

MEETING MINUTES
GREENSBORO BOARD OF ADJUSTMENT
January 24, 2022

The meeting of the Greensboro Board of Adjustment was held on Monday, January 24, 2022 at 5:30 p.m. online via Zoom. Board members present were: Chairman Truby, James Waddell, Vaughn Ramsey, Ted Oliver, Leah Necas, Terry Savoy and Stephen Barkdull. City staff present were Shayna Thiel, Mike Kirkman, and Luke Carter of the 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 (December 13, 2021 Meeting)

Mr. Ramsey made a motion to approve the December 13, 2021 minutes; second by Waddell. Mr. Barkdull abstained from vote since he was not present for the December meeting. The Board voted 6-0-1 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, and Savoy. Nays: 0, Abstain: 1.) Chair Truby advised the minutes were approved.

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 applicant for BOA-22-08 requested a continuance to the February meeting. Chair Truby stated BOA-22-08 was continued to the next month.

NEW BUSINESS

1. VARIANCES

a. BOA-22-01: 200 Leland Drive (APPROVED)

Ms. Thiel stated in BOA-22-01, 200 Leland Drive, Monika Romero requests a variance to allow a proposed addition to encroach 5 feet into a required 10 foot side setback. The addition will be 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 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 Leland Drive, east of Tall Oaks Drive, and is zoned R-3 (Residential Single-Family). Tax records indicate the corner lot contains approximately 13,939 square feet, and the house was constructed in 1973. The applicant proposes to construct a 351 square foot covered porch addition at the side of the house that will be 5 feet from the side 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 there were no applicable overlays or plans. Chair Truby asked the applicant to state her name/address for the record and swore Monika Romero in for her testimony.

Monika Romero, 200 Leland Drive, stated she would like to build a screened in porch addition, approximately 351 square feet, that would be on the left side of the home. Ms. Romero stated based on the topography of the land, placing the screened in porch there would be the best location. Ms. Romero stated the house is not centered because it's on a corner lot.

Chair Truby inquired if Board members had questions for the applicant. Ms. Necas asked Ms. Romero if she had reached out to her neighbors who would be most impacted by the addition, Clyde and Frances Orr. Ms. Romero responded she spoke to Mr. Orr and he was not opposed to this request. Ms. Romero has done updates on her home over the past few years, such as siding and windows. Mr. Orr likes the improvements made and does not object to this request. Chair Truby inquired if Board members had other questions for the applicant. Hearing none, Chair Truby inquired if there was anyone else in favor or opposition to the request. Ms. Thiel advised there was no one in opposition. With no questions, Chair Truby closed the public hearing and requested a Board discussion or a motion.

MOTION

Mr. Savoy moved that in BOA 22-01, 200 Leland 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 addition would encroach 5 feet into the required 10 feet side setback and prevent this addition from being built in the feasible location on 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 side exit door and driveway are located on the side of the property at the most suitable location to build the proposed addition. (3) The hardship is not the result of the applicant's own actions because the topography, side exit door, and driveway make the proposed location the most suitable for the new addition. (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 addition does not extend beyond the front of the home and maintains a reasonable distance from the neighbor's property line. Second 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.) Chair Truby stated the variance request passed unanimously.

b. BOA-22-02: 602 Summerwalk Road (APPROVED)

Ms. Thiel stated in **BOA-22-02**, LaDonnall Har-Baskerville requests a variance to allow a proposed addition to encroach 8 feet into a required 10 foot side setback. The addition will be 2 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 7-1: in the R3 District, the minimum side setback is 10 feet.

Background and Site Information: The subject lot is located on the west side of Summerwalk Road, north of Orchard Ridge Lane, and is zoned R-3 (Residential Single-Family). Tax records indicate the lot contains approximately 12,197 square feet, and the house was constructed in 1997. The applicant proposes to construct a 436 square foot garage addition at the side of the house that will be 2 feet from the side property line. The applicant indicates that the proposed addition will be constructed to meet fire-rating requirements of the North Carolina State Building Code. Additionally, the applicant has provided plans to the Homeowners Association for review and approval. 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 overlays and or plans. Chair Truby asked the applicant to state her name/address for the record and swore LaDonnall Har-Baskerville in for her testimony.

LaDonnall Har-Baskerville, 602 Summerwalk Road, stated she was a widow and was requesting a two car garage addition be allowed to be built in order for her to have safety, security, and protection from the elements while entering her home. Chair Truby asked if Ms. Har-Baskerville had spoken to the neighbor adjacent to her. Ms. Har-Baskerville responded she did and there were no issues. Chair Truby inquired if Board members had questions for the applicant. Hearing none, Chair Truby asked Ms. Thiel if there were anyone in opposition to the request. Ms. Thiel responded there was no opposition. Chair Truby asked if there was Board discussion or a motion. Ms. Baskerville advised her contractor was available. Chair Truby asked if Board members had questions for the contractor. Hearing none, Chair Truby requested a motion.

Mr. Savoy moved that in BOA 22-02, 602 Summerwalk 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 encroaching 8 feet into the required 10 foot setback is the most logical place to add the addition where the existing driveway is. (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 proposed location of the addition is the only logical place to put it. (3) The hardship is not the result of the applicant's own actions because the house was built in 1977 where the contractor did not position the house in a location to allow a two car garage to be constructed. (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 an architect and surveyor were hired to ensure the homeowner that it would be in compliance with the Homeowners Association and assures her safety. Second by Mr. Barkdull. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull. Nays: 0.) Chair Truby stated the variance passed unanimously.

c. BOA-22-03: 1700 West Market Street (APPROVED)

Ms. Thiel stated in **BOA-22-03**, 1700 West Market Street, Cheryl Martin requests a variance to allow a proposed addition to encroach 6.22 feet into a required 20 foot rear setback. The addition will be 13.78 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 7-2: In the R-5 District, the minimum rear setback is 20 feet.

Background and Site Information: The subject lot is located on the north side of West Market Street, west of Smyres Place, and is zoned R-5 (Residential Single-Family). Tax records indicate the corner lot contains approximately 12,197 square feet, and the house was constructed in 1978. The applicant proposes to construct an addition at the back of the house, including expanded living space and a new garage, which will be 12.78 feet from the rear property line. The applicant indicates that the proposed addition will not affect the adjacent parking lot and business. 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 overlays or plans. Chair Truby asked the applicant to state her name/address for the record and swore Cheryl Martin in for her testimony.

