modern-style tunnel system. As proposed, the new car wash will be 25 feet from an interior line adjoining residentially zoned property when at least 75 feet is required. Additionally, the proposed car wash drive-through stacking lane will be 25 feet from an abutting residential district when at least 50 feet is required. To allow the subject lot to be developed with reduced building and drive-through facility setbacks from residentially zoned property, the applicant must seek these variances. If the variances are granted, the applicant will proceed with the Technical Review Committee review process and building permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans.

Chair Truby swore in Hill DuBose for his testimony in this application.

**Tom Terrell, Attorney, Fox Rothschild, 230 North Elm Street**, attorney representing the applicant, introduced Hill DuBose as a speaker for this application. Mr. Terrell stated a lot of detail regarding the variance requested was submitted in the application and he will provide highlights. A letter was sent to the commercial, industrial, and residential neighbors that included his personal email and cell phone. A neighborhood meeting was set up for any questions. No one emailed or called, and no one appeared at the meeting. This corridor is a combination of industrial and commercial properties with neighborhoods behind. The facility has a natural berm that is protecting those houses from seeing much of anything taking place. Mr. DuBose will remove the car wash from the current location because this facility has seen better days, is unattractive, and is not the type of facility that is needed at this location. Mr. DuBose wants to put in a modern, state of the art, facility. The proposed tunnel style that will be quieter, better looking, and would upgrade the neighborhood. Where the existing car wash is, the site comes in one size. The tunnel style facility is also one size and is the only option. In order to upgrade the property and make things work, allowances are needed on setbacks. Mr. Terrell asked for support of the project to allow Mr. DuBose to create a nicer place in the east part of town.

Chair Truby inquired if there were any questions for Mr. Terrell from Board members. Mr. Oliver asked if the brick wall or something like it would remain. Mr. Terrell responded that was correct. Mr. Oliver asked for an explanation of the stacking lane and how it would work. Mr. Terrell stated this was a better question for Mr. DuBose. When bringing cars from the main street onto a car wash property, they are stacked up with one car behind the other waiting to go through the tunnel and would be closer to rear line than the ordinance allows. Mr. Oliver asked if they had to come in through the side street, not from Wendover Avenue for safety concerns. Mr. Terrell responded they could come in through the side street and also come in through Wendover. Mr. Oliver asked where the cars would stack and if people exited onto the side street or Wendover Avenue. Mr. Terrell deferred to Mr. DuBose.

**Hill DuBose, 2404 Beechridge Road, Raleigh.** Mr. DuBose stated he hoped for a stacking problem as that would mean it's a good car wash. There could be 2-3 cars waiting to enter the car wash. The plan is to enter off of Wendover Avenue and then go up along the side street, right before the tunnel entrance. Cars can be stacked as one gets prepped before going through the tunnel. There could be stacking perpendicular to Wendover Avenue if the line was long enough. The stack should be parallel to Wendover while waiting to enter the tunnel.

Chair Truby inquired if there were any other questions. Ms. Necas asked if there was information regarding the decibel/sound levels and what time of days it would be louder than others. People who live behind that building need to sleep. It sounds as though it is not 24/7. Ms. Necas asked to have it addressed more fully and did not feel comfortable with this request when thinking of how loud it could be. Mr. Terrell stated the stacking is a quiet activity, since nothing happens other than sitting there. At the current self-serve car wash, cars can have loud music playing, but this would not happen with a tunnel. The tunnels are very quiet. Mr. DuBose stated the current facility is open 24 hours a day. His site would be staffed with 2 to 5 employees at all times to ensure music volumes are at appropriate levels. They do not know yet what the hours of operation at this facility will be. Currently, two other car washes operated by Mr. DuBose, are only open until 8:00p.m. They would not exceed that time at this facility. The entrance and exit to the tunnel parallel Wendover Avenue, and any noise coming from the car wash operation would not be projected toward the neighbors. The exit of the current self-serve bays faces the residences behind the property, with noise being projected that way, which would no longer be an issue. Chair Truby inquired if there were any other questions for the applicant. Chair Truby inquired if there was anyone else to speak in favor of the request. Chair Truby asked Ms. Thiel if there was anyone in opposition. Ms. Thiel responded she was not aware of any opposition. Chair Truby closed the public hearing for Board discussion.

**BOARD DISCUSSION:**

Mr. Waddell commended Mr. Terrell and Mr. DuBose for taking the additional steps with the community meetings, mailing letters and emails. He was disappointed that no one attended the community meeting. Mr. Waddell was very appreciative that steps were being taken to bring business to East Greensboro. There is a gas station next to the property that operates 24/7, and the car wash will not affect anything regarding noise and things like that. Chair Truby stated he thought his was a great improvement from what is there now and was in support. Chair Truby felt the noise would be significantly reduced, especially with the entrances being on the end versus what is currently there with the exposed bays. Chair Truby inquired if there was any further discussion. Ms. Skenes stated she and her husband own two self-serve car washes and could attest that music and noise exists 24 hours a day. What is being proposed on this site will be a definite improvement for the neighbors in terms of noise. The 8:00p.m. closing time makes a big difference. Ms. Skenes advised she was in support of the application. Chair Truby inquired if there was any other board discussion. Chair Truby requested a motion.

**MOTION:**

Mr. Waddell moved that in **BOA-21-18**, 2007 East Wendover Avenue, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the applicant cannot redesign and develop the site within its current dimensions. The existing building is obsolete and unable to be upgraded. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the existing site is undersized for a modern style tunnel car wash. A redesign is required to have room for vehicle stacking. (3) The hardship is not the result of the applicant's own actions because the existing structure is 27 years old and cannot be modified. There is no way to change the building to allow adequate room for site entry. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the current structure will be replaced with a new state of the art system. Homes behind the site sit lower on their lots creating a natural separation. Seconded by Mr. Oliver. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Bowers. Nays: 0.)

**g. BOA-21-19: 1307 CLOVER LANE. (APPROVED)**

Ms. Thiel stated in **BOA-21-19**, 1307 Clover Lane, James Greene, requests a variance to allow proposed accessory carport to encroach 9 feet into a required 15 foot side street setback. The accessory carport will be 6 feet from the side property line along Birchwood Lane.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 9. The Land Development Ordinance Reference was Section 30-8-11.1(B)(1): Accessory

structures must be located behind the front building line of the principal structure, and are not allowed in a required street setback.

**Background and Site Information:** The subject lot is located on the west side of Clover Lane, south of Birchwood Lane, and is zoned R-3. Tax records indicate the lot contains approximately 21,344 square feet, and the house was constructed in 1967. The applicant proposes to construct a detached carport at the side of the house that will encroach 9 feet into a required 15-foot side street setback. The proposed carport will meet separation requirements from the house, will align with the existing driveway and will be 6 feet from the side property line along Birchwood Lane. If the variance is granted, the applicant will proceed with the permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans.

Chairman Truby asked the applicant to provide their names and address. Chair Truby swore in James Greene and Jonathan Landwehrmann for their testimony in this application.

**James Greene, 1307 Clover Lane.**

**Jonathan Landwehrmann, 1714 Brookhaven Mill Road,** stated the current driveway comes of the side street and that the Greens would like to place a cover over part of it. Due to the location of the house, lot, rear deck, and fall-off in the backyard, there is no other place. The Greens want to be able to cover the existing driveway already there and are seeking the variance to be able to place a carport over the closest portion to the house, but still does not meet the setback. Chair Truby inquired if there was anyone else to speak in favor of the request. Chair inquired if Board members had questions for the applicant. Seeing none, Chair Truby asked Ms. Thiel if there was anyone in opposition to the request. Ms. Thiel responded she had not heard of any opposition. Chair Truby closed the public hearing for Board discussion and requested a motion.

**MOTION:**

Mr. Waddell moved that in **BOA-21-19**, 1307 Clover Lane, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because due to the design of the property, there is no other reasonable location for the carport. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the lot size and negative grade in the back of the property make the requested variance the best location for the driveway and carport. (3) The hardship is not the result of the applicant's own actions because the home was originally constructed in 1967. The home was purchased with the driveway and deck in its current location. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the carport will bring value to the property and will not detract from the neighborhood. Seconded by Mr. Ramsey. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Bowers. Nays: 0.)

**h. BOA-21-20: 702 CARDIGAN COURT. (APPROVED)**

Ms. Thiel stated in **BOA-21-20**, 702 Cardigan Court, Thomas James, requests two variances.

1. To allow a proposed carport addition to encroach 9.24 feet into a required 10 foot side setback. The carport addition will be 0.76 feet from the side property line.
2. To allow a proposed carport addition to encroach 7.03 feet into a required 30 foot rear setback. The carport addition will be 22.97 feet from the rear property line.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance Reference was Section 30-7.3.2-Table 7-1: In the R-3 District, the minimum side setback is 10 feet and the minimum rear setback is 30 feet.

**Background and Site Information:** The subject lot is located a cul-de-sac on the east side of Cardigan Court, south of Westbourne Road, and is zoned R-3. Tax records indicate the lot contains approximately 18,731 square feet and the house was constructed in 1974. The applicant proposes to attach a carport the house that will encroach 9.24 feet into a required side setback and 7.03 feet into a required rear setback. The proposed carport addition will align with the existing driveway and will be 0.76 feet from the side property line and 22.97 feet from the rear property line. The Board of Adjustment approved variance BOA-1-27 on May 29, 2018 to allow a carport in a similar location. That variance expired and the plans have changed, so the applicant is seeking a new variance. If the variance is granted, the applicant will submit a residential building permit application and proceed with the permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans. Chair Truby swore in Thomas James for his testimony in this application.

**Amanda Hodierna, Attorney, Isaacson-Sheridan, 804 Green Valley Road.** Ms. Hodierna advised she was representing Mr. Thomas James, who may be speaking on an as-needed basis. Ms. Hodierna stated this address is in Hamilton Lakes, an older subdivision in Greensboro that pre-dates not only the Zoning Ordinance but also the corporate city limits. Her client purchased the property in 2017 and has made several improvements as part of his ongoing investment. They were before the Board in 2018 and this carport request is the latest in that effort to continue to improve the property and make as useable and livable as it can be for 2021. The request is for side yard setback and rear yard setback variances. Ms. Hodierna referred to a site plan indicating the house sits diagonally to the rear property line, creating a triangle encroachment at the corner of the proposed structure into the rear yard. It is not an entire encroachment of that back wall into the rear setback. Alternatively, the side encroachment is the entire length of the proposed structure. Mr. James was thoughtful and intentional in his architectural design of the structure and it is a very open carport, supported by two support pillars. The only part of the structure that would encroach would be the two support pillars and the overhang portion of the roof. The main part of the roof addition to the carport would not be in the side yard. Ms. Hodierna addressed the variance test and stated this is an unnecessary hardship that is two-fold. It is an oddly shaped lot that has 5 sides instead of 4, causing one of the lot lines to be deemed as the rear lot line. In this particular case, it was the long lot line running somewhat perpendicular to the cul-de-sac. In choosing that one, a diagonal rear yard was created. The western side of the lot is very tight with not a lot of space. To the northeast, the lot opens up and there is more yard area. This house was already situated in the front center of the lot, but to center a home on a lot that is skewed creates inherent special issues. There is an existing driveway which is on the western portion with the least amount of space. The existing driveway is the natural and only place to put a carport. All of this is creating the hardship and are peculiar to the property. The hardship is not the result of the applicant's own actions. The home was purchased in 2017. The lot was platted in 1961 and the home was built in 1974. The configuration is how Mr. James found it and is attempting to work with what is there and improve it to the fullest extent. The request for the variance is consistent with the spirit, purposed and intent of the ordinance. Mr. James is still preserving an open backyard area and a lot of space. The side yard abuts his neighbor's rear property lines. Normally with a side yard encroachment, that will be some of the tightest spacing to create. In this case, the side yard abuts to two rear yards and a narrow tunneling condition will not be created. There were attempts to reach out to the affected neighbors on the property line. Mr. James and the neighbors met and reviewed plans. Both neighbors expressed support and submitted letters to that effect. The request does do substantial justice and assures public safety and welfare as it creates additional value to a property that contributes to a well-established and attractive community in Greensboro. It also creates additional value to a home that otherwise would age and become outdated. Carports are common in this neighborhood. There is a lot of tree cover, which is also one of the things that necessitates making a cover for a vehicle. This is an improvement that will be well-utilized and a great addition to the property. Ms. Hodierna stated that she and Mr. James were available for questions.

Chair Truby inquired if Mr. James wanted to add anything. Mr. James responded he did not. Chair Truby asked if the Board had any questions for the applicant. Seeing none, Chair Truby inquired if there was anyone else wishing to speak in favor of the request. Seeing none, Chair Truby asked Ms. Thiel if there was anyone in opposition to the request. Ms. Thiel responded she had not heard of any opposition. Chair Truby closed the public hearing for Board discussion or a motion.

Ms. Skenes moved that in **BOA-21-20**, 702 Cardigan Court, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and both variances be granted based on the following: (1) If the applicant complies with provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the without a variance the carport could not be built in the logical place on the property. The carport would be in line with the existing driveway and the side entrance of the house and the encroachment will actually be 2 pillars and the roof overhang. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because due to the irregular shape of this cul-de-sac lot, the rear yard setback runs diagonally across the rear of the lot which causes the side-to-side usable area to be very narrow. (3) The hardship is not the result of the applicant's own actions because the owner purchased the property with the current dimensions and did not plat, nor place the house and driveway on the lot, and the lot is irregularly shaped and actually has 5 sides. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and

substantial justice because the proposed carport will add value to the property and the surrounding properties. The immediate neighbors are in favor of the project and most homes in the neighborhood have some type of protection for their vehicles. Seconded by Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Bowers. Nays: 0.)

**i. BOA-21-21: 301 FISHER PARK CIRCLE. (APPROVED)**

Ms. Thiel stated in case **BOA-21-21**, 301 Fisher Park Circle, E&V Properties, LLC, requests a variance to allow an accessory structure to take utility service from a separate meter instead of branching service from the principal building.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance Reference was Section 30-8-11.1(G)(1): Accessory structures to single-family, twin home, duplexes, and traditional houses must take utility service such as water, sewer, and electrical by branching service from the principal dwelling.

**Background and Site Information:** The subject lot is located on the west side of Fisher Park Circle, north of Victoria Street, and is zoned R-5. Tax records indicate the lot contains approximately 1.56 acres, and the buildings were constructed in 1928. The subject property is designated an historic landmark property (Hillside - Julian Price House), as listed in the National Register of Historic Places, and the accessory structure, a gardener's cottage is a contributing structure. The applicant operates a tourist home in the main building, the Julian Price House, per a special use permit approved by the City in 2019. Per the applicant, the accessory structure is approximately 118 feet from the main building and is blocked by historic stone walls and driveway and topography challenges. The applicant proposes to install a separate electrical meter on the accessory structure and indicates that the accessory structure and proposed meter are naturally screened from the view of the road.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted the applicable overlays and plans.

Chair Truby requested the applicant to come forward. Chair Truby swore in Mr. Fuko-Rizzo for his testimony in this application.

**Michael Fuko-Rizzo, 301 Fisher Park Circle.**

**Britton Lewis, Attorney, Caruthers & Roth, 235 North Edgeworth Street**, advised that Mr. Michael Fuko-Rizzo, manager of E&V Properties, was available to provide evidence, if necessary. Mr. Lewis stated they are seeking a variance of Land Development Ordinance Section 30-8-11.1 for the purposes of providing electricity to a gardener's cottage, which essentially is a very nice large shed on the property that has been there for nearly 100 years, along with the historic home. The layouts and surrounding features make this incredibly challenging structure to do the branching approach to install electricity and seeking the variance for that purpose. This property is adjacent to Fisher Park. The house was constructed in 1929 and has significant historic value. The cottage is one of the historic features contributing to the application for the Historic Preservation status. The layout of the property makes it too challenging to run electricity in a traditional method. The intent is to install a separate meter for the gardener's cottage. Mr. Fuko-Rizzo distributed the notice letter to all of the neighbors. There was a virtual meeting and did not hear any negative feedback or opposition. Mr. Lewis stated the undue hardship was the unique structure of the house. The property pre-dates the ordinance. The house is much larger than typically seen in the City of Greensboro along with the property itself. The house and the cottage are 120 feet away and separated by an historic wall that would have to be removed or have wires run over it, diminishing the nature of the property. The compliance with the ordinance would create an undue hardship. The peculiar and unique nature of the property relates to the distance and architecture and necessitate having to take the separate approach. Results of the undue hardship would occur because the house was constructed prior to the adoption of the Land Development Ordinance nearly 100 years ago. This is not the applicant's fault. The applicants purchased this property in 2016 and both structures were in place long before. The installation of the meter would be shielded from the road. It is far enough behind landscaping it will not be seen and nothing is there that would harm the harmony of the neighborhood. This process would ensure that the cottage can remain in place for electricity and potentially with air conditioning that would allow for a longer use for the property, rather than a risk that an historical structure would need to be torn down based on lack of electricity. There would be no threat to health and public safety. Installing electricity will benefit of the property and the surrounding neighborhood. The variance is being sought for the sole purpose to allow for electricity to a historic structure already in place, predating the ordinance.

Chair Truby inquired if there were any questions from the Board members. Seeing none, Chair Truby asked if there was anyone else to speak in favor of the application. Seeing none, Chair Truby asked Ms. Thiel if there was anyone in opposition to the request. Ms. Thiel responded she had not heard of any opposition. Chair Truby closed the public hearing for Board discussion or a motion.

Ms. Skenes moved that in **BOA-21-21**, 301 Fisher Park Circle, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the property was built in 1928 and listed on the National Register Historic Places. The structure needing the power is 118 feet from the main building and is blocked by stone walls, sidewalk, and sloping topography. Running power from the main residence will necessitate destroying some of the historical aspects of the property. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the distance to the main house and the historical wall makes running the power from the main house impractical. (3) The hardship is not the result of the applicant's own actions because the property was built in 1928. The property needing the additional power was originally a gardener's cottage without heating, cooling and additional lighting. To allow for the cottage to be used as modern structure, additional power is needed. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the gardener's cottage and new electric meter are naturally screened from view from the street. A second meter will not impact the existing property, nor the surrounding properties. The surrounding property owners were contacted and are in favor of the separate meter. Seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Bowers. Nays: 0.)

**j. BOA-21-22: 5009 MACKAY ROAD. (APPROVED)**

Ms. Thiel stated in **BOA-21-22**, 5009 Mackay Road, SBBH Developments 2 LLC, on behalf of Workforce Solutions LLC, requests a variance to allow the lot width of a lot to be 97.2 feet when at least 120 feet is required.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance Reference was Section 30-7-3-2 – Table 7-8: For a duplex use in the RM-26 District, the minimum lot width is 70 feet and the minimum side setback is 10 feet.

**Background and Site Information:** The subject lot is located on the south side of Mackay Road, west of West Gate City Boulevard, and is proposed to be rezoned to CD-RM-26, pending Zoning Commission approval on April 19, 2021. Tax records indicate the lot contains approximately 3.15 acres. The applicant proposed to develop 76 multifamily dwelling units on the subject lot, subject to the successful zoning. The existing lot meets the C-M District dimensional requirements for commercial use, but not those for multifamily use in the RM-26 District, if rezoned. The required minimum lot width for the proposed 76-unit multifamily development is 120 feet, and the existing lot width is only 97.2 feet, as measured at the minimum front setback. To allow the subject lot to be used for the proposed multifamily dwellings, the applicant must seek a variance to allow for the reduced lot width. If the variance is granted and the rezoning is approved, the applicant will proceed with the Technical Review Committee review process and building permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans.

Chair Truby asked the applicant to state their name and address.

**Marc Isaacson, Attorney, Isaacson Sheridan, 804 Green Valley Road**, representing the property owner and the contract purchaser, Work Force Solutions LLC. His client creates value oriented residential communities for elderly citizens, which is what is proposed at this meeting, through a combination of financing through NC Housing Finance Agency and other means around Guilford County and the state of North Carolina. There is a dire need within the community for affordable residential communities. If approved, the variance would be the next step in completing that project and meeting the goal. This lot is very oddly configured. The lot width on MacKay Road is 97.2 feet and the requirement under the ordinance is 120 feet. Having a lot width ordinance allows for adequate access and ensures that the footprint of proposed improvements will meet the development standards, which would be accomplished with the variance requested. Mr. Isaacson referred the Board to Exhibit 2, an aerial photograph depicting the configuration of the lot. The lot is next to and tucked behind other commercial uses that are supportive of this proposed affordable elderly housing community. Walgreens and other miscellaneous commercial support services are all in walkable distance to the proposed community. The community built here would require the 120 foot width, and this lot cannot meet it the way it is configured. A preliminary site plan was reviewed by TRC, which

showed the lot and the proposed layout of the apartment building. Access to this property would be through two established and recorded access easements on the plat that created this lot and the surrounding lots. GDOT has encouraged Work Force Solutions to utilize those existing shared access drives off of both Gate City Boulevard and Mackay Road. GDOT had a concern about issuing another driveway permit on Mackay Road that is so close to the existing access. There is a deficiency on Mackay Road due to the odd configuration of the lot and we are attempting to make the highest and best use of the property to fill a need within the community. There is adequate access off of two thoroughfares. Letters were delivered to all of the neighboring property owners on the City's notification list. Mr. Isaacson provided his office number and email address and offered to set-up a meeting if there was interest or to answer any questions. No communication was received from anyone regarding this request. Mr. Isaacson checked with Ms. Thiel, who also had not received any communication. Mr. Isaacson stated Work Force Solutions believes their proposed use of the property as elderly apartment community will satisfy a very important need for the service of the area. The location of the property and the nearby retail uses, pharmacy and other uses make this property a prime location for the use. It is connected to the parking lot of the retail pharmacy. The urgent care facility and grocery store located directly across Mackay Road further support services in the immediate area. Granting this variance will allow the applicant to provide this much needed service without creating any negative effects. Mr. Isaacson referred the Board to their application that provides much more detail about the hardship and the reason or basis for this request. Mr. Isaacson advised a representative from the proposed purchaser and Gene Mustin, Civil Engineer, were present to answer any questions.

Chair Truby inquired if there were any questions from the Board. Mr. Ramsey stated currently the property is part of a rezoning request and asked if the variance was granted, would it be subject to the rezoning. Mr. Kirkman responded the zoning has been approved by the Zoning Commission. There is a required 10 day appeal period that ends on April 22nd. So far, everything is in place and felt the Board could make a motion, subject to the rezoning being final. Mr. Isaacson advised they would accept that as part of the motion. It was rezoned without opposition. Everyone in the area has basically had two opportunities to comment on the proposed project, and nothing has been heard from anyone.

Chair Truby inquired if there were any other questions from the Board. Seeing none, Chair Truby asked Ms. Thiel if there was anyone in opposition to the request. Ms. Thiel responded there was no one in opposition. Chair Truby closed the public hearing for Board discussion or a motion. Mr. Isaacson stated a question may come up why are they here before the appeal period. The NC Housing Finance Agency has a very strict timeline to meet in order to apply for credits in Raleigh. They are under the timeline to put all of this together and is the reason why they applied in such a domino fashion. Chair Truby closed the public hearing and inquired if there was any Board discussion.

**DISCUSSION:**

Chair Truby stated he has had to deal with this requirement in the ordinance. It is a silly requirement and was not sure why it is there. If there is enough access to the site, it shouldn't matter. When putting a building and parking on the site that meets all the requirements, he did not know why there was a minimum width requirement. It has been there for as long as he has worked in Greensboro and has never understood it. Chair Truby was in support and inquired if there was any other Board discussion.

**MOTION:**

Mr. Ramsey moved that in **BOA-21-22**, 5009 Mackay Road, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the applicant will be unable to make use of the property in a manner consistent with the CD-RM-26 zoning designation. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because of the unique location and size of the property with a small road frontage between two commercial properties on Mackay Road that is a flagpole lot and will not be used for access to the property. (3) The hardship is not the result of the applicant's own actions because the applicant acquired the realty as-is with limited lot frontage on Mackay Road with a large expanse of land in the rear area and with primary access not coming via Mackay Road. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the vast amount of the property is wide and spacious for use as multi-family/elderly housing which will benefit the overall community. Seconded by Ms. Skenes. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Skenes, Waddell, Ramsey, Oliver, Necas, and Bowers. Nays: 0.)

**OTHER BUSINESS:**

No other business.

**ACKNOWLEDGEMENT OF ABSENCES:**

The absence of Mr. Savoy was acknowledged as excused.

**ADJOURNMENT:**

The meeting was adjourned by Chair Truby at approximately 7:54 p.m.

Respectfully submitted,

Chuck Truby, Chair  
Board of Adjustment  
CT/cgs

**MEETING MINUTES**  
**GREENSBORO BOARD OF ADJUSTMENT**  
**May 24, 2021**

The meeting of the Greensboro Board of Adjustment was held on Monday, May 24, 2021 at 5:30 p.m. online via Zoom. Board members present were: Chairman James Waddell, Vaughn Ramsey, Ted Oliver, Terry Savoy, Leah Necas, and Stephen Barkdull. City staff present were Shayna Thiel, Mike Kirkman, and Luke Carter of the Greensboro Planning Department; Allen Buansi, City Attorney and Alan Andrews, Chief Deputy City Attorney.

Ms. Necas made a motion to designate James Waddell as the Chair for this meeting. Seconded by Mr. Ramsey. Board voted 6-0 in favor of the motion. (Ayes: Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull. Nays: 0.)

Chairman Waddell welcomed everyone to the virtual meeting. Members of the Board are appointed by City Council and serve without pay. This is a Quasi-Judicial Board, which means that all testimony will be under oath. An action will be made and a final action of the Board is similar to a court decision. Chairman Waddell further explained the manner in which the Board conducts its hearings and methods of appealing any ruling made by the Board. Chairman Waddell advised that each side, regardless of the number of speakers, were allowed a total of 20 minutes to present evidence. Board members may ask questions at any time.

**SWEARING IN OF STAFF**

Shayna Thiel and Mike Kirkman of the Planning Department were sworn in for testimony in the following cases.

**APPROVAL OF THE MINUTES (April 26, 2021 Meeting Minutes)**

Stephen Barkdull and Terry Savoy recused themselves as they were not present at the April meeting.

Mr. Ramsey made a motion to approve the April 26, 2021, minutes; seconded by Ms. Necas. The Board voted 4-0 in favor of the motion. (Ayes: Waddell, Ramsey, Oliver, and Necas. Nays: 0.)

**CONTINUANCES/WITHDRAWALS**

None.

**OLD BUSINESS**

None.

**NEW BUSINESS**

**1. VARIANCE**

**a. BOA-21-23: 4103 WEST FRIENDLY AVENUE. (APPROVED)**

Ms. Thiel stated in **BOA-21-23**, 4103 West Friendly Avenue, Eric and Jessica Estep request a variance to allow an accessory structure to take utility service from a separate meter instead of branching service from the principal dwelling.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance Reference was Section 30-8-11.1(G)(1): Accessory Structures to single-family, twin homes, duplexes, and traditional houses must take utility service such as water, sewer, and electrical by branching service from the principal dwelling.

**Background and Site Information:** The subject lot is located on the south side of West Friendly Avenue, west of Kemp Road West, and is zoned R-3 (Residential Single-Family). Tax records indicate the lot contains approximately 25,700 square feet, and the house was constructed in 1963. The applicants are in the process of constructing an accessory structure in the backyard in accordance with approved building permit #202103995. The applicants indicated that a utility pole is located within 10 feet of the accessory structure and can supply power. Per the applicants, Duke Energy has moved a low-hanging power line, installed an additional utility pole and advised that a separate meter is the safest way to provide power to the accessory structure. To provide safe vehicle clearance and to avoid damage to existing concrete, the applicants propose to install a separate electrical meter on the accessory structure via access to the nearby utility pole.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted the applicable overlay and plans.

Chair Waddell asked the applicants to state their name and address. Eric and Jessica Estep were sworn in for their testimony in this application.

**Eric Estep and Jessica Estep, 4103 West Friendly Avenue**, said they have been working with Duke Power since October of 2020, and the engineer advised that the best, safest, and most logical way to have power to the garage being built is to run it from the existing power line located in the back-left corner of the property, approximately 10-12 feet. Duke Power advised them to move the low hanging power line that was in place since moving there in 2010. An additional power line was added to their side of the property. The power from the rear of the property ran from pole to pole, cuts over the driveway and allows trucks. Duke Power previously could not fit their trucks in the back with that power line. Now that the power line has been moved, the trucks can fit. The building is set up in a way that allows access to the rear of the garage currently being built, which was requested by Duke Power. Jessica Estep stated if they were to try to have power from their house to the structure versus having it straight from the pole, it would create the problem Duke Energy was attempting to remedy in the first place. Eric Estep advised essentially, they would be at square one again and erase the work Duke Power had done.

Chair Waddell inquired if any Board members had questions for the applicant. Seeing none, Chair Waddell asked if there was anyone to speak in favor the request. Seeing none, Chair Waddell asked Ms. Thiel if there was any opposition to the request. Ms. Thiel advised she had not heard of any opposition. Chair Waddell closed the public hearing and inquired if there was any Board discussion or a motion.

**MOTION:**

Mr. Ramsey moved that in BOA 21-23, 4103 West Friendly Avenue, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the applicant would have to rip up 75 feet of existing concrete and create Duke Power access issues. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because Duke Power, not the applicant, moved the original line that was too low for a structure to be built underneath it. (3) The hardship is not the result of the applicant's own actions because Duke Power located and then relocated the power lines such that now there is a pole in the rear of the property to provide power to the ancillary structure. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because a separate meter will eliminate lines being hung that are unsafely low and will use a pole within 10 feet of the ancillary structure. Seconded by Mr. Barkdull. The Board voted 6-0 in favor of the motion. (Ayes: Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull. Nays: 0.)

**b. BOA-21-024: 108 KNOLLWOOD DRIVE. (APPROVED)**

Ms. Thiel stated in **BOA-21-24**, 108 Knollwood Drive, Roger Jay Gann and Anna Whitley Crabtree request 3 variances: (1) To allow a proposed carport/garage to exceed the height of the principal structure; (2) To allow the building coverage of all accessory structures to be 1,296 square feet when no more than 1,199 square feet is allowed; (3) To all allow a proposed carport/garage to encroach 6.5 feet into a required 10 foot side setback. The carport/garage will be 3.5 feet from the side property line.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance References were Sections 30-8-11.1(A)(2): An accessory structure must be clearly subordinate to the principal structure in all dimensional aspects; Section 30-8-11.1(A) (3): in R districts, the maximum building coverage of all accessory structures may not exceed 50% of the building coverage of the principle structure on the lot; and Section 30-8-11.1(C)(2): In R districts, accessory structures over 15 feet tall must be setback at least 10 feet from side and rear lot lines.

**Background and Site Information:** The subject lot is located on the east side of Knollwood Drive, south of Madison Avenue and is zoned R-3 (Residential-Single-Family). Tax records indicate the lot contains approximately 2,473 square feet and the house was constructed in 1954. The applicant proposes to construct a 1,296 square foot detached carport garage in their back yard that will align with the existing shared driveway on the property. It will be approximately 24 feet tall and 3.5 feet from the side property line. As proposed, the carport garage will be taller than the existing house and will exceed the maximum coverage permitted and encroach into a required setback. The applicants seek three variances to address those issues. If the variances are approved, the applicants will submit a residential building permit application and proceed with permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted the applicable overlay and plans.

Chair Waddell asked the applicants to state their name and address for the record. Roger Jay Gann and Anna Whitley Crabtree were sworn in for their testimony in this application.

**Roger Jay Gann and Anna Whitley Crabtree, 108 Knollwood Drive**, stated the property was purchased and an older carport/garage in bad disrepair was removed. The plan was to build another carport/garage and place it back in the same footprint to align with the driveway. If moved off the property line, it would be very difficult to get into the carport/garage. They would also like to maintain some of the same driveway existing now. Their home is approximately 22 1/2 feet tall. The garage will be around 24 feet based on how tall the foundation will be. It will be 24 x 48, the carport 24 x 24, the garage approximately 24 x 24 also. This project will improve the property value substantially because the other carport/garage was in severe disrepair. His neighbor did not have a problem with the removal and was in support of the project. This request is slightly over the total footprint of the existing structure. They have not applied for a building permit because they want to ensure that all the variances are approved first. The home is being remodeled and they are waiting on other things to obtain building permits. The project was started in November, but because of lumber prices they are holding off.

Chair Waddell inquired if there were any questions for the applicant. Mr. Oliver asked if the lot sloped toward the back and down, would the garage/carport appear lower than the house. Mr. Gann responded the lot slopes toward the back of the lot. Mr. Gann stated there were two very large Oak trees in the front yard. Chair Waddell inquired if there were any other questions from the Board. Ms. Necas stated looking at Exhibit B, it appeared the proposed carport/garage was located in the hatched area and appeared to extend further back than the previous structure. Ms. Necas asked if that would require more concrete poured on the ground or was there a surface there already that isn't clear on the provided site plan. Mr. Gann responded it will require more concrete because it will be 24 feet longer and the back part will be the garage. Chair Waddell inquired if there were any other questions from Board members. Hearing none, Chair Waddell inquired if there was anyone else to speak in favor of the request. Seeing none, Chair Waddell asked Ms. Thiel if she knew of any opposition. Ms. Thiel advised there wasn't anyone present in opposition. Chair Waddell closed the public hearing for Board discussion. With no discussion, Chair Waddell inquired if there was a motion.

**MOTION:**

Mr. Oliver moved that in BOA-21-24, 108 Knollwood Drive, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and all three variances be granted based on the following: (1) If the applicant complies with provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the new carport/garage will occupy the location of the prior carport. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the carport aligns with the existing driveway pad. A sloping lot and trees will obscure the height of the addition. (3) The hardship is not the result of the applicant's own actions because the driveway pad dictates the location of the carport/garage addition. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because by replacing the old carport/garage with an improved structure and the property is improved. Seconded by Ramsey. The Board voted 6-0 in favor of the motion. (Ayes: Waddell, Ramsey, Oliver, Necas, Savoy and Barkdull. Nays: 0.)

**c. BOA-21-25: 3700 BRASSFIELD OAKS DRIVE. (APPROVED)**

Ms. Thiel stated in **BOA-21-25**, 3700 Brassfield Oaks Drive, Barry and Beverly Brown request a variance to allow a proposed porch addition to encroach 12 feet into a required 30 foot rear setback. The porch addition will be 18 feet from the rear property line.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance Reference was Section 30-7-3.2 - Table 7-1: In the R-3 district, the minimum rear setback is 30-feet.

**Background and Site Information:** The subject lot is located on the north side of Brassfield Oaks Drive, west of Windy Oaks Court and is zoned R-3 (Residential Single-family-3). Tax records indicate the lot contains approximately 20,473 square feet, and the house was constructed in 1992. The applicants propose covering an existing terrace at the back of the house with a roof to create a porch in the same location/footprint. The existing terrace was allowed to encroach into the rear setback since it was constructed at-grade and only had a trellis as an open covering. By adding a roof, the porch addition is subject to the setback requirements for principal structures

and thus requires a variance to allow for any encroachment into the rear setback. The proposed porch addition will encroach 12 feet into a required 30 foot rear setback and be 18 feet from the rear property line. If the variance is granted the applicants will submit a residential building permit application and proceed with the permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans.

Chair Waddell asked the applicants to state their name and address. Barry and Beverly Brown were sworn in for their testimony in this application.

**Barry and Beverly Brown, 3700 Brassfield Oaks Drive**, stated the rear of their home faces north and they have continued to struggle with water damage coming through the French doors. Currently, there is only the pergola and water drains off of it. It would be very beneficial to have a roof structure. It would be a screened in porch with the same footprint. They are requesting to add a roof structure to mitigate water issues in that area. The rear of the house faces the driveway side of his neighbor's side yard. His neighbor had no problem with this request. Their Homeowners Association also approved their proposed modification plans.

Chair Waddell inquired if there were any questions from Board members. Seeing none, Chair Waddell inquired if there was anyone else to speak in favor of the request. Chair Waddell asked Ms. Thiel if there was anyone in opposition. Ms. Thiel advised she had not received any opposition. Chair Waddell closed the public hearing and requested board discussion. Hearing none, Chair Waddell requested a motion.

**MOTION:**

Mr. Savoy moved that in BOA-21-25, 3700 Brassfield Oaks Drive, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because without a roof covering, the home continues to be exposed to harsh weather conditions causing water damage. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because water runs from the rear of the property and roof water spills out and soaks through the doors and windows on the back of the home. (3) The hardship is not the result of the applicant's own actions because the north facing windows and doors receive the harshest climate. (4) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because of the existing prior placed terrace and because the neighbor is in agreement with the covering. Seconded by Necas. The Board voted 6-0 in favor of the motion. (Ayes: Waddell, Ramsey, Oliver, Necas, Savoy and Barkdull. Nays: 0.)

**d. BOA-21-26: 206 MEADOWBROOK TERRACE. (APPROVED)**

Ms. Thiel stated in **BOA-21-26, 206 Meadowbrook Terrace**, Melissa Steele, requests a variance to allow a proposed swimming pool to be located in front of the principal structure when viewed from a road or street.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance Reference was Section 30-8-11.9 (C) (1): Swimming pools as well as the decking and equipment associated with the pool and interactive water features that are located on single-family and two-family lots that are less than once acre in area must be located behind the principal structure when viewed from a road or street.

**Background and Site Information:** The subject lot is located on the north side of Meadowbrook Terrace, east of Edgedale Road, and zoned R-3 (Residential Single-Family). Tax Records indicate the lot contains approximately 19,602 square feet and the house was constructed in 1920. The applicant proposes to install a swimming pool behind the existing house in area enclosed by a retaining wall, as part of pending building permit #202107356. The Land Development Ordinance requires that swimming pools be located behind the principal structure when viewed from a street or road. Since Edgedale Road runs along the back of the subject lot, the proposed pool location is visible from the road and thus requires a variance to be allowed. If the variance is granted, the applicant will proceed with the residential building permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlay or plans.

Chair Waddell asked the applicant to state her name and address. Melissa Steele was sworn in for her testimony in this application.

**Melissa Steele, 206 Meadowbrook Terrace**, stated the house was purchased in 2014 and under restoration until July 2016 when she and her son moved in. The plan was to have a pool in that area the entire time. Landscaping was redone and a retaining wall built. Throughout the restoration and planning, the state of North Carolina was involved to assist in making it historically respectful. There is not a behind the structure location for a pool since the property is diamond shaped and technically has three front yards.

Chair Waddell inquired if there were questions from Board members. Mr. Oliver asked how large the pool was. Ms. Steele responded it was approximately 12 x 23. Chair Waddell inquired if there were any further questions from the Board. Mr. Savoy asked what type of fencing was planned. Ms. Steele responded a New England picket style fence. Chair Waddell inquired if there were any other questions. Hearing none, Chair Waddell inquired if there was anyone else to speak in favor of the request. Hearing none, Chair Waddell asked Ms. Thiel if there was anyone in opposition to this request. Ms. Thiel responded she had not received any opposition. Chair Waddell closed the public hearing and inquired if the Board had discussion or a motion.

**MOTION:**

Mr. Savoy moved that in BOA-21-26, 206 Meadowbrook Terrace, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because by complying with the ordinance, the applicant will be forced to abandon the installation of a pool and a significant investment of retaining walls. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because due to the unique diamond shape of the lot, it provides the home owner no options for the pool placement. (3) The hardship is not the result of the applicant's own actions because the applicant had no input on the layout and placement of the home because it was built in 1920. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the elevation of the lot has carefully designed landscaping and fencing around the pool and would not be visible from those passing by and neighbors views from the street. Seconded by Mr. Ramsey. The Board voted 6-0 in favor of the motion. (Ayes: Waddell, Ramsey, Oliver, Necas, Savoy and Barkdull. Nays: 0.)

**e. BOA-21-27: 500 WASHINGTON STREET. (APPROVED)**

Ms. Thiel stated in **BOA-21-27**, 500 East Washington Street, Alex Ritchy, requested a variance to allow a proposed building to encroach 18.8 feet into a required 30 foot thoroughfare setback. The building will be 11.2 feet from the property line along East Washington Street.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 6. The Land Development Ordinance Reference was Section 30-7-6.1-Table 7-15: In the LI district, the minimum thoroughfare setback is 30 feet

**Background and Site Information:** The subject lot is located on the south side of East Washington Street, east of South Murrow Boulevard, and zoned LI (Light Industrial). Tax records indicate the lot contains approximately 27,007 square feet. The applicant proposes to construct a 2,146 square foot warehouse on the property that will encroach 18.8 feet into a required 30 foot thoroughfare setback and be 11.2 feet from the property line along East Washington Street. The subject property is bound by two thoroughfares, East Washington Street and South Murrow Boulevard, requiring larger setbacks. Additionally, a 100 foot railroad right-of-way runs along the rear property line. If the variance is approved, the applicant will submit plans and proceed with the Technical Review Committee (TRC) and building review processes.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans.

Chair Waddell asked the applicant to state his name and address. Chair Waddell swore in Alex Ritchy for his testimony in this application.

**Alex Ritchy, 1 Reel Court**, stated he purchased this property 20 years ago and has been attempting to obtain money and time to develop it and is now at that stage. One of the limitations of the railroad right of way is the lot is pushed up by Murrow Boulevard and is approximately 20 feet below the property line. The only way to build on the property is in the one corner. There was a staircase for the Greenway placed in that corner pushing his property further in another direction. Mr. Ritchy is attempting to obtain a variance to be able to start the building work on the property.

Chair Waddell inquired if there were any questions for the applicant from the Board members. Seeing none, Chair Waddell inquired if there was anyone else to speak in favor of the request. Seeing none, Chair Waddell asked Ms. Thiel if there was anyone in opposition. Ms. Thiel responded there was not any opposition present. Chair Waddell closed the public hearing and asked if there was Board discussion. Seeing none, Chair Waddell requested a motion.

**MOTION:**

Ms. Necas moved that in BOA-21-27, 500 East Washington Street, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the setback requirements, the railroad right-of-way, and the sidewalks placement, would effectively make the property unbuildable. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because it is a corner property with several restrictions, setbacks, and right of way that severely limit building placement. (3) The hardship is not the result of the applicant's own actions because the sidewalk was added after the owner purchased the property by the City. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because it allows for the property to be utilized as zoning permits. The building would also encourage use of the sidewalk by re-routing safely across the tracks. Seconded by Barkdull. The Board voted 6-0 in favor of the motion. (Ayes: Waddell, Ramsey, Oliver, Necas, Savoy and Barkdull. Nays: 0.)

**f. BOA-21-28: 400 HILLCREST DRIVE. (APPROVED)**

Ms. Thiel stated in **BOA-21-28**, 400 Hillcrest Drive, Stephen and Melissa Peet, request a variance to allow and existing fence located within 15 feet of a street right-of-way to exceed the maximum 4foot height requirement by 2 feet.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance Reference was Section 30-9-4.6 (A): No fence or wall may exceed 4-feet in height within 15-feet of any public or private street right-of-way.