Cheryl Martin, 1700 West Market Street, stated she would like to build an addition on the rear of her home to expand living space. At the rear of that, Ms. Martin would like to add a garage. She referenced pictures in the exhibits that showed the location of the current garage. A shed had been behind the garage. Where the shed was located is approximately a 3 foot difference in what she is asking to do. The

rear of the home backs up to the Old Southern Lights Restaurant and parking lot, and the rear of Amber Fire Fusion business and parking lot. Ms. Martin did feel the addition along with the garage would affect a vacant business, or employees of Amber Fire Fusion. The neighbor directly across from Ms. Martin has just moved into that home. Ms. Martin attempted to speak to the neighbor and does not know who they are, but did not feel this proposed addition and garage would have affect them or the businesses in a negative way.

Chair Truby asked if Board members had questions for the applicant. Mr. Oliver asked if the existing garage would be taken down and a slightly larger structure built. Ms. Martin responded the garage would come down. The living space will be expanded and a garage attached to the new living space at the end of the property. Mr. Barkdull asked how much new living space would be added. Ms. Martin responded 1,633 square feet would be added. Chair Truby inquired if there were any other questions. Hearing none, Chair Truby asked if there was anyone in opposition to the request. Ms. Thiel advised there was no one in opposition to the request. Chair Truby closed the public hearing and requested to Board discussion or a motion.

MOTION

Mr. Oliver moved that in BOA-22-03, 1700 West Market 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 without this variance the owners will not be able to do the addition desired. They want to expand their living space and add a 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 there is an 8 foot privacy fence between the property and the adjacent property that is a business parking lot. No homes or families will be affected. (3) The hardship is not the result of the applicant's own actions because the home was like this when purchased by the current owner. (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 improvement will only add to the value and appeal of the property. The structure will still be 13.78 feet from the property line. Second 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.) Chair Truby stated the variance passed unanimously.

d. BOA-22-04: 1815 Dalton Road (APPROVED)

Ms. Thiel stated in **BOA-22-04**, 1815 Dalton Road, Gray and Tara Sherrill request two variances. (1) To allow an existing house and proposed addition to encroach 5.2 feet into a required 10 foot side setback. The house and addition will be 4.8 feet from the side property line. (2) To allow the proposed building coverage to exceed 30% of the lot area. The building coverage will be 3,446 square feet when no more than 3,371 square feet is allowed based on current zoning.

Evidence provided by the applicants included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance reference 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 and Section 30-7-3.2 – Table 7-1: In the R-3 District, the minimum side setback is 10 feet and the maximum building coverage is 30%.

Background and Site Information: The subject lot is located on the west side of Dalton Road, south of Saint Andrews Road, and is zoned R-3 (Residential Single-Family). Tax records indicate the lot contains approximately 11,326 square feet, and the house was constructed in 1922. The existing house is considered a nonconforming structure as it encroaches 5.2 feet into a required 10 foot side 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 applicants propose to construct a 704 square foot porch addition at the back of the house that will be

aligned with the existing house and be 4.8 feet from the side property line. In addition to the new porch, the applicants propose to replace the existing detached garage with one that meets accessory structure setback requirements. In making the proposed improvements, the maximum 30% building coverage will be exceeded by 0.7%. The building coverage will be 3,446 square feet when no more than 3,371 square feet is allowed, so a variance is necessary to address the excess. If the variances are granted, the applicants 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 or plans. Chair Truby asked the applicants to state their name/address for the record and swore Tara and Gray Sherrill in for their testimony.

Tara Sherrill and Gray Sherrill, 1815 Dalton Road, stated her family has lived at this residence for a little more than a year and realized their 100 year-old carport needed to be upgraded to secure their cars better and also wanted to expand their current patio that has some brick that is starting to fall and cave in and change that to blue stone and put a covering over it to have more outdoor space. Ms. Sherrill advised their contractor; Doug Arms, was available to address questions.

Chair Truby asked if Board members had questions for the contractor or the applicant. Ms. Necas stated in the application the house is in R-3 and based on the property size, it is closer to R-5 and thought they may be in-between R-3 and R-5. Ms. Necas asked if lot it was R-5, would they be allowed to have a larger addition made than 30%. Ms. Thiel advised that in R-5; the maximum building coverage is 40%, so a larger percentage of the lot could be developed. Chair Truby inquired if there were further questions from Board members for the applicant. Seeing none, Chair Truby asked if there was any opposition to the request. Ms. Thiel responded there was no opposition to this request. Chair Truby closed the public hearing and requested discussion or a motion.

Ms. Necas moved that in BOA 22-04, 1815 Dalton Road, 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 existing house is already into a 10 feet setback and the addition will be aligning with the house; (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 was built in 1922 prior to the Land Development Ordinance and is nonconforming. The R-3 zoning limits the size when the property is in-between R-3 and R-5 size limits; (3) The hardship is not the result of the applicant's own actions because both the garage and patio were already in existence upon purchase. (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 roof over the patio would make outdoor space more functional for all year use by the home owner and will be in harmony with the existing structure. Second 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.) Chair Truby stated the variances passed unanimously.

BOA-22-05: 224 South Tremont Drive (APPROVED)

Ms. Thiel stated in BOA-22-05, 224 South Tremont Drive, Kristen and Wallis Collie request a variance to allow a proposed expanded principal structure to encroach 10.9 feet into a required 20 foot rear setback. The expanded principal structure will be 9.1 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 – 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 west side of South Tremont Drive, north of Wright Avenue, and is zoned R-5 (Residential Single-Family). Tax records indicate the corner lot contains approximately 8,712 square feet, and the house was constructed in 1925. The applicants propose to construct an addition that would 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 9.1 feet from the rear property line, a variance is necessary to allow for a 10.9 foot encroachment into a required 20 foot rear setback. If the variance is granted, the applicants 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 and plans. Chair Truby asked the applicants to state their name/address for the record and swore Kristen and Wallis Collie in for their testimony.

Kristen Wallis, 224 South Tremont Drive, stated they would like to add an addition on half of the house connecting it with the existing detached garage. It would not change any of the current setbacks but if the garage becomes attached to the house, the 20 foot rear setback is required because currently it is encroaching 10.9 feet.

Chair Truby asked if Board members had questions for the applicants. Mr. Oliver asked what would happen to the doll house. Ms. Wallis responded it would be moved over slightly, but there was not a flat piece of land for it and he was not sure where it would go. Chair Truby inquired if there were further questions for the applicants. Chair Truby asked if there was anyone in opposition to the request. Ms. Thiel advised there was no opposition to this request. Chair Truby closed the public hearing and requested board discussion or a motion.

MOTION

Mr. Barkdull moved that in BOA 22-05, 224 South Tremont 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 would be unable to construct the proposed addition between the house and garage to provide safe overhead access between two structures. (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 rear property line is currently 9.1 feet from the detached garage and only becomes an issue when connecting the garage to the house. (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 a variance request preserves the spirit of the ordinance by the proposed addition, not impacting any adjacent property owners and all current setbacks will be maintained. Second 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.) Chair Truby stated the variance passed unanimously.

e. BOA-22-06: 3620 Lewiston Road (APPROVED)

Ms. Thiel stated in **BOA-22-05**, 3620 Lewiston Road, Ronald and Tracy Love request a variance to allow a proposed accessory structure to be located in front of the front building line of the principal structure and in a required street setback. The accessory structure will be 96 feet from the front property line when 150 feet 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 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 east side of Lewiston Road, south of Jessup Grove Road, and is zoned R-3 (Residential Single-Family). Tax records indicate the lot contains approximately 47,045 square feet and the house was constructed in 1941. The applicants propose to construct a 288 square foot accessory structure in front of the principal structure and in a required street setback. The proposed accessory structure will be 96 feet from the front property line and provide

vehicular access from the existing driveway. The applicants indicate that an active septic system in the back yard limits their ability to place the accessory structure behind the house. If the variance is granted, the applicants 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 and plans. Chair Truby asked the applicants to state their name/address for the record and swore Ronald Love in for his testimony.

Ronald Love, 3620 Lewiston Road, stated they would like to place a 12x24 outdoor storage building in the front yard. Currently, there is a small building in the backyard that does not interfere with the septic tank or septic lines. Mr. Love stated his mother-in-law previously owned the adjacent property, so they had very easy access to their backyard. It is no longer accessible because the new owners placed a fence around the property. Now they have no access in the backyard to place a building behind the home for vehicle storage. The request is to place a building in front of their house for the storage of vehicles. Mr. Love spoke with the neighbor property owners and made them aware of the plans. The property adjacent to Mr. Love is a 20 acre lot with one home. Chair Truby asked if this storage building would be behind the trees seen on the aerial map. Mr. Love responded approximately 17 pine trees were removed last year because of their intention to place a building in that area. The front of the lot will be landscaped where some extremely tall pine trees became unstable in bad weather. They did not want any potential large trees to fall on the structure if the variance was approved. Chair Truby asked if the structure would be screened from weather elements. Mr. Love responded that was the intention. Chair Truby inquired if there were further questions from Board members for the applicant. Seeing none, Chair Truby inquired if there was anyone in opposition. Ms. Thiel responded there was no opposition. Chair Truby closed the public hearing for Board discussion or a motion.

MOTION

Mr. Ramsey moved that in BOA 22-06, 3620 Lewiston 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 applicant will be unable to construct an accessory structure on 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 existing lot is long and narrow, with the existing house built in the back of the lot. There is a septic field behind the house and the front is the only feasible location for an accessory structure. (3) The hardship is not the result of the applicant's own actions because the house was built in 1941, prior to the applicant's acquisition 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 placing of the accessory structure in the front of the house will create no safety issue, increases property values, and will be consistent with the adjacent neighborhood. Second 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.) Chair Truby stated the variance passed unanimously.

e. BOA-22-07: 208 Macy Street (APPROVED)

Ms. Thiel stated in case **BOA-22-07**, 208 Macy Street, Michael Zajkowski and Joseph Wright request six variances. (1) To allow a proposed accessory dwelling to encroach 9.2 feet into a required 20 foot rear setback. The accessory dwelling will be 10.8 from the rear property line. (2) To allow a proposed accessory dwelling to encroach 0.42 feet into a required 15 foot side street setback. The accessory dwelling will be 14.58 feet from the side property line along Roseland Street. (3) To allow the heated floor area of a proposed accessory dwelling to exceed 30% of the principal dwelling floor area. The heated floor area will be 407.5 square feet when no more than 271 square feet is allowed. (4) To allow a proposed accessory structure to be separated from another structure on the lot by 4.78 feet when at least 5 feet is required. (5) To allow an existing house to encroach 0.7 feet into a required 15 foot side street setback.

The house is 14.3 feet from the side property line along Roseland Street. (6) To allow an existing accessory structure to encroach 1.2 feet into a required 3 foot side setback. The accessory structure is 1.8 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 references were 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 400 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 and the minimum side street setback is 15 feet.

Background and Site Information: The subject lot is located on the south side of Macy Street, west of Roseland Street, and is zoned R-5 (Residential Single-Family). Records indicate the corner lot contains approximately 7,642 square feet and the house was constructed in 1947. Currently on the subject property area a primary dwelling, and 87.2 square foot accessory structure and another 407.5 square foot accessory structure under construction in accordance with building permit #202108540. The applicants propose to convert the 407.5 square foot accessory structure into an accessory dwelling, but it encroaches 9.2 feet into a required 20 foot rear setback and 0.42 feet into a required 15 foot side street setback, as prescribed in the R-5 District, and is only 4.6 feet from another existing structure on the lot when at least 5 feet is required. In addition, the heated floor area of the proposed accessory dwelling exceeds 30% of the principal dwelling floor area. To allow for the conversion of the accessory structure under construction into an accessory dwelling, the applicants seek the first four variance requests. The submitted site plan also shows that the existing hour encroaches 0.70 feet into a required 15 foot side street setback and the existing 87.2 square foot accessory structure encroaches 1.2 feet into a required 3 foot side setback. To address the existing nonconformities, the applicants seek two additional variances at this time. If the variances are granted the applicants 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 or plans.

Chair Truby asked the applicants to state their name/address for the record and swore Michael Zajkowski and Joseph Wright in for their testimony.