**Background and Site Information:** The subject lot is located on the east side of Hillcrest Drive, north of Fairmont Street, and is zoned R-5 (Residential-Single-Family). Tax records indicate the corner lot contains approximately 7,405 square feet and the house was constructed in 1937. A 6 foot high fence currently exists along the rear and side street property lines to provide safety and privacy. Because the fence is located within 15 feet of the street right-of-way along Fairmont Street, a variance is required to allow the fence to exceed the maximum 4 foot height requirement by 2 feet. A Zoning Enforcement Officer issued a Notice of Violation for the fence height on March 25, 2021. The applicants subsequently filed the variance application within the required 30 day timeframe and any further enforcement action is on hold pending the resolution of this request. Per the City's Zoning Administrator, staff of the Greensboro Department of Transportation inspected the fence and concluded that because of the fence's location on the lot, it does not constitute a public safety issue by being a site obstruction.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted the applicable overlays and plans.

Chair Waddell asked the applicants to state their name and address Stephen Peet was sworn in for his testimony in this application.

**Stephen Peet, 400 Hillcrest Drive**, stated this request is for a 6 foot privacy fence. Their home is located at the corner of Fairmont Street and Hillcrest Drive. There is a lot of foot and driving traffic, mostly foot traffic. It is not uncommon for the Peets to find evidence of people sitting under his deck at night. On one occasion, a syringe was found. The thought of people in the middle of the night walking by and deciding to stay under his deck was unsettling. The fence dissuades that traffic and also helps to minimize barking from other dog walkers, as they plan to adopt a dog that would be in the yard. The Peets are looking for privacy and security, and a 6 foot privacy fence was the right product for them.

Chair Waddell inquired if there were any questions for the applicant from the Board members. Mr. Oliver asked if the fence was placed there by himself and later discovered by the City as too tall. Mr. Peet responded, yes. There is precedent with fences being 6 feet privacy fences within the neighborhood. One of the Zoning officials stated there was a complaint. Primarily, it appears someone within the neighborhood does not like privacy fences and voiced an objection. A transportation staff member looked at the fence and determined it was not a visual issue, but apparently it is an aesthetic issue. Mr. Oliver stated fences around Mr. Peet were 6 feet and also saw an ordinance

that said 6 feet and that was how the error occurred. Mr. Peet responded they made the assumption that a 6 foot privacy fence was fair because of those within the neighborhoods. Mr. Oliver asked if it was only because of the location of being near the corner that it was an issue. Mr. Peet responded he did not know and would not have known without the Zoning official advising of the complaint. There is a neighbor a half block down who has had the same exact fence for more than two years. The precedent was there and Mr. Peet did not think it would be an issue.

Chair Waddell inquired if there were any other questions for the applicant from Board members. Ms. Necas asked if the other property was 400 Aberdeen Terrace. Mr. Peet responded that was correct. Ms. Necas stated she wondered if someone walking by who did not like fences. Mr. Peet stated it's just unknown. The neighborhood is great with wonderful neighbors, as indicated by the signed and notarized letters in support of the fence. Someone did not like his fence, and Mr. Peet did not know why. Chair Waddell inquired if there were any further questions from the Board. Hearing none, Chair Waddell inquired if there was anyone else to speak in favor of the request. Chair Waddell asked Ms. Thiel if there was anyone in opposition. Ms. Thiel responded that Ms. Teresa Southern asked to speak in opposition of this variance request.

Chair Waddell asked the speaker to state her name and address. Theresa Southern was sworn in for her testimony in this application.

**Theresa Southern, 516 Woodlawn Avenue**, advised Ms. Necas and Mr. Peet she was the neighbor who complained. She likes fences, but felt things should be done legally. There are a lot of fences within the neighborhood that are probably not within the code. Mr. Peet had mentioned other fences setting a precedent. There is a fence on Crestland Avenue that sets a legal precedent and one that could be used as a legal argument, because it was too tall and did not meet the setback requirements for a fence of that height. The fence was moved back. Ms. Southern felt that was the precedent the Board of Adjustment should be supporting, not that there happens to be fence that may or may not be within the legal guidelines of fence requirements. This was not an "I hate fences," an "I hate my neighbors," or an "I want someone doing drugs under your deck" statement. Ms. Southern wants everyone to have a dog and a fence but also want laws enforced. If there is a problem with the law and it is not a good law, the change should not be made on an ad-hoc basis by address. The City should make a change to the fence requirements. There are no hardships here. It does not keep Mr. Peet from using his yard. The fence could be placed 4 feet further back. Ms. Southern questioned how it was a hardship for it to be setback 4 feet from the current location. Ms. Southern did not feel Mr. Peet met any of the variance requirements.

Chair Waddell inquired if there were questions for Ms. Southern. Ms. Necas appreciated Ms. Southern clarifying and understood what she had stated. Ms. Necas stated she believed the LDO states it is not 4 feet back, they would have to move the fence 15 feet back. Ms. Southern stated it is 10 feet back now and would need to move 4 feet from where it is located currently. Mr. Peet advised it would be 6 feet and to move it that far back would require moving trees. Chair Waddell advised Mr. Peet right now the Board members were addressing questions to Ms. Southern. Chair Waddell inquired if there were any other questions from the Board members to Ms. Southern. Hearing none, Chair Waddell asked Mr. Peet if he wished to speak again.

Stephen Peet stated the spirit of this ordinance was about visibility and traffic safety. That was clearly established and was not an issue. Mr. Peet requested to have a judgement call made if the spirit of the law/ordinance is being violated. If not, the variance should be granted.

Chair Waddell inquired if there were any questions for Mr. Peet from Board members. Hearing none, Chair Waddell asked if Ms. Southern had rebuttal before the hearing was closed. Ms. Necas asked Ms. Southern if she had any other concerns, other than the 6 feet height requirement. As she was walking, did anything concerned her about the fences before looking up the LDO or any other city requirement, such as sight lines. The City is claiming they did a check on the fence and said it did not appear to be a public safety issue. Ms. Southern responded she had, but did not think she had any recourse over what the City has said. It would be her personal opinion at this point. One of the first things she noticed was the sight line, the visibility and a driveway next to the fence. It appeared it was reduced to the Board though, as she was the only one who said anything about it in public and now will have people berate and hate her. Ms. Southern stated it has not happened yet, but will. Ms. Necas stated as a citizen she has the right to come forward to the Board. Ms. Southern stated this has been decided by the City that there is no sight line issue, so whether or not that was something she noticed is moot at this point. Ms. Necas stated her appreciation for Ms. Southern coming forward and stating her views.

Chair Waddell asked Mr. Peet if he had any final discussion. Mr. Peet advised the Board to look at the photograph taken from the western side depicting the driveway indicating a utility pole 30 feet beyond his fence line. There is a

hedge that runs from the fence to the driveway that visually impedes his fence. There was no visual interference at all by his fence.

Chair Waddell inquired if there was anyone else wishing to speak in opposition to the request. Seeing none, Chair Waddell closed the public hearing and asked if there was Board discussion. Mr. Oliver stated in this case, the City has said that the reason for the ordinance does not apply. GDOT has already said the safety concerns do not exist. Mr. Oliver felt the Board could allow this to happen. Chair Waddell inquired if there was anyone else from the Board wishing to speak. Seeing none, Chair Waddell requested a motion.

**MOTION:**

Mr. Oliver moved that in BOA-21-28, 400 Hillcrest Drive, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the fence has been in place for some time. Not having this height would reduce privacy and safety. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because there is a lot of foot traffic along the sidewalk and it is a corner lot. The Greensboro Department of Transportation does not see any safety concerns as a result of the fence height. (3) The hardship is not the result of the applicant's own actions because the home owner saw other 6 foot fences nearby and had this installed assuming it was correct. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because other fences in the area are 6 feet tall and GDOT has said that the safety concern, and the reason why the ordinance exists, does not apply to this property. Seconded by Mr. Ramsey. The Board voted 6-0 in favor of the motion. (Ayes: Waddell, Ramsey, Oliver, Necas, Savoy and Barkdull. Nays: 0.)

**g. BOA-21-29: 400 ABERDEEN TERRACE. (APPROVED)**

Ms. Thiel stated in **BOA-21-29**, 400 Aberdeen Terrace, Marsha Thompson and Graham Thompson, request a variance to allow an existing fence located within 15 feet of a street right-of-way to exceed the maximum 4 foot height requirement by 2 feet.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance Reference was Section 30-9-4.6 (A): No fence or wall may exceed 4-feet in height within 15-feet of any public or private street right-of-way.

**Background and Site Information:** The subject lot is located on the east side of Aberdeen Terrace, north of Fairmont Street and is zoned R-5 (Residential Single-Family). Tax records indicate the corner lot contains approximately 7,841 square feet and the house was constructed in 1932. A 6 foot high fence currently exists along the rear and side street property lines to provide safety and privacy. Because the fence is located within 15 feet of the street right-of-way along Fairmont Street, a variance is required to allow the fence to exceed the maximum 4 foot height requirement by 2 feet. A Zoning Enforcement Officer issued a Notice of Violation for the fence height on March 25, 2021. The applicants subsequently filed a variance application within the required 30 day timeframe and any further enforcement action is on hold pending resolution of this request.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted the applicable overlays and plans.

Chair Waddell asked the applicant to come forward and provide her names and address. Marsha Thompson was sworn in for her testimony in this application.

**Marsha Thompson, 400 Aberdeen Terrace**, stated the reason she is requesting a fence was for safety and privacy. Her road has a lot of traffic coming off of Friendly Avenue, down Aberdeen Terrace and turning right beside her house. There was also a lot of foot traffic of people who are not necessarily neighbors. Things have been stolen out of her yard. Ms. Thompson advised she has four dogs. One that could possibly jump a 4 foot fence. Ms. Thompson advised she also has a Great Dane puppy, that is a reason she was requesting variance.

Chair Waddell inquired if there were questions for the applicant from the Board members. Seeing none, Chair Waddell inquired if there was anyone else to speak in favor of the request. Chairman Waddell swore in Robert Moore for his testimony in this case.

**Robert Moore, 1316 Fairmont Street**, stated he was in support of her project. Ms. Thompson previously had an old fence in very bad condition. The new fence is visually attractive and the dogs have a nice backyard. There is a

lot of foot traffic coming through the neighborhood, especially with Lake Daniel Park around the corner. For safety, the fence is fantastic. Mr. Moore sees it every day and sees right in her backyard. The neighbors are all for it.

Chair Waddell inquired if there was anyone else wishing to speak in favor of the request and asked the speaker to state his name and address. Chair Waddell swore Jon Godwin for his testimony in this case.

**Jon Godwin, 310 Aberdeen Terrace**, advised he lives right next to Ms. Thompson and loves the fence. It was a great improvement. The dogs need it, and the neighbors enjoy it too. It is a great fence.

Chair Waddell inquired if there was anyone else wishing to speak in favor of the request. Seeing none, Chair Waddell asked Ms. Thiel if there was any opposition to the request. Ms. Thiel advised that Ms. Southern may wish to speak.

Chair Waddell requested the speaker to state her name and address. Theresa Southern was sworn in for her testimony in this application.

**Teresa Southern, 516 Woodlawn Avenue**, stated she felt the City was moving away from enforcing the fence setback guidelines in residential neighborhoods. Ms. Southern advised she did not have a problem with fences or with fences being 6 feet tall. She wants people to have the fences they build and for dogs to have nice yards to run around in. There is no reason that Ms. Southern could not have all of those things and also have the fence in the correct place or the correct height of fence. The City should just change the fence setback requirements if they are not needed anymore. The City should be thinking about how they want to enforce setback requirements. Ms. Southern did not have a hardship and could have put the fence where it needed to go and would still have a 6 foot fence for her dogs, privacy, and be done with it.

Chair Waddell inquired if Ms. Thompson had rebuttal. Ms. Thompson stated the Zoning officer originally had said she needed to move the fence and lower it. Ms. Thompson had a site plan of her lot, and after the Zoning Officer reviewed it, stated it needed to be lower, but did not have to be moved. Ms. Thompson did not even think that was a requirement for her fence. It would be bad for her dogs and her if it was only a 4 foot fence.

Chair Waddell inquired if there was anyone else wishing to speak in opposition to the case. Hearing none, Chair Waddell closed the public hearing and asked if any Board members had any questions. Mr. Ramsey stated it appeared the other zoning enforcement violation stated there no safety issues with regard to sight lines, but he did not see that on this application. Mr. Thompson stated no one told her she needed to have the City come out. Ms. Thompson did not think there was a sight line issue. The fence starts way off Aberdeen Terrace and is only on Fairmont Street and could not imagine sight being impaired by anyone going up or down Fairmont Street.

Mr. Kirkman added that review of the fence at Hillcrest Drive was to ensure it was not in the public right-of-way because that was an initial question. As part of that, because it was on a corner lot, Mr. Kirkman asked someone from the Transportation Department to look at it to primarily determine if there was a sense of urgency in terms of the Zoning Enforcement issue. During that conversation, Ms. Thompson's fence was also identified as having an issue. Steve Brumagin, Zoning Enforcement Officer, went out and initiated a zoning enforcement action on the fence. Mr. Kirkman did not have a specific certification on that because it was part of a second complaint and was further investigated. That is why there was a difference in terms of the information received by the Board.

Chair Waddell inquired if there were any further questions from Board members. Ms. Necas asked if it was possible for City staff to suggest to Ms. Southern who she should address her issue with. Mr. Kirkman stated that he or Luke Carter were available to discuss amending the ordinance. There was no permit required for residential fences in Greensboro and staff receives after the fact notifications. Most times information is sent out to allow time to contact the City. Provisions are enforced, which is why both cases were before the Board of Adjustment. It was their right to ask for a variance and present their information for the Board's consideration.

Chair Waddell inquired if there was further Board discussion. Mr. Savoy stated the location was fine, and asked if it was the height of the fence being discussed. Mr. Kirkman responded that was correct. If there is a fence within 15 feet of a public right-of-way, it should be no more than 4 feet in height. That's the relationship that the parties are talking about: the 4 foot height within 15 feet of a public right-of-way. Mr. Savoy stated that if the fence does not have to be moved, he would not want to be walking by and have a German Shepherd or Doberman jump that 4 foot fence. An option would be to lower the fence height to be in compliance. If they don't want to lower the fence height, moving the fence would be another option, as would coming before the Board to request a variance.

Chair Waddell inquired if there was any further Board discussion. Hearing none, Chair Waddell closed the public hearing. Chair Waddell inquired if the Board had any further discussion. Seeing none Chair Waddell requested a motion.

**MOTION:**

Ms. Necas moved that in BOA-21-29, 400 Aberdeen Terrace, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because it will reduce the safety of the property with a 4 foot fence. The owner's pets can jump over 4 feet and the owner has had backyard property stolen in the past when it was visible. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the subject property has high traffic of pedestrians and cars going between a park and UNCG. (3) The hardship is not the result of the applicant's own actions because backyard items have been stolen from the property before the installation of the 6 foot fence: (4) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the fence does not constitute a safety concern as it does not obstruct sight lines along Fairmont Street and keeps the owner's pets safe behind the fence. Seconded by Mr. Oliver. The Board voted 6-0 in favor of the motion. (Ayes: Waddell, Ramsey, Oliver, Necas, Savoy and Barkdull. Nays: 0.)

**h. BOA-21-30: 1115 WESTRIDGE ROAD. (APPROVED)**

Ms. Thiel stated in **BOA-21-30**, 1115 Westridge Road, Daniel and Pamela McCoy request a variance to allow an accessory structure to take utility service from a separate meter instead of branching service from the principal dwelling.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 6. The Land Development Ordinance Reference was Section 30-8-11.1(G)(1): Accessory structures to single-family, twin homes, duplexes, and traditional houses must take utility service such as water, sewer, and electrical by branching service from the principal dwelling.

**Background and Site Information:** The subject lot is located on the north side of Westridge Road, west of Westminster Drive, and is zoned R-3 (Residential Single-family). Tax records indicate the lot contains approximately 1.7 acres and the house was constructed in 1947. An existing accessory structure on the property is used to store and charge an electric car, electric riding lawn mower, lawn equipment batteries and various power tools. The applicants indicated that the current power resources are not adequate to supply the necessary power safely. The applicant proposes to install a separate electrical meter on the accessory structure and pull power via underground access to an existing utility pole on the property.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted the applicable overlay.

Chair Waddell asked the applicant to state her name and address. Pamela McCoy was sworn in for her testimony in this case.

**Pamela McCoy, 1115 Westridge Road**, stated they need to add electricity to their existing garage. Their house was built in 1947 and has been expanded twice. The resources for electricity are stretched to the max. There are six 220-lines and an electric generator. The new power meter would be on the existing garage pulling power from an existing pole already in the yard. Currently, the service is above ground and this would allow them to go underground. Significant electricity is needed to the garage for all of the power equipment and an electric car.

Chair Waddell inquired if the Board had any questions for the applicant. Seeing none, Chair Waddell inquired if there was anyone else to speak in favor of the request. Seeing none, Chair Waddell inquired if there was anyone in opposition to the request. Ms. Thiel advised she had not received any opposition. Chair Waddell closed the public hearing and inquired of the Board for comments or discussion. Seeing none, Chair Waddell made a motion.

Chair Waddell moved that in BOA-21-30, 1115 Westridge Road, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the current power resources are not adequate and create a safety risk to the subject property. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property

and unique circumstances related to the applicant's property because the house and garage are separated by a driveway which will require additional construction to be able to use the electric power resources. (3) The hardship is not the result of the applicant's own actions because the subject property was originally constructed in 1947. The current meter location would cross the driveway. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because approval of the variance would permit use of underground lines and will not impact the neighbors. Seconded by Mr. Ramsey. The Board voted 6-0 in favor of the motion. (Ayes: Waddell, Ramsey, Oliver, Necas, Savoy and Barkdull. Nays: 0.)

**i. BOA-21-31: 703 SIMPSON STREET. (APPROVED)**

Ms. Thiel stated in case **BOA-21-31**, 703 Simpson Street, David and Debra Davis, request a variance to allow an accessory structure to take utility service from a separate meter instead of branching service from the principal dwelling.

Evidence provided by the applicant included Exhibits A through D. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance Reference were Section 30-8-11.1(G)(1): Accessory structures to single-family, twin homes, duplexes, and traditional houses must take utility service such as water, sewer, and electrical by branching service from the principal dwelling.

**Background and Site Information:** The subject lot is located on the west side of Simpson Street, north of Florence Street, and is zoned R-5 (Residential Single-Family). Tax records indicate the lot contains approximately 5,663 square feet, and the house was constructed in 1923. The applicants, in conjunction with the Special Exception request case (BOA-21-32), are seeking to rebuild a detached garage that was demolished by a tree in the same footprint/location. On March 31, 2021, the Historic Preservation Commission approved the applicants' request to rebuild the garage. As part of the proposed project, the applicants wish to install a separate meter on the detached garage to avoid damaging the existing concrete driveway.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted the applicable overlays and plans.

Chair Waddell asked the applicant to state her name and address. Debra Davis was sworn in for her testimony in this application.

**Debra Davis, 703 Simpson Street**, stated they are in the process of rebuilding their garage that was demolished last year during COVID-19. They are located in the Historic District. It is a detached garage and they would like to install a separate electrical meter because there is concrete in the back. They would like the electric to run underground so the concrete would not be damaged.

Chair Waddell inquired if the Board had any questions for the applicant. Mr. Barkdull asked if the concrete and infrastructure was there prior to the garage being destroyed. Ms. Davis responded the concrete was already in place. Ms. Davis advised they have a shared driveway with the neighbor. The previous owners of the house at one time redid the driveway but only placed concrete between the houses into the driveway. The rest of the concrete surrounding the house in the rear and into the other side was there when they purchased the house. Chair Waddell inquired if there were any other questions from Board members.

Chair Waddell inquired if there was anyone else to speak in favor of the request. Seeing none, Chair Waddell inquired if there was anyone in opposition to the request. Ms. Thiel advised she was unaware of any opposition. Chair Waddell closed the public hearing and inquired of the Board for comments or discussion. Seeing none, Chair Waddell requested a motion.

Mr. Barkdull moved that in BOA-21-31, 703 Simpson Street, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance granted based on the following: (1) If the applicant complies with provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the applicant is in the process of rebuilding a detached garage that was destroyed by a fallen tree. The new detached garage will be the site of a second meter and will save them having to tear up the concrete and incur costly construction costs. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the concrete and current infrastructure were pre-existing conditions prior to the purchase of the house. The planning of placing electrical under the concrete could not have occurred. (3) The hardship is not the result of the applicant's own actions. The pre-existing conditions, concrete and such, as discussed, and destroyed detached garage allow for the housing of a new meter. (4) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the second meter will

supply safer, updated delivery of electricity to the property, and the meter will be located on the detached garage out of the sight line of neighbors and behind a fence as not to detract from neighborhood appearance. Seconded by Ms. Necas. The Board voted 6-0 in favor of the motion. (Ayes: Waddell, Ramsey, Oliver, Necas, Savoy and Barkdull. Nays: 0.)

## **2. SPECIAL EXCEPTION**

### **a. BOA-21-32: 703 SIMPSON STREET. (APPROVED)**

Ms. Thiel stated in **BOA-21-32**, 703 Simpson Street, David and Debra Davis, request two special exceptions. (1) To allow a proposed garage to encroach 2.1 feet into a required 3-foot side setback. The garage will be 0.9 feet from the rear property line. (2) To allow a proposed garage to encroach 0.4 feet into a required 3-foot rear setback. The garage will be 2.6 feet from the rear property line.

Evidence provided by the applicant included Exhibits A through D. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance Reference was Section 30-8-11.1(C) (2): In residential districts, accessory structures must be set back at least 3 feet from side and rear lot lines.

**Background and Site Information:** The subject lot is located on the west side of Simpson Street, north of Florence Street, and is zoned R-5 (Residential Single-family). Tax records indicate the lot contains approximately 5,663 square feet, and the house was constructed in 1923. The applicants propose to rebuild a detached garage that was demolished by a tree in the same footprint/location. The proposed garage will encroach into the side and rear setbacks. It will be 0.9 feet from the side property line and 2.6 feet from the rear property line. On March 31, 2021, the Historic Preservation Commission approved the applicants' request to rebuild the garage and recommended the special exception.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted the applicable overlays and plans.

Chair Waddell asked the applicant to come forward and state her name and address. Debra Davis was sworn in for her testimony in this application.

**Debra Davis, 703 Simpson Street.** As stated, their garage was totally damaged by a fallen tree from the property located behind them. They have a shared driveway with 705 Simpson Street and the garage bookend each other. They would like to encroach on those setbacks in the rear and side so that the garages can continue to bookend each other. If the garage is moved forward, it makes the garage not as doable and also interferes with the neighbors because there is a very tight squeeze for the cars back there, if they are not in the garage in order to angle and get down the driveway. Exhibit 3 shows the driveway with the neighbor's garage and where the original foundation was.

Chair Waddell inquired if there were any questions for the applicant from the Board members. Seeing none, Chair Waddell inquired if there was anyone else to speak in favor of the request. Seeing none, Chair Waddell asked Ms. Thiel if she was aware of anyone in opposition to the request. Ms. Thiel responded she was not aware of anyone in opposition. Chair Waddell closed the public hearing. Chair Waddell inquired if the Board members had any discussion. Seeing none, Chair Waddell requested a motion.

### **MOTION:**

Mr. Ramsey moved that in BOA-21-32, 703 Simpson Street, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the Special Exception be granted unconditionally based on the following: (1) The Special Exception is in harmony with the general purpose and intent of the ordinance and preserves its spirit, by the garage being placed on the property, replacing a garage crushed by a tree in 2020. (2) The granting of this Special Exception ensures public safety, welfare, and does substantial justice because it allows the applicant to replace their garage using a design consistent with the neighborhood and consistent with the neighboring bookend garage. Second by Ms. Necas. The Board voted 6-0 in favor of the motion. (Ayes: Waddell, Ramsey, Oliver, Necas, Savoy and Barkdull. Nays: 0.)

### **OTHER BUSINESS:**

Ms. Thiel advised that the text amendment proposed for the separate meters went before the Zoning Commission last Monday and was recommended for approval to City Council. It will be discussed by City Council on June 15, 2021.

Mr. Kirkman stated at some point they will be going back into in-person meetings. There was not an ability to do what Council does now with the hybrid option because of the quasi-judicial nature. Mr. Kirkman wanted to ensure it was on everyone's radar screen. Staff will keep everyone updated as soon as there is more information.

Chair Waddell congratulated Ms. Skenes on her appointment to the Zoning Commission. Mr. Oliver thanked Mr. Waddell for chairing the meeting.

**ACKNOWLEDGEMENT OF ABSENCES:**

The absence of Mr. Truby was acknowledged as excused.

**ADJOURNMENT:**

The meeting was adjourned by Chair Waddell at approximately 7:54 p.m.

Respectfully submitted,

James Waddell, Chair

JW/cgs

**MEETING MINUTES**  
**GREENSBORO BOARD OF ADJUSTMENT**  
**June 28, 2021**

The meeting of the Greensboro Board of Adjustment was held on Monday, June 28, 2021 at 5:30 p.m. online via Zoom. Board members present were: Chairman Truby, James Waddell, Vaughn Ramsey, Ted Oliver, Terry Savoy, Leah Necas, and Stephen Barkdull. City staff present were Shayna Thiel, Mike Kirkman, and Luke Carter of the Greensboro Planning Department. Al Andrews, Chief Deputy City Attorney.

Chairman Truby welcomed everyone to the virtual meeting. Members of the Board are appointed by City Council and serve without pay. This is a Quasi-Judicial Board, which means that all testimony will be under oath. An action will be made and a final action of the Board is similar to a court decision. Chairman Truby further explained the manner in which the Board conducts its hearings and methods of appealing any ruling made by the Board. Chairman Truby advised that each side, regardless of the number of speakers, were allowed a total of 20 minutes to present evidence. Board members may ask questions at any time.

**APPROVAL OF MAY 24, 2021 MEETING MINUTES (APPROVED)**

Chair Truby abstained as he was not present at May meeting.

Mr. Waddell made a motion to approve the May 24, 2021, minutes; seconded by Mr. Oliver. The Board voted 6-0 in favor of the motion. (Ayes: Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull. Abstention: 1.)

**SWEARING IN OF STAFF**

Shayna Thiel and Mike Kirkman of the Planning Department were sworn in for testimony in the following cases.

**CONTINUANCES / WITHDRAWALS**

None.

**OLD BUSINESS**

None.

**NEW BUSINESS**

**1. VARIANCE**

**a. BOA-21-33: 1406 COVERED WAGON ROAD (APPROVED)**

Ms. Thiel stated in case **BOA-21-33**, 1406 Covered Wagon Road, Chad and Tina Hooks request a variance to allow a proposed carport addition to encroach 4.7 feet into a required 10 foot side setback. The carport addition will be 5.3 feet from the side property line.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance reference was Section 30-7-3.2 – Table 7-1: In the R-3 district, the minimum side setback is 10 feet.

**Background and Site Information:** The subject lot is located on the south side of Covered Wagon Road, west of Millstream Road and is zoned R-3 (Residential Single-family). Tax records indicate the lot contains approximately 44, 431 square feet, and the house was constructed in 1992. The applicants propose to add an attached workshop and carport at the back of the house, and the carport portion will encroach 4.7 feet into a required 10 foot side setback. The applicants indicate that the proposed area for the addition is the most reasonable because of the existing driveway, landscaping, and well locations. Additionally, the applicants stated that there is a large landscape buffer along the side property line between their property and their adjoining neighbor. If the variance is granted, the applicants will submit a residential building permit application and proceed with the permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans.

Chair Truby asked the applicants to state their name and address. Chad Hooks was sworn for his testimony in this application.

**Chad Hooks, 1406 Covered Wagon Road, McLeansville**, stated their home was purchased in October of 2020. They are asking for a variance to allow them to build a 24x30 carport that would encroach 4.7 feet into the 10 foot right side setback. The nearest portion of the proposed carport addition would be 5.3 feet from the side lot line. The carport would maintain the architecture of the existing home and support the characteristics of the homes in the neighborhood. The carport would provide protection for their family's vehicles and storage. The size of their property limits where the carport can be built, as it has to be at least 25 feet from the well in the backyard. In order to keep with the flow of their property and floor plan, the right side is the only logical place to add the carport. There is a large landscape buffer on the right that would minimize visibility from the street and the right side neighbor.

Chair Truby inquired if any Board members had questions for the applicant or discussion. Seeing none, Chair Truby asked if there was any opposition to the request. Ms. Thiel advised that Mr. Powell was present to speak.

Chair Truby asked Mr. Powell to state his name and address. Ronald Powell was sworn for his testimony in this application.

**Ronald Powell, 5204 Winterale Court, McLeansville**, stated he was a board member for the HOA and is opposed to this request. His home is located in the county, and Mr. Hooks' home is located in the city. County property would be encroached. Mr. Hooks is planning a 24x30 carport. There are garages, not carports in this neighborhood and would be a variation within the neighborhood. Mr. Hooks recently had a driveway extension coming up Covered Wagon Road on the right side of the property. Mr. Powell did not know if a permit was obtained, but his concern was that this could start something that the neighborhood may not want to go through every time someone decides they want to get close to a property line. The City has their setbacks like County. Based on a conversation Mr. Powell had with staff, he was assured that it would only be a 4.7 foot encroachment, but has not seen that in writing. Mr. Powell was unsure if this carport would be in the back or on the side. Driving into the driveway, it would be to the right of the house.

Chair Truby requested to have Exhibit B displayed. Chair Truby indicated in the bottom of the lot where Covered Wagon Road was. The addition would be behind the house and slightly to the right. Chair Truby indicated on the map a small square that Mr. Powell acknowledged. Chair Truby stated it would be over 101 feet off the rear property line, and the variance asked for 5.3 feet from the right side property line. Mr. Powell asked if that would be to his neighbor on the right or his neighbor to the back. Chair Truby responded it affects more the neighbor to the right than the neighbor to the back. Mr. Powell asked if they were planning to build the carport where the additional parking pad was. Chair Truby responded it appears that it would be built on top of the existing driveway currently there. Mr. Powell stated this has been an ongoing situation and felt everything should stay in compliance with current regulations going forward and stay in the proper zoning. Mr. Powell did not see the necessity for this request. Regarding the architecture of homes, there are no carports in this neighborhood. There are two car garages.

Chair Truby inquired if Board members had questions for Mr. Powell. Mr. Waddell asked if Mr. Powell had said there was a well on the property contributing to the hardship and would like to hear more about that. Chair Truby advised that statement was from the applicant. Chair Truby asked Mr. Hooks to address that issue.

Chad Hooks stated the well was approximately 40 or 50 feet straight back from the current garage. Mr. Hooks can not use any more of the rear property. As a result, they are hoping to go back 30 feet. The carport would attach to the corner of the garage and go over toward the right side neighbor. A carport cannot be in front of the door of the garage, so that is why they are looking at placing it toward the back. It would provide extra storage and protection for their vehicles. Chair Truby asked if Mr. Hooks had talked to his neighbor on the right, Mr. Reeves. Mr. Hooks responded he has talked with him several times. Chair Truby asked if his neighbor was in opposition to the request. Mr. Hooks responded not at all. They took down 9 trees in the backyard within the last couple of months. One was actually in his yard for the possible construction of this carport and workshop. There is still a lot of landscape buffering in the rear.

Chair Truby asked Mr. Powell to speak again.

Ronald Powell asked if Mr. Hooks had well service or city service. Mr. Hooks responded he was on a well. Chair Truby advised Mr. Powell the question needed to be addressed to the Chair. Mr. Powell asked if Mr. Hooks would be encroaching where the well is. Chair Truby responded he thought Mr. Hooks was saying his well was in the backyard and any new construction that he does has to be at least 25 feet from the well. That is forcing the

placement of the carport. It cannot be pushed back further and be further away from the property line because it would be within of the 25 feet of the well.

Chair Truby inquired if there were any further questions from Board members. Mr. Oliver asked if this home was in the subdivision that Mr. Powell referred to and if the HOA rules apply to this home. Discussion ensued regarding the HOA. Mr. Powell and Mr. Hooks stated that the subject property was not in the HOA. Mr. Powell added that Mr. Hooks' request would not be keeping with the architectural concept of the neighborhood and opposed the carport.

Chair Truby closed the public hearing. Chair Truby inquired if there was Board discussion. Mr. Waddell stated his question was answered and he did not have any issues with the request. Chair Truby stated the Board has approved a lot of variances such as this one in the past and did not have any issues. Chair Truby asked if there was a motion.

**MOTION:**

Mr. Savoy moved that in BOA 21-33, 1406 Covered Wagon Road, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the home was purchased in 2020, but annexed in 2008. By complying with the setback requirement, the carport addition cannot be constructed as proposed. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the property shape and the size of the house was built to accommodate a septic tank, well and other infrastructure. (3) The hardship is not the result of the applicant's own actions because due to the existing driveway, landscaping, and location of the well, the proposed construction site is the only reasonable area for the construction. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice since the house was built in 29 years ago, the construction would modernize the property, provide a safer garage access, and maintain the architecture of the home and character of the homes in the community. Seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull. Nays: 0.)

**b. BOA-21-34: 454 GORRELL STREET (APPROVED)**

Ms. Thiel stated in **BOA-21-34**, 454 Gorrell Street, Deena Hayes and John Greene request a variance to allow a proposed swimming pool to be located in front of the principal structure when viewed from a road or street.

Evidence provided by the applicant included Exhibits and B. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance reference was Section 30-8-11.9(C)(1): Swimming pools, as well as decking and equipment associated with the pool, and interactive water features that are located on single-family and two-family lots that are less than one acre in area must be located behind the principal structure when viewed from a road or street.

**Background and Site Information:** The subject lot is located on the south side of Gorrell Street, west of Martin Street, and is zoned R-7 (Residential Single-family). Tax records indicate the corner lot contains approximately 11,761 square feet, and the house was constructed in 1925. The applicants proposed to install a swimming pool behind the existing house as part of pending building permit application #202110040. The Land Development Ordinance requires that swimming pools be located behind the principal structure when viewed from a street or road. Since Martin Street Road runs along the side of the corner lot, the proposed pool location is visible from the road and thus a variance is required. If the variance is granted, the applicants will proceed with the residential building permit process.

Ms. Thiel provided the land use and zoning for the property and surrounding properties, and noted the applicable overlay and plan.

Chair Truby asked if essentially this ordinance was saying a pool could not be built on a corner lot. Mr. Kirkman responded the broader issue was if the pool was visible from the roadway, there would need to be variance. It may or may not on a corner lot be visible from both roadways.

Chair Truby asked the applicants to provide their name and address. Chair Truby swore in Deena Hayes and John Greene for their testimony in this application.

**Deena Hayes Greene and John Greene, 454 Gorrell Street, Greensboro.** Ms. Greene stated they lived in Census Tract 112, the most socio-economically impacted census tract in the county. In 2000, all but two homes were occupied with the all the rest being crack houses. Over the past 20 years, they acquired the abandoned the property and sold them to friends and family who wanted to help rebuild the community. Ms. Greene advised she has been a board member of the Old Asheboro Street Neighborhood Association for the past 10 years. The

Greene's goal is to continue to enhance this property by having an inground pool. Their pool contractor advised they needed a variance. There is no other place on the property to place the pool. At the front of the house, the entrance is Gorrell Street, catty-corned at Bennett College, and the side street is Martin Street. The pool would be visible from that side of the street.

Chair Truby inquired if there were any questions for the applicant. Mr. Olivier asked if the issue only a fence and a matter of whether the pool would not be visible from the street. Mr. Oliver thought there was fence that could be see through. A pool can be built on a corner lot, but not be visible from the street. Mr. Kirkman responded the idea was that a pool should not be placed in a manner that can be seen from a public street. The text states "located when it can be viewed from a road or a street." Mr. Ramsey asked if that was based on the assumption that all pools are in backyards. Mr. Kirkman responded that when the ordinance was developed, the idea was the pool would be an accessory structure, and the language was a way to ensure it remained as an accessory feature to the house. Chair Truby stated his opinion was that when the ordinance was written, corner lots were not thought about, and that a solid fence does not look as nice as a see-through fence. Mr. Waddell agreed with Chair Truby and felt the corner lot was the issue.

Chair Truby requested the next speaker to provide her name and address. Chair Truby swore in Monica Walker for her testimony in this application.

**Monica Walker, 608 Martin Street, Greensboro**, stated she lived on the same block as Mr. and Mrs. Greene. Ms. Walker had gathered a petition of everyone within two blocks of the Greene's home. There was no opposition to this request. Ms. Walker advised she would submit the petition with all of the names to the Board. Ms. Walker was representing those that had signed the petition in support and were encouraged by the investment that would be made in the neighborhood.

Chair Truby inquired if there was anyone else wishing to speak in favor or opposition to the request. Ms. Thiel advised she not believe there was anyone present at the meeting that was in opposition.

Chair Truby requested the next speaker to provide his name and address. Chair Truby swore in for her testimony in this application.

**CJ Brinson, 504 Gorrell Street, Greensboro**, reiterated what was said by Ms. Walker and Mr. and Mrs. Greene. Most of the neighborhood felt this would be a great investment within the community. Everyone was in favor of the request and looked forward to more investment building within the community.

Chair Truby inquired if there was anyone else wishing to speak. Seeing none, Chair Truby closed the public hearing for Board discussion.

#### **DISCUSSION:**

Chair Truby stated he was in favor. The overall consensus of the Board was approval of the request. Mr. Necas inquired about a discrepancy regarding dates. Ms. Greene stated Windsor Center is named after William Windsor who attempted to buy the house in 1913. There was an ordinance where it stated if you were a person of one race, you could not live in that neighborhood because that was the "white" side. Chair Truby asked if there was a motion.

#### **MOTION:**

Ms. Necas moved that in BOA-21-34, 454 Gorrell Street, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and all three variances be granted based on the following: (1) If the applicant complies with provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because there is no other location possible on the subject lot that would allow the pool to not be visible from a road. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the property is a corner lot located along Gorrell Street and Martin Street, allowing land behind the house to be viewed from the road. (3) The hardship is not the result of the applicant's own actions because the applicant purchased the house in 2000, after the structure had been built in approximately 1910. The applicant did not place the structure on the lot. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the addition of the pool with the attendant landscaping and hardscaping will add curb appeal to the property and the neighborhood. Seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Waddell, Ramsey, Oliver, Necas, Savoy and Barkdull. Nays: 0.)

**c. BOA-21-35: 4401 STAGHORN COURT (APPROVED)**

Ms. Thiel stated in case **BOA-21-35**, 4401 Staghorn Court, Edward and Cathy Buxton request a variance to allow a proposed addition to encroach 8 feet into a required 30 foot rear setback. The addition will be 22 feet from the rear property line.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance reference was Section 30-7-3.2 - Table 7-1: In the R-3 district, the minimum rear setback is 30-feet.

**Background and Site Information:** The subject lot is located on the east side of Staghorn Court, south of Ardoch Court, and is zoned R-3 (Residential Single-family). Tax records indicate the corner lot contains approximately 12,632 square feet and the house was constructed in 1987. The applicants propose to construct an addition at the back of the house that will encroach 8-feet into a required 30-foot rear setback. Building permit #202105081, which covers the proposed addition, was approved and issued in error, and construction is already underway. When advised of the error, the applicants stopped the work and submitted a variance of the proposed addition, subject to the existing residential building permit.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans.

Chair Truby asked the applicant to state their name and address.

**Marc Isaacson, 804 Green Valley Road, Greensboro**, stated his firm represented Mr. and Mrs. Buxton, owners of the property. The issue began when the city issued a building permit in error. The applicants have cooperated with staff. Mr. Isaacson requested Nick Blackwood, another attorney from his firm, to present this item.

**Nick Blackwood, 804 Green Valley Road, Greensboro**, stated the applicants submitted a building permit and in good faith attempted to follow the procedural process. The permit was issued and the contractor commenced construction of the addition. When the building permit was submitted, the applicant did not have an as-built survey prepared of the property, only an engineer's sketch outlining the dimensions of the proposed addition to the garage. To comply with city requirements for the application process, the applicant had an as-built survey prepared outlining the dimensions and showing the encroachment area into the rear setback. A site plan was shown depicting where the garage would be located and the setback location. Originally, the request was for an 8 foot encroachment into the setback to ensure coverage. Photographs were shown depicting the progress completed on site and indicating the distance from the footings to the rear property line, where a fence was located. There had been a significant amount of progress done before the project was halted and a large amount of distance between the structural foundation of the addition and the opaque fence that sits on the rear property line. A slide was shown depicting the letter notifying the neighbors of the reason for the variance and the plans for the project. The applicant would like to be able to complete the project as proposed in the original building permit application. There has been no response from neighbors in favor of or in opposition to the project. This would be a minimal encroachment of 4.5 feet into the required setback. The purpose of the ordinance is to reduce potential disturbances to neighboring property owners by providing adequate space between the primary dwelling unit and the property line. Complying with the ordinance would require the applicants to remove the significant construction progress made following the issuance of the initial building permit that would result in a significant loss of resources and time. Granting the variance would provide an equitable remedy to the minor setback deficiency without causing any disturbance contemplated by the ordinance. Mr. Blackwood provided all of the hardship factors to be considered by the Board and advised the variance was in harmony with the general purpose and intent of the ordinance and no neighboring property owners will be negatively affected. The location of the addition, as planned, would not negatively interfere with the neighbors to the rear of the property where the encroachment exists. This ordinance was triggered due to the fact that the addition will be attached to the existing garage. A detached accessory structure with the same dimensions could be placed up to 3 feet from the rear property line. Approval of this variance request would allow the applicants to continue the structure as planned, use the construction progress already made, and ensure that the same size structure will not be placed closer to the rear property line as a detached accessory structure. Granting the variance would assure public safety and welfare, and does substantial justice in that the variance will allow the applicant to improve the property and construct the necessary home office space without negatively impacting neighbors. The applicant acted in good faith and complied with the required permit procedures prior to expending significant resources on the construction. Denial of the variance request would result in significant financial injury to the applicant and provide no identifiable benefit to the neighboring property owners which the ordinance seeks to protect.

Chair Truby inquired if there were any questions from Board members. Seeing none, Chair Truby asked Ms. Thiel if there was anyone was in opposition. Ms. Thiel advised she had not received any opposition. Chair Truby closed the public hearing and requested board discussion.

Chair Truby inquired if there was discussion or comments from the Board. Mr. Savoy asked if the construction company who started this should have known that a variance was needed. Ms. Thiel stated she felt the dimensions provided on the original sketch were not accurate and that there was a measuring error by the reviewer. Ms. Thiel advised she was not involved with the review and was unsure what happened. Chair Truby stated that there was obviously a mistake and the home owner should not be penalized. Variances like this have been granted in the past even without a mistake. Chair Truby did not see any issues with the request and inquired if there was further board discussion. Seeing none, Chair Truby requested a motion.

**MOTION:**

Mr. Ramsey moved that in BOA-21-35, 4401 Staghorn Court, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the applicant was granted a construction permit and work commenced prior to the applicant discovering a variance was needed, such that the applicant would suffer a significant financial loss without a variance. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the property's physical structure predates the applicant's ownership of the property which makes changes to the property difficult. In addition, the applicant began construction of the improvement with a valid permit before the need for a variance was known. (3) The hardship is not the result of the applicant's own actions because the permit was issued before the need for the variance was known and the unique property structure otherwise limits the ability to improve the property. (4) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the applicant began construction work with a valid permit prior to receiving knowledge a variance was needed. The improvement will have no impact on the adjacent properties and the granting of a variance provides an equitable remedy for the applicant. Seconded by Mr. Barkdull. The Board voted 6-0 in favor of the motion. (Ayes: Truby, Waddell, Ramsey, Oliver, Necas, Savoy and Barkdull. Nays: 0.)