Michael Zajkowski and Joseph Wright, 208 Macy Street, stated the accessory dwelling to be built will be a cottage for their mother, who is currently living with them. It is a pre-purchased cottage that met all of the requirements. They have a contractor, who is also present at this meeting for any questions. The applicants found out after the purchase of the cottage that the front of the home is actually on Roseland Street. Mr. Wright placed the cottage exactly even with the house, in terms of distance from the street because he was under the impression that it had to be 15 feet in from the property line. Mr. Wright stated what he thought was the side property line, is slightly over 10 feet away from their property line. Mr. Wright advised his next door neighbor was also at the meeting to answer any questions and provide support for this request. The square footage is not met, but they plan to build a loft space in the house and have applied for a building permit and have engineer drawings. The square footage of the main dwelling will meet the required square footage to allow the accessory dwelling. The back storage building has been removed. They are attempting to do this work so their mother can move into the accessory dwelling. This process has been going on for five months, and they are seeking the variances to be able to complete this project. Chair Truby stated it appeared there was a permit back in May for an accessory structure and asked the applicants when they decided to convert the structure into an accessory dwelling. Mr. Wright responded originally, he thought that was all he had applied for. Someone in the city advised Mr. Wright to apply for an accessory structure, get it in place and then apply for the accessory dwelling.

When the electrical work was completed in the structure, the accessory dwelling was applied for. Mr. Wright did not realize that it was being done all out of order and it was all on him. Mr. Wright has a contractor now who is able to explain everything to him. The contractor has been going to the city, advising Mr. Wright and slowly making progress. The newest thing they were unaware of was the relationship of the accessory structure square footage to the main dwelling square footage. The square footage requirements will be met in the main dwelling and the accessory dwelling. Chair Truby asked if there were questions for the applicant. Mr. Oliver stated it appeared a lot of the work has been started around the building and asked if they were deep into the project already. Mr. Wright responded they were. They had thought everything was okay and went ahead and started the foundation. It will be poured with cement and boxed in. Chair Truby inquired if Board members had any further questions for the applicants. Mr. Waddell asked if the structure that was removed was part of the original plan. Mr. Wright responded that the old metal storage shed was there out of compliance and came with the house. It was being stored in the back until it could be removed. Ms. Necas stated in looking at the variances, asked if the applicants were saying variance number 4 was not necessary. Mr. Wright responded that variance request was not needed. Ms. Necas asked if variance 6 referred to the accessory structure that was just removed. Mr. Wright stated variance 6 allows the storage shed to be able to encroach 1.5 feet into a required 3 foot side setback. Mr. Wright stated he was not applying for a variance for the smaller building, only for the bigger accessory structure to become a dwelling. Mr. Wright stated when the project is completed, it will elevate the neighborhood and is in keeping with everything. Ms. Thiel stated it sounds like variance 6 was not needed, but variance 4 still applies because it relates to the accessory dwelling that is a little less than the 5 feet required to be separated from the house. Mr. Wright stated there was actually 11 feet between the house and the accessory dwelling. Between the two is a small deck that could be cut down. It was not needed and the square footage could be accommodated. Chair Truby stated to make it clear that variance 6 was not needed and could be removed. Ms. Thiel stated if the 10.9 by 8 foot existing accessory structure was removed, that variance would no longer be necessary. Chair Truby advised that the applicants stated it has been removed and felt variance 6 could be removed from the request and the Board will only consider variances 1-5.

Mr. Andrews asked the applicants to clearly acknowledge the reduction in number of requested variances. This was determined through conversation, but for the record the number of variances should be verbally acknowledged.

Mr. Wright stated they were reducing the number of variances by eliminating variance 6.

Chair Truby inquired if Board members had further questions for the applicants. Chair Truby inquired if there was anyone in opposition to the request. Ms. Thiel responded there was no opposition but advised that someone was present in support. Chair Truby inquired if any Board members wished to hear anyone in support. Chair Truby asked if that person wished to speak. No one spoke and Chair Truby closed the public hearing for Board discussion or a motion.

MOTION

Mr. Waddell moved that in BOA 22-07, 208 Macy Street, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and variances 1, 2, 3, 4 and 5 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 structure will not be able to be converted into an accessory dwelling in order to increase needed living space. (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 conversion of the accessory structure to an accessory dwelling requires four variances. One additional variance is required to address a nonconformity of the existing home. Variance 6 can be removed from the request. (3) The hardship is not the result of the applicant's own actions because the subject property was originally constructed in

1947. The principal dwelling does not meet the needs for extended family living. (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 addition will increase the value of the property, and the project causes no safety issues to the neighborhood. Second by Barkdull. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Barkdull. Nays: 0.) Chair Truby stated the variances passed unanimously.

OTHER BUSINESS

Ms. Thiel and Mr. Kirkman both advised there was no further business.

Mr. Waddell thanked Ms. Thiel for delivering his packet to him at his office. Because of inclement weather, no mail had been delivered to his office at the hospital. Ms. Thiel took time out of her day to bring it to him allowing him to be able to look at the information and he appreciated it.

ABSENCES

None.

ADJOURNMENT

Mr. Waddell made a motion to adjourn the meeting at 6:46 p.m.

Respectfully submitted,

Chuck Truby, Chair
CT/cgs

MEETING MINUTES
GREENSBORO BOARD OF ADJUSTMENT
February 28, 2022

The meeting of the Greensboro Board of Adjustment was held on Monday, February 28, 2022, at 5:30 p.m. online via Zoom. Board members present were: Chairman Truby, James Waddell, Vaughn Ramsey, Ted Oliver, Leah Necas, Terry Savoy, and Cory Randolph. 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, 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 (JANUARY 24, 2022 MEETING)

Mr. Randolph abstained from voting, as he was not present.

Mr. Oliver made a motion to approve the January 24, 2022, minutes; second by Waddell. The Board voted 6-0-1 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, and Savoy. Nays: 0, Abstain:1, Randolph). Chair Truby advised the minutes were approved.

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.

OLD BUSINESS

1. APPEAL OF CODE COMPLIANCE ADMINISTRATIVE DECISION
a. BOA-22-08: 810 Lexington Avenue (DENIED)

Ms. Thiel stated in BOA-22-08, 810 Lexington Avenue, Bulent Bediz, appeals a Post-Tow Hearing Decision that the City demonstrated probable cause to tow abandoned and junked motor vehicles.

Evidence provided by the applicant was Exhibit A. Supporting documentation from staff included Exhibits 1 through 9. The Code of Ordinances references were Section 17-50 Authority: The City of Greensboro hereby finds that regulation of abandoned and junked vehicles is necessary and desirable to protect the health and safety of the residents of the city and to promote and enhance community, neighborhood and city appearance; and Section 17-57(F) Hearing: Any aggrieved party may appeal the hearing officer's decision to the Board of Adjustment by filing an appeal in writing with fifteen (15) calendar days after the date of the report of the Hearing Officer, but not thereafter.

Background and Site Information: The subject lot is located on the west side of Lexington Avenue, north of Haywood Street, and is zoned RM-12 (Residential Multifamily). Tax records indicate the undeveloped lot contains approximately 7,841 square feet. The applicant appeals a Post-Tow hearing decision that the City demonstrated probable cause to tow abandoned and junked motor vehicles, and wishes to be reimbursed for towing charges. On August 31, 2021, the City provided notice to the applicant

that a Pre/Post Tow hearing had been set for September 14, 2021 to determine if the Inspector had probable cause to remove abandoned or junked motor vehicles. On September 22, 2021, The City provided a Post-Tow hearing decision letter to the applicant advising that the City had probable cause to tow the vehicles and that the towing stands. In the Post-Tow hearing decision letter, the City also provided to the applicant, instructions for appealing the Hearing Officer's decision to the Board of Adjustment. Per Code of Ordinances Section 17-57(F), any aggrieved party may appeal the Hearing Officer's decision to the Board of Adjustment by filing an appeal in writing within fifteen (15) calendar days after the date of the report of the Hearing Officer, but not thereafter.

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

Chair Truby asked the City representative to provide his name/address for the record.

Anthony Baker, Senior Assistant City Attorney, 3606 Dewsbury Road, Winston-Salem. Mr. Baker advised that he would present the record that was presented to the Hearing Officer, Troy Powell, at the evidentiary hearing that was appealed. The questions for the Board of Adjustment were limited to if the City had probable cause to tow the vehicles and if the City had substantial evidence to determine that it had probable cause to tow the vehicles. Mr. Baker stated the City Ordinances on junked and abandoned vehicles and state law. A junked vehicle is a vehicle dismantled or wrecked and cannot be moved or self-propelled in the manner of which it was intended. For the City to move vehicles without the consent of the private owner, the City has to show: (1) the junked or abandoned vehicles are a public safety, health concern, or welfare concern; and (2) that the benefit to the aesthetics of the property outweighs the harm to the property owner. Mr. Baker stated prior to the towing of a vehicle, per City Ordinance 17-56, the City must give the property owner Pre-Tow notice. The vehicle must be posted with a placard on an obvious spot, generally the windshield, if there is one. The placard indicates that the vehicle will be towed unless removed by a specific deadline. The vehicle may not be towed before that deadline. After the vehicles are towed, the property owner would request a hearing before the City's Hearing Officer, Troy Powell. Mr. Powell's obligation was to hear the evidence of the Inspector involved and the property owner to determine if the City met its notice requirements and had probable cause to tow the vehicle. The decision letter setting out all of the reasons in determining probable cause was shown. The Inspector had the legal authority to be on the property to view the vehicles. In this case, the Inspector presented evidence stating he was inspecting a trailer in the street and from the street could see a damaged, partially dismantled truck in the back yard of 810 Lexington Avenue. An administrative search warrant was then obtained to inspect the vehicles and confirm they were dismantled or junked. The notice for towing the vehicles was posted. At the hearing, Inspector Sims was sworn and provided testimony and documentation. Mr. Bediz, property owner, was present at the hearing and was given the opportunity to cross examine Mr. Sims and was given the opportunity to present evidence and provide that evidence to this Board. Mr. Bediz did not present evidence at the hearing and did not present any evidence to the Board. The notice of hearing, dated August 31, was provided to Mr. Bediz to have the opportunity to have the hearing before Mr. Powell. Mr. Bediz did attend the hearing. Mr. Baker stated in an email of July 27, 2021, Mr. Sims and Mr. Covington, Supervisor, reported to 810 Lexington Avenue. Mr. Covington had seen the vehicle in the back yard and wanted to further investigate. He was originally given consent from Mr. Bediz to investigate. Mr. Bediz verbally retracted the consent. At the time, Mr. Sims presented Mr. Bediz the administrative search warrant. Mr. Sims had the legal authority to be on the property to investigate the junked or abandoned vehicles. Notice that the junked or abandoned vehicles would be towed was posted on each vehicle on the property. The date for the vehicles to be removed was August 3, 2021 not before 4:45 p.m. The notices were dated July 27, 2021. A photograph of a car chassis and notice of the removal was shown. A second notice was issued for a Chevrolet box truck. Based on what Mr. Sims saw, the truck was parked in a way that indicated damage and was being used for storage, not as a vehicle, meeting the definition it was either wrecked, dismantled, or not able to be moved or self-

propelled as originally intended. Another Chevrolet was posted August 3, 2021 and pictures of the vehicle were depicted. A white Ford box truck parked in weeds, was also posted not to be towed before August 3, 2021 and a picture depicted the placard on the front windshield. The back of truck appeared to be used for storage. Mr. Sims had noted the truck was damaged and appeared to be inoperable. On August 4, Mr. Sims returned to the property to investigate and the vehicles were still on the property. Mr. Sims obtained another administrative search warrant for the tow operator to come to the property to tow the vehicles. The administrative search warrant was issued for towing of the vehicle and for Mr. Sims to go back on the property. At the hearing, Mr. Bediz presented an argument that he had obtained a temporary restraining order regarding the demolition of the home at 810 Lexington Avenue. Mr. Bediz did not present the actual restraining order to the Hearing Officer. The attorney for the case advised the restraining order did not reference the towing of the vehicles. It dealt only with the demolition of the home. Nothing was presented to Mr. Powell indicating the Court had restrained the towing of the vehicles. Mr. Oliver asked what was the number of that house that was demolished. Mr. Baker responded Mr. Bediz lives at 808 Lexington Avenue, and the house demolished was at 810 Lexington Avenue.

Mr. Baker showed the warrant that was executed on August 4, 2021 at 2:30 p.m., after the deadline posted on the vehicles, which was August 3, at 4:45 p.m. The warrant was returned on August 5, 2021, the date the vehicles were towed. Photographs were shown indicating the follow up inspection on August 4, 2021, showing the vehicles were still in the same location when Mr. Sims returned with the tow truck for removal. Everything that Mr. Baker presented was a summary of the evidence presented to Mr. Powell at the hearing to justify his September 22, 2021 letter indicting that there was probable cause to determine the vehicles were, in fact, junked and they should be towed. The Inspector provided Mr. Bediz with the appropriate due process of the City's ordinances and state law of posting the vehicles and allowing at least 7 days for the vehicles to be removed before they were towed. Mr. Baker reiterated that the only issue before the Board was whether or not the City had probable cause to tow the junked vehicles.