**d. BOA-21-36: 3223 BATTLEGROUND AVENUE (APPROVED)**

Ms. Thiel stated in **BOA-21-36**, 3223 Battleground Avenue, Sam's Commercial Properties LLC requests a variance to allow a proposed drive-through stacking lane to be 43.8 feet from an abutting residential zoning district when at least 50 feet is required.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance reference was Section 30-18-10.4(l)(3)(a): Service areas and stacking lanes on lots abutting residential zoning districts must be set back at least 50 feet and landscaped in accordance with the "B" buffer planting yard standards.

**Background and Site Information:** The subject lot is located on the south side of Battleground Avenue, east of Westridge Road, and is zoned C-M (Commercial-Medium). Tax records indicate the vacant lot contains approximately 23,087 square feet. The applicant proposes to redevelop the property formerly utilized as a gas station and construct and operate an oil change facility with a drive-through stacking lane that will be 43.8 feet from an abutting residential zoning district when at least 50 feet is required. The applicant indicated that additional landscape screening along the rear of the property abutting residential zoning district will be provided to offset impacts of the reduced setback. If the variance is granted, the applicant will proceed with the Technical Review Committee review process and building permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans.

Chair Truby asked the applicant to state their name and address.

**Henry Isaacson, 804 Green Valley Road, Greensboro**, advised that Chief Operating Officer of Strickland Brothers 10 Minute Oil Change of Winston-Salem, and Ben Raffte, Associate, assisted with this case. Mr. Isaacson advised that a condition be added to the variance request: **"Applicant and its successors shall not install or operate any loud speaker systems on the premises."** Chair Truby advised that the condition would need to be added to the motion.

Mr. Isaacson, advised the property was formerly a Citgo service station. Strickland Brothers 10 Minute Oil Change proposes to construct a motor oil change facility on the site that is now vacant. The stacking ordinance requires 50 feet between the stacking lanes and the adjacent residential zoned property. The current architectural plans provide for 43.8 feet between the stacking lanes and the adjacent residential property, which is 6.2 feet short of the required 50 feet. The site is satisfactory in all other aspects. The new building for motor oil changes has been reduced to two bays, not the usual three, as used in other locations. There is an existing wooden fence along the western boundary that will remain in place. There are plans to install a type B landscaping buffer abutting the residential properties along the western boundary. Mr. Isaacson advised of the times the facility would be in operation. Mr. Isaacson reviewed the zoning map and advised 3023 Battleground Avenue was commercial. Battleground Avenue is known as a commercial corridor beginning in downtown Greensboro, through Summerfield, and toward the Virginia border. An aerial photograph was shown indicating the subject property. A survey was shown indicating the additional 6.2 feet needed to make up the difference between the requirement in the ordinance and what is available. A photograph was shown depicting a Strickland Brothers 10 Minute Oil Change facility in Winston-Salem with three bays. The proposed request is for a two-bay facility due to the nature of the lot. Photographs depicting the buffer, the opaque fence, traffic along Battleground Avenue in the vicinity of the proposed facility were shown. The signal light was at the corner of Battleground Avenue and Westridge Road. Several pictures depicting local oil change facilities with three bays for oil change and tire changes were shown, as was a photograph depicting the Citgo station before the removal from the subject property. Hours of operations from different oil change facilities were also shown. A letter sent to all of the neighbors listed on the city notification list was shown. One call was received asking if the fence would remain or be taken down. Assurances were made the fence would be kept in place and maintained by Strickland Brothers as a part of the development.

Chair Truby inquired if there were questions from Board members. Hearing none, Chair Truby inquired if there was anyone else to speak in favor of the request. Hearing none, Chair Truby asked Ms. Thiel if there was anyone in opposition to this request. Ms. Thiel responded she had not received any opposition. Chair Truby closed the public hearing and inquired if the Board had discussion or a motion. Ms. Necas stated the zoning to the west of the property appeared to be Commercial-Medium and R-3 and asked if that would be considered mixed zoning. It appeared as if the stacking lane did not have to align to that zoning area, it would be slightly further away from R-3 zoning directly south of the proposed project. Ms. Thiel responded that looking toward that direction, there are both zonings, but not necessarily adjacent. Ms. Necas stated for the purposes of this case, it has to be considered that R-3 and Commercial-Medium both have restrictions, but R-3 is the only one that requires the 50 foot drive-through stacking lane setback. Ms. Thiel responded that was correct.

Chair Truby inquired if there was further discussion. Seeing none, Chair Truby requested a motion.

**MOTION:**

Mr. Waddell moved that in BOA-21-36, 3223 Battleground Avenue, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted, with a condition that **Applicant and its successors shall not install or operate any loud speaker systems on the premises**, based on the following: (1) If the applicant complies with provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because to be able to comply with the building setbacks, limited space is available for the building. Without a variance the applicant would not be able to utilize the property. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because due to the size, shape, and topography of the parcel between neighboring lots, a variance is required. (3) The hardship is not the result of the applicant's own actions because due to the prior use, the parcel size and shape was previously determined. This is redevelopment of a former service station. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the building is designed to comply with the ordinance as much as possible. There is sufficient room for safe egress in and out of the facility. The applicant may not install any loud speakers to the subject property. Seconded by Mr. Ramsey. The Board voted 7-0 in favor to approve the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy and Barkdull. Nays: 0.) Chair Truby stated the application passed unanimously.

## 2. **SPECIAL USE PERMIT**

### a. **BOA-21-37: 500 BROOME ROAD (APPROVED)**

Ms. Thiel stated in **BOA-21-37**, at 500 Broome Road, Broome Road Rentals LLC, on behalf of SAR Industries, LLC, request a Special Use Permit to allow a proposed scrap processing facility to operate on the property, in addition to all uses permitted in the HI district.

**Proposed Conditions:** There are no proposed conditions as part of the report.

**Parcel ID Number(s):** The parcel ID number is 93000.

**Parcel Size:** The parcel size is 16.96 acres.

**Publication Notification:** Per Section 30-4-1.4 of the Land Development Ordinance, 11 notices were mailed to the property owners within 600 feet of the subject property.

Evidence provided by the applicant included Exhibits A through D. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance Reference was Section 30-10.5(F): Scrap Processing is a permitted use in the HI District with a Special Use Permit, provided that the following standards are met: (1) the facility must be at least 5 acres in area; (2) an opaque fence, at least 8 feet in height, must be provided around the perimeter of the activity and any required buffer planting yard; and (3) the facility must be separated from any residential use by at least 300 feet.

**Background and Site Information:** The subject lot is located on the south side of Broome Road and Interstate 85, west of Patton Avenue, and is zoned HI. Tax records indicate the vacant lot contains approximately 16.96 acres. The applicant proposed to operate a scrap processing facility on the currently vacant property. Scrap processing is a permitted use in the HI District, subject to a Special Use Permit and additional use standards related to property size, fencing, buffer planted yard, and separation from residential uses. The applicant indicated that a perimeter fence will be installed in compliance with the LDO and that there are no residentially zoned properties near the subject property. If the Special Use Permit is approved, the applicant will proceed with the City's Technical Review Committee and the building permit review processes.

#### **2040GSO Comprehensive Plan:**

**Future Land Use Map – Industrial:** Includes light and heavy manufacturing, assembly and fabrication, warehousing, logistics and distribution centers. Greensboro has lost land that is suitable for and attractive to industrial development, and it is critical that these areas be protected for larger industrial development opportunities.

#### **Future Built Form Map – Planned Industrial District/Campus:**

1. Employment or employment support uses only are permitted.
2. Employment areas are protected from erosion by non-employment uses, particularly those comprising large, contiguous parcels of land that are well-served by infrastructure, with a priority on uses that generate quality living-wage jobs.
3. They have a demonstrated tolerance for noise, trucking, and other off-site impacts.
4. They are sufficiently supported by roadways, rail lines, and other infrastructure.
5. Employment and employees are supported and connected through transit, bicycle and pedestrian access and connections, and the installation of high-quality infrastructure such as bus shelters, heating, lights, and data displays.
6. Adaptive reuse of older industrial and commercial property is encouraged.
7. Inactive uses, such as storage facilities, are screened by active uses along street frontages or located above or below street level.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans.

**Marc Isaacson: 804 Green Valley Road, Greensboro**, represented Broome Road Rentals, LLC, which is owned by Nancy and Dan Wall of Raleigh. Mr. and Mrs. Wall have a scrap processing business with several facilities located in Raleigh, Apex, and other cities in North Carolina. This facility would be the first in this area. A Special

Use Permit is required for a scrap processing facility. The property is zoned HI with no conditions or restrictions and suitable for industrial activity. The ordinance requires three additional use standards for the approval of the proposed Special Use Permit. The facility must be 5 acres in area, and it is almost 17 acres. The applicant was required, as part of the site plan approval process, to install an 8 foot opaque fence around the perimeter of the property. The property must be separated from any residential use by at least 300 feet, and no residential use close to that distance. Mr. Isaacson read into the record a proposed condition as part of the application: **“The applicant shall install landscaping materials along the western property line to create a vegetative screen for the area of operations of the scrap processing facility, subject to the railroad easement along the western boundary line. Such landscape buffers shall meet the standards set forth for a Type C buffer in Section 30-10-2.3 of the LDO. Applicants shall supplement any required vegetative materials to remain with Evergreen plantings to insure year-round screening. The applicant shall be allowed to access the landscape buffer area for access to the railroad tracks, as well as for access for utilities and to comply with any applicable ordinances or regulations provided. Such buffer area may not be used for storage of salvage materials or any prominent buildings or structures.”**

Mr. Isaacson displayed the site plan prepared by Carlison Environmental Consultants and submitted to the NC Department of Environmental Quality (NCDEQ). It will be binding on the site if the Special Use Permit is approved. Mr. Isaacson stated access is very convenient for this property. The Interstate fronts onto Broome Road, and an access road off of Patton Avenue leads to the Interstate. The railroad tracks running down the western line leads to a dead end on Broome Road. Mr. Isaacson advised this property would be used primarily for recycling and processing of construction debris and household appliances. Vehicles would bring in those types of materials. The appliances would be dismantled in the operations area, recycled and taken to off-site locations for processing. This site is a former manufacturing facility and now a Brownfield site under NCDEQ, which means it is an environmentally contaminated site approved for this type of re-use, as called for in the Comprehensive Plan. The operations would occur here and not anywhere else on the property, in a depressed topographic area on the property. The site has a depth of approximately 10-15 feet below the other surface areas on the property and has a significant distance on each side of the property from adjoining properties. On the western side, there is approximately 100 feet between the property line of the railroad tracks and the area of operations. On the eastern side, it is double that amount from the property line to the area of operations. Photographs were shown to the Board outlining the property and the topographical depressed area in the middle, which is a significant operations area. Operations would be limited by a permit to that area and that area only. Mr. Isaacson stated his client did not intend to take advantage of the access to the railroad tracks now, but reserved access rights in case that proved to be feasible. Other photographs were shown depicting existing trees and vegetation at the entrance, which is a limited road access point for the properties along Broome Road. A letter was sent to all of the property owners on the notification list provided by staff. Three phone calls were received as a result of the letter. One from Mr. Beard whose family owns Beard Lumber, an adjoining property. After the distances, buffers, and the fence were discussed, Mr. Beard was not opposed. Another call was from Richard Vanore of Koury Corporation. They were able to address his concerns. Mr. Isaacson read into the record an email received from Mr. Vanore, who has significant experience with this type of issue and is supportive of this application; “Good afternoon, Shayna. On vacation this week and unable to speak on behalf of the Special Use Permit requested by Marc Isaacson on behalf of Mr. Wall. If you could please add my statement in my absence tonight for the record, I would greatly appreciate it. For the record, Koury owns and operates quite a few properties both to the south and west of 500 Broome Road. After having had the pleasure of speaking with Mr. Isaacson on several occasions concerning the request, I am happy to say the conversations were positive and all of our questions and concerns have been addressed, thus allowing Koury to offer a favorable position on this request. We look forward to having our new neighbor.”

Mr. Isaacson stated the purpose of the ordinance is to allow an appropriate use of property that is zoned Heavy Industrial, while ensuring protection of nearby properties. The ordinance requires additional use standards that significantly mitigate any foreseeable negative effects on neighboring properties caused by operation of a scrap processing facility. Those tests will not be detrimental to the health or safety of persons in the vicinity or injurious to property in the vicinity. The property is located adjacent to a major interstate and surrounded by similarly zoned Heavy-Industrial properties. Standards required by the ordinance will prevent any foreseeable disturbance caused by the applicants proposed use. The proposed use will provide a service that contributes to the general well-being of the community. The applicant’s proposed use will introduce a valuable and needed service in the surrounding industrial area. The location and proposed use of the property is in harmony with the area and in conformity with the Comprehensive Plan. The property is bordered by properties that are zoned Heavy-Industrial to the west, north, and east. Properties zoned Light Industrial are to the south. The Comprehensive Plan identifies this area as Planned Industrial District. The applicants proposed use is in conformity with existing uses in the area and the City’s plan for the future. The existing condition of the property is such that the applicant’s proposed use will be limited to a

relatively small, centrally located portion of the property, at least 100 feet away from all property lines. There are footplate areas and existing monitoring wells located on the property to comply with the requirements of NCDEQ, ensuring that the applicant's use will remain contained in the area of operations, as proposed on the site plan. Mr. Isaacson added the adjoining properties and this property are all zoned Heavy Industrial with no conditions imposed upon them, and a new condition is being imposed voluntarily by the applicant. The location of the property on the Interstate will allow for convenient access for other members of the community. Mr. Isaacson felt they met all the tests for a Special Use Permit under the ordinance and have worked through any concerns they have heard.

Chair Truby inquired if any Board members had questions for Mr. Isaacson. Mr. Oliver asked how many employees would be located to Greensboro. Mr. Isaacson responded the approximate number was 15 employees. This is a successful family owned business looking forward to coming to the Greensboro area. One of the reasons Mr. and Mrs. Wall were locating to this area was because they have several existing customers that have expanded into the Greensboro area, to include several municipal customers. Chair Truby inquired if there was anyone else to speak in favor of the request. Seeing none, Chair Truby inquired if there was anyone wishing to speak in opposition to the request.

Chair Truby asked Mr. McCall to state his name and address. Chair Truby swore in Mr. McCall for his testimony in this application.

**Darrell McCall, 4309 Oak Lane and 510 Broome Road, Greensboro**, expressed his concern regarding noise and would like to have a sound buffer up between his Broome Road property and the proposed site to quiet the noise down. It would be disturbing to anybody in his rental building. Mr. McCall advised he was not against it, but was concerned about the noise.

Chair Truby inquired if there were questions for Mr. McCall. Chair Truby stated he would like to know if this was a noisy operation and if so, was the applicant willing to help alleviate the noise. Mr. Isaacson responded any HI property can be noisy. Mr. McCall's property is zoned Heavy Industrial with no restrictions or conditions. Mr. Isaacson was not certain what the long term for that property may be and could be something as intense or more intense than what his clients proposed. There will 200 feet of distance between the operations area and Mr. McCall's property line. An 8 foot high solid opaque fence will be installed around the property to mitigate the operations. The operations area is at least 15 feet deep below the ground surface on the other parts of the property that will mitigate any of the operations activities. The side of the property is somewhat of a wetlands area. The applicant would consider installing additional trees. There are extensive canopies and tree landscaping in that area and significant trees along that line in addition to the 200 foot distance and the depth mentioned. The applicant looks forward to continuing communications.

Chair Truby asked Mr. McCall if Mr. Isaacson's comments alleviated his concerns. Mr. McCall stated he did not have a problem with them or the operation. Chair Truby stated there would be an 8 foot fence and where the actual operations occur it is 200 feet plus off the property line and a 15 foot elevation difference between and would be somewhat down in a hole. With all those factors, it would probably help alleviate some of the noise. Mr. Isaacson did say if it became unbearable in the future, they would probably work with him down the road. Mr. McCall stated that was his only concern. He spoke on behalf of his tenant and expressed their concern. If it's a problem down the road and the applicant would address it, Mr. McCall was satisfied.

Chair Truby inquired if there were any other speakers in opposition. Ms. Thiel responded there were none. Chair Truby inquired if Board members had questions for any of the speakers. Mr. Barkdull asked if there would be large furnace operations on this site. Mr. Isaacson responded that was not included in this operation. This operation is for construction debris and household appliances. With no other questions, Chair Truby closed the public hearing and moved to Board comments or a motion.

Mr. Oliver made a motion to add the condition offered by Mr. Isaacson related to landscaping material being installed to this case. Seconded by Mr. Ramsey. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy and Barkdull. Nays: 0.)

Mr. Oliver moved that in BOA-21-37, 500 Broome Road, based on the stated Findings of Fact, the Special Use Permit be granted with the following condition: **"The applicant shall install landscaping materials along the western property line to create a vegetative screen for the area of operations of the scrap processing facility, subject to the railroad easement along the western boundary line. Such landscape buffers shall meet the standards set forth for a Type C buffer in Section 30-10-2.3 of the LDO. Applicants shall supplement any required vegetative materials to remain with Evergreen plantings to insure year-round screening. The**

**applicant shall be allowed to access the landscape buffer area for access to the railroad tracks, as well as for access for utilities and to comply with any applicable ordinances or regulations provided. Such buffer area may not be used for storage of salvage materials or any prominent buildings or structures.”** and based on the following: (1) The proposed use will not be detrimental to the health or safety of persons residing or working in the vicinity or injurious to property or improvements in the vicinity because the current lot is empty with no residential areas nearby. The road currently ends at the property, 5 acres are required and 16.96 acres are available. (2) The proposed use at the particular location provides a service or a facility that will contribute to the general well-being of the neighborhood or the community because this property will add a business to a lot that currently is not being used. Scrap processing is a permitted activity under the ordinance. The location and character of the proposed use will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan because this is in an industrial area already. This request is consistent with other businesses in the area. An 8 foot opaque fence will be built and is consistent with the Comprehensive Plan. Seconded by Mr. Ramsey. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy and Barkdull. Nays: 0.)

**OTHER BUSINESS:**

Chair Truby advised that his term has technically expired and that he has served two terms. Chair Truby advised he would continue to serve until there was a replacement. Chair Truby asked if there should be a vote on a new Vice Chair and Chair, as he will be removed from the board, but did not know when. Mr. Andrews advised the Chair would serve until replaced. The Board is able to replace at the beginning of a meeting upon being advised the Chair was stepping away. The Chair position is fully capable of continuing to serve. Elections are to be on a cycle, which may be every term. If Chair Truby was not available, the Vice Chair would serve and then leave the meeting while the Board selected the new person. The Board is open to have this discussion if they want to do it at this meeting or can wait until the next meeting to place it on the record. Mr. Andrews advised using a blind copy mechanism on email for the procedural aspect of how to select a new chair. It would not be a vote and no discussion/advocacy would be included, so it would not be an open meeting. It could be done in this setting or at the next meeting. Mr. Andrews asked Chair Truby to notify the appointed council member as a courtesy in case she does not know.

Chair Truby stated Ms. Skenes was the Vice-Chair and asked when he was absent at the last meeting, was a new Vice-Chair voted on. Ms. Thiel responded there was not, but Mr. Waddell was nominated and selected to act as Chair. Chair Truby nominated Mr. Waddell as Vice Chair, seconded by Mr. Oliver. Mr. Waddell accepted the nomination. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy and Barkdull. Nays: 0.)

Chair Truby advised he thought elections in the past were done in August, and requested the Board members to think about nominating a Chair. Mr. Andrews advised the Rules and Regulations merit a look by Board members, as the current version indicates that the June meeting is intended for voting/appointing the Chair and Vice Chair. There are no consequences if not done. Mr. Andrews advised the Board to be thinking about it and to do it in August to be closer to the time in the bylaws. Mr. Oliver stated his understanding was Chair Truby could serve until a replacement is named, but cannot be named to another three-year term, and asked if that was true. Mr. Andrews responded there must be a lapse time of a term, and then he can be reappointed. Mr. Kirkman advised in most cases a one-year lapse was required between appointments. Mr. Andrews thought it was one year lapse for a different Board and a full term lapse for the same Board.

Chair Truby suggested to plan on voting for the new Chair and Vice Chair at the next meeting.

**ACKNOWLEDGEMENT OF ABSENCES:**

No absences.

**ADJOURNMENT:**

The meeting was adjourned by Chair Truby at approximately 7:31 p.m.

Respectfully submitted,

Chuck Truby, Chair  
Board of Adjustment  
CT/cgs

**MEETING MINUTES**  
**GREENSBORO BOARD OF ADJUSTMENT**  
**July 26, 2021**

The meeting of the Greensboro Board of Adjustment was held on Monday, July 26, 2021 at 5:30 p.m. online via Zoom. Board members present were: Chairman Truby, James Waddell, Vaughn Ramsey, Ted Oliver, Terry Savoy, Leah Necas, and Stephen Barkdull. City staff present were Shayna Thiel, Mike Kirkman and Luke Carter of the Greensboro Planning Department and Alan Andrews, Chief Deputy City Attorney.

Chairman Truby welcomed everyone to the virtual meeting. Members of the Board of Adjustment are appointed by City Council and serve without pay. This is a Quasi-Judicial Board, which means that all testimony will be under oath. Findings of fact will be made and a final action of the Board is similar to a court decision. Anyone appearing before this Board has a right to offer evidence, cross examine witnesses, and inspect documents. The Board will proceed in according to the agenda, a copy which was provided. Chairman Truby further explained the manner in which the Board conducts its hearings and methods of appealing any ruling made by the Board. Chairman Truby advised that each side, regardless of the number of speakers, were allowed a total of 20 minutes to present evidence. Board members may ask questions at any time.

**APPROVAL OF THE MINUTES (June 28, 2021 Meeting Minutes)**

Mr. Ramsey made a motion to approve the June 28, 2021, minutes; seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull. Nays: 0.)

**SWEARING IN OF STAFF**

Shayna Thiel and Mike Kirkman of the Planning Department were sworn in for testimony in the following cases.

**CONTINUANCES / WITHDRAWALS**

None.

**OLD BUSINESS**

None.

**NEW BUSINESS**

**1. VARIANCE**

**a. BOA-21-38: 4317 LAKE JEANETTE ROAD (APPROVED)**

Ms. Thiel stated in case **BOA-21-38**, 4317 Lake Jeanette Road, Bonnie McLaurin requests a variance to allow a proposed addition to encroach 10 feet into a required 30 foot rear setback. The addition will be 20 feet from the rear property line.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance Reference was Section 30-7-3.2 – Table 7-1: In the R-3 District, the minimum rear setback is 30 feet.

**Background and Site Information:** The subject lot is located on the west side of Lake Jeanette Road, south of Musket Lane, and is zoned R-3 (Residential Single Family). Tax records indicate the corner lot contains approximately 12,632 square feet, and the house was constructed in 1977. The applicant proposes to construct an addition at the side and back of the existing house that will encroach 10 feet into a required 30 foot rear setback. The portion of the proposed addition at the back of the house will be in the same general area as an existing deck and patio that will be removed. The portion of the proposed addition at the side of the house meets the side street setback requirement. The applicant indicates that the placement of the existing house far back in the yard and aligned with adjacent houses limits the ability for expansion. If the variance is granted, the applicant will submit a residential building permit application and proceed with the permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans.

Chair Truby asked the applicant to state her name/address for the record. Bonnie McLaurin was sworn for her testimony in this application.

**Bonnie McLaurin, 4317 Lake Jeanette Road**, advised that her contractor, Hunter Pethel, would be speaking on her behalf. Chair Truby asked Mr. Pethel to state his name/address for the record. Hunter Pethel was sworn for his testimony in this application.

**Hunter Pethel, 3302 Trail Ridge Drive**, stated Ms. McLaurin is asking for a variance of 10 feet in the back of the property. It is the only direction they can go to achieve what she needs and desires for the addition on the house. There is an existing deck already there that is not livable space other than for a couple of months out of the year. Ms. McLaurin would like to expand in the back.

Chair Truby asked if any Board members had questions for the applicant or her representative. Ms. Necas asked if the addition was slightly smaller than the existing deck, based on the photographs. Mr. Pethel responded it was slightly smaller. Ms. Necas asked if Mr. Pethel was the designer of the addition. Mr. Pethel responded he was. Ms. Necas asked Ms. McLaurin what was going to happen with the plants currently on the deck. Ms. McLaurin responded they would be planted in the yard. Chair Truby inquired if there were any further questions from Board members for the applicant. Seeing none, Chair Truby asked Ms. Thiel if there was any opposition to the request. Ms. Thiel advised no opposition was present. Chair Truby closed the public hearing and inquired if there was any Board discussion or a motion.

**MOTION:**

Ms. Necas moved that in BOA 21-38, 4317 Lake Jeanette Road, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the existing deck is only useable for approximately half the year. The new addition will replace a deck within an enclosed space useable year-round. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the existing residence was built in 1977 before the LDO standards and placed with no room to expand in the back left corner of the property. (3) The hardship is not the result of the applicant's own actions because the applicant purchased the property in 2019 and did not plat the property. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare and substantial justice because the addition to the house will add to the livable space of the house and add value to the property and surrounding neighborhood. Seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull. Nays: 0.)

**b. BOA-21-39: 606 WILLOUGHBY BOULEVARD (DENIED)**

Ms. Thiel stated in case **BOA-21-39**, 606 Willoughby Boulevard, United House of Prayer for All People of the Church on the Rock of the Apostolic Faith, requests a variance to allow a proposed fence located within 15 feet of a street right-of-way along Willoughby Boulevard and Hazel Lane to exceed the maximum 4 foot height requirement by 2 feet.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance Reference was Section 30-9-4.6(A): No fence or wall may exceed 4 feet in height within 15 feet of any public or private street right-of-way.

**Background and Site Information:** The subject lot is located on the north side of Willoughby Boulevard, west of Hazel Lane, and is zoned R-3 (Residential Single-Family). Tax records indicate the corner lot contains approximately 22,651 square feet and the house was constructed in 1980, the applicant proposes to install a 6 foot high fence near the front and side street property lines along Willoughby Boulevard and Hazel Lane, respectively, to provide safety and security. Because the fence will be located within 15 feet of the street right-of-way along both Willoughby Boulevard and Hazel Lane, a variance is required to allow the fence to exceed the maximum 4 foot height by 2 feet. Brick columns have already been constructed, and if the variance is approved, the applicant will continue with the fence installation.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans.

Chair Truby requested the applicants to provide their name/address for the record.

**Robert Dortch, applicant's attorney, 301 South McDowell Street, Suite 401, Charlotte**, stated that present were Juhann Waller, J.C. Waller Associates Engineering & Surveying; Jim Westmoreland, Westmoreland Strategic Enterprises; Brian Tucker, Church Elder; and Carol Guy Jackson, in-house counsel.

Chair Truby swore in the three non-attorneys for their testimony in this application.

**Jim Westmoreland, 1108 Mosby Road; Juhann Waller, 7-L Dundas Circle; Brian Tucker, 101 North Lake Drive, Lizella, GA.**

Chair Truby requested Mr. Dortch to proceed with his case.

**Robert Dortch** stated he had submitted a letter to the Board regarding BOA-21-39 at 606 Willoughby Boulevard, a variance request to allow a 6 foot high fence to be erected within 15 feet of a street right-of-way and was advised to read it into the record as evidence. Mr. Dortch represented the United House of Prayer for All People of the Church on the Rock of the Apostolic Faith. The church recently purchased a property located at 606 Willoughby Boulevard to be used as a parsonage. The church respectfully requests a variance of Land Development Ordinance Section 30-9-4.6(A), which prohibits fences and walls more than 4 feet in height to be constructed within 15 feet of any public or private street right-of-way. If permitted, the church would construct the wrought iron fence 6 feet in height adjacent to the public street right-of-way which would result in approximately 10 feet or greater of public right-of-way available for future public improvements such as a sidewalk meeting the current City of Greensboro standards as measured from the back of the curb. The church submitted its variance request on or about June 23, 2021. The basis for the church's request is as follows: (1) The church believes that the 6 foot fence is needed for safety and security. The 6 foot fence provides more safety and security than a shorter 4 foot fence. Installing a 6 foot fence 15 feet beyond the street right-of-way (i.e., closer to the home) would decrease the usable portion of the property. In addition to decreasing the usable portion of the property, a fence located 15 feet from behind the right-of-way would equate to the fencing being located approximately 25 feet behind the curbing which is not consistent with the existing character of the neighborhood. (2) Willoughby Boulevard is a minor thoroughfare. A 6 foot fence would be permitted within 15 feet of the street right-of-way if the house was oriented towards Hazel Lane. (3) Placing the 6 foot fence within 15 feet of the street right-of-way increases the useable footprint of the property. It also decreases the potential "public space" between the fence and the street, thereby increasing safety, and minimizing the use of the property outside the fence by pedestrians and their pets. (4) The hardship is not caused by the Church. The house was constructed in 1980 and was oriented towards Willoughby Boulevard. (5) A wrought iron fence with 2 foot by 2 foot brick columns set approximately 10 feet on center does not distract from the harmony of the neighborhood. There are several fences along the side and rear yards in the neighborhood. The house will remain visible. The use of a wrought iron fence will not create an enclosed "compound" effect. (6) A 6 foot fence should not create a safety issue for vehicles or pedestrians. Because the fence would be wrought iron, there will be lines of sight through the side yard fence on Hazel Lane, through the front yard fence onto Willoughby Boulevard and vice versa. Traffic on Willoughby in front of the property travels from southeast to northwest (left to right) and neither the fence nor the posts would restrict visibility for oncoming traffic.

Attached to the letter please find Exhibit A which is a rendering prepared by Mr. Waller showing how the property will look if the variance is granted. There is a semi-circle driveway that will have gates that open inward toward the house on the driveway entrance and exit. Exhibit B is a photograph of 400 Willoughby Boulevard with a front yard solid fence/column arrangement. Mr. Dortch advised that Mr. Waller, Mr. Westmoreland and Mr. Tucker were available to answer any questions regarding the project.

Chair Truby inquired if the Board members had questions for the applicant. Ms. Necas stated usually the request for a 6 foot fence instead of a 4 foot fence was because an applicant has a large dog on a property or smaller children, who are mostly less than 5 feet tall. Children and pets are some of the reasons for why it would be useful to have a 6 foot fence instead of a 4 foot fence that is allowed by the LDO. Mr. Dortch indicated that he thought the word used was pedestrians, not children. Ms. Necas advised the application says "for the safety of children and pets." The 4 foot height is considered acceptable in the LDO, and a 6 foot fence may be for a private yard, usually with large animals. Ms. Necas asked the applicant to provide justification for why the church needed to have 6 foot fence instead of 4 foot fence. Mr. Dortch responded it was closer to the street at the edge of the right-of-way, and that heavier traffic volume on Willoughby Boulevard was a justification. Mr. Dortch requested Mr. Tucker or Mr. Waller to add to what was said regarding the justification.

**Juhann Waller** stated a 6 foot high fence is allowed per the Ordinance, but it has to be 15 feet away from the right-of-way. If the house was oriented differently, the 6 foot fence could be within 15 feet of the public-right-of-way. The 6 foot high fence is allowed and they are asking for a variance request to place the fence closer to the public right-of-way. Mr. Ramsey asked what the security issue was in the application. Mr. Tucker responded the fence would provide security of the property and ensure no pedestrians, dogs, or any type of animal, would be able to jump over

the fence. A 4 foot fence versus a 6 foot would be easier to jump over. The fence was for security purposes. Mr. Oliver asked in the few months the Church has owned the property, if there were any security concerns, issues, or instances. Mr. Dortch stated the 6 foot fence request was the preference of the applicant. There will be times when the house will be used as a parsonage and times when the house will not be occupied. There was concern on behalf of the church of people coming and going. The added height of the fence would add to the security. Mr. Dortch could not answer the direct question if there have been security concerns and was unaware of any security concerns at this time. Mr. Waddell inquired if there was a traffic study done that looked at the height of the fence, the proximity to the road, and the effect it would have on traffic, especially with it being a corner lot. Mr. Waller responded there was no traffic concern. A traffic study was not needed. GDOT looked at the fence issue and it did not cause a sight distance or a safety issue because Willoughby Boulevard was a one-way street and traffic is traveling north. There would be no need to look north or to the right from that intersection because the traffic would be coming from the left, but the fence would still allow vision of the right as it has pickets that could be looked through. The line of sight would be maintained.

Chair Truby inquired if there were any other questions from Board members. Seeing none, he asked if there was anyone else wishing to speak in support of the request. Seeing none, Chair Truby inquired if there was anyone else wishing to speak in opposition of the request. Chair Truby requested the first speaker to come forward and provide their name/address for the record. Chair Truby swore in Bob Payne for his testimony in this application.

**Bob Payne, 3311 Wynnewood Drive**, stated the white house with the fence on Willoughby Boulevard showed an entrance to their driveway. There was not a fence in place totally surrounding the property. There are numerous homes with that type of entrance. Mr. Payne stated security provided by 4 foot fence vs. 6 foot fence was primarily for dogs. There has never been a problem with security in this neighborhood. If there is concern regarding people breaking-in whether someone is present in the house or not, there are good security systems and the Greensboro Police Department is really good answering calls. If there is an alarm system, the police are there very quickly. Mr. Payne did not understand why 2 feet would make such a big difference. The fence would be larger than any other homes in the neighborhood. There was no one else who has their complete property surrounded by a fence. Mr. Payne urged the Board to vote against this request.

Chair Truby inquired if there were any questions from the Board for Mr. Payne. Chair Truby moved on to the next speaker. Chair Truby swore in Rodney Hazel for his testimony in this application.

**Rodney Hazel, 3030 Redford Drive**, agreed with Mr. Payne. The house shown was an entrance way. Mr. Hazel was unsure what type of security concerns there were that required a 6 foot fence. It was mentioned if the house was oriented differently. Mr. Payne measured and the fence coming off of Hazel Lane, at some points was 8-12 feet from the street and did not fall into the 15 foot area mentioned. As a real estate person familiar with deeds, the deed stated this property was the primary residence of the owner. The owner is a church, and Mr. Hazel was unsure if this was the primary or temporary home. Mr. Payne urged the Board to vote no on this fence. The fence is not conducive to the neighborhood.

Chair Truby inquired if there were any questions from the Board for Mr. Hazel. Chair Truby moved on to the next speaker. Chair Truby swore in Katie Poole for her testimony in this application.

**Katie Poole, 501 Willoughby Boulevard**, also agreed with both Mr. Payne and Mr. Hazel. Ms. Poole stated she has children that roam this neighborhood. Anytime there is a variance request that requested for security purposes, it immediately raises a red flag for her. Ms. Poole did not understand why a wrought iron 6 foot fence would be that much more secure than a 4 foot fence. It is not conducive to this neighborhood. Ms. Poole was aware that this house would not be occupied full-time which brings another element of security concern in not having someone at the house. These security issues have everyone nervous about the variance request. Ms. Poole urged the Board to vote against the request.

Chair Truby stated the next speaker was Todd Munsey. Chair Truby swore in Todd Munsey for his testimony in this application.

**Todd Munsey, 3005 Lake Forest Drive**, stated as an 18-year resident of New Irving Park, he could unequivocally state this request does not fit the neighborhood aesthetics and character. Photos submitted by Mr. Dortch were very skewed in angle and are not representative of the actual columns that are already in place. Mr. Munsey had concerns in not seeing any type of permits visible outside of 606 Willoughby Boulevard. It was Mr. Munsey's understanding the City of Greensboro's ordinances require building to take place during 8:00 a.m. to 5:00 p.m., Monday through Friday. This house has been worked on from sun-up to sun-down, 7 days a week. Mr. Munsey

appreciated the aesthetic value that is being brought in, but had dire concerns about the house. Numerous people have brought up the issue of security, dogs, kids, etc. This house will not be used with dogs and children. With all due respect, the resident would be at the house three to five times a year. The security issues raise a big red flag for him. Mr. Munsey asked the Board to vote no on this for a man who will visit the home 3 to 5 times a year. The house has been there for 40 years. If security was a big concern with the location of the house and the way it faces, he asked why it was purchased. Mr. Dortch just described Willoughby Boulevard as heavy traffic. It is the major thoroughfare through New Irving Park. There is no way Willoughby Boulevard could be considered a minor thoroughfare. It is the most heavily traveled street in this neighborhood. When schools are in session, there will be buses and hundreds of parents in cars driving their children and dropping them off at school. Mr. Munsey had security concerns. There are 8 visible security cameras outside the home, and he has been told there were numerous security cameras inside the home, as well. There is no concern for dogs or children or anything else, this is only a stepping stone to overdo an ordinance that is in place for a reason. This house does not fit the neighborhood aesthetics and character that he loves.

Chair Truby stated the next speaker in opposition was William Watson. Chair Truby asked that new information could be provided in the presentation. Chair Truby swore in William Watson for his testimony in this application.

**William Watson, 3515 Waldron Drive**, stated allowing this proposed fence located within 15 feet of the street right-of-way along Willoughby Boulevard and Hazel Lane would exceed the maximum 4 foot height requirement. Mr. Watson has lived in this neighborhood for over 20 years and grew up in the Kirkwood neighborhood. This area is a safe, family-friendly neighborhood. Mr. Watson stated his opposition to the variance request was due to his belief that such a tall barrier in such close proximity to the streets would not be in keeping with the safety and character of the neighborhood. As a neighborhood street with a 35-mph speed limit, Willoughby Boulevard currently poses a great threat to neighborhood safety and could not be considered a minor thoroughfare. There is a lot of through traffic between Elm Street and Pisgah Church Road. Cars regularly speed in excess of 50 mph. Wrecks are not uncommon on Willoughby Boulevard. It's a divided road, but on the north end there are confused drivers traveling southbound in the northbound lane before realizing their mistake. This busy, confusing and sometimes abused road does not get the level of police patrol for unsafe motorists that many area residents believe that it should. The location of a tall fence or barrier as proposed on the property of 606 Willoughby Boulevard would further diminish the character of Willoughby Boulevard as a residential street and potentially pose a further threat to the safety of pedestrians, motorists, and homeowners in the area. Lines of sight would be impeded along Hazel Lane against potential errant southbound traffic. Mr. Watson took issue with the fact that there would be no worry about traffic coming from the right or the north. Willoughby Boulevard would have to further take on the appearance of an intra-city thoroughfare, rather than the residential street it was intended and expected to be by neighborhood homeowners.

Mr. Barkdull asked if there was a Homeowners Association related to this property. Mr. Watson advised there was not an HOA. Chair Truby inquired if there was anyone else that wishes to speak in opposition of the request. Chair Truby requested for them to state their name/address for the record. He swore in Teresa Schiffman for her testimony in this application.

**Teresa Schiffman, 3702 Hazel Lane**, stated that Exhibit 3 showed turning right, but does not show the view from the vehicle at the stop sign. The stop sign is 2 feet behind the brick columns. The sign pole shown in the other Exhibit 3 is 10 feet behind the wall. A person would be unable to see walkers/bicyclists going down Willoughby Boulevard towards Waldron Drive. There was a photograph submitted that showed the obstruction of the view. Ms. Schiffman advised she had to pull her car up into the street about 2-3 feet before she could see past the columns. The columns do have an effect at an angle and block the view when there are runners/bikers. Children need to look right and left because cars do go the wrong way. Ms. Schiffman has lived in the neighborhood for 29 years and has seen numerous wrecks. This compound is not cohesive with their neighborhood. The columns are 6.0833 in height and that is without the top finial that will add additional height above 6 feet. Everyone lives here 365 days a year and would prefer not to look at a compound. Willoughby Boulevard is a very busy street, active with people, school, cars, animals, runners, bicyclists. A 6 foot wall will prohibit residents coming down Hazel Lane to the right. In all the time Ms. Schiffman has lived here, twice a month she has witnessed a vehicle going the wrong way. At the stop sign where the grading is done, all the mud washes into the street every time it rains. Willoughby Boulevard will get busier. When the apartments are built on Cone Boulevard, Waldron Drive will be used as a shortcut, cut-through to Willoughby Boulevard to get to Pisgah Church Road. In order to take the pictures, Ms. Schiffman does not feel this home fits within the neighborhood and a 6 foot fence is not worth it for someone staying there 4 times a year

and creating more controversy. Ms. Schiffman did not agree with the building of the posts and the fence because it is 10 feet in front of the stop sign.

Chair Truby advised that Ashley Bender was the next speaker. Ms. Bender advised she was an attorney, but was present in her personal capacity. Chair Truby swore Ms. Bender for her testimony in this application.

**Ashley Bender, 2 Waldron Court**, stated she has lived in this neighborhood for 4 years and from a legal perspective agreed the case is whether this variance should be permitted or not. It is the burden of the homeowner to prove this should be permitted and the specific reasons why it should be permitted. Ms. Bender heard all of the testimony and failed to hear from the resident's attorney, the builder or the church representative any specific factual reason as to why the fence was needed. The owners have cited children and animals inside the fence, but have not actually stated that any children or animals will use the property. Security concerns have been stated, but the applicant failed to cite any security or crime statistics that could be in support. The rule of the 4 foot fence is for a reason. It is because this neighborhood is residential and a 4 foot is appropriate for a residential home. The builder stated if the house was facing a different direction, this would be permitted. It is not facing a different direction, but is facing front to Willoughby Boulevard and is not permitted. A variance could be granted, but Ms. Bender had not heard an articulated reason as to why it is supported.

Chair Truby asked Michelle Lasley to speak next. Chair Truby swore in Michelle Lasley for her testimony in this application.

**Michelle Lasley, 3303 Waldron Drive**, stated she understood the aesthetics but was more concerned as a mother of the safety of children who ride their bikes and walk the other way on the street. It is a one-way street where people look to their left, and a ton of children on bikes, scooters, and walking coming from the right. Her fear is the fence will obstruct the view from people who typically are looking for cars and only briefly look the other way and that a child will be hit at that intersection due to the fence. There is a children's park three houses down and children would be walking against traffic, but a car at that intersection may not see them coming from the right. Ms. Lasley stated she is concerned as mother that there could be a devastating accident with a 6 foot high fence on that corner.

Chair Truby asked if there was anyone else wishing to speak in opposition that had anything new to add. Seeing none, Chair Truby moved to the rebuttal and gave the applicant 5 minutes, if they so choose.

**Juhann Waller**, stated based on the testimony of the opponents, Willoughby Boulevard is a busy street classified as a major thoroughfare by the City of Greensboro plan. The Greensboro Department of Transportation has looked at the intersection of Hazel Lane and Willoughby Boulevard and concluded there is no sight distance issue for pedestrians or vehicles at that intersection. The fence would not be right behind the curve, it will be anywhere from 10-11 feet behind the curb providing ample sight distance to see any pedestrians crossing Hazel Lane. There are several security incidents that were reported in the neighborhood. The 500 block on Willoughby Boulevard had a motor vehicle break-in on 4-27-2021. There was a burglary on 4-28-2021 at 3900 Hazel Lane. There have been incidents within the particular neighborhood, and the church felt they needed to have additional security. This is not a compound. The house will be visible from the street and will have the wrought iron fencing for security for both the occupants as well as the general public. There are a lot of dogs that walk in the neighborhood that have defecated in the applicant's yard. The house will be a parsonage and not occupied 365 days a year; that's why they were requesting the fence. They can do a 6 foot high fence, but it has to be beyond the 15 feet of the right-of-way.

Chair Truby inquired if the applicant made attempts to reach out to the neighbors. Mr. Dortch responded his firm did not. Mr. Waller advised the applicant did not know there was this much opposition over a fence. This is not the first time this particular type of case has come before the Board of Adjustment. Chair Truby responded most of the cases before the Board, applicants reach out to the property owners to at least have preliminary discussions with them about what the proposal is and why. Chair Truby was just curious on why that was not done. Chair Truby asked if any Board members had questions for the applicant. Seeing none, Chair Truby advised the opposition would have 5 minutes of rebuttal. Chair Truby asked if there was anyone who wished to speak.

**Todd Munsey**, stated the applicant went ahead and built the columns with the assumption that it would be favored by the Board, without any input from any neighbors. All of the columns are in place and are not respective to the pictures shown by Mr. Dortch. There are many more columns than shown. It was thought this would be a slam dunk and it is not. It does not fit within their neighborhood. Security breaches with car break-ins were mentioned. That is all over the city. This house has a garage. No one has broken into homes. If you leave your car unlocked, it will probably be broken into. If no one is living there and no cars in the yard, Mr. Munsey did not understand how that could be a security breach.

**Rodney Hazel**, asked what kind of person needs so much security that they have to have a 2 foot extension fence to feel secure and sound.

Chair Truby inquired if there were any further comments. Seeing none, Chair Truby closed the public hearing and moved into Board Discussion.

### **DISCUSSION:**

Mr. Waddell asked if the columns are considered as part of the fence and this was voted unfavorably, would then have to be brought down to the 4 foot height. Mr. Kirkman responded they would be considered part of the fence. Permits are not required for fences and there isn't a permitting process. A fence is required to have a permit if it has a solid concrete foundation and is above 6 feet high, like commercial fences, that come into play through building inspections. If the Board does say they cannot support the increased height, then the fence structure would need to be relocated or reduced in height in its current location. Columns can be up to 18 inches above the height of the fence. Mr. Kirkman advised in the ordinance it states "fences and walls are allowed to encroach into building setbacks." There is a relationship of height as part of that ordinance, but fences are allowed to encroach the setbacks and move closer to the roadway under the ordinance. Mr. Oliver asked if the letter received from Mr. Phillips was placed into evidence. Mr. Kirkman stated it had not been and needed to be part of the record. Mr. Phillips could not attend the meeting and requested staff to enter his comments into the record. Ms. Thiel read the letter into the record. The letter was addressed to Chuck Truby, Chair of the Board of Adjustment.

Dear Mr. Truby and Board members, because I am not in town on July 26 and cannot attend your public hearing that day, I am writing to state my opposition to this requested variance. I am a resident of the New Irving Park subdivision where the subject property is located. I drive by it nearly every day, so I know it well. Willoughby Boulevard is a beautiful street with well-maintained homes set back from the street in accordance with zoning regulations and the applicable restrictive covenants. No one that I know of has complained that the area is insecure or that any of the homes there need to be protected by high solid brick walls built close to the street, as the applicant has requested for its property. Therefore, I ask you to please deny the application. Here are the reasons I respectively suggest you consider: (1) There is no security or safety issue to be solved. The applicant asks to be allowed to install a 6-foot high solid brick wall built closer to the street than the zoning allows "for safety and security." There is, however, no safety or security issue. The neighborhood is safe and secure now. Walled, gated compounds are simply not needed on Willoughby Boulevard or elsewhere in the neighborhood. (2) There are no unnecessary hardships. Other homeowners, including those with corner lots, have complied with the existing zoning requirements without any problems or the need of any exceptions. There is nothing unique about the subject property. There are no "unnecessary hardships" associated with it. Indeed, the applicant's only attempt at showing hardship is the claim that the existing zoning would somehow reduce the usability of the largest green space on the property for children and pets. That is not correct. Everyone else in the neighborhood and throughout the neighborhood enjoys their front and side yards and all are subject to the same setback and fence requirements. There is simply no "hardship" to be addressed here. To allow an exception would be to, in effect, void the zoning regulations for the entire street and the entire neighborhood. Please don't do that. (3) The applicant knew, or was responsible for knowing, what the zoning regulations were when it bought the property. It is not unfair to hold the applicant to the zoning regulations that existed when it recently purchased this property. The restrictions on fences were known before the purchase was made in April of this year. Deed is dated 04/07/2021. (4) The zoning regulations have not changed, and the neighborhood has not changed since the applicant bought the property. This is not a case where a new regulation has been passed since the property was purchased and it is not a case where the neighborhood has changed since the property was purchased in April of this year. (5) The proposed brick wall is out of character with the rest of the neighborhood. Any investigation will show that the proposed solid brick wall the applicant proposes is out of character with the neighborhood. (6) The proposed wall would reduce the open feel and visible green space in the neighborhood. Willoughby Boulevard is an outstanding example of what open, visible green space can do to enhance a neighborhood and the property values of all the homes in it. Please don't take that away. (7) The proposed brick wall would create safety hazards. By reducing the space between the street and the brick wall, drivers along Willoughby Boulevard would have less time to see and react to cars, children or pets coming out from the gated brick walls at the applicant's property to enter Willoughby Boulevard. Imagine a child darting out from the subject property onto Willoughby Boulevard if the 6 foot brick wall were allowed to be built closer to the street, as the applicant requests. Another safety hazard would be to the Greensboro fire, rescue, and police departments who would have less space to set up ad work at the property and who would have reduced visibility into the property if these high solid brick walls built close to the street were allowed as the applicant proposes. (8) The existing

residence has been on the property, without a wall surrounding it, since 1980. The existing house is in character with the rest of the neighborhood. To allow it to be surrounded and obscured by a 6 foot brick wall, built close to the street, would alter the character, appeal, and property values of the neighborhood. The applicant's proposal would convert 606 Willoughby Boulevard into an unwelcoming, intrusive walled compound. Please don't allow that.

For these reasons, I respectfully ask that this application be denied. Sincerely Reid L. Philips.

Chair Truby stated if the applicant had reached out to the neighborhood, the neighbors would have known it was not a solid wall, but a fence. Chair Truby wanted to be clear on that as Mr. Phillips thought it was going to be a solid 6 foot high wall. Chair Truby inquired if there was any other Board discussion. Mr. Savoy asked if they moved the fence back, could they still have the 6 foot fence. Chair Truby responded yes, if it was 15 feet off the right of way, it could be a 6 foot high fence. Mr. Savoy stated it appeared everyone was saying their neighborhood was exempt from crime. Saying there was no crime in the neighborhood, doesn't mean that it won't happen. Chair Truby felt Ms. Bender said it best that the applicant really has not provided enough, in his opinion, to approve a variance. They want to place a 6 foot high fence because they want to put a 6 foot high fence. If security was an issue, they could probably put the 6 foot high fence 15 feet off the right-of-way. Chair Truby was not in support of this request. Chair Truby inquired if there were any other discussion from Board members or a motion. Mr. Oliver agreed that the applicant could either build a 4 foot fence or they could put it back where it belongs and can have the fence they want. Mr. Ramsey stated it was clear to him that it was not in harmony and general intent of the ordinance because it clearly would be the only thing on Willoughby Boulevard that will have some disruptive elements to it. If they do want a 6 foot fence, they can place it back 15 feet and then everyone can deal with it, because that is their entitlement without obtaining a variance. Ms. Necas stated when the Board is inclined towards a denial that it was always better to write an approval and have the Board deny it. Ms. Necas felt it was safer to approve the request and deny the approval than to do a denial and have it fail because there would be no results. Mr. Andrews advised whatever decision was made, to keep it along the lines of the parameters of the LDO language, which is contained in the motion. Ms. Necas' statement was more along the lines of defensibility in the event of litigation. Clarity needs to be provided for the next level of review which would be Guilford County Superior Court. Whatever choice is made, that choice needs to be supported by articulation. Mr. Andrews understood the point that Ms. Necas made, but it is the decision of whoever offers the motion and how the Board reacts to that motion. That person would need to decide which way to go, approval or denial, but the vote count determines the result. It is not so much about defensibility, but the Board does want to provide clarity in the articulation of the rationale for whatever decision is made. Chair Truby stated there was a similar case where the way the topography was and the landscaping, the fence could not be put further back. In looking at the pictures related to this case, there was nothing to prevent the fence from being further back. Mr. Ramsey advised he had a motion.

#### **MOTION:**

Mr. Ramsey moved that in BOA-21-39, 606 Willoughby Boulevard, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance be granted based on the following: (1) If the applicant complies with provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because it will reduce the useable area of the applicant's lot/yard and increase yard maintenance from pet waste and pedestrian traffic. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because of the unique orientation of the house on the lot such as it faces Willoughby Boulevard. (3) The hardship is not the result of the applicant's own actions because the house and garage were oriented in the location prior to the applicant's purchase of the property. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because fences are not uncommon and back inside yards of lots in this neighborhood. The line of sight will not be restricted for traffic coming north on Willoughby and thus there are no traffic safety issues as found by GDOT. Seconded by Waddell. The Board voted 7-0 against the motion. (Ayes: 0. Nays: Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull). Chair Truby stated the application failed unanimously, so the variance is denied.

#### **SPECIAL EXCEPTION**

##### **BOA-21-40: 913 SILVER AVENUE (DENIED)**

Ms. Thiel stated in case **BOA-21-40**, 913 Silver Avenue, Samuel Moore and Tamika Davis-Moore request a special exception to allow a proposed family care home to be 242 feet from another family care home located at 907 Dillard Street.

Evidence provided by the applicants included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance Reference was Section 30-8-10.1(B)(1): No new family care home maybe located within one-half mile of an existing family care home, unless a Special Exception is granted by the Board of Adjustment for a reduced separation.

**Background and Site Information:** The subject lot is located on the east side of Silver Avenue, south of Haywood Street, and is zoned RM-12 (Residential Multifamily). Tax records indicate the lot contains approximately 7,841 square feet, and the house was constructed in 1925. The applicant wishes to establish a family care home at the subject property, which is located within 1/2 mile of one other existing facility. A family care home, Mercy Home Services II, operates at 907 Dillard Street, which is 242 feet away. To approve a special exception for a reduced separation, the Board of Adjustment must find that a reduced separation will not promote the clustering of homes which could lead the resident persons to cloister themselves and not interact with other members of the community.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans.

Chair Truby requested the applicants to come forward and state their name/address for the record.

**Britton Lewis, Carruthers & Roth, 235 N. Edgeworth Street,** advised that Mr. & Mrs. Moore were present for Bridge Haven, LLC.

Chair Truby asked the applicants to state their name/address. Mr. and Mrs. Moore were sworn in for their testimony in this case.

**Tamika Davis-Moore and Samuel Moore, 3701 Longmore Lane, Kannapolis.**

**Britton Lewis,** represented Bridge Haven, LLC, which operates transitional housing facilities with the mission of reintegrating formally incarcerated individuals back into the community. Mr. and Mrs. Moore were present seeking a special exception from an ordinance that provides that no new family care facility can be located within 1/2 mile of an existing family home care facility. The property acquired by the Moores is currently located approximately one street over from an existing family care facility, which is the reason they were before the Board. Their understanding was the other facility serves an elderly and disabled population, whereas they are here today seeking permission to operate a facility that will help to reintegrate formerly incarcerated individuals. The Board is charged with granting special exceptions when the reduced separation will not promote clustering of homes such that a neighborhood's demeanor is overcome by having these group homes incorporated therein. When there are instances where having too many group homes located together, it may cause the residents of those family care facilities to cloister inside and not be involved in the community. That is not what was being looked at this meeting. This property is located in the Glenwood Neighborhood, a dense and diverse neighborhood with a good mix of tenants and homeowners occupying their homes. It is conveniently located close to UNCG and to a lot of services that would benefit these residents. This property would allow the residents to engage in the community, not to cloister and only interact with themselves and people live in other group home facilities. This is the right place. The applicants are very passionate and have a good reputation for doing this business. Mr. Lewis advised letters were sent to all of the neighbors and the applicants welcomed anyone that came to the property to meet with them where refreshments were served. The Moores engaged for several hours with the community and heard the neighborhood concerns. The applicants expressed why the people were reintegrating into a community and the need for a place to do it. Mr. Lewis stated this is a location that is close, convenient, and walkable. There is not a lot of that in Greensboro. This was a case where the location alone justifies granting a special exception because of the convenience and the nature of the property described. The Moores' reputation and experience justify granting the special exception. Most importantly, it is because the standard would not be unable to be overcome. This will not be a situation where people that served time in prison are clustered together with people that are disabled and retired. It is two different groups of people. The analysis does not line up the same because these homes are located two streets apart and people in this home would only interact with one another. Mr. Lewis asked the Moores to speak to how they would describe their business model and what they do on a daily basis.

**Samuel Moore,** stated their team, Bridge Haven, LLC, consists of a CEO, CFO, and a Program Manager that carries out the established program, along with case managers that identify the needs and the desires the men and women have when they are returned to the community or come home. There are individuals who obtain their State ID, Social Security cards, birth certificates, and other identifiers needed when seeking employment. There was a facilitator for moral recognition therapy with individuals in a group setting. Bridge Haven is the bridge to where they are going. There have been successes over the past three years. The state has identified the need in the Triad

area. There are a lot of men that are placed in their other residential facilities in Charlotte that lived in the High Point, Greensboro area. They were asked to consider opening a house in the Greensboro area and are looking to continue their efforts in being pillars of the community and a beacon of hope for those served. Bridge Haven is hands on with the men and know that they are cared about and understand the hardship returning from incarceration. Housing and gainful employment are two of the main factors that help to reduce recidivism. Bridge Haven is the voice of the unheard and take pride in who they serve.

Chair Truby inquired if there were questions for the applicants or their attorney. Mr. Ramsey asked how many clients would be in the house at given time. Mr. Moore responded there would be a maximum of 6 clients in the house at any given time, who would stay a maximum of 90 days. There are extensions that could be granted. From the first day of orientation, a plan is in place. Mr. Ramsey asked if there was vetting for who is in the house as far as non-violent offenders or do they take who is assigned. Mr. Moore responded that facility is involved with the vetting process and is approved for transitional housing upon release Residents would need to participate in certain programs and cannot commit X amount of infractions while incarcerated, and there are certain levels of sex offenders that are granted participation in the program. When Bridge Haven receives the individual, there is an orientation process. Bridge Haven does not accept just anyone. Bridge Haven wants to give everyone an opportunity, but that opportunity has to be earned. Mr. Ramsey asked if there was a sex offender in the group, would neighbors would be notified. Mr. Moore responded the offender would be required to register by law and are placed on the sex offender registry, which is public record. Bridge Haven is not required to inform their neighbors, but shared with the community at the meeting on July 20th that when a sex offender is assigned to Bridge Haven, it will be known to the residents. Bridge Haven is aware of a heightened resident concerns when there is a sex offender within the community. Bridge Haven understands their concerns and opinions and agreed to provide notification. Chair Truby inquired if there were any further questions for the applicants from the Board. Mr. Oliver asked if Bridge Haven owned the home or was it being leased. Ms. Moore responded they own the home.

Chair Truby inquired if there were any further questions for the applicants. Mr. Barkdull asked if the clientele that would be in the house originally came from Greensborod. Mr. Moore responded they could be from Greensboro. The prison system tries to place them in the proximity of where they lived. It could be Greensboro, Winston Salem, High Point or Charlotte. Chair Truby inquired if there were any other questions for the applicants. Seeing none, Chair Truby asked if the applicant's presentation was complete. Mr. Lewis advised there were some points he would like for the Moores to address.

**Britton Lewis**, asked how Bridge Haven business was different from Mercy Home Services. Ms. Moore responded their business assists formally incarcerated individuals to reintegrate. Mercy Home Services provide services to the aging community and the majority of their clients may have some form of disability. Bridge Haven is attempting to rehab their clients. The two are completely different. Mr. Lewis asked how Bridge Haven felt as a result of meeting with the community, as it related to the fears of the impact of a group home on the community versus their experience. He asked what Bridge Haven's experience has been with other properties. Mr. Moore responded they realized from the meeting that there were a lot of misconceptions or mis-education when it comes to someone formally incarcerated. The Moores were able to educate the neighbors about who was being returned to the community and who they wanted to house. Bridge Haven has had success with the men returning home. Several had obtained CDLs and some have wanted to open similar homes. They shared with the neighbors that there have been no issues regarding luring children to the home or breaking into cars or homes, or causing any havoc at all thus far. It has been a positive experience with the men returning to the community. There were two or three men that offered their landscaping services to neighbors at no cost and did so out of the kindness of their heart. Mr. Moore felt that brought value to the neighborhood by integrating themselves positively into the neighborhood. Ms. Moore added that they would be going into the home. That is the difference between their home and any other home that may be similar. The men will see them coming in and hear them asking what do you need today or how can we help you. That gives more value to the belief that they can reintegrate and be successful. Bridge Haven has 8 houses in Charlotte and are the key partners for re-entry programs. The key partners are federal and state parole officers who call Bridge Haven personally to place their parolees with them because they know that the Moores do not just operate behind a desk. That is the difference. When men and women come out of the prison system, they have barriers. Bridge Haven's goal is to break down the barriers before they are caught inside that barriers and sent back to prison. Bridge Haven's goal is to reduce the recidivism, which can only be done by showing them their passion is real. The Moores have not needed to call the police due to disturbing the neighborhood. Their neighbors support what they are doing because they see the Moores every other day coming to their houses. Mr. Moore

advised that neighbors at the meeting wanted to partner with them and share some recidivism ideas. This is the perfect neighborhood as there are people who want to be a part of this. There was opposition and they are trying to educate the neighbors in regards to Bridge Haven's goals. Mr. Oliver asked what did the names on Exhibit B mean. Mr. Moore responded Bridge Haven is required to reach out to the nine residents or homeowners within a 150 foot radius. Mr. Moore believed they spoke to 20-25 individuals in the community. The letter was sent out to those 9 or 12 names and posted on the neighborhood Facebook page. Mr. Moore was unaware if all 9 of those names received the letter, as they did not all attend the meeting. After the letters were sent out, they went door to door introducing themselves. They received a letter of support and one in opposition. Mr. Ramsey asked if this home would be staffed 24-7 by someone from the organization. Mr. Moore responded they have staff. There would be three individuals working 8 hour shifts and two individuals working a 12 hour shifts. Ms. Necas asked how great the need was for a home like this in Greensboro. Ms. Moore responded the need was there. The state asked an organization to open up a home in the Triad area. Bridge Haven applied because they know the successes they have and the caring put into what they do to reintegrate their men. Mr. Savoy asked who had the final authorization as to who would be allowed into the home. Mr. Moore responded that they do. Individuals are assigned to them and they have the final say, much like a job interview. Mr. Lewis asked the Moores if they had any tangible plans on how they would reintegrate the residents, if there were job prospects and where those prospects were in proximity to this house. Ms. Moore stated there were a lot of resources in close proximity to Silver Street, such as Goodwill and a church that provides AA/recovery classes. A technical school is also close for when they are ready to obtain their GEDs. As long as residents are able to find jobs and have a stable housing situation, they are then prepared to move out on their own. Without the resources and accessibility to resources, recidivism would increase. The goal is to decrease recidivism and with all of the accessibility and facilities in this area, the men can succeed. At the meeting, the Moores learned about the individuals living in Glenwood who have a lot of resources and passion that would help their men sustain and retain positivity within the community. Mr. Barkdull inquired if there were follow along services after the men leave their home. Ms. Moore responded many of their clients call frequently to check in and let them know everything is going well. Bridge Haven does check in with them for a period of 6 months ensuring they have everything they may need. Mr. Waddell asked if the 60 days was the average or does it normally have an additional 30-day extension. Mr. Waddell felt 60 days was a short timeframe and it would take longer to become acclimated. Mr. Moore responded it generally takes 30 days to get things in place to where they can put their feet on the ground pointed in the right direction. Mr. Moore felt 90 days was not enough time and felt 120 days would be enough time. Generally, the 120 days is the maximum because the next individuals are right behind them needing a place to go. The 120 days is mandated in the program and is obligated in their contracts. Mr. Moore explained more regarding the program and the house rules. Most of the men follow the rules because they have lived on the streets or shelters before and do not want to go back to those. Chair Truby inquired if Mr. Lewis had anything else. Mr. Lewis urged the Board to consider what was just heard. Clearly the answer was Bridge Haven would reinvigorate the community, and the facts spoke for themselves.

Chair Truby moved to opposition. Attorney Don Vaughn advised that Savannah Slate and Rosie Burkchart live within 20-30 feet of this property and were with him for this meeting. Chair Truby asked the speakers to provide their name/address for the record. He swore in the speakers, Savannah Slate and Rosie Butchart for their testimony in this application.

**Don Vaughn, 612 W. Friendly Avenue**, stated he was representing many people opposed to this request that live in very close proximity. The two ladies present live within 20-30 feet of the house. The application is not what the ordinance recommends. The applicants request 242 feet to another family home when 2,640 feet is required. It was stated there were many folks at the meeting. Those people were in very strong opposition to the request. The Board has to find "the variance is in harmony with the general purpose and intent and preserves the spirit of the Ordinance." This does not. "The granting of the variance assures the public safety and welfare and does substantial justice." This does not. Mr. Vaughn stated this is not the right place and not a good fit. There have been at least 25-30 people holding on to this particular call in opposition to this request.

**Savannah Slate, 915 Silver Avenue**, lives in the house directly beside the proposed halfway house with her partner and her 5-year-old daughter. The neighborhood is diverse and includes a large number of children and young families. A large amount of progress has been made that is rewarding and welcome. Ms. Slate currently felt safe letting her child play outside and ride her bike. Inviting people with violent pasts and dangerous habits will lessen the comfortability in the community. The neighborhood does not need more violence, drugs, or other criminal activities in their safe space. There are enough group homes such as the one behind her home. Ms. Slate was not

okay with unknown sexual predators living next door. It was hard to believe this business was owned by people who are not residents of Greensboro or Glenwood. They live in Kannapolis and do not reside at 913 Silver Avenue and have no plans to. There has been very little information regarding this business online and therefore have no reputation. This is about money and is putting families in danger. This is their community, their home, and they deserve safe living there. None of the neighbors want this.

**Roseann Butchart, 915 Silver Avenue**, stated she also lives next to the house in question that is 23 feet away. Their windows look directly into their house and is very close. Having adult men in the neighborhood would put children and women in danger. Their swing for their daughter is 10 feet from where they would be smoking in the back on the patio. That is not okay. They do not want sexual predators that close to their house. The unpredictability of the offenders is alarming. Ms. Butchart has put a lot of time, money and effort into restoring her 100-year-old home in Glenwood. They love living there and want the neighborhood to keep its value

**Don Vaughn** stated there was a lot the proponents left unsaid. There would be 6 people living there. He asked where parking spaces would be provided on Silver Avenue. The neighbors are absolutely opposed to this request. They have lived in the Silver Avenue area for many years. Mr. Vaughn asked the rest of the opposition to speak.

Chair Truby requested Ms. Lenk to state her name/address for the record. Chair Truby swore in Ms. Lenk for her testimony in this application.

**Nancy Lenk, 1005 S. Josephine Boyd Street, Greensboro**, stated Glenwood is probably the most diverse area of the City and a very welcoming neighborhood. Ms. Lenk advised the issue with this proposal is that it was in violation of the City Ordinance claiming that family care homes cannot be located within 1/2 mile of each other. The proposed home is almost right on top of another family care home on Dillard Street, a little over 200 feet away. That should cause the Board to determine that 913 Silver Avenue is not a good fit or a location for another group home with a revolving door of six unrelated male adults. The halfway house for formerly incarcerated individuals includes a revolving door every 90 days. The Glenwood neighborhood is .561 square miles with a population of approximately 2000. The population density is over 1000 more people per square mile than the rest of the City. Density is a consideration in determining how many family care homes should be permitted in their small, but dense area. Oxford House Spartan, a sober group home on Glenwood Avenue is 0.4 miles from 913 Silver Avenue. This would be a violation of the City Ordinance if they are allowed to place this proposed halfway house on Silver Avenue. Oxford House has two additional homes on Oak Street, and S. Josephine Boyd Street. Friends of Bill Recovery is located at 1105 Lexington Avenue, 0.5 mile from Silver Avenue and has three registered sex offenders living there. At 930 Glenwood Avenue, there is a group home of 5 or 6 registered offenders living together, which is 0.6 mile from 913 Silver Avenue. Friends of Bill Recovery also has additional homes on Highland Avenue, 0.7 mile away, and Florida Street, 1.8 miles away. There are 22 registered sex offenders close to 913 Silver Avenue, 2 on Dillard Street, 0.2 mile away, 2 on Haywood Street, 0.2 mile away and another on Highland Avenue, 0.4 mile away. Ms. Lenk did not know of any problems created by the individuals currently living in the neighborhood. Her point was the intent of the original ordinance separating people by at least half a mile was for people in the group homes to learn how to be part of the community and not spend time a lot of time with others who have similar struggles. Making an exception to the ordinance now will open the door to more halfway homes in the future when there are already enough. No one is complaining about them. The Glenwood neighborhood has more than its fair share and they should not be crowded together in one neighborhood for those trying to remain sober, drug free, or crime free. People shouldn't be tempted by putting them closer and closer together. Glenwood has affordable homes, but that does not mean people should take advantage of their neighborhood when families are trying to raise children who feel safe playing together in nearby parks or on the street. Glenwood accepts those who live here, but did not know what type of sex offenders would be rotating in and out of 913 Silver Avenue. It is too close, too many and too tempting. This proposal is in violation of the City ordinance at least twice as related to Dillard Street and Glenwood Avenue. The ordinance was established for a reason, so follow the ordinance since it is the local law. Deny the exception and consider the intent of the original ordinance. The house at 913 Silver Avenue is 1200 square feet. Putting seven unrelated adult men in three bedrooms, along with a house manager, in a house that small with one bathroom is a prescription for problems. There's not enough room in the house and people will be outside. Silver Avenue has improved. There is a lot of pride in the neighborhood and people know each other. This would be going backward and there is no need to have more of these types of houses.

Chair Truby asked Mr. Oppegaard to state his name/address for the record. Chair Truby swore in Mr. Oppegaard for his testimony in this application.

**John Oppegaard, 909 Highland Avenue**, advised that he lived approximately two blocks from the proposed house. The proposed location is in violation of the city ordinance that was put in place for good reason. There are many diverse people in the neighborhood that care about living there and keep their property nice. The population of the proposed location was a maximum of 6 plus 1 full-time employee. The intent of the city ordinance was to protect the residents of Glenwood from being peppered with these group homes. The proposed half mile radius is a good idea to protect the property values of the neighborhood and the residents. The revolving door with a 3-month terminus of the lease for the proposed tenants is not enough time for them to integrate into the community and fully value what Glenwood has. Mr. Oppegaard stated there was another Oxford Sober House at 835 Glenwood Avenue, 0.4 mile away from the proposed location, and the proposed location is already 242 feet away from another group home for developmentally disabled at 907 Dillard Street. There are no unnecessary hardships associated with choosing a different location for the proposed halfway house. Mr. Oppegaard's main concern stems from incidents of recidivism when the young men and women are trying to integrate themselves into the community. There is a reason that the original ordinance specified a half mile radius between these places in order to reduce recidivism in the community. Mr. Oppegaard fully believed in the ability of people to integrate into the community. Glenwood is very diverse and the neighborhood has welcomed anyone from any walk of life that may want to live and contribute positively to the community. Mr. Oppegaard did not believe that the owners of the property would be there every other day checking in on the individuals and making sure they have every resource they need to fully integrate into society as their business center was in Charlotte

Chair Truby requested Ms. Patricia Wisneski to state her name/address for the record. Chair Truby swore in Ms. Wisneski for her testimony in this application.

**Ms. Patricia Wisneski, 1607 Bailiff Street**, stated she was opposed to this exception to the Land Development Ordinance because it would not benefit the neighborhood in any way and would be harmful. The exception is not in harmony with the general purpose in the intent of the ordinance and did not preserve its spirit. It does not assure public safety and welfare for the neighborhood and therefore should be denied. Ms. Wisneski stated this request was not even close to meeting the standard of the half mile. This is a couple hundred feet. If the Board does grant the exception, there is no effective mechanism for the City to enforce any conditions or safeguards that may be imposed by this Board or to enforce any of the promises made by the Moores. The Moores said a lot of things, but there is no way to ensure that it will be followed through as far as checking on these people that will be in their neighborhood. Ms. Wisneski stated from personal experience, code violations of the City of Greensboro often go unchecked. Glenwood has been especially negatively impacted by the lack of code enforcement. The only people who will benefit from the exception to the ordinance, should it be granted, are the Moores, and they live in Kannapolis. The Moores would not have to suffer any negative impacts caused by the incarceration facility they want to operate in Glenwood. Glenwood has too many absentee corporate landlords and too many ill maintained boarding houses. Ms. Wisneski questioned the designation of the proposed facility as a family care home. According to the North Carolina General Statute, family care homes are supposed to be homes to provide room, board, and care for persons with disabilities. This designation does not extend to incarceration housing, which is what the Moores are proposing to do. Ms. Wisneski advised the online version of the LDO links the North Carolina General Statute regarding persons with disabilities and states that the definition of a family care home is pursuant to the North Carolina General Statute. Ms. Wisneski did not know if what was being done at this location would actually fit the legal description of a family care home. Ms. Wisneski advised she attempted to address that description with City staff and has not received a reply. Ms. Wisneski felt the description needs to be taken into consideration.

Chair Truby asked Kathryn Golden Morris to state her name/address for the record. Chair Truby swore in Ms. Morris for her testimony in this application.

**Kathryn Morris, 810 Haywood Street**, stated she was in total agreement with everything that has been said which was correct. Ms. Morris advised there was a Greater Glenwood Neighborhood Plan written by Jeff Sovich of the Planning Department in 2008. The plan outlines beautiful things for Glenwood and many of them have been realized. The request for an exception to this ordinance is in direct contrast to the plan that has been laid out. In looking at the plan, the idea was to increase home ownership of single-family residences. Future Land Use was to be single-family residential. Nothing proposed by the Moors fits the plan. Ms. Morris stated everyone within the neighborhood has worked on all aspects of bettering the community. Ms. Morris asked the Moores at the meeting if this could be done without asking for this exception. Mr. Moore said they could. It was stated 13 letters went sent abiding by a list provided to them by staff. Ms. Moore was told there were 19 letters that were sent out. Communication was not very accurate. Ms. Moore felt it was in direct contrast with the plan and the intent. The

neighborhood is not equipped to rehab men who have been incarcerated. The neighborhood has gladly opened their arms to many people from other countries, disabled and aging, all kinds of populations and are probably the most diverse neighborhood in Greensboro. The max has been reached and the neighborhood was not equipped for this type of program. It was not in keeping with the spirit of the plans for the neighborhood. Ms. Moore stated all neighbors she knows are opposed. Their voices need to be heard because they were together on this.

Mr. Ramsey asked to be reminded on what the standard was used to decide this and suggested that people speak to that. It appeared topics were getting into areas that did not have anything to do with the standard the Board has to look at. Mr. Kirkman stated in terms of the question of classification, he advised Ms. Wisneski that the larger state enabling the laws related to zoning were recently updated and put in a new section and will be updated in the ordinance. The definition of a family care home at the state level matches the definition in the LDO and is similar in that respect. The two findings that the Board are asked to make are that in granting a special exception, it is in harmony with the general purpose and intent of the ordinance and preserves its spirit. That gets into the question about the purpose of the half mile separation. Granting the special exception assures the public safety and welfare and does substantial justice. Those are the two findings the Board must make in order to grant the special exception. Truby encouraged all of the speakers to not repeat the same things that have been heard.

Chair Truby asked Eleanor Wilkins to state her name/address for the record. Chair Truby swore in Ms. Wilkins for her testimony in this application.

**Eleanor Wilkins, 914 Silver Avenue**, stated she was one of the ones that was not given a letter and lives across the street. In living here for over 29 years, Ms. Wilkins has seen prostitution, drug trafficking, halfway houses and deadbeat landlords. The neighborhood is finally trending up. There are a couple of boarding houses very close to the proposed area that have caused a lot of neighborhood issues resulting from some of the things previously mentioned. There are college students who reside in the area that walk and ride bicycles down the street. Small children play and ride bikes that are as close as next door. 913 Silver Avenue has only one bathroom and is located where you have to go through one room to enter it. The house has a service road running behind the property which could be a risk. There was a similar house behind on the next street. There is a shared driveway there also. Many occupants cause a bottleneck and safety issues to the house next door. There are issues with vehicles speeding through the neighborhood. Ms. Wilkins had speed limit signs placed for 25 MPH. This area is always being picketed and has issues where people can't visit because it is only a 2 hour visitation. Most of the area is zoned for single-family housing. Ms. Wilkins stated she agreed with a lot of the other things said opposing this request.

Chair Truby asked speakers to try to add new material and not repeat what has been heard. Chair Truby asked Lauren McDowell to state her name/address for the record. Chair Truby swore in Ms. McDowell for her testimony in this application.

**Lauren McDowell, 917 Silver Avenue**, stated she had not heard statistics and looked up some statistics herself. Based on a search performed, about 36% of folks are re-arrested after being brought out into an environment in North Carolina. This is not the right place in the community for a family care home. Neighbors have come together as a community in opposition of this application. At the meeting, the applicants did not say they were able to disclose any information to us about who would be next door to a 5-year old girl and single moms that live within the vicinity of this house. There is an ordinance in place that was set in place for a reason.

Chair Truby asked Donovan Alexander to state his name/address for the record. Chair Truby swore in Mr. Alexander for his testimony in this application.

**Donovan Alexander, 911 and 912 Silver Avenue**, owns the home adjacent with a shared driveway. This is clearly a business that will have a lot of staff. Mr. Alexander endorses the fact that people need a second chance but was worried the Moores are motivated by revenue and asked how they can talk about screening and being there every day when they don't live in the neighborhood. Mr. Alexander advised he had no notification of this meeting and was grateful for the Neighborhood Association who made him aware. There were no letters or phone calls. Mr. Alexander believed everyone has stated the facts regarding proximity and safety. Silver Avenue has a terrible reputation. It has turned around, but there is a lot of temptation in this neighborhood. Having places in the north where there is more room between houses and individual driveways would be a better fit for this type of housing.

Chair Truby closed the hearing for opposition and opened back up for a 5 minute rebuttal period from the applicant.

**Britton Lewis** advised the first thing to discuss was what the ordinance actually says, what are the applicants are asking for, and why the ordinance says what it does. Mr. Lewis stated a house like this is permitted as a matter of

right in a neighborhood like Glenwood. The only reason they were here was because of the proximity to another property operating a facility defined as a family care home. It is a broad category. Housing four people coming out of prison was considered the same treatment under the code as housing mentally disabled people. Those are two very different people groups. The Moores were here asking for a special exception to allow a group home to operate within a certain number of feet of another existing group home. Mr. Lewis asked if there was a challenge to safety arising because the group home nearby was for the elderly and disabled, not people coming out of prison and if the action would cause individuals to cloister in their home and cause clustering within the community. The answer was no. The density of the neighborhood, parking concerns, and other things were mentioned. Mr. Lewis asked the Moores how many of their residents have their own cars. Ms. Moore responded none. Mr. Lewis asked how they would get around. Ms. Moore responded public transportation. If the house was located in a rural area, would there be problems. Ms. Moore responded yes. Mr. Lewis stated a lot of the concerns heard were about cars and all these things that are not development standards and are non-issues. A lot of what was heard related to how the property was structured and whether 6 people could live in harmony in that type of setting. Mr. Lewis stated that was not relevant to what the Board is looking at today. This is a land use meeting with the applicants asking for an exception to an ordinance saying you cannot have one family care facility within X number of feet of another. Other group homes or facilities for people that have addiction are in the area. Those facilities are not within the category of the ordinance and do not come into an analysis of whether or not this property is permitted to be used in the way the Moores are attempting. The proximity to those facilities is a value added for those coming out of prison that may need additional services. Having those services available nearby was a key and important factor. Mr. Lewis asked if either of the Moores had anything to add in response to the comments of the neighborhood.

**Samuel Moore** stated they knew prior to the meeting there were multiple Oxford houses within the vicinity. The Oxford house is considered a chartered home. The special exception for this request is for a family care home. The Moores were provided names and addresses. At the meeting there were a number of tenants in homes, as opposed to homeowners. Mr. Alexander's letter was not returned to them.

Chair Truby stated there would be 5 more minutes allotted for those in opposition. Chair Truby asked Keota James to state her name/address for the record. Chair Truby swore in Ms. James for her testimony in this application.

**Keota James, 920 Silver Avenue**, stated she has two children, 13 and 6 years old. Her concern is definitely the exception being asked. There was a huge difference than what is required. More than anything, it affects the person transitioning back into society. There is a reason for the ordinance to be in place. The special exception should be denied because people's lives depend on how the entire process is structured. Successfully planning for a transition back into society means carefully considering far more ordinances and variances. Ms. James felt it matters for people to get back into society, but there are rules to be followed. There was a community meeting that was met with aggressive behavior and was unwelcoming as to what the neighborhood needed to understand and what could possibly happen in their community. The owners were not open to providing a lot of information and were not open to hearing the concerns of the community.

Chair Truby asked Nancy Effle to state her name/address. Chair Truby swore in Ms. Effle for her testimony in this application.

**Nancy Effle, 836 Glenwood Avenue**, stated across the street is 835 Glenwood Avenue, which has a lot of issues and people going in for 90 days or even months. Some of them are respectful, some are aggressive to each other and have issues. Complaints have been called into the Police. In 2016, someone committed suicide in the yard. It was hard to see how miserable people were and how they were affected by other people living there. The house was closed for months. Another group moved in and another incident occurred. In over 17 years of living in this neighborhood, I have seen Silver Avenue change and now has more families. To have a house so close to a permanent resident was very stressful.

Chair Truby asked Attorney Vaughn to speak.

**Don Vaughn** stated the Board has heard overwhelming testimony this is not the right place for this house. The request takes a leap from 242 feet to 2,640 feet and establishes a bad precedence for the City of Greensboro. Testimony has been overwhelming in opposition from members of the community. Mr. Vaughn requested the Board to vote it down.

Chair Truby closed the public hearing and moved to Board Discussion.

**BOARD DISCUSSION:**

Mr. Waddell stated in looking at the ordinance, it did not address categories or classifications of residents. When it comes to rehabilitation, one of the most important pieces was coming into an environment where you feel welcome. Obviously with the opposition, there would be some level of difficulty for someone working toward rehab and living in an environment where they may not be accepted. The 242 feet versus 2,640 was way too close for him. Mr. Waddell was not in support of the application. Chair Truby agreed with Mr. Waddell. It is was too close. The intent of the ordinance was to not have these homes clustered together in one neighborhood. That is why it was written. There are a lot of family care homes within this neighborhood. It would not be fair to the neighborhood to approve. Chair Truby was not in support and requested a motion.

**MOTION:**

Mr. Waddell moved that in BOA-21-40, 913 Silver Avenue, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the special exception granted with the following conditions: (1) The special exception is in harmony with the general purpose and intent of this ordinance and preserves its spirit because the request for a special exception specifically addresses two community populations, Mercy Care Services addressing geriatric care and Bridge Haven addressing incarceration and homelessness (2) The granting of the special exception assures the public safety and welfare and does substantial justice because Bridge Haven, LLC, has presented exceptional leadership by supporting those formally incarcerated with positive transitions into the community. Seconded by Mr. Barkdull. The Board voted 7-0 against the motion. (Ayes: 0. Nays: Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull). Chair Truby stated the application failed unanimously, so the special exception is denied. Chair Truby added that the Moores were doing good things, but would need to find another location. This was the wrong location and too close to another family care home.

**OTHER BUSINESS:**

Ms. Thiel asked if the Board wanted to discuss election of a new Chair and Vice Chair. Chair Truby stated he would leave it to whatever the Board wanted to do. Mr. Ramsey felt the Board was happy with how it was currently. Mr. Kirkman wanted to make sure the Board was aware that City Council may replace Chair Truby at some point. It has not been done to date, but it could happen anytime. Mr. Andrews stated in understanding what he had heard, the Board wants to have Mr. Truby re-elected as Chair for another term. The best way to do that would be an election or a motion, a second and a vote taken. Technically, Section B of the Board's Rules and Regulations require an annual election for Chair and Vice Chair. Mr. Oliver moved to elect Chuck Truby as Chair. Mr. Ramsey moved to elect Mr. Waddell as Vice Chair. Ms. Thiel advised that Mr. Waddell was elected at the last meeting. Mr. Ramsey seconded Mr. Oliver's motion nominating Mr. Truby as Chair. Mr. Kirkman advised that whenever Mr. Truby was replaced, there would need to be a new election. (Ayes: Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull. Nays: 0.)

**ADJOURNMENT:**

The meeting was adjourned by Chair Truby at approximately 8:12 p.m.

Respectfully submitted,

Chuck Truby, Chair  
Board of Adjustment  
CT/cgs

**MEETING MINUTES**  
**GREENSBORO BOARD OF ADJUSTMENT**  
**August 23, 2021**

The meeting of the Greensboro Board of Adjustment was held on Monday, August 23, 2021 at 5:30 p.m. online via Zoom. Board members present were: Chairman Truby, Vice Chair James Waddell, Vaughn Ramsey, Ted Oliver, Terry Savoy, Leah Necas, and Stephen Barkdull. City staff present were Shayna Thiel, Steve Galanti, and Luke Carter of the Greensboro Planning Department. Alan Andrews, Chief Deputy City Attorney.

Chairman Truby welcomed everyone to the virtual meeting. Members of the Board of Adjustment are appointed by City Council and serve without pay. This is a Quasi-Judicial Board, which means that all testimony will be under oath. Findings of fact will be made and a final action of the Board is similar to a court decision. Anyone appearing before this Board has a right to offer evidence, cross examine witnesses, and inspect documents. The Board will proceed in according to the agenda, a copy which has been provided. Chairman Truby further explained the manner in which the Board conducts its hearings and methods of appealing any ruling made by the Board. Chairman Truby advised that each side, regardless of the number of speakers, were allowed a total of 20 minutes to present evidence. Board members may ask questions at any time.

**APPROVAL OF THE MINUTES (July 26, 2021 Meeting Minutes)**

Mr. Ramsey made a motion to approve the July 26, 2021, minutes; seconded by Mr. Waddell The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull. Nays: 0.)

**SWEARING IN OF STAFF**

Shayna Thiel and Steve Galanti of the Planning Department were sworn in for testimony in the following cases.

**CONTINUANCES/WITHDRAWALS**

None.

**OLD BUSINESS**

None.