Chair Truby asked if the Board had questions for Mr. Baker. Hearing none, Chair Truby inquired if Mr. Bediz was present to speak. Mr. Andrews advised it did not appear Mr. Bediz was present. Mr. Carter advised he did not see Mr. Bediz and advised Mr. Bediz had registered for the meeting and staff had sent him another registration email. Chair Truby stated it appeared Mr. Bediz was not present and requested to move on to Board discussion and/or a motion. Hearing no discussion, Chair Truby stated he would make the motion.

MOTION

Chair Truby moved that after reviewing the record of the evidence presented at a Post-Tow hearing, the Hearing Officer's decision be upheld and confirmed that the evidence supports the conclusion that the Inspector had probable cause to tow the motor vehicles, based on the following: (1) That the Inspector legally developed probable cause to believe that there existed abandoned or junked motor vehicles on the private property in question that could either see the vehicles from the public property or had permission to be on the private property. Permission may be consent or a properly executed administrative warrant; (2) That these vehicles were junked pursuant to Section 17-51, junked motor vehicle means a vehicle that does display a current license plate and that is partially dismantled or wrecked or cannot be self-propelled or moved in the manner in which it originally was intended to move; or is more than 5 years old and appears to be worth less than \$500; (3) 17-5: That the Code Enforcement Officer declared in writing the vehicle to be a health, safety, or fire hazard where the Code Enforcement Officer made a finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens opposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community neighborhood or area appearance; (4) 17-56, Pre-Tow Notice: such motor vehicle was towed after notice was provided by posting a warning notice on the vehicle. Such notice was affixed to the windshield or some other conspicuous place on the vehicle. That notice stated the vehicle was to be removed on a

specified date, no sooner than 7 days after the notice was affixed to the vehicle, unless the vehicle was brought into compliance by the owner or legal possession prior to that time. The notice also stated the procedure the owner must follow to request a probable cause hearing before the towing; and (5) The vehicles were towed at the expiration of the Pre-Tow notice. Second by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Randolph. Nays: 0.) Chair Truby stated the motion passed unanimously and the City's decision was upheld.

NEW BUSINESS

1. APPEAL OF CODE COMPLIANCE ADMINISTRATIVE DECISION

a. BOA-22-09: 911 Haywood Street (DENIED)

Ms. Thiel stated in BOA-22-09, 911 Haywood Street, Bulent Bediz appeals a Post-Tow hearing decision that the City demonstrated probable cause to tow abandoned and junked motor vehicles.

Evidence provided by the applicant was Exhibit A. Supporting documentation from staff included Exhibits 1 through 9. The Code of Ordinances references were Section 17-50 Authority: The City of Greensboro hereby finds that regulation of abandoned and junked vehicles is necessary and desirable to protect the health and safety of the residents of the city and to promote and enhance community, neighborhood and city appearance; and Section 17-57(F) Hearing: Any aggrieved party may appeal the hearing officer's decision to the Board of Adjustment by filing an appeal in writing with fifteen (15) calendar days after the date of the report of the hearing officer, but not thereafter.

Background and Site Information: The subject lot is located on the south side of Haywood Street, east of Lexington Avenue, and is zoned RM-12 (Residential Multi-family). Tax records indicate the lot contains approximately 15,246 square feet, and the house was constructed in 1941. The applicant appeals a Post-Tow Hearing Decision that the City demonstrated probable cause to tow abandoned and junked motor vehicles. On December 30, 2021, the City provided notice to the applicant that a Pre/Post Tow Hearing had been set for January 11, 2022 to determine if the Inspector had probable cause to have remove abandoned or junked motor vehicles. On January 14, 2022, the City provided a post-tow hearing decision letter to the applicant advising that the City had probable cause to have towed the vehicles and that the towing stands. In the post-tow hearing decision letter, the City also provided to the applicant, instructions for appealing the hearing officer's decision to the Board of Adjustment. Per Code of Ordinances Section 17-57(F), any aggrieved party may appeal the hearing officer's decision to the Board of Adjustment by filing an appeal in writing within fifteen (15) calendar days after the date of the report of the hearing officer, but not thereafter.

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

Chair Truby asked the City representative to provide his name/address for the record.

Mr. Baker stated this property involved two boats and a junked BMW. A summary letter from Mr. Powell was sent to Mr. Bediz following the hearing on January 14, 2022, outlining the basis for determining probable cause that the two boats and the BMW were junked. Inspector Sims was the Inspector and was sworn in to provide testimony at the pre-post hearing that was provided to Mr. Bediz, who did attend the hearing. Mr. Baker stated the emails provided by Mr. Sims were the record of his investigation indicating there was consent from the tenant to be on the property, which was shown to the Board. Notice for a blue boat on a trailer deemed to be junked was posted by the Inspector on November 30, 2021 with a tow deadline of 11:30 p.m. on December 7, 2021. Pictures were shown representing the boat. Mr. Baker stated Mr. Bediz argued that a boat was not a motor vehicle for purposes of this ordinance. The trailer that the boat sits on did not have tags and the tires were not inflated. A photograph was shown depicting a red boat on a trailer posted on the same day not to be towed before December 7, 2021. Mr. Baker referred to the first boat picture and indicated a square that had the posting. The pictures showed the debris in the boat, the condition of the boat, and that it was not operable. A posting was shown for a blue

BMW parked on the property and posted on November 30, 2021 and to not be towed before Decemer 7, 2021. The BMW had a back window missing, debris inside the car and was parked in the back area of the yard indicating it was not routinely driven. Mr. Bediz testified that he did not tell the Inspector it was operable or that he needed a key. Mr. Bediz testified he did not have a key until the car was towed and unable to demonstrate that is was operable. With the car window down, the condition of the car appeared to be where it would not be self-propelled even though there was a tag on it. Mr. Bediz presented evidence that he did not have a key to the vehicle at the time to show the Inspector the BMW was operable. An administrative warrant was issued on December 16, 2021, well after the notices were posted. Pictures were shown from December 16, 2021 indicating that at the time the Inspector went to the property, the BMW was parked across the yard. The BMW and boats remained in the same location and had not yet been removed. They were towed on December 16, 2021, well after the deadline.