**NEW BUSINESS**

**1. VARIANCE**

**a. BOA-21-41: 3714 BATTLEGROUND AVENUE (APPROVED)**

Ms. Thiel stated in case **BOA-21-41**, 3714, Battleground Avenue, Chick-fil-A Inc., on behalf of Battleground Acquisition LLC, requested two variances. (1) To allow a proposed second freestanding sign on the property when only one freestanding development identification sign is allowed and already established. (2) To allow the proposed freestanding sign for 3 or less businesses to exceed the maximum 6 foot height requirement by 9 feet. The proposed freestanding sign will be 15 feet tall.

Evidence provided by the applicant included Exhibits A through D. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance Reference was Section 30-14-7.3, Table-14-2: Only one freestanding development identification sign is allowed, which can be no more than 6 feet in height.

**Background and Site Information:** The subject lot is located on the east side of Battleground Avenue, north of New Garden Road, and is zoned C-H (Commercial-High). The subject lot is part of the 19.39-acre Battleground Plaza shopping Center that was developed in 1988. In the C-H (Commercial-High) zoning district, freestanding signage is limited to one development identification sign containing panels for a minimum of 4 businesses. Freestanding signages for less than 4 businesses is limited to outparcel signs with a maximum height of 6 feet and maximum size of 50 square feet. For a new Chick-fil-A restaurant, the applicant proposes to install a new freestanding sign when another freestanding development identification sign already exists. The proposed Chick-fil-A restaurant is on the same parcel as the existing shopping center and is not considered an outparcel. Additionally, the applicant proposed for the second freestanding development identification sign (for less than 4 businesses), if approved, to exceed the maximum 6 foot height required by the City of Greensboro. Instead, the

applicant requests that the freestanding sign be 15 feet tall. If the variance is granted, the applicant will proceed with the sign permit application process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans.

Chair Truby asked the applicant to state their name/address for the record.

**Amanda Hodierne, 804 Green Valley Road**, representing Chick-fil-A Inc. and the property owner, Battleground Acquisition LLC, stated this request was for a signage need for Chick-fil-A that would be established at 3714 Battleground Avenue, which is a replacement location for the existing operation across the street in the Lawndale shopping center on the west side of Battleground Avenue. Due to business growth and drive-through needs, Chick-fil-A has outgrown the existing facility. Chick-fil-A, Inc., and the store owner/operator, engaged in re-signing the facility on the east side of Battleground to have a more workable and functional restaurant serving the nearby community in northwest Greensboro. It would continue to capitalize on the new interchange of I-840, located north of this area. Due to the location of this new store in the existing Battleground Plaza shopping center, the basic and intrinsic need for a monument identification sign along the public right-of-way became a variance request. This was a reasonable and appropriate application for a variance to provide relief for these specific circumstances. An aerial map depicting the parcel was shown indicating the Battleground Avenue parcel, with a large shopping center of several tenants, a shopping center sign located at the entrance way, and a stormwater pond. The new store will be located south of the stormwater pond and is an adaptive reuse of what is a superfluous parking lot. To the south was a stand-alone parcel where Wendy's was located. Chick-fil-A came into an existing shopping center with an existing set of shared access easements, stormwater drainage, easements and shared parking. Chick-fil-A, Inc. was precluded from being able to carve out its own out-parcel due to a complex setup. That possibility was explored and was not a viable application due to the fact that one of the other property owners, a necessary party to all of Chick-Fil-A's needs, was a competitor in the industry. That added a lot of complexity moving forward and attempting to iron out a lot of amendments to cross access easements, declarations, platting, etc.

This request was being pursued as a ground lease with the shopping center as part of one whole parcel. Adding a second monument sign is the strict application of the ordinance, but actually this was a request for one single monument identification sign to a drive-through restaurant business, as seen with any other drive-through restaurant. This was a perfect scenario for the Board to apply its discretion and override the strict application of the ordinance. Chick-fil-A is looking for an approval of their own free-standing monument sign to be 15 feet in height. Ms. Hodierne stated the strict application of the ordinance would require this drive-through restaurant to exist with no stand-alone monument signage along the public right-of-way because the property is part of an existing shopping center. The ordinance as written, allows one panel on the existing monument sign of the shopping center. No stand-alone signage would result in difficulty for patrons and unsafe travel conditions for the public. This site has a particular need for its own intentional monument signage because as part of the shopping center and sits back from the road. The topography is an upgrade from the road bed, necessitating a driver to look up and over to be able to see on top of the hill and what business may be there. This existing shopping center has its own set of parameters and development nuances that make it function cohesively. Attempting to come in after the fact and redo all of that to accommodate a reuse of extra parking lot area does not work and was not able to be a stand-alone parcel, creating a unique circumstance. The ordinance cannot distinguish between the very traditional type of use setup and this setup, which is an adaptive reuse, and cannot accommodate for the nuances creating an inequity amongst the business types and competitors located right next to each other. The applicant cannot absolve this issue itself due to the existing complexities and the dynamics involved. This is a prime use of the variance process and the Board to act as an independent, neutral and objective third party to provide relief in this unique circumstance. The hardship is not the result of the applicant's own actions. The site was not graded by the applicant, creating the existing topography. The applicant did not develop the Battleground Plaza shopping center or create the stormwater easements. The applicant had nothing to do with signage or the competitor next door and did not create traffic volumes or the interchange existing north of this site. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit. The subject project is zoned C-H (Commercial-High), located squarely within a well-established intense commercial area of the city. This was not an introduction of something new and different. The requested relief represents the smallest aspect of relief in that there is a request for only one monument identification sign. A rendering was presented depicting what was proposed and how it would look. The signage was designed in keeping with the corridor and consistent with the type of signage already present for this type of use. The signage ensures the traveling public will be able to locate and access safely and conveniently.

Without this variance, this business will effectively have no signage. Without effective signage, there would be any number of unsafe situations that could occur. Allowing the property to have the same type of signage that their industry cohorts have, does substantial justice by allowing the same way of finding and attracting customers. Ms. Hodiernie advised the signage expert team was present to answer any questions. Ms. Hodiernie asked the owner to introduce himself. Chair Truby swore in Keith Kiser for his testimony.

**Keith Kiser, 6088 Brush Arbor Court**, stated he has been a Greensboro resident for 37 years and really needs this signage. Mr. Kiser has been operating with no signage for 23 years and there have been many who drive by because they did not know Chick-fil-A was there. Ms. Hodiernie stated this was another reason why it made sense to take the expenditure and time to relocate across the street. Ms. Hodiernie hoped the Board of Adjustment would agree and allow Chick-fil-A the opportunity to move forward. Chair Truby inquired if there were any questions for the applicant. Ms. Necas asked the height of the Wendy's sign. Ms. Hodiernie responded the new signage for Chick-fil-A would be comparable and advised that someone from the signage team may be to respond more accurately. Chair Truby swore in Ben Holliday for his testimony.

**Ben Holliday, Clayton Signs, 5198 North Lake Drive, Lake City, GA**, stated he had not measured the signage but from what he could tell, the Wendy's sign appeared to be roughly 20-25 feet tall. Chair Truby stated he would have guessed that as well. Chair Truby inquired if there were further questions. Ms. Necas asked if it was that high because the property was an outparcel and if Chick-fil-A was limited with a shorter sign. Chair Truby guessed that Wendy's sign was installed under the old ordinance and probably allowed a higher sign height than the current ordinance allows. Mr. Ramsey asked if the only reason for this request was because this was not an outparcel and was part of the overall shopping center instead. Chair Truby responded that was correct. It is a lease versus being subdivided out as its own parcel. If it subdivided out as its own parcel, it would be allowed the sign. The request was also to have the sign 3 feet taller than what is permitted. Chair Truby stated in theory, it will look like an outparcel, but on paper technically was not an outparcel, but a lease parcel.

Chair Truby inquired if there were further questions for the applicant. Seeing none Chair Truby asked Ms. Thiel if there was any opposition to the request. Ms. Thiel advised she had not received any opposition calls. Chair Truby closed the public hearing. Chair Truby inquired if there was any Board discussion or a motion.

**DISCUSSION:**

The Board consensus was that the sign was not a question, but the height was. There were competitive aspects. Wendy's sign attracts a lot of traffic. The better the signage, the better the safety factor also for vehicular traffic. Ms. Thiel stated the applicant was asking for 9 foot height variance. The allowed maximum height is 6 feet and the applicant is requesting to go to 15 feet. Chair Truby inquired if there was further discussion or a motion.

**MOTION:**

Mr. Savoy moved that in BOA 21-41, 3714 Battleground Avenue, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because it will restrict the impulse business from fully representing itself because of the unique location and motorists unfamiliar with the area from identifying their destination in time; therefore creating a hazard on the busy street. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because where the business is located, mature landscaping blocks the view and motorists unfamiliar with the area would not be prepared to make the turn into the business in time. (3) The hardship is not the result of the applicant's own actions because of the existing mature landscaping blocking the view of the business, it will be a disadvantage because other competing businesses have their own freestanding signs. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because allowing for signage will prevent unnecessary traffic hazards and will keep within the overall intent of the ordinance. Seconded by Ms. Necas. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull. Nays: 0.)

**b. BOA-21-42: 600 NORTH MENDENHALL STREET (APPROVED)**

Ms. Thiel stated in case **BOA-21-42**, 600 North Mendenhall Street, John Foy, requests two variances. (1) To allow an existing accessory garage and proposed addition to encroach 1.5 feet in a required 3 foot side setback. The accessory garage and addition will be 1.5 feet from the side property line. (2) To allow overhanging eaves of the

accessory garage to encroach 2.17 feet into a required 3 foot side setback. The overhanging eaves will be 0.83 foot from the side property line.

Evidence provided by the applicant included Exhibits A through D. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance References were Section 30-8-11.1(C)(2): Accessory structures must be setback at least 3-feet from side and rear lot lines; and Section 30-7-1.4(C)(6): Cornices, overhanging eaves and gutters, window sills, bay windows, or similar architectural features, chimneys and fireplaces, fire escapes, fire balconies, and fire towers may project up to 2.5 feet in any required setback, but must remain at least 3 feet from any property line.

**Background and Site Information:** The subject lot is located on the east side of North Mendenhall Street, north of Lakeview Street, and zoned R-5 (Residential Single-Family). Tax records indicate the lot contains approximately 6,970 square feet and the house was constructed in 1926. The brick frame of an existing accessory garage is still intact 1.5 feet from the side property line. However, the roof of the garage has been gone for an undetermined amount of time. The roof could have been replaced on the nonconforming accessory garage in its original dimensions, if done within two years of destruction. However, because the roof has been missing for more than two years, based on information provided by the applicant, the structure must now comply with the LDO, which requires a 3 foot side setback. While replacing the roof of the accessory garage, the applicant proposes to extend it to include an additional 91 square feet of covered area towards the back of the property, encroaching the same 1.5 feet into the side setback as the existing frame of the garage. The applicant also indicates that the overhanging eaves of the proposed roof will encroach 2.17 feet into a required 3 foot side setback and be 0.83 foot from the side property line. To bring the accessory garage into compliance with the LDO, the applicant seeks two variances to address the side setback encroachments. If the variances are granted, the applicant will submit a residential building permit application and proceed with the permitting process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans.

Chair Truby asked the applicant to provide his name/address for the record. Chair Truby swore in John Foy for his testimony.

**John Foy, 600 North Mendenhall Street, Greensboro.** Mr. Foy stated when the home was purchased in 2005, the previous owners had secured a permit to remodel the 1926 garage into an office. The previous owners were in the process of moving quickly out of state and wanted to sell the property as is, which Mr. Foy purchased. Mr. Foy would like to remodel the existing structure into a useable carport to be able to place two cars inside and still be reasonably covered. The contractor, Mr. Greg Berg was present to answer any technical questions. Chair Truby inquired if the Board had questions for Mr. Foy or his contractor. Mr. Oliver asked if there are walls but no roof. Mr. Foy responded that was correct. Mr. Oliver asked if that would be made into a garage and then have a carport on the front coming out towards the alley. Mr. Foy responded he was not going to enclose anything. One wall would be open so the structure becomes the carport. It will be slightly extended over the pad for a car to fit and will still have three walls. None of the existing structure will be demolished. Chair Truby stated it would look like a carport except with walls. Chair Truby inquired if there were further questions for the applicant or his contractor. Ms. Necas asked if the overhanging eaves and extension was all over the existing concrete slab. Mr. Foy responded the structure itself currently has a dirt floor. A concrete pad will be made inside the existing structure. A pad was previously poured immediately outside of the structure about the size of one vehicle. This structure will be connected to that and extended inside the structure. Chair Truby inquired if there were any other questions. Seeing none, Chair Truby inquired if there was anyone to speak in opposition. Ms. Thiel responded there was no one present in opposition. Chair Truby closed the public hearing and into Board discussion. With no discussion, Chair Truby requested a motion.

**MOTION:**

Ms. Necas moved that in BOA-21-42, 600 North Mendenhall Street, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the two variances be granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the roof of the existing accessory garage has been missing since before the owner purchased the property and needs to be replaced to be useful. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the alley, although originally common, now unique, and restricts the owner's use of

the garage except by the alley. (3) The hardship is not the result of the applicant's own actions because the destroyed roof was destroyed before the current owner purchased the property. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because reusing the roofless garage makes the property and use of that garage in harmony with residences in the same situation. Seconded by Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull. Nays: 0.)

**c. BOA-21-43: 4301 FOUR FARMS ROAD & 4300 NEAR FOUR FARMS ROAD (APPROVED)**

Ms. Thiel stated in case **BOA-21-43**, 4301 Four Farms Road & 4300 Near Four Farms Road, the applicant, Four Farms Place, LLC, on behalf of Five Star Management Inc., requests two variances. (1) To allow proposed tourist home to be 186.2 feet from another tourist home located at 4305 Four Farms Road when at least 400 feet is required. (2) To allow the owner or operator of the proposed tourist home to reside off-site.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance References were Section 30-8-10.4(Q) Section 30-8-10.4(Q)(1): A tourist home may not locate within 400-feet of a rooming house or another tourist home; and Section 30-8-10.4(Q)(3): The owner or operator of the tourist home must reside on site.

**Background and Site Information:** The subject lots are located on the west side of Four Farms Road, south of Horse Pen Creek Road, and are zoned R-3. Tax records indicate the lots contain approximately 4.5 acres. The applicant, Four Farms Place, LLC, proposes to operate a tourist home on the lot currently containing a single-family dwelling and the adjacent vacant lot. The subject lots are just across Jefferson Club Lake from another tourist home operated by the applicant under an approved Special Use Permit (SUP-68). Because the proposed tourist home is 186.2 feet from the existing tourist home at 4305 Four Farms Road, it does not meet the minimum 400-foot separation requirement. Additionally, since the applicant owns, operates, and lives in the tourist home at 4305 Four Farms Road, she is unable to reside at the proposed tourist home. The applicant seeks variances to allow the proposed tourist home to be located less than 400 feet from another tourist home and to allow the owner/operator to reside off-site. If the variances are granted, the Board will be able to consider BOA-21-44, which is the applicant's request for a Special Use Permit for a tourist home in R-3 zoning.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted the applicable overlays and plans.

Chair Truby asked what a tourist home was. Ms. Thiel responded it was a bed and breakfast. Chair Truby asked the applicant to state their name/address for the record.

**Marc Isaacson, 804 Green Valley Road**, stated Nick Blackwood of his office and the applicant, Rebecca Crutchfield, were present and ready to answer questions from the Board. Ms. Crutchfield has lived on Four Farms Road since 1990 and operated the bed and breakfast from her home at 4305 Four Farms Road since 2019. Both her current residence and the proposed bed and breakfast are located in the southern end of Four Farms Road and both were surrounded by dense wooded areas. The properties are separated by a sizeable lake that has become the centerpiece of the existing bed and breakfast. Ms. Crutchfield focuses on incorporating a sustainable lifestyle in her home for both her and her guests that is in tandem with the unique natural features of the surrounding area and has proven to be a successful business model. Positive feedback has been received from guests. Ms. Crutchfield identified the subject properties as a great location to provide another option for guests making use of the under-utilized property. Ms. Crutchfield was seeking a variance from the spacing requirement between bed and breakfast and the requirement of the operator living on site. Mr. Isaacson requested Mr. Blackwood to walk through materials and answer any questions from the Board.

**Nick Blackwood, 804 Green Valley Road**, showed aerial views depicting the subject properties and surrounding area. Currently this site is zoned for single-family-residential use, but is not well suited for single-family development due to the proximity to the interstate. This is a prime location providing overnight accommodation with easy access to the interstate for guests. Images were shown outlining the location of the proposed bed and breakfast and how the two properties were separated. The lake is partially owned by Ms. Crutchfield and is the only property between the two uses. A survey exhibit was displayed identifying that the two uses that are separated by 186.2 feet where 400 feet of separation is required. The 186.2 feet is lying across the lake with no residences between the two. Even with the spacing deficiency between the two uses, Ms. Crutchfield has ownership interest in the only property located between the two uses. Should this request be approved and the property to the south is acquired, Ms. Crutchfield would gain an additional ownership share in the lake. A satellite image was shown depicting the existing

tourist home use and the proposed use. Coupling the spacing deficiency with the requirement that the operator live on site, the two variance requests work hand in hand to satisfy the intent of the ordinance without causing any foreseeable harm to neighboring property owners or the greater Greensboro community. The lake has become one of the chief components of the business and offers a unique feature. The lake and other natural features surrounding the properties inspired Ms. Crutchfield to expand across the lake to the subject properties in the south. The surrounding community and neighbors along Four Farms Road have taken note of Ms. Crutchfield's diligence in being a respectful neighbor in her operation of the bed and breakfast. Ms. Crutchfield places a great amount of emphasis on respecting the surrounding property owners and practices sustainable living in her personal life and uses the existing bed and breakfast operation to inform her guests. The existing bed and breakfast serves as an example of what sustainable living looks like. Recycling, reusable water bottles, and eliminating plastics were examples of the general emphasis on sustainable low waste living at the existing bed and breakfast that will carry over and create a partnership of sorts at the end of Four Farms Road. Guest reviews were shared focusing on the unique natural setting offered as this location and the serenity, calm and beauty of the nearby lake. Notices were sent out to everyone on the City notification list providing information about the request and asking anyone to contact the attorneys with questions or concerns regarding the project. There have been no calls, questions, or emails voicing concerns regarding the request for a proposed bed and breakfast on the subject properties. Letters of support were shown and there was no opposition from the adjoining property owners or additional neighbors in proximity to the proposed use along Four Farms Road. Mr. Blackwood advised this application was triggered by the ordinance spacing requirement between bed and breakfasts and a requirement that the operator live on site. The purpose of the ordinance is to reduce potential disturbances to neighboring property owners by maintaining a residential feel within single-family communities and preventing a surplus of tourist homes from overwhelming neighborhoods. The purpose of the requirement to live on site is to ensure the property owner is able to monitor the guests and be aware of what is taking place on the property given that this type of use is within a residential community. Ms. Crutchfield essentially does live on site; it is a short walk around the lake with no properties between the two uses. The factors for the variance have been met. There is an unnecessary hardship that would result from strict application of the ordinance in that the applicant would be prevented from reasonably expanding the business, to take advantage of the lake and other natural features of the surrounding area. The hardship results from conditions peculiar to the property due to the location of the properties in relation to the nearby interstate. The land is not suitable for single-family development. The lake over which the spacing deficiency lies, provides a unique location and opportunity for overnight accommodations. The short distance between the two properties allows Ms. Crutchfield to essentially live on site at both bed and breakfasts. Ms. Crutchfield has demonstrated her willingness and ability to operate the business in a manner respectful to neighbors, as indicated by the numerous letters of support submitted. The hardship results from application of the ordinance to the property because absent a variance, the applicant would be unable to operate the proposed bed and breakfast due to the spacing deficiency and the requirement that the operator to reside on site at both. The hardship is not the result of the applicant's own actions because the spacing deficiency was not caused by the applicant and serves as a benefit given the additional requirement that the applicant live on site. The applicant cannot satisfy the residency requirement at both locations. The close proximity of the properties allows the applicant to satisfy the intent of the ordinance without causing disturbance to neighbors in the surrounding area. The variance is in harmony with the general purpose and intent of the ordinance as no neighboring property owners would be negatively affected by the proposed bed and breakfast. Ms. Crutchfield's proposed use for the property is located at the very end of Four Farms Road away from other single-family uses. Ms. Crutchfield would be able to monitor the proposed bed and breakfast and provide assistance to guests at both locations as they are located a short distance from one another. Granting the variance assures public safety welfare and does substantial justice in that the variance will allow the applicant to make appropriate uses of the subject properties while reasonably expanding the small business. The proposed bed and breakfast will provide another unique and innovative sustainability centered lodging opportunity for the Greensboro area and will result in no foreseeable harm to the surrounding community. Mr. Blackwood requested the variance to be approved for both spacing and the requirement for the operator to live onsite.

Chair Truby asked how many beds were in the existing house and how many beds in the new house. Chair Truby swore in Ms. Crutchfield for her testimony.

**Rebecca Crutchfield, 4305 Four Farms Road**, stated there were four bedrooms in each house. Chair Truby inquired if there were any further questions for the owner or attorneys. Mr. Savoy inquired if there was a maximum number of guests allowed in each home. Ms. Crutchfield responded there was a maximum number of rooms and each room can hold two people, so it could be 8-10 people. Mr. Oliver asked that if both homes were owned by the

same business entity or separate. Mr. Blackwood responded it would be the same business entity operating both. The intent is to create a partnership of sorts at the bottom of Four Farms Road along the lake. Mr. Oliver asked who would make breakfast each morning or would there be staff. Ms. Crutchfield stated typically the clientele has been coming for weddings, furniture market, or other things and not a big need for breakfast. Typically, it would be a yogurt bar or some other type of food that could be left out. Ms. Crutchfield stated it is more like a tourist home lodging. Mr. Oliver asked how far would walking distance be. A slide was shown depicting the two properties indicating the bridge and spillway that did not appear to be more than several hundred feet from the edge of the property line on either side of the property. Monitoring the homes would be satisfied as Ms. Crutchfield would have a clear view of both properties, and easy walk or quick drive to the location. Mr. Oliver asked if the lake was available for any use. Mr. Blackwood stated Ms. Crutchfield was not allowing her guests to use the lake due to liability and safety reasons. Ms. Crutchfield is an owner of the lake and does use the lake for personal recreation. Mr. Oliver asked if Ms. Crutchfield owned all of the land within the red line on the slides. Mr. Blackwood responded those pieces and several others in the nearby vicinity are under contract to be purchased by Ms. Crutchfield. Those two uses were in the application because she will be the sole owner on those two tracts and both were covered in the event that Ms. Crutchfield decides to combine those tracts down the road to avoid a variance and special use permit process, if those two were to be one and were not included on the application. Mr. Oliver referred to a similar picture with green hatch lines and asked if those were designated different properties if they were sub-divided. Mr. Blackwood responded the green hatches were the properties outlined in red in the previous image and used to identify the location of the proposed use. Mr. Oliver asked if those lots were not potential building lots. Mr. Blackwood responded that was correct. The existing structure which it sits currently, is where the proposed bed and breakfast will sit. Ms. Necas asked where Ms. Crutchfield intend to live. Ms. Crutchfield responded she intended to continue living at the property where she lives currently. Ms. Crutchfield will be on one of those properties for perpetuity. Chair Truby felt the variance request only applied to the one tourist home. Ms. Crutchfield will have to live in the existing house because if the variance is granted, the Board would not be granting a variance for that lot. Ms. Necas stated her concern regarding what could happen in the future if the lot was sold and the Board had said the owner/operator did not need to live on the property. Ms. Necas proposed a contingency and a condition that the property owner reside at either 4305 Four Farms Road, 4301 Four Farms Road, or 4300 near Four Farms Road, for clarification in case the property was sold or Ms. Crutchfield died and it passed to someone. As long as Ms. Crutchfield is the operator and living at one of the properties, it could be operated as a tourist home by her. Ms. Necas felt it should be a simple condition to clarify if the properties were separated, so no one else in the future could run the property as a tourist home unless it would be as a cohesive unit.

#### **DISCUSSION:**

Mr. Andrews, City Attorney, agreed that the Board could clarify the granting of the special use exception. At this point providing more clarity would be best for purposes now and later. This is not like conditional zoning but the Board can do that in the Special Use in your motion to clarify. Mr. Andrews advised the Board to be careful to identify clearly and not go into demise and those types of things. For this particular granting, clarify as much as can be done. The rules do not provide a lot of guidance on that, but a condition could be done within the Board's mandate. Chair Truby asked if that should be part of the variance request or the special use permit. Mr. Andrews responded it should be a part of the variance. Mr. Ramsey clarified the wording of the motion with Mr. Andrews. Chair Truby asked the attorneys if they had any comments. Mr. Isaacson asked Ms. Crutchfield to consider and confirm it that if this variance is approved, it would be subject to a condition that she or any future owner of this property reside at either this property or at the other property. Chair Truby felt the Board was going toward that direct and would provide Ms. Crutchfield more flexibility and run with the land and not with Ms. Crutchfield personally. Ms. Thiel stated 4305 is being operated by Ms. Crutchfield and she would have to stay there. There has been no variance allowing her not to live there. Mr. Isaacson responded the concern was 4301 and 4300 Near Four Farms could be sold to an independent third party who would not be required to reside there. The theory is these are essentially considered together and operated together. It may be a family or a group residing at one and the other for a weekend that would be promoted and continued by this condition. Mr. Isaacson requested Ms. Crutchfield to confirm that was acceptable. Ms. Crutchfield responded how it has been phrased was acceptable. Mr. Oliver clarified it was only if the property was used as a bed and breakfast or tourist home. If sold and a family moved in, the condition did not apply at all. Mr. Isaacson responded that was correct.

Chair Truby inquired if there were any other questions or further discussion for the applicant. Mr. Isaacson advised the applicant was open to a condition that if the variance was granted, it would be subject to a requirement that the

same business owner, could she reside at either 4301 or 4305 Four Farms Road, requiring a condition that would run with the land. Chair Truby inquired if there was anyone speaking in opposition to this request. Ms. Thiel responded there was no opposition. Chair Truby closed the public hearing. With no Board discussion, Chair Truby requested a motion.

**MOTION:**

Mr. Waddell moved that in BOA-21-43, 4301 Four Farms Road and 4300 Near Four Farms Road, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and variances 1 and 2 be granted with a condition that the current owner is to reside at either at either 4305 Four Farms Road or 4301 Four Farms Road as long as the parcel is used as a Bed and Breakfast, based on the following: (1) If the application complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the applicant would be prevented from using the property in its most reasonable use, which would be a proposed bed and breakfast. The applicant is unable to reside at the proposed home. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because in order for the applicant to improve the property and make reasonable use, a variance is required. Topography of the property separates it from an existing bed and breakfast. (3) The hardship is not the result of the applicant's own actions because the deficiency between the proposed bed and breakfast and existing bed and breakfast is divided by the natural topography. Subject lots are separated by Jefferson Club Lake. (4) The variance is in harmony with the general purpose and intent of its ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because approval of the variance will provide reasonable use of the land and will not detract from the character of the neighborhood. Seconded by Ms. Necas. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull. Nays: 0.)

**2. SPECIAL USE PERMIT**

**a. BOA-21-44: 4301 FOUR FARMS ROAD & 4300 NEAR FOUR FARMS ROAD (APPROVED)**

Ms. Thiel stated in case **BOA-21-44**, 4301 Four Farms Road & 4300 Near Four Farms Road, Four Farms Place, LLC on behalf of Five Star Management, Inc., requests a special use permit to operate a tourist home on the property in addition to all uses permitted in the R-3 District Zoning (Residential Single-Family): Section 30-8-10.4(Q); Cross Street – Horse Pen Creek Road.

There are no proposed conditions and the parcel ID numbers are 81310 and 81322. The parcel size is 4.5 acres. In accordance with Section 30-4-1.4 of the Land Development Ordinance. seven notices were mailed to property owners within 600 feet of the subject property.

Evidence provided by the applicants included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance Reference was Section 30-8-10.4(Q): A Tourist Home is a permitted use in the R-3 District with a Special Use Permit, provided that the following standards are met: (1) A tourist home may not locate with 400 feet of a rooming house or another tourist home. (2) No more than 6 guest rooms are allowed. (3) The owner or operator of the tourist home must reside on site. (4) Tourist homes are allowed only in buildings originally structured as dwellings. (5) Only one kitchen facility is allowed. Meals may be provided only for guests and employees of the tourist home. Rooms may not be equipped with cooking facilities. (6) Patrons may not stay in a specific tourist home more than 15 days within a 60-day period. (7) Sign regulations applicable to home occupations must be used for the tourist home.

**Background and Site Information:** The subject lots are located on the west side of Four Farms Road, south of Horse Pen Creek Road, and are zoned R-3. Tax records indicate the lots contain approximately 4.5 acres. The applicant, Four Farms Place, LLC, proposes to operate a tourist home on the lot currently containing a single-family dwelling and the adjacent vacant lot. The subject lots are just across Jefferson Club Lake from another tourist home operated by the applicant under an approved Special Use Permit (SUP-68). The previous case before the Board, BOA-21-43, addressed the two use standards that the applicant is unable to meet: (1.) Separation from other tourist homes and (2.) Owner/operator residing on site. If the variances are granted from the previous request to allow the tourist home to be located less than 400-feet from another tourist home and to allow the owner/operator to reside off-site, the Board can hear and take action on this request for a Special Use Permit. The 2040 GSO Comprehensive Plan identifies the properties on the Future Land Use Map as residential, includes both single-family and multi-family residential. Other uses should generally be in the scale of a neighborhood or a community center in a form that is appropriate to the character of the area. Many residential areas include commercial corridors. The future development along these corridors should be oriented to the corridor to avoid negative impacts to adjacent

residences. In the Future Built Form Map as Urban General which encompasses the largest area of physical development in Greensboro, which occurred post WWII and reflects national trends in development patterns of that time. The growth of middle-income families, automobile ownership, single-family home ownership, and changes in retail patterns to shopping centers and malls has contributed to the characteristics of conventional neighborhoods. New growth in this area will be focused in Activity Centers; some of this growth will continue to be car-oriented, but there are opportunities for walkable, mixed-use development on larger sites by creating more access from surrounding neighborhoods and increasing development intensity along existing corridors, which will strengthen transit service and other transportation options. The applicable overlay is the Scenic Corridor Overlay District -1 and the land use is single-family dwelling and vacant. The adjacent zoning to north is R-3 and the land use is lake & tourist home. To the east and west, zoning is R-3 and the land uses are single-family dwellings. To the south, the zoning is O and the land use is Highway right-of-way. The R-3 (Residential Single-Family) district is primarily intended to accommodate a low-density single-family detached residential development with a typical overall gross density of 3 units per acre or less.

Chair Truby asked if the applicant wanted to include additional information for this request. Mr. Isaacson advised the applicant would submit the same information submitted in the previous agenda item for consideration. Mr. Blackwood did have a review and summary of explanation of all of the required findings that the Board would need to make and would be glad to go through those if need be. Chair Truby asked Ms. Thiel if there was any opposition to this special use permit request. Ms. Thiel responded there was no opposition. Chair Truby closed the public hearing and inquired if there was board discussion. Chair Truby stated it was very similar to the previous approval.

**MOTION:**

Mr. Oliver moved that in BOA-21-44, 4301 Four Farms Road & 4300 Near Four Farms Road, based on the stated Findings of Fact, that the Special Use Permit be granted based on the following: (1) The proposed use will not be detrimental to the health or safety of persons residing or working in the vicinity or injurious to property or improvements in the vicinity because the property is surrounded by mostly vacant land and a lake. It is secluded from other residences. (2) The proposed use of a particular location provides a service or a facility that will contribute to the general wellbeing of the neighborhood or the community because the responsible stewardship practiced by the applicant will enhance the neighborhood. (3) The location and character of the proposed use will be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan because other nearby properties have similar uses and zoning. The property also conforms with the City's Comprehensive Plan. Seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull. Nays: 0.)

**OTHER BUSINESS:**

No other business.

**ABSENCES:**

Chair Truby stated the Board was still short a Board member. Ms. Thiel responded that Council was aware.

**ADJOURNMENT:**

The meeting was adjourned by Chair Truby at approximately 7:09 p.m.

Respectfully submitted,

Chuck Truby, Chair  
Board of Adjustment

CT/cgs

**MEETING MINUTES**  
**GREENSBORO BOARD OF ADJUSTMENT**  
**SEPTEMBER 27, 2021**

The meeting of the Greensboro Board of Adjustment was held on Monday, September 27, 2021 at 5:30 p.m. online via Zoom. Board members present were: Chair Truby, James Waddell, Vaughn Ramsey, Ted Oliver, Terry Savoy, Leah Necas, and Deborah Bowers. City staff present were Shayna Thiel, Mike Kirkman, and Luke Carter (Planning Department) and Al Andrews (Chief Deputy City Attorney).

Chair Truby welcomed everyone to the virtual meeting. Members of the Board of Adjustment are appointed by City Council and serve without pay. This is a Quasi-Judicial Board, meaning that all testimony will be under oath. Findings of fact will be made and a final action of the Board is similar to a court decision. Anyone appearing before this Board has a right to offer evidence, cross examine witnesses, and inspect documents. The Board will proceed in according to the agenda, a copy which was provided. Chair Truby further explained the manner in which the Board conducts its hearings and methods of appealing any ruling made by the Board. Chair Truby advised that each side, regardless of the number of speakers, were allowed a total of 20 minutes to present evidence. Board members may ask questions at any time.

**APPROVAL OF MINUTES (August 23, 2021 Meeting)**

Mr. Ramsey made a motion to approve the August 23, 2021, minutes; seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Bowers. Nays: 0.)

**SWEARING IN OF STAFF**

Shayna Thiel and Mike Kirkman of the Planning Department were sworn in for testimony in the following cases.

**CONTINUANCES / WITHDRAWALS**

None.

**OLD BUSINESS**

None.

**NEW BUSINESS**

**1. VARIANCES**

**a. BOA-21-45: 902 NOTTINGHAM ROAD (APPROVED)**

Ms. Thiel stated in BOA-21-45, 902 Nottingham Road, Ellen Murphy requests a variance to allow an existing house and proposed addition to encroach 5.74 feet into a required 10 foot side setback. The house and addition will be 4.26 feet from the side property line.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 6. The Land Development Ordinance Reference was Section 30-7-3.2, Table-7-1: In the R-3 District, the minimum side setback is 10 feet.

**Background and Site Information:** The subject lot is located on the east side of Nottingham Road, north of Dover Road, and zoned R-3 (Residential Single-family). Tax records indicate the lot contains approximately 14,810 square feet, and the house was constructed in 1963. As part of a complete renovation, the applicant proposes to demolish a portion of the existing house and construct an addition at the side and back of the existing house that will encroach 5.74 feet into a required 10 foot side setback. The applicant indicates that the lot shape, which narrows from front to back, and the layout and location of the existing structures and driveway create hardships. During review, staff determined that the existing house is considered a nonconforming structure, as it encroaches 2.9 feet into the same required 10 foot side setback. Since it is less an encroachment than the proposed addition, the existing nonconformity will be addressed if the variance is granted and the resulting house will also become conforming. If the variance is granted, the applicant will submit a residential building permit application and proceed with the permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans.

Chair Truby asked the applicant to state their name/address for the record. Ellen Murphy was sworn for her testimony in this application.

**Amanda Hodierno**, 804 Green Valley Road, Suite 200, representing Ellen Murphy, indicated the project would be completed by Pat Parr, General Contractor of Classic Construction, who is also present, if needed. This request was to accommodate a complete renovation of this property to include the small addition to the primary home that will house a main floor master bedroom and bathroom suite. Ms. Murphy purchased the property in May 2021 and is excited to now be underway with the renovation and her vision of updating/customizing the property for her needs and use. Currently the home does not have a first floor master living area and adding that component would be a critical part of the renovation. The part of the plan that triggered the variance request was the proposed enlargement of certain square footage along the eastern property line, as shown on the plot plant exhibit, which creates a 5.74 foot encroachment into the 10 foot required side setback. There is an existing nonconformity with the house itself that this variance would cure because the existing encroachment is less than the proposed encroachment. As shown on Exhibit B, the encroachment is not for the entire eastern side of the home, only for a small jut out that is 5 feet, 10 inches deep at the rear of the house. The footprint of the encroachment is minimal. Exhibit C was several sheets of the interior floor plans for both the existing house and the proposed renovation. The house currently does not have a first floor master suite. The new floor plan shows a jut-out that will be added to the existing structure and is necessary to gain a square footage to house a complete master suite that is typical and reasonable for a home such as this. The location proposed for the addition within the existing structure makes the best use of the existing home by largely recapturing existing square footage and reallocates the square footage to a master bedroom while also maintaining the flow necessary on the first floor of the home for the kitchen, dining and entry way. The only additional square footage that will be added is the jut-out to obtain enough room for the full master suite desirable on the first floor. It is the most appropriate location on the parcel to do this as it creates the smallest amount of additional square footage that has to be built and maintains the largely open nature of the yard on the parcel. The effect of granting this variance will be extremely minimal. Aerial slides depicting the front facade of the property and the eastern side were shown illustrating the effective area of the request. The house faces squarely toward Nottingham Road, but the adjacent property that would be the most affected is oriented completely differently, faces the corner, and has a completely different plane creating a nice skewness to the two properties. The difference in how those two structures line up adds additional separation in the effective area. The driveway separating the two properties belongs to the adjacent homeowner and creates that much more separation and distance between the structures. Exhibit 3 shows the large amount of mature vegetation and ensures adequate privacy will be maintained between the two residences. A survey of the existing structure was shown with a circle in red depicting the existing nonconformity that will be cured if the variance is approved. A letter of support from the affected adjacent property owner, Mr. Robert Enoch, signed and notarized was displayed.

Ms. Hodierno stated the requested variance meets the variance test because strict application of the ordinance would create an unnecessary hardship in that it would require the home to go without a first floor master living space customary for homes in this neighborhood. The location is necessary to make sense with the existing flow and floor plan of the home and to not overcover the parcel with a built upon area. The hardship results from conditions peculiar to the property because the lot is oddly configured in tapering from the widest point at the street and narrows moving back toward the rear of the lot, creating less space for the home in the building envelope portion of the property. The hardship results from the application of the ordinance to the property because applying a uniform 10 foot wide setback along the entire side property line exacerbates the condition described and the building envelope becomes smaller in the area where the house is located. The hardship is not the result of the applicant's own actions because the lot was already platted and the home already sited and built when she purchased the property. The lack of the master suite in the home was also an existing condition when the property was purchased. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit in the design and will not negatively impact the adjacent affected property owner and would still maintain deminimis adequate separation and privacy between the two homes. Granting the variance assures the public safety and welfare and does substantial justice by allowing the owner to invest in this home and modernize it for longevity for all types of home owners. A first floor master suite would keep the home viable and attractive for all buyers from a functional standpoint for an aging home buyer or homebuyers with all types of physical ability. Ms. Hodierno stated she hoped the Board would agree the request was reasonable and meets the test. Ms. Hodierno advised the home owner and the general contractor were present to answer questions, if needed.

Chair Truby inquired if any Board members had questions for the applicant or the builder. Seeing none, Chair Truby inquired if there was anyone else to speak in favor of the request. Seeing none, Chair Truby inquired if there was anyone in opposition to the request. Ms. Thiel advised there was no one signed up in opposition. Chair Truby closed the public hearing and went to Board discussion. Chair Truby inquired if there was any discussion or a motion.

**MOTION:**

Mr. Ramsey moved that in BOA 21-45, 902 Nottingham Road, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the unique lot size which narrows front to back would prevent the addition of a master bedroom suite on the lower level, which is the only appropriate location. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the lot and location of the house, which is itself presently nonconforming, were done prior to the applicant's purchase of the property. (3) The hardship is not the result of the applicant's own actions because the applicant acquired the property after the house was built and the unique lot lines set. (4) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the variance will not affect adjacent property owners and will create better livability for the owners to age in place and add value to the property, as well as being consistent with other properties in the neighborhood. Seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Bowers. Nays: 0.)

**b. BOA-21-46: 2110 VEASLEY STREET (APPROVED)**

Ms. Thiel stated in **BOA-21-46**, 2110 Veasley Street, Crowell-Groce, LLC, requests a variance to allow a proposed sexually oriented business to be located 608.1 feet from a residentially zoned property when at least 1,000 feet is required.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance Reference was Section 30-8-10.4(N)(2)(b): No sexually oriented business is permitted to be located within 1,000 feet of a religious assembly use, public or private elementary or secondary school, child day care center or nursery school, public park, or residentially zoned property.

**Background and Site Information:** The subject lot is located on the west side of Veasley Street, south of Koury Boulevard, and is zoned C-M (Commercial-Medium). Tax records indicate the lot contains approximately 22,216 square feet, and the building was constructed in 1971. The applicant proposes to relocate an existing sexually oriented business located at 2104 Veasley Street to the subject lot, converting the existing crematorium into a sexually oriented business. The LDO states that no sexually oriented business can be located within 1,000 feet of residentially zoned property. Because the subject lot is only 608.1 feet from residentially zoned property, the applicant is seeking a variance from the separation requirement. If the variance is granted, the applicant will proceed with the change of use and permit processes.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted the applicable overlays and plans.

Chair Truby asked the applicant to state their name/address for the record.

**Amanda Hodierne**, 804 Green Valley Road, Suite 200, representing the current property owner, Crowell-Groce LLC and GC Holdings One LLC, the current business operator of the sexually oriented business described. Slides were shown depicting the particulars of the property. A zoning map was shown depicting the block area. A red star depicted the subject property, which is an existing crematorium that is an existing, ongoing business. The existing sexually oriented business is three parcels to the north. The variance request is to allow the existing sexually oriented business to move to the crematorium. Ms. Hodierne indicated on slides the commercial corridor, the Commercial-Medium zoning with other non-residential zoning, and some LI and O zoning mixed in on this particular street that transitions from the commercial corridor away from the Gate City Boulevard. Aerial views were shown depicting residential zoning. Ms. Hodierne stated this request is specifically regarding 2110 Veasley Street and the crematorium. If the variance is granted and the existing adult establishment will be allowed to move into the crematorium, which would create a change of conditions for Veasley Street and this corner. The first positive effect of the request is that the crematorium would be gone. Next, the existing adult establishment closes down and moves into the block, adding different benefits. It will be off Gate City Boulevard, the gateway corridor into downtown. The

adult store would no longer be located on that corridor, and the sign would be eliminated. The Chick-fil-A neighbor across the street would obtain two gains: (1) the adult establishment would no longer be front and center to their drive through traffic. (2) The crematorium smoke that blows over their establishment will no longer occur. A letter was shown that was sent to the neighborhood community advising of the changes and benefits that would result from granting the request. The letter provided contact information for Ms. Hodierne for any questions or comments. Ms. Hodierne received one call from a neighboring property owner inquiring if the property could be purchased. A letter was received from Richard Vanore of Koury Corporation, a highly vested stakeholder, and based on the net positive gain if the variance is granted, was supportive of the request.