Chair Truby inquired if Mr. Bediz was present at this time. Mr. Carter responded he was not. Chair Truby inquired if there was Board discussion or a motion.

MOTION

Mr. Waddell moved that in BOA-22-09, 911 Haywood Street, upon hearing the Officer's decision and after reviewing the record of evidence presented at a Post-Tow hearing, the Hearing Officer's decision be upheld and confirm that the evidence supports the conclusion that the Inspector had probable cause to tow the motor vehicles, based on the following: (1) That the Inspector legally developed probable cause to believe that there existed abandoned or junked vehicles on the private property in question and could either see the vehicles from public property or had permission to be on the private property. Permission may be consent or a properly executed administrative warrant; (2) That these vehicles were junked pursuant to Section 17-51, junked motor vehicle means that a vehicle does not display a current license plate and that one is partially dismantled, cannot be self-propelled or moved in a manner in which it was originally intended to move, is more than 5 years old and appears to be worth less than \$500.00; (3) 17-5: That the Code Enforcement Officer declared in writing the vehicle to be a health, safety, or fire hazard, or the Code Enforcement Officer made a finding in writing that the esthetic benefit of removing the vehicle outweighed the burdens imposed on the property owner. Such finding should be based on balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting and enhancing the community, neighborhood, and area of appearance; (4) 17-56 Pre-Tow Notice; such motor vehicle was towed after notice was provided by posting a warning notice on the vehicle. Such notice was affixed to the windshield or some other conspicuous place on the vehicle. The notice stated that the vehicle was to be removed on a specified date. No sooner than 7 days after the notice was affixed to the vehicle, unless the vehicle was brought into compliance by the owner or legal possessor prior to that time. The notice also stated the procedure the owner must follow to request a Probable Cause Hearing before the towing; and (5) That the vehicles were towed at expiration of the Pre-Towing notice. Second by Ms. Necas. Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Randolph. Nays: 0.) Chair Truby stated the motion passed unanimously and the Hearing Officer's decision was upheld.

2. VARIANCE

a. BOA-22-10: 5710 Buddingwood Drive (APPROVED)

Ms. Thiel stated in BOA-22-10, 5710 Buddingwood Drive, Ronald McKenzie requests a variance to allow the building coverage of a proposed accessory structure to exceed 50% of the building coverage of the principal structure. The building coverage will be 1,140 square feet when no more than 691 square feet is allowed.

Evidence provided by the applicant included Exhibit A through C. Supporting documentation from staff include Exhibit 1 through 7. The Land Development Ordinance reference was 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 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 Buddingwood Drive, east of Ravenwood Drive, and is zoned R-3 (Residential Single-Family). Tax records indicate the corner lot contains approximately 21,344 square feet and the house was constructed in 1964. The applicant proposes to construct a 1,140 square foot accessory structure in the back yard that will contain a garage, storage, and covered porch. The proposed accessory structure will meet separation and setback requirements, but will exceed the maximum building coverage requirement. Per the LDO, the maximum building coverage of all accessory structures may not exceed 50% of the building coverage of the principal structure on the lot. Since the principal structure building coverage is 1,382 square feet, the maximum accessory structure building coverage cannot be more than 691 square feet. The applicant seeks a variance to allow the building coverage of a proposed accessory structure to exceed the maximum building coverage by 449 square feet and be 82% of the principal structure building coverage. 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 overlays and or plans.

Chair Truby asked the applicant to provide his name/address for the record and swore in Ronald McKenzie for his testimony.

Ronald McKenzie, 5710 Buddingwood Drive, stated he inherited this property from his family, which dates back to the late '70s. Mr. McKenzie stated he has spoken with the neighbors regarding the project and they are not opposed. Mr. McKenzie would like to build an accessory structure in the back yard to provide space for storage of lawn equipment and overall work area.

Chair Truby asked if there were questions for the applicant from the Board. Seeing none, Chair Truby inquired if there was anyone else in opposition to the request. Ms. Thiel advised there was no one in opposition. Chair Truby stated for clarification there were letters of support from neighbors, but they were not notarized. He asked Attorney Andrews how the Board look could at the letters. Mr. Kirkman stated that generally if persons are not available for the Board to ask questions of, there does need to be much weight given. The information could be factored into the broader questions if there are opposition or concerns. Notarized letters verify it is the individual making the statement. In a quasi-judicial setting, there should be the opportunity to cross examine witnesses or testimony. If that person is not available, there would be less weight assigned to that information. Chair Truby inquired if there was Board discussion or a motion.

MOTION

Mr. Savoy moved that in BOA 22-10, 5710 Buddingwood 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 there is not enough work space, room for storage and adequate space for home maintenance 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 the unsightly old rusted metal shed was removed from the property to make additional space for the upgraded storage building; (3) The hardship is not the result of the applicant's own actions because although the proposed new structure exceeds the 50% coverage allowance, it will meet the separation setback requirements; (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 although the house was built in 1964, the neighbors will be pleased with the proposed storage structure and it would add value to the property. Second by Mr. Waddell. The Board voted 7-0 in favor to approve the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Randolph. Nays: 0.) Chair Truby stated the variance request passed unanimously.

b. BOA-22-11: 3803 Reedy Fork Parkway (CONTINUED)

Ms. Thiel stated in BOA-22-11, 3803 Reedy Fork Parkway, the City of Greensboro and Sensus, a Xylem brand, request a variance to allow a proposed 100 foot wireless telecommunication tower to be setback 46.75 feet from all property lines when at least 100 feet is required. Zoning PUD (Planned Unit Development): Section 30-8-10.2(K)(2)(b)(i): Cross Street – US Highway 29.

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 30-8-10.2 (K) (2)(b)(i): At a minimum, wireless telecommunication towers (that are not attached concealed WTFs) must be setback a distance equal to the height of the tower from all property lines.

Background and Site Information: The subject lot is located on the north side of Reedy Fork Road, Parkway, east of US Highway 29, and is zoned PUD (Planned Unit Development). Tax records indicate the lot contains approximately 3.31 acres. The City-owned subject property is currently utilized as a fire station. Together with Sensus, a Xylem brand, the City proposes to erect a 100 foot tall self-support tower utility monitoring station that will be used to collect smart water meter reads within the surrounding area. The proposed wireless communication tower will be located between a vehicle storage building and US Highway 29. It will be 46.75 from the closest property line, when the minimum setback is at least a distance equal to the tower height, or 100 feet, as requested by the applicants. If the variance is granted, the applicants will proceed with the plan review process.