Ms. Hodierne stated an unnecessary hardship would result from the strict application of the ordinance because the proposed business owner has an opportunity to place its ongoing operations in a location better suited for the use. The crematorium could relocate to an industrial area and the adult establishment could relocate to a more appropriate location off the Gate City Boulevard corridor that would be less visible. Strict application of the spacing requirement in the ordinance would prevent the owners from making this positive change that would benefit both businesses, immediate neighbors, and clean up the Gateway City Boulevard corridor. The hardship results from conditions that are peculiar to the property because there is a small historical residentially zoned area in a part of the city that has transitioned to non-residential. The hardship results from the application of the ordinance to the property because applying the spacing requirements in the predominately non-residential block in the broader area, creates the hardship by not allowing the sensitive type of business to navigate other considerations that are important for its location, such as placement on a major thoroughfare and necessary building improvements to create more streamlined, modern, and an aesthetically favorable façade, creating a more compatible land use pattern with other existing business owners. The hardship is not the result of the applicant's own actions because the applicant did not build the building in this location, did not zone any of the properties and was not the source of the land use change on the block that created the intensely commercial area and left a remnant of residential property. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit because, if granted, the variance will not negate the land use pattern and the collection of property owners on the street. The granting of the variance assures the public safety and welfare and does substantial justice for reasons stated throughout the presentations and by allowing two Greensboro business owners to maintain, reinvest in their facilities and improve both facilities with appropriate functionality, aesthetically and appropriate compatibility with their neighbors. Ms. Hodierne advised both business owners were present to speak and answer any questions.

Chair Truby inquired if there were questions for the applicant. Ms. Necas stated she was curious if the current property at 2104 Veasley Street needed to have a variance to be at its current location. It appeared that business was within the 1,000 feet of the residentially zoned area. Mr. Kirkman responded he did not know when the business was established and advised Mr. Adkins could probably speak to the specific timeline, but the City made adjustments to spacing requirements for sexually oriented businesses in 2007 by increasing separation from different uses. It had the impact of making certain areas nonconforming. As part of that original effort, there was a desire to bring all businesses to conform with the new standards and litigation occurred. Mr. Kirkman did not know how many businesses were involved, but there was a number of businesses against the City, and a settlement was reached. The ordinance says if you have businesses that were lawfully established prior to May 6, 2007, they could remain as nonconforming uses. They could then remain as is and would not be required to come into conformance with those standards. The existing location is too close to residential to the north, across Gate City Boulevard and to residential on the south. That situation does exist but there is nothing that would require them to obtain a variance to maintain the operations as they are at this location. Mr. Kirkman stated Mr. Adkins had his hand raised to speak. Chair Truby asked Mr. Adkins to state his name/address for the record. Chair Truby swore in Mr. Adkins for his testimony in this case.

**Douglas Adkins**, 1711 Willow Wick Drive, stated that this was a grandfathered situation of a nonconforming use. Their only intent in the beginning was to do a façade around the building to make it more modern and improve the current visibility. Three separate general contractors were asked to propose a façade around the building. Because of the way the foundation was designed, there is no way a wrap of any kind could be placed around the building. The only thing proposed was to put a building over top of the existing one to change the façade, which made no common sense. The cost for that would have been more than the real estate would actually be worth. He does not intend to close the business if the Board refuses to allow it to move. The business would stay there as nonconforming. As a life-long business owner in the community, Mr. Adkins has owned several restaurants, buildings, bars, nightclubs, and so forth. This request was solely about improving the visibility of a business that Mr.

Adkins takes pride in and wants make more appealing to the general public. Mr. Atkins did not personally feel good about families coming through Chick-fil-A and seeing that building. His intent was to demolish that building and turn it into a parking lot, if the Board allows his business to move into the crematorium building. The crematorium and his business share a parking lot. Mr. Adkins' business would be moving across the parking lot not more than 80 feet. There is a shared parking agreement with the crematorium. The relocation will improve the visibility of Gate City Boulevard. With Koury Corporation supporting it, this request is a win for the City.

Chair Truby inquired if there were questions for the applicant from Board members. Seeing none, Chair Truby inquired if there was anyone to speak in favor of the request. Seeing none, Chair Truby inquired if there was anyone to speak in opposition to the request. Ms. Thiel responded there was no one. Chair Truby closed the public hearing and inquired if there was Board discussion.

### **BOARD DISCUSSION**

Chair Truby asked if the Board approved the request, would the applicant have to close the other business. Mr. Kirkman responded they would have to because the Board would be establishing a new sexually oriented business within a certain distance of an existing sexually oriented business that would require a separation variance. It could not be done legally. Mr. Oliver asked if it could be considered location 1 and location 2 of the same business. Mr. Kirkman stated in that case they could move from the crematorium use to the sexually business use at the new location while still having an existing sexual business use at the other location. Mr. Oliver verified if they could not be within 1,200 feet of each other. Mr. Kirkman responded 1,200 feet was the required separation between sexually oriented businesses. Chair Truby asked if the Board approved the variance, it would become conforming and not be under the grandfathered status. Mr. Kirkman responded it would be considered a legal use at the new location. Chair Truby asked if it was burned down would it be able to be rebuilt with no issues. Mr. Kirkman responded that was correct and could expand in the future if needed, subject to meeting the proper requirements. Chair Truby inquired if any Board members had further questions. Seeing none, Chair Truby asked if there was further discussion. Mr. Oliver stated Smith High School was very close, about 3/10 of a mile away. Mr. Adkins responded the school was 1,500 feet or so away, more than 1,000 feet. Chair Truby stated his personal opinion was the request was a good thing. The fact that was a crematorium across from Chick-fil-A could not be good. With the two businesses so close together, Chair Truby did not think moving it 100 feet south would make any difference in reality. The Board would only be granting that they would be fully in conformance. Chair Truby did not see an issue with that and was in support of the variance request. Ms. Bowers stated she assumed the Chick-fil-A folks were notified and did not respond. Chair Truby requested Ms. Hodiernne to address that issue. Ms. Hodiernne stated Koury Corporation owns the Chick-fil-A parcel. It is a land lease and Chick-fil-A was notified. Mr. Adkins could provide direct testimony on his conversations with the actual franchisee store operator of the Chick-fil-A, who was very enthusiastic about this, if the Board wanted to hear more.

Chair Truby requested to hear from Mr. Adkins, who stated he spoke with the Chick-fil-A owner and they both agreed on the issue. He was supportive because Mr. Adkins agreed to do a parking arrangement with him. There is not adequate parking at the Chick-fil-A for their staff because it is such a busy location. Mr. Adkins agreed to allow Chick-fil-A to use their parking through the day time for staff because Mr. Adkins' business is open at night. Mr. Adkins stated he attempted to reach out to him for this meeting but has not heard back from him a second time. The owner was definitely in support as long as the cross-parking agreement was in place. Mr. Savoy asked if the 1,000 feet applied to churches and was asking because there was a church on the corner of Veasley and Tenstony. Mr. Kirkman stated the church was actually zoned residential and effectively covered by the residential zoning separation. If there was a church zoned office or something else, the separation would be 1,000 feet. In this case, it is zoned for single family. Ms. Necas advised she was prepared to make a motion.

Ms. Necas moved that in BOA 21-46, 2110 Veasley Street, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the current location does not service the Gate City Boulevard corridor as well as the proposed location. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because of the existence of a small historically residentially zoned area that is intensely non-residential, the immediate public streets surrounding the property are not residentially zoned. (3) The hardship is not the result of the applicant's own actions because the applicant did not build the building in this location or zone any of the properties at issue and the property is not the source of the zoning issue. (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its

spirit and assures public safety, welfare, and substantial justice because the proposed new location creates a more desirable land use pattern and the intervening vegetation and properties will maintain its significance separation of this property from the nearest residentially zoned property. Seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Bowers. Nays: 0.)

## **2. SPECIAL USE PERMIT**

### **a. BOA-21-47: 527 IDLEWILD AVENUE (DENIED)**

Ms. Thiel stated in **BOA-21-47**, 527 Idlewild Avenue, Eric Howell requests a special use permit to operate a tourist home on the property in addition to all uses permitted in the R-3 district. There were no proposed conditions. The parcel ID number is 7845815819 and the parcel size is 0.35 acre. Per section 30-4-1.4 of the Land Development Ordinance, 75 notices were mailed to property owners within 600 feet of the subject property.

Evidence provided by the applicant included Exhibit A. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance Reference was Section 30-8-10.4-(Q); A tourist home is a permitted use in the R-3 district with a Special Use Permit, provided that the following standards are met; (1.) A tourist home may not locate within 400 feet of a rooming house or another tourist home. (2.) No more than 6 guest rooms are allowed. (3.) The owner or operator of the tourist home must reside on site. (4.) Tourist homes are allowed only in buildings originally constructed as dwellings. (5.) Only one kitchen facility is allowed. Meals may be provided only for guests and employees of the tourist home. Rooms may not be equipped with cooking facilities. (6.) Patrons may not stay in a specific tourist home more than 15 days within a 60-day period. (7.) Sign regulations applicable to home occupations must be used for the tourist home.

**Background and Site Information:** The subject lot is located on the west side of Idlewild Avenue, south of West Friendly Avenue, and is zoned R-3. Tax records indicate the lot contains approximately 15,246 square feet and the house was constructed in 1957. The applicant has been illegally operating a tourist home on the subject property, but currently has a long-term tenant. Once the lease term expires, the applicant wishes to continue operating a tourist home in the R-3 district. On June 2, 2021, a zoning enforcement officer issued a Notice of Violation indicating that a special use permit is required to operate a tourist home on the subject property. To bring the property into compliance and remedy the Notice of Violation, the applicant applied for a Special Use Permit to legally operate a tourist home on the subject property.

### **2040 GSOCOMPREHENSIVE PLAN:**

**Future Land Use Map – Residential:** Includes both single-family and multi-family residential. Other uses should generally be in the scale of a Neighborhood or a Community Center in a form that is appropriate to the character of the area. Many residential areas include commercial corridors, and future development along these corridors should be oriented to the corridor to avoid negative impacts to adjacent residences.

**Future Built Form Map – Urban General:** Encompasses the largest area of physical development in Greensboro, which occurred post WWII and reflects national trends in development patterns of that time. The growth of middle-income families, automobile ownerships, single-family home ownership, and changes in retail patterns to shopping centers and malls has contributed to the characteristics of conventional neighborhoods. New growth in this area will be focused on Activity Centers; some of this growth will continue to be car-oriented, but there are opportunities for walkable, mixed-use development on larger sites by creating more access from surrounding neighborhoods and increasing development intensity along existing corridors, which will strengthen transit service and other transportation options.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans.

Chair Truby asked the applicant to state his name/address for the record. Chair Truby swore in Eric Howell for his testimony in this case.

**Eric Howell**, 527 Idlewild Avenue, Greensboro. Mr. Howell advised he purchased the home in 2019 and remodeled it. The home had been vacant and abused for many years and was an eyesore in the neighborhood. During the remodel, there were many complications, including a significant loss due to an inexperienced contractor that led into most of the work being done by himself and family. They decided to keep the home and have it be their primary residence. They felt that hosting professionals to help cover the mortgage and taxes would be beneficial and shared their home. An adjacent neighbor began making threats leading the Howells to apply for the Special Use Permit, which is the only avenue the City has for short term rentals. Mr. Howell encouraged the City to examine the benefits of allowing for short terms rentals. Unlike like long term rentals, where normal attendance can slack and people tend to store unwanted items in places less appealing, short term rentals prevent that as there always has to be

good appearance. Travelers coming into the community spend money at local businesses that help support the community. We have hosted CFOs, plumbing companies from Florida and Georgia, small and large business owners who attend furniture market and others who enjoy the City of Greensboro. This experience would not have been the same to them without this host home during their stay, or home away from home, which is what a short term rental provides. The advantage was having people return to the City of Greensboro and support the local economy. Guests are regulated and parties of any type were not allowed. The guests are regulated in a way that is best for the community. Mr. Howell received multiple compliments from the surrounding neighbors. Some neighbors may not like the way the home is being used as it is a new way of life or culture. Mr. Howell felt the benefits far outweighed the negatives on short terms rental that benefit the community as a whole. Mr. Howell stated all of the requirements have been met for a tourist home and a lot of work has been put into this home. Mr. Howell advised that Mr. Brumagin inspected the home, which passed, on May 26, 2021. A violation was received on June 2, 2021, regarding the Special Use Permit.

Chair Truby inquired if Board members had questions for Mr. Howell. Ms. Bowers asked if there was currently a long term tenant with a lease residing in the home. Mr. Howell responded when they received the violation, a family reached out to lease the home from July to October and are currently residing in the home. Currently the Howells are not living in the home, as it is being rented. The home is the Howells permanent residence. Ms. Bowers asked if they planned to reside in the residence and comply with number 3 of the tourist home requirements that the owner or operator must reside on site. Mr. Howell responded since the violation they have not been residing at the home. Mr. Howell wanted to read a review from one their guests. Mr. Ramsey stated he was trying to determine, since this was a contested hearing, if the applicant had a way to get the review into evidence. Mr. Andrews responded the applicant was sworn as giver of testimony and can give testimony. If the applicant was attempting to have documentary information included, it would have to be entered as evidence. The Board would then give it the value that is given to things that are submitted. If a first-person speaker presents the information, the Board would assess the weight of the information. If a person is giving hearsay information and out of court, it can be submitted and the Board would give it the weight that would be given to a third-party commentary. Mr. Andrews stated if the person saying it actually entered it, it then becomes second-person and given the weight that the Board has given. What the applicant says as an individual sworn in as the first-person, the Board attributes the weight to it that the Board feels it merits. It is not illegal to enter it, but a certain weight would be attributed to it as to whether it bears veracity or weight. Mr. Ramsey asked Mr. Howell to read the letter.

Mr. Howell advised the letter was from an Airbnb review from April 29- May 3, 2021 from Bob Boyle and could be read on the website as it was a public review. The review was for 5 stars and said "This home was exactly as described and even better than the photos. All of the appliances and fixtures are high-end and new. The home was beautifully decorated. Beds and bedding were also comfortable. The neighborhood is quiet and was perfect for our family gathering of grandparents, grandkids, and some in-betweens. While the Howells and their three kids were on-site in a separate part of the house with its own exterior entrance, we hardly knew they were there unless we had a question, which they worked quickly to answer. If we get the chance to visit this part of North Carolina again, we would love to stay in this home. Otherwise, we had absolutely everything we needed. Thank you."

Chair Truby inquired if there were further questions for the applicant from Board members. Seeing none, Chair Truby inquired if there was anyone else wishing to speak in favor of the request. Seeing none, Chair Truby inquired if there was anyone wishing to speak in opposition. Chair Truby advised there were several people wishing to speak in opposition and inquired if Mr. Donald Vaughn was speaking on behalf of the group as an attorney.

**Donald Vaughn**, 612 West Friendly Avenue, stated this was not the right place for a tourist home. Those speaking would be neighbors, professional realtors, and others that are very opposed and do not want the Special Use Permit granted. Mr. Vaughn named the speakers that would be speaking. Mr. Vaughn expressed concern if it would be another burden on the City of Greensboro to regulate this home. This home was not the right place for a Special Use Permit. Mr. Vaughn asked Joe Gneiser to speak. Mr. Ramsey advised there was a combined 20 minute time limit for all of those speaking, as Chair Truby had stated earlier in the meeting.

Chair Truby asked Mr. Gneiser to state his name/address for the record and swore in Mr. Gneiser for his testimony in this case.

**Joe Gneiser**, 529 Idlewild Avenue, stated he wanted to address safety and security. Mr. Gneiser stated there was documentation to support his statements and the sequence of events with the Howells taking ownership of the residence, the home subsequently becoming an Airbnb/VRBO, and now a long term rental property. Documents

will show the home has been an advertised Airbnb and VRBO property. Mr. Howell has never been a resident at this property to promote the safety or security of their neighborhood. Numerous clients have paid to stay at 527 Idlewild Avenue while being actively promoted on Airbnb and BRBO since February 2021, as having 5 bedrooms available. Mr. Howell has not been present for the over-crowded parties or when his guests showed up to park on the street and lawn. Guests frequently arrive late into the evening, and there has been the presence of drugs on numerous occasions. Mr. Howell has never lived at his place of business and would not know what is going on. The Gneisers brought their home in November 2019 and have invested over \$100,000 and plan to retire and live here. They would not do that and live next to a tourist home. The Gneisers and other neighbors are concerned about decreased home values in their neighborhood. The Howells wish to conduct business at this property and that contradicts the approved VA loan they received. Mr. Howell has not been a resident of the property since the loan was approved to the present, which contradicts the terms of the VA loan, which mandates the veteran occupy the property within 60 days and to live in the residence for at least one year. As a veteran, this abuse was offensive to Mr. Gneiser because veterans earn the benefit by serving the country and worked hard to earn a VA loan. Mr. Gneiser stated if this Board, acting on behalf of the City, approved this request and promoted the lack of character, it would be a disservice to all veterans. Mr. Gneiser requested that the Board deny this request.

Chair Truby asked Kathy Haines to state her name/address for the record and swore in Ms. Haines for her testimony in this case.

**Kathy Haines**, 806 Green Valley Road, advised she has been a relator in Greensboro for 22 years. Since the concept of short term rentals was launched, many landlords have decided to switch from long term rentals to short term rentals, like Airbnb and VRBO. Most times, short term rentals are more lucrative. In neighborhoods where Airbnbs operate, there have been issues of parking congestion, loud noises and parties, along with daily disruptions in an otherwise quiet neighborhood, which may be happening in this neighborhood. Short terms rentals may increase tourism in cities they are located and also help local businesses, but if located within neighborhoods not conducive to short term rentals, they could be very disruptive. Ms. Haines referred to a term in real estate called "external obsolescence," a form of depreciation caused by factors not on the property itself. The factors could be environmental, social or economic forces. The homeowner would not be able to reverse the loss in value by spending money to fix anything because there would be nothing that could be fixed. An Airbnb is located across the street close to where Ms. Haines resides. There are strict rules in place for that home per the owner, who wanted to ensure any short term rentals would blend into the neighborhood and not disrupt the permanent residents. The owner is also a permanent resident. Responsibly run Airbnbs are in many city neighborhoods and are run with respect and do not impact the quality of life for permanent residents in those neighborhoods. Ms. Haines has done many transactions in the Starmount area and hopes to list another home in the immediate vicinity. There is a disclosure in North Carolina called "The Residential Property and Owners Association" statement that must filled out by every single seller in North Carolina. The seller is asked to provide information only to which they have actual knowledge. Question 26 on the disclosure asks if there is noise, odors, smoke, etc from commercial, industrial, or military sources which affects this property. The actual knowledge part would be a yes at this point. Not disclosing this short term rental would be considered withholding pertinent information and could put the seller in a situation for breach of contract or worse. The property at 527 Idlewild Avenue was listed but did not sell at \$550,000, was reduced to \$495,000, and then withdrawn from the market, which was probably the time when the owner decided to do rentals. Ms. Haines struggled to believe that someone in this or any other neighborhood would pay a half a million dollars to be across the street from a short term rental/party house. No one knows what the exact devaluing of the properties will be because no house has been listed yet, but there is a house getting ready to listed and people are concerned.

Chair Truby asked David Cossman to provide his name/address for the record and swore in Mr. Cossman for his testimony in this case.

**David Cossman**, 528 Idlewild Avenue, advised that he and his wife moved from a rental neighborhood to this neighborhood in 2012 to live in an established, safe, quiet, neighborhood. Mr. Cossman lives and works directly across the street from the subject property. Mr. Cossman advised he has never seen Mr. Howell living onsite. There have been issues of parking in the street and unsupervised late night parties. Mr. Cossman was very concerned regarding safety, property values, and what this may do to the neighborhood. This neighborhood is residential with neighbors knowing each other. The neighbors do not want short term rentals coming into the neighborhood every weekend. Mr. Cossman stated his concerns in seeing a new person, not knowing who they are and what they will

do. Mr. Cossman felt very strongly this neighborhood was not built with this in mind and asked the Board to not allow this request.

Chair Truby asked Regina Razon to provide her name/address for the record and swore in Ms. Razon for her testimony in this case.

**Regina Razon**, 526 Woodvale Drive, stated she and her family live next door to 527 Idlewild Avenue. Ms. Razon and her husband oppose the Special Use Permit because they do not believe the proposed use would add value or avoid adverse impacts to the neighborhood. Finding A of the conditions include that the property would be the applicant's primary residence. The Razons have not witnessed the owner or his family residing at the home. There have been two large house parties witnessed by the Razons. Two of the Razons bedrooms face the backyard and their basement entrance was adjacent to the property. Safety is their main concern as parents of two young children, given the unpredictable comings and going of strangers and the owner not onsite to enforce the house rules. Regarding Finding B, the Razons do not agree that bringing in business professionals increases the value of the neighborhood and believe that it devalues their property. The Razons would have been deterred from buying a house next to a tourist home, especially one where the owner is not residing onsite. Operating the tourist home solely benefits the owner and does not contribute to the general wellbeing of the community. The claims in Finding C are misleading. Guests range from out of state contractors, family reunions, to groups hosting overnight or weekend house parties, not only business professionals and families, as claimed. With the owner not residing at the home, there is no assurance that guests would be like-minded individuals in harmony with the community. The tourist home hosts strangers staying for various personal reasons and not necessarily with the best interest or wellbeing of the community in mind. The Razons choose to live in this neighborhood because of the community. Neighbors are friends and know each other's children, look out for pets on the loose and people often wave or stop to check when walking or driving by. The community would welcome the Howell family to join the neighborhood by residing at 527 Idlewild Avenue and have a vested interest in the community. The Razons oppose the Special Use Permit due to the evasive nature of the applicant's statements and the risks to the safety involving their family and the neighborhood.

Chair Truby Asked Stephanie Benson to provide her name/address for the record and swore in Ms. Benson for her testimony in this case.

**Stephanie Benson**, 6808 Palomino Ridge Court, Summerfield, stated she grew up diagonally from 524 Idlewild Avenue with her mother and her father since 1965. Her father was a member of the World War II Air Corps greatest generation. Her parents lived there until their passing. Ms. Benson felt 524 Idlewild Avenue was a wonderful place to grown up. In 1965, there was a permanent easement shortcut through the back yard for the neighborhood school children to be able to get to Sternberger Elementary School that is still used to this day. Ms. Benson is in the process of clearing out and selling her parents' house. Across the street is a signed posted about this Special User Permit request. It is not a family friendly change in the neighborhood. Ms. Benson did not feel anyone would want to consider that house. It is wrong that 56 years of residency and stable home ownership would be impacted by someone with no residency at all. It devastates the value, not just for her family home but also the surrounding homes. The neighborhood is not a tourist destination, nor is there one near the neighborhood. This unbidden insertion of a commercial establishment was wildly out of character and out of place in a quiet neighborhood. The property being discussed was on the short side of a hilly traffic triangle where children play and intersects Woodvale Drive. Ms. Benson advised the previous night a car was parked on the curve in front of the "hotel" facing the wrong way and forcing cars in the dark into the wrong lane, on a curve, on an incline with no line of sight from either road. In the past, there were only neighbors who cared about the collective health and safety of the neighborhood. It is not the case now with this intrusion. The character and value of the neighborhood and homes, including her parents' home, is jeopardized by the random failure of speculators who have never lived in this neighborhood. The new normal cannot be that all neighborhoods are vulnerable. This unwanted, unneeded illegal dwelling is worse than a hotel because there is no management on the premises. Strangers come and go. What's even stranger is that she is obligated to disclose this to potential buyers on a residency property disclosure form after 56 years of quiet enjoyment of this property. It is not a special use; it is an abuse. The neighborhood appealed to the Board to stop the abuse of this neighborhood. Chair Truby inquired if there were any further speakers in opposition to this request.

**Don Vaughn** stated this request was a dangerous precedent for other Greensboro neighborhoods. To allow a tourist home in the middle of this established neighborhood would be a bad precedent for other neighborhoods in Greensboro. Speakers have spoken adjacent to this neighborhood and Ms. Haines has provided professional

representation. This neighborhood is not the place that was intended when tourist homes were introduced or what the neighborhood intended. Mr. Vaughn requested that the Board say no.

Chair Truby inquired if the applicant would like to speak in rebuttal for 5 minutes.

**Eric Howell** stated to clarify, Mr. Brumagin came to their home and signed off on the home during the first inspection that was completed and passed on May 6, 2021. The house met all the qualifications for the tourist home. Mr. Howell understood the neighborhood being upset and feeling that house values are decreasing. Mr. Howell advised that he invests in real estate and this house is being kept for the long term. Mr. Howell presented pictures depicting all of the renovations done both outside and inside the house since the purchase in 2019. When neighbors complain about their house decreasing in value, they are wrong. Mr. Howell stated his home was changed from a 3 bedroom, 2 bath to a 5 bedroom, 3 bath. When a property is remodeled to that extent, the entire neighborhood's property values increase. His home has been appraised for \$525,000. Mr. Howell brought the home for \$245,000. The Howells chose not to sell it because the home is beautiful and wanted to keep for themselves. At the same time, it is a 5 bedroom, 3 bath home that could be used for short term rentals to earn additional income and make their way of living easier, in particular because of 2020 inflation prices. Mr. Howell is supporting his family in every way he can. Short term rental is another vehicle being utilized. Nothing presented by neighbors has been factual. Mr. Howell stated the police were called for mowing the yard on the property boundary. Mr. Howell had a video depicting his neighbor bending over the property line and picking up grass clippings to throw back into his property. Mr. Howell placed a fence 15 feet from the road due to that issue. A camera on his neighbor's property points at his back door that Mr. Howell cannot address. Mr. Howell advised that Ms. Benson distributed 75 notices to neighbors with 3 people within the neighborhood attending on the issue of parking on the grass. Mr. Howell stated his appreciation to his neighbors that are appreciative of how much the neighborhood was improved by turning a \$200,000 home into a \$525,000 home in less than a year. Mr. Howell referred to Tom Tricot, the property owner at 526 Idlewild Avenue, which is diagonally across from his home, who has several college age children who park in Mr. Howell's yard. Mr. Howell has discussed the parking issue with Mr. Tricot. The Howells have installed cameras all around the house and property to prevent any issues and there have not been any issues. Those heard at this meeting were all hearsay, with no proof and no police intervention. There is a carport on the back of his home that would hold 4 cars. With the house being on a corner lot, people park on the curb. His family parks in the front. The fifth bedroom has its own entrance and exit. They occupy two bedrooms and other people stay in the other three bedrooms.

Chair Truby inquired if Mr. Vaughn wanted to respond.

**Don Vaughn** stated this neighborhood was not the right place for short term leasing. Mr. Vaughn referred to the Notice of Zoning Violation. Mr. Howell should have known as a realtor that he received a violation of the code of the City of Greensboro. Mr. Vaughn stated it would be devastating for other neighborhoods if this request was approved. The short term rental is in the middle of an established neighborhood, Starmount Forrest. The Board heard from neighbors and experts that request the Board to vote no.

**Joe Gneiser**, stated the owner said that this home was going to be purchased, renovated, and flipped. The Howells never intended this house to be their residence and is not hearsay. When the home was not sold, it was turned into a business. Numerous neighbors have stated they have never witnessed the Howells living there. It is not hearsay.

Chair Truby asked Bruce and Brenda Young to provide their name/address for the record and swore in Mr. and Mrs. Young for their testimony in this case.

**Bruce and Brenda Young**, 3901 West Friendly Avenue, corner of West Friendly Avenue and Idlewild Avenue. Mr. Young stated they have lived in the home for 20 years and do not want see their property values go down. Mr. Howell has never lived in the home. When the truck is there, it's parked in the front yard. Mr. Young watched him rehab the house, which is beautiful. Mr. Howell has never lived there and is requesting this because he could not sell the house at the value he wanted, but can sell it now. Ms. Young stated their home faces Friendly Avenue and the side of their home is on Idlewild Avenue. As a grandmother with a young granddaughter who walks by this property, Ms. Young felt it was unsafe to have people there without knowing if there was a sexual predator in the neighborhood staying in the house. Safety was the biggest concern, not so much the property value, although it is a concern. It is not safe to have unknown individuals coming in and out of a property. This is an established neighborhood. Ms. Young grew up in the neighborhood and did not want to see it go down. Mr. Howell made a poor business deal with his contractor, which was not the problem of the neighborhood. Mr. Howell may have to sell it at a loss, it was on him.

**Stephanie Benson**, stated she lives in Summerfield, but for the past 5 plus years was at the property on Idlewild Avenue every day as her father's caretaker. Ms. Benson never saw the Howell family there, except working on the house. Not including her, there were five households who have come forward who say Mr. Howell does not live there. There is no evidence, other than Mr. Howell's self-serving comments, that have not been affirmed by anyone. There was no documentary evidence that Mr. Howell receives tax returns or any other mail at the home. Ms. Benson stated she saw no indication of evidence. Ms. Benson stated Mr. Howell had a unanimous set of neighbors who have told the Board that Mr. Howell is not telling the truth and did not see how the Board could decide otherwise. Ms. Benson stated there was no one, including his wife, stating he was telling the truth.

### **DISCUSSION:**

Chair Truby thanked everyone for speaking and closed the public hearing for discussion. Chair Truby stated if any of the Board members had questions to ask them. Mr. Oliver stated the one issue was does Mr. Howell live there. If he doesn't live there, he would be violating tourist home standard number 3 and would be the end of the matter.

Mr. Howell stated if the Special Use Permit was passed, they plan to move back in the house and live full-time. Currently, there is a tenant whose lease ends in October. If a re-inspection was needed to provide evidence they live there, they will have it. The Howells had to move out in order to do the Special Use Permit because there is nothing governing a short-term rental lease. The closest is a tourist home, which is a bed and breakfast.

Chair Truby inquired if there was any other Board discussion. Ms. Bowers felt there was doubt as to whether the owner met the requirements of Section 30-8-10.4, one of which is that the owner operator must reside onsite. Ms. Bowers stated if a Special Use Permit application was granted, it would be perpetually bound to the authorized use. Ms. Bowers asked if the Special Use permit would go with the property even if there was a new owner. Mr. Kirkman responded the permit was tied to the use. As long as the use continues, those rights exist. Someone could sell the property and maintain the use. If the use ceases, the Special Use Permit also ceases. Mr. Oliver asked if anybody bought the house and decided to rent it long term, with 6-month or one-year leases, would a special approval be needed for that. Mr. Kirkman responded a special approval would not be needed. It is not defined as short term versus long term in the ordinance. Through general interpretation and application, it is considered a general rental and would be a rental dwelling unit, resulting in questions of how many people reside there and would it constitute a family or not within the dwelling unit. It doesn't necessarily have to be the owner in that case, it could be four unrelated individuals or a number of individuals related to each other. Mr. Oliver asked if the Board turned this request down, could Mr. Howell turn it in a rental property. He would not have to live there and could rent it out. Mr. Kirkman responded that was correct. Mr. Kirkman believed staff did receive information from the applicant who provided a driver's license and other documents that stated this property was his address a few months ago. Mr. Kirkman was sure of the license but could not speak to the other documents. Mr. Ramsey asked how long was the home operated as a tourist home before the citation was received and then became a long-term rental. Mr. Kirkman reviewed the Officer's notes. Staff reached out in June to verify what was going on and that was when they were notified of the Special User Permit in order to do short term rentals. In this case, it is actually a tourist home by the definition in the ordinance. It would have been shortly after when complaints were heard from the neighbors. Mr. Ramsey stated the fact is, it was not a tourist home for a long time. Mr. Kirkman responded based on the records, complaints were received shortly after some of the first rentals occurred. The Zoning Enforcement Officer went out to investigate and concluded this property was single family zoning and did not have a Special Use Permit to allow the tourist home and then the next step took place. Chair Truby inquired if there were further questions or discussion. Chair Truby stated he had doubts from some of the testimony heard. This tourist home request was very different from the one approved previously, which was in a more rural setting and more isolated with people not as affected as much by it. This home is right in the middle of a neighborhood. Chair Truby stated he lived close to this location and would not want an Airbnb next to his location. Chair Truby stated the City Planning Department needs to address this request because this is a growing deal and there needs to be rules and regulations in place. Trying to classify everything a tourist home is not the right way to do this and there needs to be separate Airbnb regulations. People should have the right to rent a room or something like that. To call this a tourist home placed in the middle of a neighborhood, Chair Truby was not in support. Mr. Kirkman stated there was a group who has been convened to address regulations specific to short term rentals. There is nothing in place to date to present to the public. Chair Truby inquired if there was further discussion or a motion. Mr. Andrews felt Chair Truby articulated his opinion and requested if anyone else offered comments to articulate the basis, particularly to relate the basis to the LDO or the rules provided as it would be helpful to all involved. Ms. Bowers advised she had a motion. Chair Truby stated for

clarification, he did not know whether the applicant lived on site and did not feel that requirement had been met. Chair Truby advised Ms. Bowers to state the motion.

Ms. Bowers moved in BOA-21-47, 527 Idlewild Avenue, based on the stated findings of fact, that the Special Use Permit be denied based on the following: (1) The proposed use will be detrimental to the health and safety of persons residing or working in the vicinity or injurious to property or improvements in the vicinity because safety and security are a concern to many neighbors who have observed tenants parking in or around the house either illegally, or inappropriately, and parties going on and possible drugs. They have experienced use of the house as a party house. Having an Airbnb will be viewed as detrimental to the neighboring properties. Neighboring property owners have observed that the owner has never resided at the property and the owner admitted that he does not reside at present. Neighbors have witnessed at least two large house parties by tenants at the house, (2) The proposed use at that particular location does not provide a service or a facility that will contribute to the general well being of the neighborhood or the community because this type of rental invites transient tenants by definition. Having different renters rather than long term tenants is upsetting to the neighbors when they do not know who will be residing there from week to week. Neighbors do not agree that bringing in business professionals increases the value of the homes in the neighborhood. (3) The location and character of the proposed use will not be in harmony with the area in which it is to be located and in general conformity with the Comprehensive Plan because this type of use for short term rentals is not in harmony with the area where the property is located. This is a long-established quiet neighborhood where most of the homes are not rented, but are lived in by their respective owners. The opponents presented testimony from a real estate professional that allowing the Special Use permit will detrimentally affect the value of neighboring properties and must be disclosed on realtor forms for sale of neighboring properties. A residential disclosure form requires disclosure of the neighbor's knowledge of past use of the property by tenants who partied at the house. There was substantial testimony from neighbors that transient tenants are not a desirable characteristic for those who live in the neighborhood and community. Seconded by Mr. Ramsey. The Board voted 7-0 in favor of the motion. (Ayes: Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Bowers. Nays: 0.)

**OTHER BUSINESS:**

Ms. Thiel stated there was no other business from staff.

**ACKNOWLEDGEMENT OF ABSENCES:**

None.

**ADJOURNMENT:**

The meeting was adjourned at 7:31 p.m.

Respectfully submitted;

Chuck Truby, Chair  
Board of Adjustment  
CT/cgs

**MEETING MINUTES**  
**GREENSBORO BOARD OF ADJUSTMENT**  
**OCTOBER 25, 2021**

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The meeting of the Greensboro Board of Adjustment was held on Monday, October 25, 2021 at 5:30 p.m. online via Zoom. Board members present were: Chairman Truby, James Waddell, Vaughn Ramsey, Ted Oliver, Terry Savoy, Leah Necas, and Stephen Barkdull. City staff present were Shayna Thiel, Mike Kirkman, Luke Carter (Planning Department), and Al Andrews (Chief Deputy City Attorney).

Chairman Truby welcomed everyone to the virtual meeting. Members of the Board of Adjustment are appointed by City Council and serve without pay. This is a Quasi-Judicial Board, meaning that all testimony will be under oath. Findings of fact will be made and final action of the Board is similar to a court decision. Anyone appearing before this Board has a right to offer evidence, cross examine witnesses, and inspect documents. The Board will proceed in according to the agenda, a copy which was provided. Chairman Truby further explained the manner in which the Board conducts its hearings and methods of appealing any ruling made by the Board. Chairman Truby advised that each side, regardless of the number of speakers, were allowed a total of 20 minutes to present evidence. Board members may ask questions at any time.

**APPROVAL OF MINUTES (SEPTEMBER 27, 2021 Meeting)**

Mr. Ramsey made a motion to approve the September 27, 2021, minutes; seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull. Nays: 0.)

**SWEARING IN OF STAFF**

Shayna Thiel and Mike Kirkman of the Planning Department were sworn in for their testimony in the following cases.

**CONTINUANCES / WITHDRAWALS**

Ms. Thiel advised the applicants were present to request a continuance.

**Alex Durham, 1340 Dylan Heath Court, Raleigh**, stated a continuance is being requested regarding cases BOA-21-52 and BOA-21-53. Based on feedback from an adjacent land owner, who was unable to attend the meeting today, the applicants felt it was in the best interest, based on the concerns expressed, to meet with him prior to the November meeting. The continuance request was based on the neighbor's concerns. Chair Truby asked Ms. Thiel if there was anyone in opposition to this continuance request. Ms. Thiel advised she had not heard from anyone in opposition to the continuance request.

Chair Truby inquired if anyone on the Board had questions for the applicant or was there a motion to continue the items. Mr. Ramsey moved to grant the continuance request to the next meeting; seconded by Mr. Oliver, The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull. Nays: 0.)

**OLD BUSINESS**

None.

**NEW BUSINESS**

**1. VARIANCES**

**a. BOA-21-48: 4806 LAKE LAUREL COURT (APPROVED)**

Ms. Thiel stated in **BOA-21-48**, 4806 Lake Laurel Court, Beverly Alexander requests a variance to allow a proposed addition to encroach 9.8 feet into a required 20 foot rear setback. The addition will be 10.2 feet from the rear property line.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance Reference was Section 30-7-3.2, Table-7-2: In the R-5 District (R-3 Cluster), the minimum rear setback is 20 feet.

**Background and Site Information:** The subject lot is located on the east side Lake Laurel Court, south of Old Towne Drive, and zoned R-3 Cluster (Residential Single-Family). Tax records indicate the cul-de-sac lot contains approximately 7,405 square feet, and the house was constructed in 2004. The recorded plat identifies Old Towne at Richland Creek Subdivision as a cluster development, so R-5 district dimensional standards apply instead of R-3 district dimensional standards. As part of pending building permit application #202115349, the applicant proposes to convert an existing patio at the back of the house into a screened porch in the same location/footprint. The existing uncovered patio was allowed to encroach into the rear setback since it was constructed at-grade. By adding a roof, the screened porch addition is subject to the setback requirements for principal structures and thus requires a variance to allow for any encroachment into the rear setback. The proposed screened porch addition will encroach 9.8 feet into a required 20 foot rear setback and be 10.2 feet from the rear property line. If the variance is granted, the applicant will proceed with the residential building permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted the applicable overlay.

Chair Truby asked the applicant to state her name/address for the record. Beverly Alexander was sworn for her testimony in this application.

**Beverly Alexander, 4606 Lake Laurel Court,** Ms. Alexander requested that her contractor, Mark Quesinberry, speak about her project.

Chair Truby asked Mr. Quesinberry to state his name/address for the record. Mark Quesinberry was sworn for his testimony in this application.

**Mark Quesinberry, 617 Jarrell Road, Lexington,** stated Ms. Alexander has a concrete patio existing on the back of her home. Currently, there is a retractable awning covering the concrete patio. Mr. Quesinberry and Ms. Alexander discussed the back patio not being very enjoyable because of bugs and sun. A roof covering on top with shingles to match the home and enclosed screening was discussed. They went before the HOA, who approved the request, as long as it followed city guidelines. Mr. Quesinberry applied for a permit and learned that there was a rear setback encroachment. The existing patio is 15 x 26. No neighbors were opposed to the request and have done the same thing on their properties. The enclosed patio would be very enjoyable for Ms. Alexander and her family. At the rear property line, there is a hillside that cannot be used for anything. Chair Truby inquired if Board members had questions for Ms. Alexander or Mr. Quesinberry. Seeing none, Chair Truby asked Ms. Thiel if there was any opposition to the request. Ms. Thiel responded there had been no calls or emails. Chair Truby closed the public hearing and requested discussion or a motion. Chair Truby stated this property abutted the common area and thought there was a provision ordinance allowing a setback reduction when abutting common area and asked if that was the case. Ms. Thiel responded the common area was not wide enough to trigger the setback reduction, and even if it was, the reduction is only half the distance of the setback. Chair Truby requested discussion or a motion.

**MOTION:**

Mr. Savoy moved that in BOA 21-48, 4806 Lake Laurel Court, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because if the variance request is denied, the existing patio from previous owners would have to be relocated; (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the applicant would not be able to enjoy the existing patio because of direct

sunlight and the elements; (3) The hardship is not the result of the applicant's own actions because the patio was allowed and installed before the existing owner; (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the granting the proposed addition would maintain the spirit and harmony of the neighborhood and would be used for residential purposes. Seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull. Nays: 0.)

**b. BOA-21-49: 1011 COUNTRY CLUB DRIVE (APPROVED)**

Ms. Thiel stated in **BOA-21-49**, 1011 Country Club Drive, William and Susan Veazey, request a variance to allow an existing structure and proposed addition to encroach 0.83 feet into a required 5 foot side setback. The structure and addition will be 4.17 feet from the side property line.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance Reference was Section 30-7-3.2-Table 7-2: In the R-5 District, the minimum side setback is 5 feet.

**Background and Site Information:** The subject lot is located on the south side of Country Club Road, east of Pembroke Road, and is zoned R-5 (Residential Single-Family). Tax records indicate the corner lot contains approximately 25,700 square feet, and the house was constructed in 1951. The applicants propose to construct a covered breezeway to connect their existing house to their existing garage. As they currently exist, the house and garage meet the principal and accessory structure setback requirements, respectively. By connecting the existing garage to the existing house, it becomes part of the principal structure and is subject to the R-5 dimensional standards. Because the resulting connected structure is only 4.17 feet from the side property line, a variance is necessary to allow for a 0.83 foot encroachment into a required 5 foot side setback. If the variance is granted, the applicant will submit a residential building permit application and proceed with the permit process

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays and plans.

Chair Truby asked the applicants to state their name/address for the record. Chair Truby swore in Nick Blackwood, attorney, for his testimony in this application.

**Nick Blackwood, 804 Green Valley Road, Suite 200**, advised he was present on behalf of Susan and William Veazey, Chair Truby inquired if the applicants were present and would be speaking. If they were, they would need to be sworn in for their testimony. Mr. Blackwood advised Ms. Veazey was present to answer any questions, if need be. Mr. Blackwood advised the applicants have resided at this address since 2015 and would like to improve the property by installing a connecting breezeway between their home and the existing attached garage. Both the home and finished garage were in place at the time the home was acquired by the applicants. The variance request is caused by the distance between the existing garage and the eastern property line that would create a side interior setback deficiency upon construction of the connecting breezeway and would reclassify the detached accessory as part of the property's principal structure. A PowerPoint presentation was shown providing a general overview of the property layout and the configuration of the existing garage structure on the property that already existed when purchased. A street view was shown from Country Club Road depicting the existing garage pushed back behind the principal structure and aligned very close to the eastern property line, with mature vegetation serving as a buffer between the existing garage and the residence to the east. A survey was presented outlining the location of the proposed connecting breezeway. The proposed addition would cause no impact on the distance of 4.2 feet between the existing detached garage and the property line. The breezeway would be located toward the interior portion of the lot. Elevation renderings prepared by the applicant's architect were shown illustrating the overall design and height of the proposed addition in relation to the existing structures. The peak of the proposed breezeway was below the top of the roof line on the existing garage and the home on the property and would not cause any type of intrusion. Mr.

Blackwood stated the application was triggered by the ordinance and the setback requirement. The proposed addition only encroaches 0.83 feet into the required side setback. The purpose of the ordinance is to reduce potential disturbances to neighboring property owners by providing adequate space between the primary dwelling located on the lot and the property line. The physical structure causing the encroachment was already in place prior to the applicants taking ownership of the property. The applicant has been in communication with neighboring property owners via text and there were no concerns expressed. Responses to the information provided were positive and supportive. Mr. Blackwood stated the factors for a variance are met. An unnecessary hardship would result from strict application of the ordinance and the applicants would be prevented from constructing the proposed breezeway despite the proposal having no material impact on the distance between the existing detached garage and the eastern property line. The hardship results from conditions peculiar to the property due to the location of the existing structures in place at the time the applicants purchased the property. The garage is located where necessary to allow for a straight access driveway onto County Club Drive and is not currently encroaching given that it is an accessory structure. The hardship results from the application of the ordinance to the property because absent a variance, the applicant would be unable to construct the attached connecting breezeway addition which would provide safe and convenient access from the applicant's home to the existing detached garage. The hardship is not the result of the applicant's own actions because the applicants acquired the property and the existing structures as currently configured and construction of the proposed breezeway would have no impact on the existing distance between the garage and the eastern property line. The variance is in harmony with the general purpose and intent of the ordinance in that no neighboring property owners would be negatively affected and the location of the addition, as planned, would not negatively interfere with the neighbors to the east of the property where the encroachment exists. Granting of the variance assures public safety and welfare and does substantial justice in that the variance will allow the applicants to improve their property and construct a proposed connecting breezeway without negatively impacting neighbors. Denial of the variance request would provide no benefit to neighboring property owners given that the location of the existing garage, which is causing the encroachment to the side lot setback, will remain in place where it stands regardless of the construction of the breezeway. Mr. Blackwood advised Ms. Veazey was available to answer any questions the Board may have.

Chair Truby inquired if any Board members had questions for the applicant. Seeing none, Chair Truby asked Ms. Thiel if there was opposition to this request. Ms. Thiel responded there was none. Chair Truby closed the public hearing and requested Board discussion or a motion. Mr. Ramsey made a motion.

### **MOTION**

Mr. Ramsey moved that in BOA 21-49, 1011 Country Club Drive, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the applicant will be unable to construct a proposed breezeway between their house and garage to provide safe overhead access to the garage; (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the position of the house and existing garage predates the applicants ownership of the realty and prevents the location of the breezeway at any other location; (3) The hardship is not the result of the applicant's own actions because the location of the house and garage predate the applicant's ownership of the property; (4) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the proposed breezeway will not impact any adjacent property owners. Seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull. Nays: 0.)

**c. BOA-21-50: 1003 DOVER ROAD (APPROVED)**

Ms. Thiel stated in **BOA-21-50**, 1003 Dover Road, Seth and Melissa Coker, requests two variances. (1) To allow a proposed accessory structure to encroach 16.9 feet into a required 30 foot street setback. The accessory structure will be 13.1 feet from the property line along Buckingham Road. (2) To allow a proposed swimming pool to be located in front of a principal structure (when viewed from a road or street) and to encroach 10.7 feet into a required 25 foot street setback. The swimming pool will be 14.3 feet from the property line along Buckingham Road.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 6. The Land Development Ordinance References were Section 30-8-11.1(B)(1): Accessory structures must be located behind the front building line of the principal structure and are not allowed in a required street setback; Section 30-8-11.9(C)(1): Swimming pools (as well as the decking and equipment associated with the pool) and interactive water features that are located on single-family lots that are less than one acre in area must be located behind the principal structure (when viewed from a road or street); and Section 30-7-3.2 – Table 7-1: R-3 dimensional requirements.

**Background and Site Information:** The subject lot is located on the east side of Dover Road, north of Buckingham Road, and is zoned R-3. Tax records indicate the through lot contains approximately 24,829 square feet, and the house was constructed in 1950. As part of a comprehensive renovation, the applicants propose to convert an existing garage into a pool house, install a swimming pool, and add a new one-story garage. The subject property is considered a through lot, which is a lot that fronts on two streets that do not intersect at the corner of the lot. A through lot has two street setbacks, but no rear setback. Because of the through lot classification, standard R-3 front street setback requirements apply to the proposed accessory structure and swimming pool from the property line along Buckingham Road, instead of less restrictive setback requirements for interior lot lines. The proposed garage, with doors facing Buckingham Road, will encroach 16.9 feet into a required 30 foot front street setback. Additionally, the proposed swimming pool will encroach 10.7 feet into a required 25 foot front street setback and be located in front of a principal structure when viewed from a road or street. At this time, the applicants seek variances to remedy these issues, and if granted, will submit residential building permit applications for the proposed work.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans.

Chair Truby asked the applicants to state their name/address for the record. Chair Truby swore in Amanda Hodiern, attorney, for his testimony in this application.

**Amanda Hodiern, 804 Green Valley Road**, present on behalf of the property owners, Seth and Melissa Coker, stated this case appears to have a lot of complexity, but is a simple issue as it stems from the categorization of the lot as a through lot. Slides were shown depicting the parcel map and property. The lot breaks the mold of the linear lots platted down to the street. This property is in Old Irving Park, a neighborhood planned around a golf course, Dover Road designed to be complimentary to the golf course, and other roads coming into Dover Road to complete the subdivision. This neighborhood has interesting angles and creates a nice, community feel, but creates some interesting anomalies under the zoning code that has brought the applicants before the Board for these requests. There is street frontage on a public right-of-way on both Dover and Buckingham Roads, but not at a corner. In this case, the code states both of the frontages have to be treated as if they are the front of the property, and there is essentially no rear yard. The current existing view of the home depicted the rear yard, driveway, garage, back yard, patio, and secondary entrances and exits of the home. The front of the house was shown facing Dover Road. Ms. Hodiern stated there was an aesthetically pleasing front yard and nothing would be lost to the value of the property or neighborhood. A site plan was shown depicting the frontage along Dover Road and Buckingham Road. The angle of Buckingham Road further decreases the buildable area in the rear due to the cut of the road and how it interacts with this property. The applicants want to continue to treat the Buckingham Road frontage as the rear yard of this property, in keeping with its

orientation since 1950. The homeowners want to make a few changes that will create some differences with the setbacks. They want to add a swimming pool that requires a variance because of the through lot. The variance would technically be located in front of the principal dwelling. In practice this has always been the rear and asked the Board to continue to treat it that way. They are held to front yard setbacks that are much more rigorous than rear yard setbacks. Ms. Hodiernie stated the rear yard setback for in this R-3 zoning district is 10 feet. Neither of the variance requests would be triggered under a true rear setback calculation of 10 feet. The applicants are asking to be treated functionally as the law is actually set up and exists currently. Under the ordinance, it is a through lot, a front yard, and the applicants are beholden to a 25 foot setback for the swimming pool location, which encroaches into that by approximately 10.7 feet. The applicants are asking for a second encroachment into the front yard setback for the proposed new one-story garage. It is a location that would be allowed without any setback requirement if this was calculated as a rear yard. This is a front yard and are held to the higher standard. Because the garage faces the front yard, the applicants are held to a higher standard of a 30 foot setback and is why the calculation is different on this request and would encroach 16.9 feet. A picture was shown indicating a definitional front yard, bifurcated further by the diagonal cut of Buckingham Road, and creating the hardship on this property. To be without a rear yard and without the space where any other piece of property would put a swimming pool, a garage, and a driveway. These circumstances have long existed and were inherited by the Coker family. A photograph was shown depicting the plat from 1950, which appeared to flow from wanting to get Dover Road lined up with the golf course green, then dealt with what happened on the other side of Dover Road, resulting in the creation of odd lots. A plat was shown from 1953 of the finished platting of Buckingham Road with more traditional lots coming down to the road, setting up the juxtaposition of the odd through lots on the corner due to the angle. The home was built in 1950 and now the property owners want to make some investment/improvement to continue to utilize it for their family under the designation of a through lot, which is not seen very often in city limits. Ms. Hodiernie stated this was a very reasonable and appropriate request for a variance. It was a unique situation that created the hardship of a through lot designation lot, causing a definitional requirement of two front yards. This is a traditional single-family home that needs to have a front yard and a rear yard in order to have all the aspects of a single-family detached home. There was a condition peculiar to the property in that the lot is not perfectly rectangular and has the Buckingham Road yard area due to the angular cut of the road. The hardship results from the application of the ordinance to the property because the ordinance requires for this to be called a through lot and therefore requires to be categorized as having two front yards, with two front yard setbacks and thereby creating a very narrow and reduced building area with not much room for all the things that traditionally would go in a rear yard. The hardship is not the result of the applicant's own actions. As shown on the plats and with the house being constructed in 1950, the lots were set up this way prior to the Cokers' ownership and the home was built and oriented toward Dover Road with the rear orientation to Buckingham Road since 1950. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit in that this request still provides adequate spacing between built improvements. The public street does not detract from the streetscape on an attractive community appearance because there is still a traditional front yard benefitting the property and the neighborhood as a whole. There is appropriate spacing between the rear yard encroachments that were asked for on Buckingham Road. If this lot did not have the dual front yards and allowed to only have a rear setback calculation, the applicants would be meeting that requirement and would not be encroaching into the 10 foot threshold. Granting of the variance assures the public safety and welfare and does substantial justice by allowing the property to be treated like all the other properties in the neighborhood and treated in a way allowing it to function as a true traditional single-family home. It allows the Cokers to invest in their property and to continue modernizing it for their family needs and stay there for years to come. Ms. Hodiernie inquired if there were questions and advised Mr. Coker was available should there be questions for him.

Chair Truby inquired if there were questions by Board members. Seeing none, Chair Truby asked Ms. Thiel if there was anyone to speak in opposition to the request. Ms. Thiel responded there was no opposition. Chair Truby closed the public and inquired if there was discussion among the Board or a motion. Mr. Waddell stated he had a motion if there was no discussion.

**MOTION:**

Mr. Waddell moved that in BOA 21-50, 1003 Dover Road, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the application of the ordinance requires that both adjacent streets be treated as front setbacks; (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the layout of the subject property is unique because it sits between two adjoining streets; (3) The hardship is not the result of the applicant's own actions because the property owner did not create the condition of one front yard and two setbacks. The home was originally constructed in 1950; (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice the construction project will still allow for adequate spacing from the public streets. Seconded by Barkdull. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull. Nays: 0.)

**d. BOA-21-51: 1421 WAYSIDE DRIVE (APPROVED)**

Ms. Thiel stated in **BOA-21-51**, 1421 Wayside Drive, Atiba Berkley, requests a variance to allow 10 poultry animals over six months of age on the property when no more than three are permitted.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance Reference was Section 30-8-11.3(B) (5)(b): No more than one animal over 6 months of age shall be permitted for every 3,000 square feet of lot area.

**Background and Site Information:** The subject lot is located on the west side of Wayside Drive, south of Ashmore Drive, and is zoned R-5 (Residential Single-Family). Tax records indicate the corner lot contains approximately 10,890 square feet, and the house was constructed in 1964. The applicant currently raises ten chickens on the subject property, when no more than three are permitted based on the subject property's size. On June 10, 2021, a zoning enforcement officer issued a Notice of Violation for exceeding the number of permitted chickens on the property and for a coop being less than 25 feet from any property line and less than 50 feet from any principal building located on an abutting lot. After the issuance of the Notice of Violation, the applicant set up and now uses a new coop, and a zoning enforcement officer confirmed that its location complies with the required setbacks. At this time, the applicant seeks a variance to allow ten poultry animals over six months of age on the property when no more than three are permitted.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans.

Chair Truby asked if the violation letter was staff initiated or resulted from a neighbor's complaint. Mr. Kirkman responded it was a complaint that staff investigated, but did not know the specifics.

Chair Truby asked the applicant to state his name/address for the record. Chair Truby swore in Atiba Berkley for his testimony in this application.

**Atiba Berkley, 1421 Wayside Drive**, stated a City Enforcement Officer approached them and were told a neighbor filed a complaint. The Berkleys have had chickens for over a year and a half with no complaints and no one has spoken to them about the chickens. Mr. Berkley understood the complaint was sent anonymously stating there were chickens everywhere. The statement was inaccurate in how their property or animals are kept. At the time of the complaint, the chicken coop was a 10x24 square foot

structure. The Enforcement Officer first noticed the coop was too close to the property line and then the number of chickens. Arrangements were made to move the coop structure, which was reduced in size to 10x20 square feet, to 25 feet from all neighboring fence lines. Chair Truby inquired if there were questions from any of the Board members.

Mr. Ramsey asked if the coop was an enclosed area where the chickens stayed and were contained or were they running all over. Mr. Berkley responded the chickens have an enclosed area designed for them to live in. In the chicken ordinance, you are allowed to have chickens run around your yard and be left out. The chickens do not live outside with nowhere to go. The coop itself is sitting 4 feet off the ground on 4X4 foot posts on four corners and completely enclosed with a ladder ramp the chickens use to enter and exit the coop. The coop is a covered structure where the chickens sleep and have protection from the elements. There is a run covered in hardware cloth attached and extended to the coop, the entire structure is enclosed. Pictures were shown indicating where the structure had been close to the back fence area. The first picture was the back side of the coop. The second picture was the run attached to the coop. A small hole in the middle was the doorway where chickens can come and go. When it is dark, the chickens go inside. The backyard is fenced in with a chain link fence. The coop is completely enclosed. Photographs were shown of the fence indicating the 25 foot distance to the other fence line. Mr. Berkley stated they were requesting permission to keep their chickens. The chickens are not causing any undue harm to anyone. The chickens were obtained during the pandemic. There are a lot of community members who also raise chickens, but not as many as they do. There are many people in the neighborhood who have more than three chickens. The only reason the Berkleys had a problem was because they were reported anonymously. Mr. Berkley was unsure if anyone was present to complain. The Berkleys are a family of six, with four children 12 and under. Three chickens were not enough to feed everyone in the family, as the chickens only produce one egg per day. These are high producing chickens that produce almost every day of the year and are a food source and supplement. Three eggs would be half an egg per person for their family and not enough. Ten chickens are the amount needed to maintain their family. Raising and having the chickens was a cost saving. Feeding the chickens is much less expensive than buying organic, soy-free eggs. The Berkleys children with food allergies and sensitivities, so controlling their food is very important for the health of their family. Work is being done to the landscaping for other benefits. Mr. Berkley was unsure if they mattered for the ordinance but advised if the Board was interested, he was glad to share them. Mr. Berkley felt this issue will be a continuing issue in their community for those who are trying to live sustainably and feed their families off land that they own. There are a number of people who have gardens. The area they live in is a food desert. They had been members of the Renaissance Co-Op that was shut down because it was not sustainable. Second Harvest food Bank is now in that space, but there are no grocery stores. There were four new grocery stores approved by the City of Greensboro, but have not been built on this side of town.

Chair Truby inquired if the Board had questions for the applicants. Mr. Savoy asked if any of the chickens have gotten out of their yard and into neighbors' yards. Mr. Berkley responded temporarily, but it was not an issue for any complaints. Ms. Berkley stated it was when the chickens were small and slipped through the fence.

Chair Truby requested Ms. Berkley to be sworn in for her testimony.

**Selena Wolf Berkley, 1421 Wayside Drive**, stated the chickens would slip through the fence when they were small. They were gone for less than five minutes when we realized the chickens got through the fence. That incident was the only time the chickens got outside the fence. Mr. Berkley stated the chickens are not noisy and make very little noise. All of the chickens are female egg-laying chickens. There is no rooster in the mix. Ms. Berkley advised they were not planning to obtain more chickens, as they have enough. They are not trying to create a food business or build a farm. They only want to live sustainably. Mr. Oliver asked if only the eggs were used. Mr. Berkley responded they also use the fertilizer. They have

a 30x40 square foot plot cleared for gardening and fertilizing. After moving the chicken coop, there is an additional 10x20 square feet that will be extended. The chickens provide fertilizer. Hemp bedding is used because it is friendlier for the neighbors by containing smell and being biodegradable. The hemp is placed in their composter and used for landscaping and gardening needs. Mr. Oliver asked if other neighbors had chickens. Mr. Berkley responded there were neighbors who have chickens in their neighborhood. Mr. Berkley has seen chickens from other neighbors that run around their property in the front or side yards. That was not his house. In their community in general, there were friends who helped move the coop and some of them have chickens. Many people have chickens, but most people do not have as many chickens or as large a family as the Berkleys.

Chair Truby inquired if there were any further questions for the applicant. Ms. Necas asked staff what was the justification for limiting chickens in their lot. In the ordinance, there could be four on their lot. As a six-member family in a single-family home, it appeared they would need more. Mr. Kirkman responded it was not a hard number, but a ratio based on the size of the lot. The larger the lot, the more chickens you can have. When the ordinance was adopted years ago, the idea was to limit the total concentration of animals because it was supposed to have been an accessory use and low activity impact. There is not a typical family size. Moving the coop away from the property line was needed to contain the activity on the property itself and to not have as many issues with adjoining properties. The allowed number of chickens is based on a ratio of how much square footage is on the lot. Chair Truby inquired if there was a limit on the number of dogs allowed. Mr. Kirkman responded there was not. There were no regulations regarding large or small dogs. Ms. Necas stated she was in the process of writing the motion and felt the homeowners provided very good justifications, but was unsure if they were allowed to just go with it. Mr. Kirkman responded the Board would need to define what the impact of the activity would be on adjacent properties. The Berkleys were now in compliance with the coop issue. The question to the Board regarding the number of animals for that size lot was if it made sense relative to the activity in that area. Mr. Berkley stated there may be a neighbor, Aurora Rodriguez, to speak. Chair Truby requested Ms. Rodriguez to come forward and state her name and address for the record. Chair Truby swore Ms. Rodriguez in for her testimony.

**Aurora Rodriguez, 4104 Ashmore Drive**, advised she lived next door to the Berkleys and was present in support of her neighbor. There were no problems or issues with the chickens. As stated, the chickens are not out in the yard and into her property. Her parents were in agreement, as well. The chickens do not smell. From time to time, Mr. Berkley gives her family eggs. Ms. Rodriguez stated they barely notice the chickens are there and did not even know how many chickens there were. Ms. Rodriguez advised Mr. Berkley takes good care of his chickens. Chair Truby inquired if there were questions for Ms. Rodriguez. Seeing none, Chair Truby inquired if there were further questions for the applicants from Board members. Seeing none, Chair Truby asked Ms. Thiel if there was any opposition to this request. Ms. Thiel responded she did not hear from any opposition. Chair Truby closed the public hearing and asked for Board discussion or a motion.

#### **DISCUSSION:**

Mr. Waddell stated his questions were answered when the statements were made. Mr. Waddell appreciated that the structure was moved, that the backyard was fenced in, and that the family size explained. Mr. Waddell advised he was very sympathetic regarding east Greensboro being a food desert. Mr. Waddell previously lived there and remembered driving 5 to 10 miles just to go to a grocery store. Mr. Waddell advised he was in support of the variance request. Mr. Savoy stated years ago one of his neighbors had approximately 15-20 chickens. The only way anyone knew they were there was to look out the window and see them moving around. There was no noise or odor. Ms. Necas advised she was ready to make a motion.

**MOTION**

Ms. Necas moved that in BOA-21-51, 1421 Wayside Drive, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because it limits the ability of the owners to manage their family's budget. The homeowner's family of 6 would miss out on unnecessary nutrition; (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the subject property is in a food desert and there is limited access to fresh produce; (3) The hardship is not the result of the applicant's own actions because the property owners need for food is not a choice of the property owners; (4) The variance is harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the owners are feeding their own family without creating any nuisance for surrounding neighbors. They are attempting to live sustainably on their own, without impacting nearby property owners. Seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull. Nays: 0.)

Mr. Berkley thanked the Board and asked to make two comments. First, staff was extremely professional and helpful in going through this administrative process with all the paperwork. Ms. Thiel and Mr. Holdsworth were beyond professional and kind in dealing with them to ensure they understood how to manage this process. Secondly, Mr. Berkley urged the Board to consider the impact of the \$400.00 fee, especially in enforcement cases. Consideration should be given or a scholarship to waive the fee when applicable or requested. It was a lot for his family to pay \$400.00 to apply for a request. There's no fee to go to traffic court; you just show up. In the spirit of equity for all of the community, he asked the Board to review that process. Chair Truby stated he thought a \$400.00 fee for a few chickens was significant and the Board will take that into consideration and discuss that issue with staff to figure out something going forward. Mr. Berkley stated they were willing to accept a refund. Ms. Berkley stated community members were very gracious and helped them to collect the fee, as they would not have been able to do so without assistance.

Chair Truby inquired if there was any other business.

**OTHER BUSINESS:**

Ms. Thiel advised she had no other business. Mr. Kirkman advised City Council will begin having a hybrid meeting format at their November meeting. Council members, limited staff and the public would be in Council Chamber, with options for virtual participation and rotating people in and out of the chamber as cases are heard. Mr. Kirkman stated staff has not received any type of guidance from Council in terms of Boards and Commissions. Mr. Kirkman wanted to have this on the Board's radar screen about coming back for in-person meetings. Since this is a Quasi-Judicial board, everyone would have to be in-person. The Planning & Zoning Commission has used more technology because its meetings are televised already, so staff can piggy back on that. This is not an option for the Board of Adjustment. Mr. Kirkman suggested the Board discuss thoughts regarding the comfort level of moving back to in-person meetings and asked if there were questions. Mr. Kirkman stated at this point he assumed there will be additional guidance from Council for the Boards and Commissions, but has not been received to-date. Mr. Kirkman was letting the Board members know to facilitate discussions. Mr. Oliver asked if City Council had rules regarding vaccination, testing, or masks and that sort of thing. Mr. Kirkman responded not to his knowledge, but thought at the last open meeting, City Council members had partitions amongst themselves and were physically separated from everyone. Staff and the public were masked at that point in time. Mr. Kirkman was unsure of what the rules were and asked Mr. Andrews if he knew anything more on what City Council was going to do for its first meeting. Mr. Andrews stated Council does what it wants to do. Everyone in the room would be masked. Lots of talking and wearing masks with glasses is difficult.

When they are speaking, the mask has come down on faces slightly. Everyone in the room will have masks and Council will be physically distanced.

Mr. Ramsey stated in judicial proceedings, people do not have to be present under state law. Mr. Ramsey asked if state law required the Board of Adjustment to meet in person. Mr. Ramsey stated he did not like remote on one level, but on another level felt the Board should have one out of every four meetings remote. There are people who are able to attend more easily when a meeting is remote. There are those elderly handicapped people who cannot make it to the public meetings in Council Chamber. Mr. Andrews stated that raised a policy question. As a legal matter, the Board has the option to continue doing what has been done moving forward. Mr. Andrews stated some people insist on or demand in-person because they feel it has a greater impact. Video participation helps more people. Some would argue there is an issue of broadband access and some people not being able to participate. Mr. Andrews felt City Council will, as much as possible, continue to allow those who need it, to have electronic access. If part of the decision-making body is present and part is not, challenges are presented. Mr. Andrews expressed his hope that the Board of Adjustment would be together. It can be handled, but there are challenges when some are present and some are not. Mr. Kirkman added that due to the Quasi-Judicial nature of this board, the idea was to allow parties to engage with each other in a give-and-take discussion, which is difficult to do in an online format, when there are a lot of pauses and attempts to discern who spoke. That has been raised as an issue from several people who prefer to have in-person meetings because they would be able to see the other party and respond in real-time to some of the conversation. Mr. Kirkman stated staff does not have any firm decisions for anyone. Staff would like the Board to begin discussions regarding in-person meetings and be prepared for that question when it comes. The earlier staff knows about a decision to make changes, the better. Staff has to advertise what is happening with the public. Mr. Kirkman asked Board members where they were in their thought process. Mr. Kirkman stated staff was comfortable staying with virtual through November, allowing time to see what happens with the City Council meetings, and perhaps see if in-person December meetings would be possible. Mr. Kirkman would like to hear more conversation from the Board. Mr. Oliver asked if it was something that BOA decided or did Council decide for the Board. Mr. Ramsey also wanted to know who makes the decision. Mr. Andrews responded City leadership makes a decision on their body and would enact a policy that would impact the Board. Staff would inform the Board members of any restrictions. Once that was decided, BOA matches or stays where they are. Mr. Waddell stated if it were to continue with masks, he was fine with going back in-person, if the City chose to do that and BOA members agreed. As a health care worker, he is in various meetings all day long and works with patients in the hospital. That has been a practice in the hospital, resulting in less than 1% of people contracting the virus. Mr. Waddell was comfortable going back in-person as long as others were. Mr. Oliver asked if the City would be changing its policies regarding vaccines, testing, etc in November and would that impact people entering City Hall. Mr. Andrews responded there would be policies affecting the controlled employee population, as all the major cities in North Carolina have. The decisions would affect employees, not the public. Ms. Necas stated she currently works in school and sees several hundred students every day. The major problem is mask compliance. She asked if there would be someone present to enforce mask-wearing and escort people out if they take their masks off. Ms. Necas was in favor of the mask compliance, but there is a large amount of people who feel they need to pull their masks down to speak. Someone has to be willing to enforce the mask policy. Mr. Andrews responded law enforcement officers and security would be present at the meetings. A police officer would not place hands on anyone who pulls their mask down or off. Those individuals would be approached by City staff and asked to comply. If there was a refusal, they may be asked to leave the room. If that request is refused, the potential would be there for the police to become involved. Police will be there if need be to engage. Citizens will be approached less dynamically initially. Chair Truby inquired if there were any further questions or comments. Chair Truby stated at this point, he was fine with either way. Virtual meetings work very well, but he understood the need for in-

person meetings, but timing needs to be right. Mr. Ramsey stated he was okay either way. Mr. Kirkman stated the next meeting was November 22, 2021 and asked if that should be kept as a virtual meeting or wait for December for to make adjustments for meetings. Mr. Oliver stated he was fine with virtual. Chair Truby stated he would like to stay virtual and possibly continuing do so through the end of the year to see how things go. Mr. Kirkman said if specific guidance was stated from City Council, staff would follow up with the Boards and Commissions. Staff appreciated the Board's honesty and opinions. Mr. Ramsey stated he would be in California, making it difficult to make an appearance virtually, and would probably be absent. Ms. Thiel advised Mr. Barkdull would also be out for the November meeting. Staff will reach out to Ms. Bowers to see if she can attend. Ms. Thiel advised there will be four cases for the November meeting; two new cases and two continued from this meeting. Chair Truby inquired if there was any other business. Mr. Kirkman stated City Council has been advised of the need to appoint new people on the Board. Ms. Thiel inquired if anyone else had a conflict for the November meeting. Everyone advised they were good. Mr. Oliver stated if it was virtual, he would be present, if not virtual, he may not be present. If there are only 6 members attending, applicants would be notified with the option to continue to avoid the need to receive 6 out of 6 votes for approval. Ms. Thiel advised the November meeting would be virtual. Mr. Ramsey asked how big the Board was supposed to be. Mr. Kirkman replied the Board should have 7 members, with two alternates to maintain 7 at all meetings. For variances, if there are six members, all six would have to vote in favor to approve. With 7 members present, there could be one vote against and the request would still pass. This is why a distinction is made and why applicants are given the option to continue to another meeting when 7 members will be present. If there is a vacant position, the required vote can be 5 out of 6, but if a person cannot participate, that was different. Staff will do the math and get back to the Board members.

Chair Truby stated the meeting was closed.

**ADJOURNMENT:**

The meeting was adjourned at 6:59 p.m.

Respectfully submitted;

Chuck Truby, Chairman  
Board of Adjustment  
CT/cgs

**MEETING MINUTES**  
**GREENSBORO BOARD OF ADJUSTMENT**  
**NOVEMBER 22, 2021**

The meeting of the Greensboro Board of Adjustment was held on Monday, November 22, 2021 at 5:30 p.m. online via Zoom. Board members present were: Chairman Truby, James Waddell, Ted Oliver, Terry Savoy, Leah Necas, and Deborah Bowers. City staff present were Shayna Thiel, Mike Kirkman, and Luke Carter of the Greensboro Planning Department, and Allen Buansi (Assistant City Attorney).

Chairman Truby welcomed everyone to the virtual meeting. Members of the Board of Adjustment are appointed by City Council and serve without pay. This is a Quasi-Judicial Board, meaning that all testimony will be under oath. Findings of fact will be made and final action of the Board is similar to a court decision. Anyone appearing before this Board has a right to offer evidence, cross examine witnesses, and inspect documents. The Board will proceed in according to the agenda, a copy which was provided. Chairman Truby further explained the manner in which the Board conducts its hearings and methods of appealing any ruling made by the Board. Chairman Truby advised that each side, regardless of the number of speakers, were allowed a total of 20 minutes to present evidence. Board members may ask questions at any time.

**APPROVAL OF MINUTES (October 25, 2021 Meeting)**

Mr. Waddell made a motion to approve the October 25, 2021 minutes; seconded by Ms. Necas. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Oliver, Necas, Savoy, and Bowers. Nays: 0.)

**SWEARING IN OF STAFF**

Shayna Thiel and Mike Kirkman of the Planning Department were sworn in for their testimony in the following cases.

**CONTINUANCES / WITHDRAWALS**

Ms. Thiel advised there were two withdrawal requests by the applicants of BOA-21-52, and BOA-21-53.

**NEW BUSINESS**

**1. VARIANCES**

**a. BOA-21-54: 238 RITTERS LAKE ROAD (APPROVED)**

Ms. Thiel stated in BOA-21-54, 238 Ritters Lake Road, Williams Development Group, LLC, on behalf of Jay Short and David Short, requests a variance to allow a proposed building to be 110 feet in height when the maximum permitted height is 80 feet adjacent to residential districts.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance reference was Section 30-7-6.1 – Table 7-15: In the LI District, building height may be increased up to a maximum of 80 feet provided that one additional foot of setback is provided for each foot of building height above 50 feet.

**Background and Site Information:** The subject lot is located on the south side of Ritters Lake Road, west of South Elm-Eugene Street, and is proposed to be zoned CD-LI (Conditional District - Light Industrial). Tax records indicate the undeveloped lot contains approximately 109 acres. On October 18, 2021, the Planning & Zoning Commission recommended approval of the annexation and original zoning (CD-LI) for the subject property. A public hearing before City Council to consider approval of the annexation and original zoning (CD-LI) of the subject property was scheduled on November 17, 2021. At that meeting, City Council approved the annexation and original zoning of the property. The applicant proposes to construct a warehousing and distribution facility on the subject property that will be 110 feet

in height. Because the subject property is adjacent to residential zoning, the maximum allowed building height, even with increased setbacks, is 80 feet. To allow for the proposed building to be 110 feet in height, variance approval from the Board of Adjustment is required. If the variance is granted, the applicant will proceed with the Technical Review Committee (TRC) and building permit processes.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans. Mr. Kirkman stated the property in question was annexed into the city and an original zoning was established on Wednesday, November 17, 2021. The property is currently zoned Conditional District - Light Industrial (CD-LI).

Chair Truby asked the applicant to state his name/address for the record.

**Michael Fox, Tuggle Duggins, 400 Bellemeade Street, Suite 800**, represented Williams Development Group, LLC and advised that three other speakers were present to address the need for this variance: Taylor Williams, Mark Snyder and Allison Bragg.

Chair Truby asked the other speakers to state their name/address for the record. Chair Truby swore in Taylor Williams, Mark Snyder and Allison Bragg for their testimony.

Mr. Fox stated this was anticipated to be a significant economic development project, with over a \$200 million investment and over 1,000 new jobs. The zoning and annexation of the project was passed unanimously by the Planning and Zoning Commission and City Council. Normally, there is not a height limit in LI zoned property, unless adjacent to residentially zoned property, not residential use. In this case, there was a very small portion of the property directly adjacent to residentially zoned property in the southeast corner with a height limitation of 50 feet. An additional 30 feet could be obtained by having additional setbacks up to 80 feet. The applicant needs more than 80 feet, and the next speakers will explain why it is needed and why a variance is appropriate for this property. The applicants were asking for a variance of up to 110 feet. Currently, the site plan shows the building on a very large lot, over 100 acres, and well set back from the property lines. There is a minimum setback of 258 feet from the closest property line to the building and over 850 feet from the corner where the residentially zoned property is located. Operational issues and the site itself are driving this request. The building will serve as a regional distribution center creating significant employment and investment. The building is state-of-the-art with storage for products and a sophisticated robotics sorting system. There needs to be a lot of room in the building for all of the storage and equipment. The major reason is life safety. A building cannot be built wider or deeper and still allow people to make it out of the building in a reasonable period of time in the event of a fire. That dictated the building to be taller, and other site considerations, such as wetlands and tree buffers, made it difficult to build a wider/deeper building. Mr. Fox advised that the engineers will explain further.

**Taylor Williams, 331 High Street, Winston-Salem**, Williams Development, LLC, stated Williams Development is based in Winston-Salem and has significant industrial experience in the Triad area. This site was identified approximately 6-8 months previously and identified as an outstanding site for a warehouse distribution facility for a multitude of reasons. The site has over 100 acres, which is significant for this area and region, with great access to Interstate 85 and very attractive to end users with trucks and automobiles. The site is centrally located to a multitude of rooftops in the center of the Triad. Through the due diligence process and conversations with the city, it was established there is significant availability of infrastructure and utilities available to the site. There is a user who would bring a significant of jobs and investment to the area that will transform this region. Williams Development was very excited for the opportunity to be present at this meeting.

Mr. Fox referred to applicant's Exhibit D, which was a map depicting the general location indicated by Mr. Williams of the site in the Triad and the proximity to the interstate system and other infrastructure. Mr. Fox asked Mark Snyder, licensed architect, to speak next.

**Mark Snyder, 175 Montrose West Avenue, Akron, Ohio**, lead architectural designer with CESO, referred to applicant's Exhibit B. The building height would be 102 feet from ground level to the highest point of a parapet of the building. The building height is derived from the fact that the ground floor plan is designed to maximize the amount of space available to the client, while maintaining safety for the users and employees inside the facility. Page 6 of the exhibit was shown depicting the overall floor plan of the building. The plan highlighted platform areas within the first level of the building itself. The height to the second floor was approximately 28 feet to ensure proper clearance underneath all the platforms for movement of people and equipment. There is a maximum number of 5 floors within the building with approximately 14 feet in height between them. Page 8 of the exhibit showed egress paths for people throughout the building. There would be 44 exits throughout the perimeter of the building and nine stairwells to aid in egress to ensure the ability to maximize the area of the building while minimizing the travel distance. Mr. Fox asked if it was Mr. Snyder's testimony the building could not be any wider or deeper because otherwise there would be many safety issues of being too far to the exit from the center of the building. Mr. Snyder responded that was 100% accurate. His firm would utilize fire rated corridors throughout the building to ensure the maximum 400 feet travel distance would be met. Going any further than that would enlarge the footprint of the building and make it physically impossible for people to get out in an adequate amount of time. Mr. Fox asked if it had to be in one building as opposed to multiple buildings because of the robotics of the sorting system. Mr. Snyder responded that was correct. The robotics dictate somewhat of the floor to floor height of the building, which are designed to operate with approximately 10-feet of clear space. The structure comes into play in a building of this size and the reason for the 14 feet of space between the floors to account for the structure and making any adjustments of clearance for further robotic operations.

**Allison Bragg, 1108 North Alexander Street, Charlotte**, advised she was a licensed civil engineer in the state of North Carolina and the active civil design engineer for this project. Ms. Bragg stated her specialty was watersheds and utilities. On this site, the building would be placed as far back in the corner as it could possibly be. Applicant's Exhibit A depicted the corner where the building would be. Streams and wetlands would be adjacent to the building and between the two watersheds, a non-watershed north on the site and the full cap creek watershed south. It was decided to place the site away from the wetlands to avoid having any impacts in that area. The building was placed to maintain buffers from the perennial streams. On the north side of the property was a wetland that is being avoided and would be pulling off of the street. The building was placed far away from the residential properties adjacent to this development. The closest building on the site is approximately 840 feet from the edge of the property to the actual building. In between that space, there will be a large tree line that will be preserved. Landscape will be implemented as buffers between the areas. The adjacent properties should not be able to see the building. There are significant setbacks from all property lines. Ms. Bragg stated 258 feet is the closest distance from a property line to the building. Ms. Bragg stated the site has been set up in a way that the most setback can be obtained from the property lines while respecting environmental factors existing on the site, and making this development as neighborhood friendly as possible to all surrounding neighbors.

Chair Truby requested Ms. Thiel to point to the residential property in question and asked if it was in the southeast corner. Ms. Bragg stated it was in the southwest. Chair Truby stated it was 846.6 feet away.

Mr. Fox requested to have Exhibits A, B, and D admitted into the record as they were referred to by the witnesses. Mr. Fox stated the applicant has met the requirements under the ordinance in that an unnecessary hardship would result from carrying it out. The advanced design and size of this building requires a height over what is allowed by the ordinance. The applicant would be unable to locate a facility like this one on this site or any site in Guilford County reasonably close to the interstate. The hardship results from conditions peculiar to the property. There is only one residentially zoned property along the perimeter that is less than 10% of the perimeter footage that borders the site, otherwise there would not be a height requirement. The hardship results from the application of the ordinance to the property. The

location of the one residentially zoned property and the other natural conditions on the site such as wetlands, the necessity to maintain tree buffers result in the hardship, and the hardship is not the result of the applicant's actions. The safe operation of this warehouse and distribution center requires a taller building to promote and maintain life safety in terms of fire egress. The variance is in harmony with the general spirit of the ordinance and preserves its intent. The applicant is requesting a variance from 80 feet to 110 feet and there is some logic in the ordinance that allows adding additional height by adding additional setbacks. The applicants feel that following that logic clearly indicates they are meeting the intent of the ordinance with the closest point of the building to any property line is 258 feet, and much greater than 110 feet requested, and the distance of over 850 feet from only the property line of the residentially zoned property that would be impacted and buffering that will be provided. The spirit and the intent of the ordinance is preserved in keeping a large building from towering over an adjoining residentially zoned property. Efforts have been made to ensure the setbacks are more than substantial to meet that intent. Allowing this variance promotes public safety by allowing a building to be safe to exit in the event of fire, and has positive environmental and economic aspects. Mr. Fox respectfully requested the Board vote to approve this variance and available to answer any questions.

Chair Truby inquired if the Board had questions for Mr. Fox or any of the experts. Ms. Bowers referred to applicant's Exhibit B depicting the elevations of the building and inquired which parts of the building were at 110 feet as it appeared there were variations. Mr. Fox responded they were asking for up to 110 feet. The design shows 102 feet at the tallest point. Mr. Snyder stated the highest point was the parapet at roof access stairwell at a single point in the building. The loading docks continue down 4 feet below grade. At a maximum, a single point would be 160 above grade. As mentioned, the variance requested is up to 110 feet to allow for any sort of buffer. Mr. Snyder stated the majority of the building would probably be close to about 92 feet. Mr. Oliver thought this was a very exciting project and was mainly curious and asked if the floor in an office building was 10 feet. Mr. Snyder stated for a multi-story building, floor to floor heights for offices are generally 12 to 14 feet. Mr. Oliver asked if the building would be six or seven stories. Mr. Snyder stated the first floor has a height larger than most because there would also be mezzanine access within the floor. Mr. Oliver asked what was the square footage of the building. Mr. Snyder stated the building was approximately 630,000 square feet. Mr. Oliver asked what company would be distributing. Mr. Fox stated it was not public information. City officials and City Council have signed a non-disclosure agreement and were allowed to meet, but the applicants cannot share that publicly yet. Chair Truby inquired if there were any further questions from Board members. Mr. Waddell asked if the buffer located at the residentially zoned property was a natural buffer only or a natural buffer and a sound buffer. Ms. Bragg referred to applicant's Exhibit A and stated the natural buffer will be retained as much as possible. There will be a need to grade some of the areas to tie in the lot correctly. A landscape buffer would be added, creating a mixture of natural and new landscape buffering. Chair Truby inquired if there were further questions. Seeing none, Chair Truby asked Ms. Thiel if there was anyone in opposition to this request. Ms. Thiel responded there was no opposition. Chair Truby closed the public hearing and requested board discussion.

### **DISCUSSION**

Chair Truby stated it was an excellent project and the applicants did a superior job of placing the building where it would have the least impact on the surrounding property owners. There is no one present in opposition and probably a testament to that. Chair Truby advised he was in support and inquired if there were any further comments from the Board members. Mr. Oliver advised he would be supporting the request. Mr. Oliver had viewed the property that is massive and with 1000 new jobs felt that was outstanding.

### **MOTION**

Mr. Savoy moved that in BOA 21-54, 238 Ritters Lake Road, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance granted based on the following: (1) If the

applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because due to increasing mechanization and advancement in warehousing/distribution industry, considerable vertical space is needed within the facility for robotics and mechanical equipment. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because if it weren't for the small unused adjoining property, zoned for residential, there would be no height restrictions on the subject property and thus no hardship as the variance would not be necessary. (3) The hardship is not the result of the applicant's own actions because if it were not for the corner subject property adjoining a small unused portion of residentially zoned property, there would be no height restrictions. (4) The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the most efficient and practical way to achieve the development is to increase the vertical space of the building and the actual location of the proposed building would be hundreds of feet from the only residential adjacent property. Seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Oliver, Necas, Savoy, and Bowers. Nays: 0.)

**b. BOA-21-55: 922 VANCE STREET (APPROVED)**

Ms. Thiel stated in **BOA-21-55**, 922 Vance Street, Harold Aubrey and Trevor Clark request two variances. (1) To allow a proposed house to encroach 8.5 feet into a required 15 foot side street setback. The house will be 6.5 feet from the side property line along Gilbert Street. (2) To allow the building coverage of a proposed house to exceed 40% of the lot area. The building coverage will be 1,736 square feet when no more than 1,694 square feet is allowed based on current zoning.

Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 6. The Land Development Ordinance references were Sections 30-2-2-(B)(1): A nonconforming lot of record may be built upon if compliance is achieved with regard to all ordinance requirements except for lot area or width. Section 30-2.2-2(B)(2): In residential zoning districts, only a single-family dwelling may be permitted on a nonconforming lot of record. Section 30-7-3.2-Table7-2: In the R-5 District, the minimum side street setback is 15 feet and the maximum building coverage is 40% of the lot area.

**Background and Site Information:** The subject lot is located on the west side of Vance Street, south of Gilbert Street, and is zoned R-5 (Residential Single-Family). Tax records indicate the corner lot contains approximately 4,236 square feet. With an approximate lot area of 4,236 square feet and approximate lot width of 42.5 feet, the existing lot is considered nonconforming because it does not meet R-5 minimum lot area or lot width requirements. The applicants propose to construct a house on the nonconforming lot that will encroach 8.5 feet into the 15 foot side street setback. Additionally, the building coverage of the proposed house, as shown on the submitted site plan, will exceed the maximum 40% of lot area allowed. It will be 1,736 square feet when no more than 1,694 square feet is allowed. If the variances are granted, the applicants will submit a residential building permit application and proceed with the permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays and plans.

Chair Truby requested the applicant to come forward and state their name and address for the record. Chair Truby swore in Harold Aubrey for his testimony in this case.

**Harold Aubrey, 639 Venue Drive, Dover, Delaware**, stated he proposed to construct a residential home on this particular lot he purchased with his nephew. It would be for family members, particularly those reaching senior citizen status, such as himself, and living in Greensboro.

**QUESTIONS**

Chair Truby asked if when the lot was purchased was Mr. Aubrey aware that it was a non-conforming lot. Mr. Aubrey responded he did. Chair Truby inquired if there were any further questions from Board members for the applicant. Ms. Bowers inquired if there was a plan for the house that the Board could

review. Mr. Aubrey responded he had a site plan that was in the documents previously submitted and advised the site plan contained the actual size in terms of how it would fit on the lot. The site plan indicated the exact measurements of the house.

Chair Truby asked if staff knew how the lot was created and why it was smaller than it should be. Mr. Aubrey stated based on the records it was a long time ago, prior to the current zoning requirements. There was a house on the lot in the past. Mr. Aubrey did not know when the house was torn down. Mr. Kirkman responded to Chair Truby that he did not know if there was information on exactly when the lot was created, but it has been in place for a long time. In the past, subdivisions were done so a person could buy small lots that were 25 feet in width and could buy several lots to get various combinations. Mr. Kirkman did not know if this lot was a remnant but it has been in place for some time. Chair Truby asked if the variance was approved, the house was built and the applicant has a variance for the setback and the size of the house, but was still built on a non-conforming lot how a fire would affect the home. Mr. Kirkman responded there was a provision in the ordinance that states if you have a legal lot of record, you can build a single-family dwelling as long as it meets all of dimensional requirements and why the variance was needed. Chair Truby asked if the applicant did not need a variance for the size of the lot. Mr. Kirkman responded that was correct. Chair Truby inquired if there were any further questions for the applicant. Mr. Waddell asked what was the purpose of the home. Mr. Aubrey responded residential for his family. Mr. Waddell was confused when it was stated elderly members and if this home would be a refuge for the elderly. Mr. Aubrey provided his age and advised he has several older cousins who are even older than him that are doing well, but should not continue living by themselves. The plan was for the family to be together. Mr. Aubrey would not need to travel across state lines to check on his family. Mr. Waddell asked about the project timeline. Mr. Aubrey responded that ground has not been broken as approval is needed for the building and why he was seeking variance approval. Chair Truby inquired if there were further questions of the applicant. Seeing none, Chair Truby inquired of Ms. Thiel if there was anyone in opposition to this request. Ms. Thiel responded there was no one in opposition. Chair Truby closed the public hearing and requested to go into Board discussion or a motion. Ms. Bowers noted that the excessive square footage is only 36 square feet. The lot is approved for 1700 square and the applicant is only asking for an additional 36 square feet on variance number 2. Ms. Bowers advised she would support that request. Chair Truby stated the fact that the side street is there and if the 15 feet was honored, it would be basically an unbuildable lot. A house could not be designed that narrow. Chair Truby stated he was in support of the request.

### **MOTION**

Ms. Necas moved that in BOA 21-55, 922 Vance Street, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and both variances granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the lot size in this historical neighborhood is very narrow and would not allow for adequate space for a single-family home. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the lot size was set long before the present standards in the LDO and is nonconforming. (3) The hardship is not the result of the applicant's own actions because the lot size was determined before the present purchase of the property. (4) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice no harm will come to the public by allowing for the variance for the vacant lot to support a single-family home. Seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Oliver, Necas, Savoy, and Bowers. Nays: 0.)

### **OTHER BUSINESS**

Ms. Thiel advised the next meeting would be December 13, 2021 due to the holidays. Currently there were six items on the agenda. Mr. Kirkman advised the December meeting would be a virtual meeting.

**ABSENCES**

Mr. Ramsey was acknowledged as an excused absence.

**ADJOURNMENT**

Chair Truby stated the meeting was adjourned at 6:29 p.m.

Respectfully submitted

Chuck Truby, Chairperson  
CT/cgs

**MEETING MINUTES**  
**GREENSBORO BOARD OF ADJUSTMENT**  
**DECEMBER 13, 2021**

The meeting of the Greensboro Board of Adjustment was held on Monday, December 13, 2021 at 5:30 p.m. online via Zoom. Board members present were: Chairman Truby, James Waddell, Vaughn Ramsey, Ted Oliver, Terry Savoy, Leah Necas, and Deborah Bowers. City staff present were Shayna Thiel, Mike Kirkman and Luke Carter (Planning Department), and Alan Andrews (Chief Deputy City Attorney).

Chairman Truby welcomed everyone to the virtual meeting. Members of the Board of Adjustment are appointed by City Council and serve without pay. This is a Quasi-Judicial Board, meaning that all testimony will be under oath. Findings of fact will be made and final action of the Board is similar to a court decision. Anyone appearing before this Board has a right to offer evidence, cross examine witnesses, and inspect documents. The Board will proceed in according to the agenda, a copy which was provided. Chairman Truby further explained the manner in which the Board conducts its hearings and methods of appealing any ruling made by the Board. Chairman Truby advised that each side, regardless of the number of speakers, were allowed a total of 20 minutes to present evidence. Board members may ask questions at any time.

**APPROVAL OF THE MINUTES (November 22, 2021 Meeting)**

Mr. Waddell made a motion to approve the November 22, 2021 minutes; seconded by Ms. Necas. The Board voted 6-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Oliver, Necas, Savoy, and Bowers. Abstained: Ramsey.)

**SWEARING IN OF STAFF**

Shayna Thiel and Mike Kirkman of the Planning Department were sworn in for their testimony in the following cases.

**CONTINUANCES/WITHDRAWALS**

Ms. Thiel advised there were no continuances or withdrawals.

**NEW BUSINESS**

**1. VARIANCES**

**a. BOA-21-56: 1601 OAK STREET (APPROVED)**

Ms. Thiel stated in case BOA-21-56, 16 Oak Street, Ninth Properties LLC, requests a variance to allow a proposed house to encroach 7 feet into a required 15 foot side street setback. The house will be 8 feet from the side property line along Edgecombe Street.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance References were Section 30-2-2.2(B)(1): A nonconforming lot of record may be built upon if compliance is achieved with regard to all ordinance requirements except for the lot area or width; Section 30-2-2.2(B)(2): In residential zoning districts, only a single-family dwelling may be permitted on a nonconforming lot of record; Section 30-7-3.2-Table 7-2: In the R-5 District, the minimum side street setback is 15 feet.

**Background and Site Information:** The subject lot is located on the south side of Oak Street, west of Edgecombe Street, and is zoned R-5 (Residential Single-Family). Tax records indicate the corner lot contains approximately 5,663 square feet. With an approximate lot area of 5,663 square feet and an approximately lot width of 40 feet, the existing lot is considered nonconforming because it does not meet R-5 minimum lot area or lot width requirements. The applicant proposes to construct a house on the nonconforming lot that will encroach 7 feet into the 15 foot side street setback, but meet all other dimensional requirements in the R-5 district. The applicant indicates that the existing chain link fence on

the property will be removed. If the variance is granted, the applicant will submit a residential building permit application and proceed with the permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties and noted there were no applicable overlays or plans.

Chair Truby asked the applicant to state his name/address for the record. Chair Truby swore in David Haithcock for his testimony.

**David Haithcock, 15 Captains Point**, advised he was represented by Ashley Oldfield, Attorney. Chair Truby asked Ms. Oldfield to provide her name/address for the record.

**Ashley Oldfield, Rayburn, Cooper & Durham, 227 West Trade Street, Charlotte**, advised Ninth Properties LLC was requesting a variance to build a house that would encroach 7 feet into the required 15 foot setback. Ms. Oldfield stated if the ordinance was strictly applied, unnecessary hardships would result because it would not be possible to build a reasonably sized house on the property. Taking into account the setback requirements and the size of the lot, only a 20 foot wide house would be able to be built and was not practical. Ms. Oldfield stated the hardship resulted from conditions that are peculiar to the property because the lot is just over 1/10 of an acre and is a corner lot. The setback requirement severely limits being able to build a house on the property. The hardship is not the result of the applicant's own actions as the neighborhood was laid out in the early 1900's, long before the setback requirements were in place. The variance is in harmony with the purposes and intent of the ordinance. The variance would allow a reasonably sized house to be built on the property and would be in keeping with the character of the neighborhood. Exhibit 2 was referenced depicting several neighboring homes built similarly close to the street on Edgcombe. The variance would not do any harm to the public and would allow the property to be utilized in keeping with the residential zoning requirements and the remainder of the neighborhood. The applicant believed all of the hardships were met to grant a variance and asked the Board to grant the request and allow Ninth Properties LLC to place a proposed home that would encroach 7 feet into a required setback.

Chair Truby inquired if any Board member had questions for the applicant. Seeing none, Chair Truby inquired if there was anyone wishing to speak in favor of the request. Chair Truby asked of Ms. Thiel if there was anyone in opposition to this request. Ms. Thiel responded there were some people on the call that had concerns. Chair Truby requested anybody who wished to speak in opposition to the request to state their name/address for the record. Ms. Thiel stated it appeared that no one wished to speak and advised of an emailed letter received from a neighbor who had concerns. Attorney Alan Andrews advised traditionally testimony was received in these cases in person, or virtually, as in the current format. Due to COVID rules and other changes, statements have been allowed to be offered in these cases. A statement is not something that is subject to Board questions or any type of engagement with the offeror of the statement. The Board cannot and should not give weight to a read or written statement that would be given to live testimony by a person. This means the Board can hear and accept the reading, but if it has questions about it or considerations of its relative weight versus a contrary statement, it has lesser weight and would be information received in that way. Mr. Andrews asked if any Board members had questions about the weight attributed to statements like this. Chair Truby inquired if the Board members had any questions. Mr. Savoy asked if the person who sent the email concerns knew what Mr. Andrews stated. Mr. Andrews responded it is hard to know what a person knows, but the person was informed. Chair Truby directed Ms. Thiel to read the emailed letter into the record.

Ms. Thiel read: "This letter is from Joshua Mullins, 1600 Oak Street, Greensboro, NC, 27403, dated December 13, 2021, to the City of Greensboro Board of Adjustment. I apologize that I am unable to attend the meeting this evening. Thank you in advance for hearing my thoughts and concerns regarding the variance request for the property located at 1601 Oak Street, directly across the street from my property

at 1600 Oak Street. I write as a concerned neighbor in a city and neighborhood that I have grown to love. I have two primary concerns regarding this variance. My first concern is the proliferation of rental properties in the neighborhood and my second concern is pedestrian and bicycle safety on Oak Street between Josephine Boyd and Coliseum Boulevard. I have been an owner occupant at 1600 Oak Street since May 2014. During that time, we have seen more and more of the properties trend toward rentals. Some renters have made great neighbors and many have not. I have hope that the city sees value in promoting owner occupation, particularly in older neighborhoods such as Glenwood, Piedmont Heights. Most current renters on Trogdon and Oak are college students and often there are several cars parked along the street for those houses. It is easy to understand that most of the housing stock in the neighborhood lends itself to good rental property based on its size. Most of them being less than 1000 square feet which makes it all the more disheartening to see the sizeable house at 1603 likely be carved into rental and another home too small to be attractive to an owner occupant, shoehorned into the corner lot at 1601. My other concern is that the additional house on the corner lot at 1601 will add to the current problem of the dangers of traversing Oak Street on foot or bike. Currently, with no stop sign between Josephine Boyd and Coliseum, many people use the road as a cut through with little to no regard for whether or not people are walking or cycling. More cars along the street will only further obscure pedestrians and cyclists from drivers. If you are determined to increase the density of the block, please take steps to make Oak Street more pedestrian friendly and calm the traffic that blitzes down the street. Four way stops at Edgecombe and at Van Wert, much like Marion, Grove, and Ellwood would be welcome. I chose to live in this neighborhood because of its character and walkability and hope those are values for the city. Thank you again for your time and attention to this matter. I'm happy to answer any questions or elaborate further if that is necessary. Merry Christmas, Joshua P. Mullins."

Chair Truby inquired if there was anyone else wishing to speak in opposition to this request. Seeing none, Chair Truby closed the public hearing and requested board discussion or a motion.

### **DISCUSSION**

Mr. Savoy stated he looked at the property and thought it was very small, but in driving around throughout the whole neighborhood, discovered it was common to have small homes on a small lot. Chair Truby stated with the street setback, no one could reasonably put a decent house on the lot without the variance. Chair Truby felt it would be better to build a bigger house than a tiny house. Chair Truby stated the variance request would not do anything to hinder or help traffic. Chair Truby inquired if there were further comments or a motion. Ms. Bowers stated the letter raised a lot of issues that were not before this Board and not in this Board's purview to rule on. The Board rules on this variance for this house, not on traffic issues. Chair Truby agreed and inquired if there was any further discussion or a motion.

### **MOTION**

Mr. Savoy moved that in BOA 21-56, 1601 Oak Street, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance granted based on the stated Findings: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because of its proposed location, the house will only be built 26 feet in width. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because if the proposed house is not allowed to encroach into the required 15 foot setback, the house would be unreasonable to build. (3) The hardship is not the result of the applicant's own actions because the neighborhood was established long before the current owners. (4) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the house will be built consistent with the neighborhood and not located near sidewalks. Seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair

Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Bowers. Nays: 0.) Chair Truby stated the variance request passed unanimously.

**b. BOA-21-57: 304 EAST BESSEMER AVENUE (APPROVED with condition)**

Ms. Thiel stated in case **BOA-21-57**, 304 East Bessemer Avenue, Andrew Lindberg and Elizabeth Ashley request four variances. (1) To allow a proposed house accessory dwelling to encroach 10.2 feet into a required 20 foot rear setback. The accessory dwelling will be 9.8 feet from the rear property line. (2) To allow the heated floor area of the proposed accessory dwelling to be 320 square feet when at least 400 square feet is required. (3) To allow two existing accessory structures smaller than 600 square feet in an area to be separated from each other by 1.25 feet when at least 5 feet is required. (4) To allow an existing accessory structure to encroach 2.35 feet into a required 3 foot rear setback. The accessory structure is 0.65 feet from the rear property line.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 6. The Land Development Ordinance References were Section 30-8-11.2(D): If detached, an accessory dwelling must meet the location and dimensional requirements of the principal structure; Section 30-8-11.2(E): The heated floor area of an accessory dwelling must be at least 40 square feet in area, but it may not exceed 30% of the floor area of the primary dwelling; Section 30-8-11.1(E)(1): Accessory structures smaller than 600 square feet of floor area must be separated by at least 5 feet from any other structure on the lot; Section 30-8-11.1(C)(2): Accessory structures up to 15 feet tall must be setback at least 3 feet from side and rear lot lines; Section 30-7-3.2-Table 7-2: In the R-5 District, the minimum rear setback is 20 feet.

**Background and Site Information:** The subject lot is located on the south side of East Bessemer Avenue, east of Olive Street, and is zoned R-5 (Residential Single-Family). Tax records indicate the lot contains approximately 7,405 square feet. Along with the primary dwelling, a 320 square foot accessory structure and a 160 square foot storage/freight container currently exists on the property. The applicants propose to convert the existing accessory structure into an accessory dwelling. While it meets accessory structure dimensional requirements, it does not meet those for an accessory dwelling. The structure is smaller than the minimum 400 square feet requirement and encroaches 10.2 feet into a required 20 foot rear setback, as prescribed in the R-5 District. Additionally, the existing storage/freight container, considered an accessory structure with an approved building permit, is only separated by 1.25 feet from the proposed accessory dwelling when at least 5 feet is required. At 0.65 feet from the rear property line, it also encroaches 2.35 feet into a required 3 foot rear setback for accessory structures. The applicants indicated that the structures subject to these variance requests were unpermitted and existed on the property when they purchased it. If the variances are granted, the applicants will submit all required building permit applications and proceed with the permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted the property was in the Fisher Park National Register Historic District.

Chair Truby asked the applicants to state their name/address for the record. Chair Truby swore in Elizabeth Ashley and Andrew Lindberg for their testimony.

**Elizabeth Ashley and Andrew Lindberg, 304 East Bessemer Avenue.** Ms. Ashley stated both structures were there when the property was purchased. It was their first property purchase and they did not think to question why the structures were there and how close they were together. The applicants have lived on this property since May of 2018 and use both structures as storage. They would like to add a bathroom to the larger structure and have used as an accessory dwelling unit to accommodate guests. In looking at how to obtain the variances needed, the applicants realized they were not ever permitted. The applicants are attempting to sort out everything to be in compliance. Chair Truby asked if the structure was being used as an accessory dwelling currently. Ms. Ashley responded no, only random furniture and bicycles were stored inside. Chair Truby asked if Board members had questions for the applicants.

Mr. Oliver inquired if the dwelling was currently heated, cooled or livable. Ms. Ashley responded there was an air conditioning/heating unit in the structure, along with electrical. There was no plumbing. Ms. Bowers inquired if they were planning on renting the dwelling. Ms. Ashley responded not currently. Mr. Lindberg stated it was something that may be considered in the future but not now. Mr. Ramsey asked what was being done with the one structure that appeared to have come from a tractor trailer. Ms. Ashley responded yard supplies and Christmas decorations were stored in that structure. Mr. Lindberg added it was a shipping container that was there when the property was purchased. Items are stored there to provide easy access for yard work and for items not generally used a lot. The hope was that structure could stay. Chair Truby inquired if there were further questions for the applicant. Hearing none, Chair Truby inquired if there was opposition to this request. Ms. Thiel responded there was no opposition but a neighbor was present to speak in support. Chair Truby asked the neighbor to provide his name/address for the record and swore in Burton Kennedy for his testimony.

**Burton Kennedy, 516 Hillwood Court**, stated he and his wife are the owners of Excel Real Estate Properties LLC and own the property at 302 East Bessemer Avenue, just west of this property. The building in the back yard is a very attractive building, as was the house. The house the applicants live in was a fairly new house and they have done a great job with it. The shipping container behind the building is almost not visible. You would have to pull up way into the driveway to even see it and the building they are looking to convert into an accessory dwelling is a very attractive building. Mr. Kennedy felt they would be the most impacted property in the neighborhood but were very much in favor of what the applicants would like to do with the property. Chair Truby inquired if there was anyone else wishing to speak regarding this request. Chair Truby requested the name/address for the record and swore in Cheryl Pratt for her testimony.

**Cheryl Pratt, 910 Magnolia Street**, represented the Fisher Park Neighborhood Association, which tries to view all the zoning applications in the National Register Historic District. The Association was not in support of variances 3 and 4 regarding 304 East Bessemer Avenue that would allow a shipping container to remain within a foot of the back property line. It is a small suburban lot backing up to houses within the district on Hendricks Avenue. The Association acknowledged the shipping container was placed on the lot before the current owners purchased the property. The current existing accessory structure is "cute as pie" and there is no problem with that request. Chair Truby inquired if Board members had questions for Ms. Pratt. Ms. Bowers asked if the Fisher Park Neighborhood Association opposed the second two variances but are in support of the first two. Ms. Pratt responded that was correct. Variances 3 and 4 are attached to the shipping container which the Association would like to have gone or not be within a foot of the rear property line. Ms. Bowers asked staff what would happen if the second two variances were not approved. She asked if the shipping container would have to be removed and would the owner have to bear the cost. Mr. Kirkman responded that basically the applicants would have to bear the cost. In order to do the changes to the rest of the property, there is a situation where there is an illegal structure existing on the property. In order to grant the permits requested, the shipping container would have to be addressed and the reason why the variance was requested to address that issue. Mr. Kirkman did not know how the container was placed there or if the current property owners would know. It would take a lot of effort to pull the container out as it is wedged very tightly. Chair Truby inquired if the applicant wished to add anything. Ms. Ashley stated the storage container has been there as long as they have lived at this address. It is very difficult to see over the back fence and is not seen from the road. It is blocked by the other structure. The applicants were unsure how they would be able to remove the storage container out without tearing up the grass of the neighbor's property in the process or potentially hitting the roof line of the other structure. The applicants were willing to do whatever the Board deemed necessary, but did not know how. Mr. Lindberg stated it was their intention that if the variances were granted, they would take all the steps necessary to make sure everything was permitted and fall in line

with any type of city ordinances. The applicants want to do this in all the right ways. Chair Truby asked if they would do something to have the storage container look better. Mr. Lindberg responded they would. Chair Truby asked if there were any conversations with the neighbors behind them about the variance requests. Ms. Ashley responded she had not spoken with them. Mr. Lindberg advised the house behind them for the past few months has been under renovations and they did not know who those neighbors were. Mr. Lindberg advised they would alter the look of the container. High quality marine paint could be used and would make the container look cleaner, professional and appear as if it belonged in the neighborhood.

Chair Truby inquired if there were further questions from Board members. Mr. Savoy asked if the fact that it cannot be seen accounted for anything. Mr. Kirkman stated the Board can discuss any potential impact on the neighboring properties as part of the variance discussion and advised that was the advice staff would give the Board in considering that question. Ms. Bowers asked if the Board was allowed to impose conditions on any approval. Mr. Kirkman responded the Board could. Chair Truby stated with no further questions and no one in opposition except for the previous speaker, that he would close the public hearing and enter into Board discussion.

### **DISCUSSION**

Chair Truby stated he had no problems with the first two variance requests but did have an issue with the container. It may not be an issue now but if the properties behind the applicant's property are redeveloped, the container could be seen from the backyard. It would be difficult to remove the container and may need to be cut in half or something and probably very expensive. Chair Truby advised he was not sure if that was a legitimate reason to let it stay. Chair Truby stated he possibly could support the last two if there were conditions put in place for the container and have the aesthetics changed. Ms. Necas mentioned that despite the fact it appears to not be visible from the owner's property, on Exhibit 3, from the back property, the people who live behind can actually see the container over the fence. Ms. Necas felt that looked unappealing and she would not be happy about seeing it, but at the same time it was very low profile in that it is tucked in behind. In one of images it is very clear the house behind can see directly from the second story window is right there. Mr. Ramsey stated this appeared this could be in the Fisher Park Historic District and would be under a different realm and asked if the Board could consider the fact that the container is not consistent. Mr. Kirkman stated the container is adjacent to and just outside the Fisher Park Local Historic District. It is in the National District, but not the local one that has requirements. The local district with the overlay has a development requirements piece. There are National Register designations there in terms of tax credit purposes and for funding to maintain the properties. Mr. Waddell stated his assumption was that it has been there for quite some time. Mr. Waddell stated removing the container would be very difficult. The steel on the container is approximately 2 inches thick based on his supply chain background. The only way to remove it would be with a 40-60 foot crane able to lift it. The container would have to be lifted up and over the houses onto the street and then loaded onto a trailer to remove it. It would be super difficult to move because of the tight spacing. The marine paint suggestion was great. The paint works very well on shipping containers, and it would look a lot better with that paint on it. Mr. Waddell was in favor of all four variances, particularly because he knew what was entailed with that shipping container and how difficult it would be to remove it. At the same time, there was improvement that could take place. Mr. Oliver stated he agreed with Mr. Waddell. If the container was lifted out, it appeared it would take out the eave of the building beside it and would be extremely difficult and expensive to remove. If it could be improved with paint, that would be a good alternative. Chair Truby inquired if there were further comments from Board members. Ms. Bowers stated the economic waste involved in removing the container punishes the owners who brought the property in the condition it is in. They did the right thing coming to the Board seeking a variance to make improvements and personally

felt people should not be punished for doing the right thing. Mr. Waddell's comments regarding painting versus removing were well taken. Ms. Bowers advised she would support all four variances. Mr. Kirkman stated there had been a question about conditions and stated it sounded as though the Board had some desire to add a condition that if the variances are granted, that the shipping container should be modified to make it less visually obtrusive. Mr. Kirkman asked if the Board wanted to consider that. The Board has the ability to add that as part of the motion. Chair Truby felt he could support the request as long as the condition was written into the request that it be painted with a marine paint of a neutral color, earth color, or a color matching the accessory dwelling or something along those lines. Chair Truby inquired if there were any other comments. Ms. Necas asked if a spokesperson from the Fisher Park community, which this property was not a part of, has standing to object to the variance. Mr. Andrews replied that standing was an interesting question for many of the people who appear before the Board. Standing is broad in the ordinances. They would have standing to come before the Board, but if they had an issue, it could be brought before the Court. Mr. Andrews stated if the Board was considering conditions to be as specific as possible for the future, for instance, if the property was sold. The Board needs to clarify, narrow and articulate any conditions clearly. Chair Truby asked if the applicant would have to agree to the condition before adding one or can it just be added. Mr. Andrews responded the Board is the regulatory body and can add conditions. Chair Truby inquired if there was further discussion or a motion. Mr. Kirkman requested Mr. Waddell to clarify the motion was for all four variances.

### **MOTION**

Mr. Waddell moved that in BOA 21-57, 304 East Bessemer Avenue, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and variances 1, 2, 3 and 4 be granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the existing detached structure would not be able to be converted into a dwelling unit. Livable space would not be able to be increased. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the existing structure was built 10 feet from the property line, meeting the accessory structure setbacks but not meeting not meeting accessory dwelling setbacks. (3) The hardship is not the result of the applicant's own actions because the accessory structure and shipping container were existing during the purchase of the property. The current owner purchased the property in 2018. (4) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the accessory dwelling is a conversion of an existing structure. Completion of the project will result in increase of the property value. The shipping container would need to be painted to match the accessory dwelling as a condition of this sole variance approval and specific to this request. Seconded by Mr. Oliver. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Bowers. Nays: 0.) Chair Truby stated the variances passed unanimously, as conditioned.

### **c. BOA-21-58: 2508 WALKER AVENUE (APPROVED)**

Ms. Thiel stated in case **BOA-21-58**, 2508 Walker Avenue, Douglas Hoyer requests three variances. (1) To allow a proposed swimming pool to be located in front of the principal structure when viewed from a road or a street. (2) To allow a proposed swimming pool to be located 3 feet from the side property line when at least 5 feet is required. (3) To allow a proposed swimming pool to be separated by 2.8 feet from another structure on the lot when at least 5 feet is required.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance References were Sections 30-8-11.9(C)(1): Swimming pools, as well as the decking and equipment associated with the pool, and

interactive water features that are located on single-family and two-family lots that are less than one acre in an area must be located behind the principal structure when viewed from a road or street; Section 30-8-11.9(C)(2): In no case may a swimming pool or interactive water feature, measured from the edge of water, be located closer than 5 feet to any property line; Section 30-8-11.9(C)(3): Swimming pools and interactive water features, measured from the edge of water, must be separated by at least 5 feet from any other structure, swimming pool, or interactive water feature on the lot.

**Background and Site Information:** The subject lot is located on the north side of Walker Avenue, west of Northridge Street, and is zoned R-5 (Residential Single-Family). Tax records indicate the lot contains approximately 11,326 square feet, and the house was constructed in 1939. The applicant proposes to install a swimming pool between his house and the side property line that, based on the Land Development Ordinance, would be located in front of a principal structure when viewed from a road or street. Additionally, the proposed swimming pool will be located 3 feet from the side property line, when 5 feet is required, and located 2.8 feet from the existing house, which is less than the required 5 feet separation from any other structure. The applicant indicated that topography and the heavily wooded nature of his property limit where a swimming pool can be installed and that it will not be visible from the street. If the variances are granted, the applicant will proceed with the residential building permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays and plans. Chair Truby asked the applicant to state his name/address for the record. Chair Truby swore in Douglas Hoyer for his testimony in this case.

**Douglas Hoyer, 2508 Walker Avenue, Greensboro.** Mr. Hoyer stated he would like to place a swimming pool in his backyard. In the back part of the yard, the lot drops slightly more and has a brook running through his property and his neighbor's property behind him on the next street over. It would be too shallow to place a pool there and the only place available is the side of the lot. There is a drop in elevation of the lot of about 12 to 15 feet. Looking in from Walker Avenue into the yard, no one would be able to see the pool because there is a small hedge of bushes. The pool is not very big. Mr. Hoyer advised he sent out a text thread to all of his neighbors within 150 feet. The only neighbors that would see the pool were the neighbors at 2510 Walker Avenue who have provided their full support.

### **QUESTIONS**

Chair Truby asked if the Board members had questions for the applicant. Seeing none, Chair Truby asked if there was anyone in opposition to the request. Ms. Thiel advised there was no opposition. Chair Truby closed the public hearing and requested Board discussion. With no Board discussion, Mr. Ramsey advised he would make a motion.

### **MOTION**

Mr. Ramsey moved that in BOA 21-58, 2508 Walker Avenue, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and all variances be granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the applicant will have no reasonable site in which to construct a swimming pool. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the topography of the property is such that the only possible pool site is the one proposed by the applicant; (3) The hardship is not the result of the applicant's own actions because the house was built in 1929 and purchased by the applicant in 1996 with the existing topography (4) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the pool will not be visible from Walker Avenue and will be surrounded by thick vegetation. Seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Bowers. Nays: 0.) Chair Truby stated the variances passed unanimously.

**d. BOA-21-59: 4623 WEST GATE CITY BOULEVARD (APPROVED)**

Ms. Thiel stated in case **BOA-21-59**, 4623 West Gate City Boulevard, Sedgefield Group LLC requests a variance to allow a proposed special events facility to operate on a property that is located 60 feet from an elementary school when at least 200 feet is required.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance Reference was Sections 30-8-10.4(P)(1): Special events facilities must be separated from any religious assembly use, elementary or secondary school, or public park by at least 200 feet. This distance is measured along a straight line from property line to property line at the closest point.

**Background and Site Information:** The subject lot is located on the east side of West Gate City Boulevard, north of Groometown and Frazier Roads, and is zoned C-H (Commercial-High). Tax records indicate the lot contains approximately 9.4 acres, and construction of the shopping center began in 1968. The applicant proposes to operate a special events facility in one of the units of the existing shopping center, which is less than the required 200 feet from an elementary school. Sedgefield Elementary School currently operates on the property located just south of the subject property, across from Frazier Road. Because the required separation distance is measured from property line to property line, the subject property of the proposed special events facility is 60 feet from the elementary school property, which is the right-of-way width. To allow a special events facility to operate in any of the units of the existing shopping center, a variance is necessary for reduced separation. Any variance that is granted would apply to the entire subject property, not just a specific unit of the shopping center. If a variance is granted, the applicant or tenant will submit applications for the necessary city permits.

Ms. Thiel provided the land use and zoning for this property and surrounding properties. Ms. Thiel noted there were no applicable overlays and plans. Chair Truby asked the applicant to come forward and state their name/address for the record.

**Fred Chikovsky, Attorney, in-house counsel, Group Sedgefield, 2300 NW Corporate Boulevard, Suite 141, Boco Raton, FL**, stated this property was a shopping center Group Sedgefield has owned for approximately 7 years and there was always an event facility. First was a church, then an event center that went out of business due to COVID. When the event center closed, the unit was released to another tenant, a party venue, but not the same type because the original one was for weddings, quinceañeras, etc. There was trouble with the new party venue, which resulted in eviction. There is a new tenant who wants to open a high class event center. The building application was denied because of this rule and the applicants were asking for the variance to be granted so the tenant can occupy this area.

**QUESTIONS**

Chair Truby asked if there were questions from Board members. Mr. Oliver inquired what type of events would there be. Mr. Chikovsky responded it was his understanding it would be the same as what was held previously, mostly weddings and quinceañeras, bar mitzvahs, and other types of higher event parties. Ms. Bowers asked if there would be restrictions for the type of event held within this property. Mr. Chikovsky responded that any type of wild parties would not be allowed or tolerated. The lease will require them to have their own security for events. Mr. Ramsey asked if this event center has been heard of before as he has not heard about it. Mr. Kirkman responded he thought it was at one point classified as either an indoor recreation space or something similar. Mr. Kirkman did not know if there was an event center in that space previously. Shopping centers have tenants that come in and out fairly regularly, so something could have been in that space that the city was unaware of for whatever reason until this point. If the variance is granted, the tenants will not be subject to this discussion moving forward. Mr. Ramsey stated in looking at the maps, it appeared that the distance from the whole shopping center to the school was not very far. Mr. Chikovsky responded the center can only be entered from Groometown Road. The entrance to the elementary school is way further down the street at Frazier and Groometown Road. Mr.

Chikovsky thought it may be approximately 1,000 to 2,000 feet. The actual property line is close but the actual drive to get there is far.

Chair Truby inquired if there were further questions. Seeing none, Chair Truby asked if there was opposition to this request. Ms. Thiel advised there was no opposition. Chair Truby closed the public hearing to go into Board discussion or a motion. Ms. Bowers expressed her concern that if approved as an event center, there was nothing to prevent the owner from allowing any type of event to be held there. Mr. Kirkman responded the use is defined as a place that people are able to rent for a variety of activities. If the principal use becomes like a nightclub, where onsite consumption of alcohol and live events, it may shift into that use and then those regulations would apply. Generally, this would be places rented by groups. Mr. Oliver asked if they did turn into a place where alcohol was consumed, would require another approval. Mr. Chikovsky stated Group Sedgfield LLC does not allow that. The leases state no business that derives 50% of its revenue or more from alcohol would be allowed. Mr. Ramsey felt the event center would probably operate as event center most of the time when school was not in session. Ms. Bowers asked if approved for an event center, would a new owner also be approved for an event center. Mr. Kirkman responded the variance would run with the property. Chair Truby inquired if there were further questions or a motion.

### **MOTION**

Ms. Necas moved that in BOA 21-59, 4623 West Gate City Boulevard, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and variance granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the space in the event center is unable to be used as such if a variance is not granted. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the special events facility will only be used when school is closed. The condition which restricts the use is not pertinent. (3) The hardship is not the result of the applicant's own actions because the owner has not changed the property's use. The property has been used as a special events facility for at least 7 years. (4) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the events held at the facility would be outside of school hours and would not interfere with the school in any way. Seconded by Mr. Ramsey. The Board voted 6-1 in favor of the motion. (Ayes: Chair Truby, Ramsey, Oliver, Necas, Savoy, and Bowers. Nays: Waddell.) Chair Truby stated the variance passed.

#### **e. BOA-21-60: 1901 TIFFANY PLACE (APPROVED)**

Ms. Thiel stated in case **BOA-21-60**, 1901 Tiffany Place, Dana and Darin Bett request a variance to allow a proposed addition to encroach 18 feet into a required 30 foot rear setback. The addition will be 12 feet from the rear property line.

Evidence provided by the applicant included Exhibits A through E. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance reference was Section 30-7.3.2-Table7-1: In the R-3 District, the minimum rear setback is 30 feet.

**Background and Site Information:** The subject lot is located on the south side of Tiffany Place, west of Tiffany Court, and zoned R-3 (Residential Single-Family). Tax records indicate the corner lot contains approximately 18,731 square feet, and the house was constructed in 1983. The applicants propose to add a 576 square foot addition to the back of their house that will be 12 feet from the rear property line. While the proposed addition will align with the existing garage and meet the required side street setback, it will encroach 18 feet into a required 30 foot rear setback. If the variance is granted, the applicants will submit a residential building permit application and proceed with the permit process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted that there were no applicable overlays and plans.

Chair Truby requested the applicant to state her name/address for the record. Chair Truby swore in Dana Bett for her testimony in this case.

**Dana Bett, 1901 Tiffany Place**, said they were asking to build an addition on the back of their home to update, add value to their home, and enhance their home and neighborhood. The existing flow of the home requires additional square footage to update and maintain the integrity of the neighborhood. This home was built in 1983, but not by the Betts. The applicants had no input on the position or design as the home. There are three working people within this home. If unable to build the addition, they may need to move, which they do not want to do. Currently, this home is the least valued property in the vicinity. The addition would bring their house up to par and add value to this property and surrounding neighbors. Other enhancements and updates will be done at the same time of the addition to also enhance the property and neighborhood. The property shape and topography are unique being on a corner lot in a cul-de-sac that does not allow any other location on the property for additional square footage, other than the proposed site without any hardships. This is a corner lot with a unique circumstance. There are two front entrances because they are on two roads, Tiffany Place and Tiffany Court. The driveway, mailbox, and the entrance are on Tiffany Court, which is considered the side by the city. The neighbors are in favor and supportive of the addition and would be the only ones that may be impacted. A notarized letter was submitted by their neighbor. Exhibit 3 and Exhibit B in the staff report were referenced indicating the locations of the existing home, the neighbor's home, and the proposed location of the addition. Chair Truby inquired if there were questions for the applicant from the Board members. Seeing none, Chair Truby asked if there was anyone to speak in opposition to the request. Ms. Thiel advised there was no opposition to the request. Chair Truby closed the public hearing and requested board discussion or a motion.

### **MOTION**

Mr. Oliver moved that in BOA 21-60, 1901 Tiffany Place, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and variance granted based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will result to the property by applying strict application of the ordinance because the way the home is currently situated on the lot, this is the only place to put an addition on this home. (2) The hardship of which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because there is not a better place on the lot to do this addition. (3) The hardship is not the result of the applicant's own actions because strict compliance with the ordinance would not allow an addition to be built. (4) The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit and assures public safety, welfare, and substantial justice because the addition will improve and add value to the property. Seconded by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Bowers. Nays: 0.) Chair Truby stated the variance passed unanimously.

### **OTHER BUSINESS**

Mr. Ramsey stated in North Carolina, an entity has to have a lawyer, but Mr. Chikovsky did not appear to be a North Carolina attorney. He asked if he should have been one. Ms. Bowers stated she had the same question. Mr. Andrews responded Mr. Chikovsky was a member of the Bar. Mr. Ramsey stated for Florida and asked if that was good enough. Mr. Ramsey stated he could raise this question another time and it did not make a big difference. Mr. Andrews stated it was not known if Mr. Chikovsky was licensed in North Carolina. Chair Truby asked if he should have been sworn in. Mr. Andrews responded upon reflection, yes. Mr. Oliver stated Mr. Chikovsky was an in-house counsel for a local company, but resides

in Florida. Mr. Andrews responded the Board would have had to have done voir dire of Mr. Chikovsky to have questions answered. Ms. Necas stated Sedgefield Group LLC is a Florida LLC. Mr. Ramsey asked if he should ask those type of questions in the future or not worry about them. Mr. Andrews responded the questions should be raised with him before the meeting, if possible, but could also be taken care of within the meeting.

Mr. Kirkman asked how the Board wanted to do the format for the January meeting. Mr. Kirkman advised the council chamber have been set up with plastic partitions between each seat so people are physically separated from each other. There is no method to move the public in and out of the room. The hybrid format used by City Council has security and others assisting/monitoring. Staff does not have that capacity. For Board of Adjustment meetings, it would be everybody in the room. Staff has authority to go either way currently based on what City Council has instructed each Board or Commission. Staff needs to know in order to advertise the meeting for the format to be very clear to the public each month. Chair Truby stated he personally was good with what was currently and would prefer keep having virtual meetings. Mr. Waddell advised he was fine either way. Mr. Oliver asked what was the Planning and Zoning Commission was doing. Mr. Kirkman advised the meeting on December 20, 2021 would be in-person for Commission members and limited staff in the City Council chambers. Everyone else is remote. In January, the Planning and Zoning Commission hopes to have the public and everyone else in council chambers with a full meeting. The Board of Adjustment would have to go all virtual or all in person as it is a quasi-judicial meeting and is not televised. The Planning and Zoning Commission meeting is televised. Mr. Oliver and Ms. Necas were fine either way. Ms. Necas felt she participated more in person as she found it difficult to talk on Zoom. Mr. Ramsey stated he was good either way. The one thing he noticed was there were older people who were able to participate online who may otherwise not have been able to participate in person. Mr. Kirkman stated at some point the state will instruct everyone for meetings to be in person or Council may do that. Currently, it is still under the mantra of the need to protect public health and safety. Mr. Kirkman stated this is a question that staff struggles with on how to preserve the benefits of the online format with the necessity to have in-person contact also. Mr. Ramsey stated the reason why this is being done is the pandemic and we still have the Delta variant. North Carolina is not trending well. Mr. Kirkman stated if the Board wanted to continue with virtual, that was fine with staff. Ms. Bowers stated if there is a mask requirement for either Board members or applicants or witnesses, it makes it very difficult to understand what is being said with masks on. Ms. Bowers advised she would very much prefer to hear people without a mask on a screen then with a mask in person. A lot of translation is lost with a mask on, even if in person. It is important to understand what people are saying and easier on the screen regarding masks. Mr. Kirkman stated the Board does need to be able to understand all the facts presented in a case and was a fair point. Mr. Waddell stated he felt there was great participation from citizens in the city that have attended online meetings that may not have had the opportunity to do so. Mr. Waddell leaned toward staying with the current format and continue until they are ready for in-person.

Mr. Ramsey expressed his concern regarding a previous case, called the "chicken case." Mr. Ramsey recently spoke with someone who advised that the applicant had started a GoFundMe page to pay the \$400 application fee. Mr. Ramsey asked if there has been any consideration done for those who come before the Board regarding something that is not their fault who may have a financial hardship that the Board can assist. Mr. Kirkman stated there was research done to see what other jurisdictions in the state do. No one had what could be a hardship provision for fees required by the different Board of Adjustments. There are variations across the state of fees charged for variances and special exceptions versus appeals. There are different interpretations. The fee schedule is being discussed in general as staff is starting to work on the budget for next year and will probably be addressed in more depth. There is no mechanism for refunding the fee because it was not a staff error or some other reason that brought

them before the Board of Adjustment. Staff did speak with the applicant, but there was no mechanism that was fair and equitable. It will be taken under consideration for future fee schedules to determine if adjustments need to be made.

Mr. Oliver asked if anyone has ever advised they could not come up with the money and cannot go before the Board. Mr. Kirkman stated staff has heard that a couple of times, but cost is usually not the only reason in those cases. There is a due process question that if someone would like to have their rights, how will the situation be dealt with. Currently, there is not clear way to make a determination of who really has a hardship case versus something else. Mr. Ramsey stated that if a person is running a GoFundMe page, it probably was a hardship. That particular case was a unique circumstance. Someone was put into that position by a person making a complaint and did not show up at the hearing, and the \$400 cost was not affordable. That would be a hardship. Mr. Ramsey felt it was something for the Board to look at. Mr. Waddell stated in the particular area where the person lived, it is truly a food desert. A person has to drive miles and miles to get to a grocery store. Convenience stores have higher prices. Ms. Bowers stated in the court system there is a way to apply for in forma pauperis and asked if there was something like that in applying for a variance. Mr. Kirkman responded that has been discussed, but struggles with what information can be received and would be required to make the determination. There was no clean way to do that at this point in time. It is not being ignored and staff are looking at the fee schedule for the next year to see if adjustments can be made. There does need to be some type of fee for appeals because they are in violation of the ordinance. There is a cost to the city and there would be less incentive to come into compliance. It is a city-wide conversation. The chicken case was a unique circumstance and started a good conversation. Staff does not have a solution yet but are looking into it.

Mr. Ramsey stated if something could be resolved, that would be great, as that particular case struck a chord with him after the meeting. Chair Truby stated it had affected him, as well. He shared his concerns with the Mayor and Councilwoman Nancy Hoffmann, his council district representative.

Ms. Thiel confirmed that meetings would continue as virtual, and that the next meeting was on January 24, 2022. Chair Truby responded that was correct.

### **ADJOURNMENT**

Chair Truby thanked everyone and stated the meeting was adjourned at 7:18 p.m.

Respectfully submitted;

Chuck Truby, Chair  
Board of Adjustment  
CT/cgs