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

Chair Truby asked applicants to state their name/address for the record and swore in Justin Pifer for his testimony, as he was not a North Carolina attorney.

Justin Pifer, Senior Counsel, Sensus, USA, presented renderings of the site. The tower Sensus would like to build was in the northwest corner of the property, near the highway and surrounded by undeveloped land. Mr. Pifer pointed out the elevation of the property and noted that the tower would not be near any other structures in adjacent areas. He showed examples of what the lattice tower would look like. Mr. Pifer advised it was a safe and reliable structure. A slide was shown depicting the background of Sensus, a water technology company specializing in smart meters. The contract for the communication network being deployed for the City of Greensboro was signed in early 2021. Smart meter reads will be provided to the City of Greensboro for accurate meter reads and the network will allow for the communication of various devices. It is a highly reliable, private, flexible network. The variance request is related to the setback. The ordinance requires, at a minimum, that wireless technology communication towers must be setback a distance equal to the height of the tower from all property lines. For this project, Sensus is looking to build a 100 foot tall lattice tower that will be positioned in a location where it is 46 feet away from the property lines. The variance is based on practicality and safety. If the applicant complies with the provisions of the ordinance, unnecessary hardship will result from the strict application of the ordinance. Sensus, in partnership with the City of Greensboro have invested substantial time, effort, and costs in the selection of the site, located at 3803 Reedy Fork Parkway. Mr. Pifer noted that when Sensus engages with water utilities to create a communications network, a propagation study is created, requiring targeted locations for base stations to be able to collect the readings. This site is a perfect location for the reads to be collected and a safe place for the tower to be constructed. If the variance is not granted, Sensus and the City of Greensboro will be required to construct multiple towers outside of this location since this site provides optimal coverage. The hardship results from conditions that peculiar to the property such as location, size, and topography. The specific location of the tower is dictated by the existing building structures and the fenced in structure. The location was selected because it is safe. It is an area that will not present any physical hazards to the community because it would be surrounded by non-developed land. Use of the towers in alternate locations, such as non-industrial settings, would detract from the appearance of surrounding properties. The aesthetics of the location are as important because if a tower can't be placed on this site, it would have to be placed in another area

that would not be as industrial in aesthetics. It would detract from residential properties. The hardship results from the application of the ordinance for the property. There is no way to reasonably construct the tower at this location that would align with the ordinance that is intended to protect public safety and welfare. Sensus engineers were unable to find any area within the fire station property that would meet the 100 foot rule, and that is the reason why the tower is proposed in the northwest corner, 46 feet from the property line in an area where the abutting property is undeveloped or wooded. The sole existing use of the property is a fire station. The specific location of the tower on the property abuts a wooded area and not an active traffic area by the public. It is used by the fire station resources. The hardship is not the result of the applicant's own actions. Sensus, in partnership with the City of Greensboro, invested substantial time, effort and costs in the selection of the site because it is optimal for the collection of meter reads and in an area that is undeveloped by surrounding properties. The lattice tower is a safe structure and little damage would be expected. If the variance is not granted, both Sensus and the City of Greensboro will be required to construct multiple towers in other locations, which is not optimal for the technology or aesthetics of the communities. The variance is in harmony with the general purpose and intent of the ordinance and preserves its spirit. The variance is intended to protect public safety and welfare. There are no structures within the tower radius. This variance would still preserve the spirit of the ordinance. The placement and appearance of the tower will not detract from any residential communities or buildings in the area because the area is zoned for industrial development. Granting of the variance assures the public safety, welfare, and substantial justice. Granting the variance for the setback will not negatively impact public safety and welfare because the area is a fire station. There are no significant developed properties abutting where the lattice tower will be constructed. The tower is in a proposed location that does not have any residential communities and not frequented by the general public. The tower will be installed in a fenced compound by a wooded area, with no residential communities or citizens in the surrounding area who could be negatively impacted if the tower were to fall. Use of towers and alternative locations will detract from the appearance of the surrounding property. There may be issues in attempting to meet the setback obligation in other locations. Mr. Oliver asked how far from the highway would the tower be.

Chair Truby asked Mike Borchers to state his name/address for the record and swore him in for his testimony.

Mike Borchers, 4747 River Oaks Drive, Randleman, City of Greensboro Water Resources, stated the tower is located outside of the North Carolina Department of Transportation's right-of-way. Mr. Borchers did not know the exact distance from the edge of pavement. Chair Truby asked if the tower was designed to fall straight down on itself or was this a different design that could collapse and fall on an adjacent property. He also asked who owned the property on the other side of the drive.

Chair Truby asked Celeste Goldberg to state her name/address for the record and swore her in for her testimony.

Celeste Goldberg, Sensus, 637 Davis Drive, Morrisville, advised she could not speak to the structural engineering, but there were structural engineers involved in this project. Soil sampling is done before any foundation work is done at the site to ensure the soil is stable before the foundation is placed. Repeated analysis will be done once the foundation for the tower is in place to ensure the concrete and foundation are stable, then the actual tower structure will be built. Chair Truby asked what type of wind velocity could this tower maintain. Ms. Goldberg responded she did not have that information with her. Mr. Borchers added, that based on the site plan and scale of the site plan, the tower is greater than 100 feet away from US 29. Chair Truby stated but not 100 feet away from the adjacent property and asked if anyone had spoken to the adjacent property owner. Mr. Pifer responded a letter of notification was sent and there was no response from the adjacent property owner. Mr. Oliver asked if the property on the east side was zoned agricultural. Mr. Pifer responded he did not know. Discussion was held on where the tower could fall. It was agreed southeast was the fire station and northeast was US 29. Mr. Ramsey stated the X on

the site plan indicated where the tower would be placed. Mr. Kirkman stated the adjacent land would probably be developed for residential purposes at some point, but currently nothing is there. Mr. Oliver asked if there would be more development on that part of the city. Mr. Borchers stated Reedy Fork Business Park is close by. The extension of water and sewer in this particular has increased. Mr. Kirkman stated the general rule at this point in terms of development in the Reedy Fork area show the west side of US 29 would be more industrial development and non-residential. The east side of US 29 would probably be residential, but there is nothing there currently. Mr. Oliver stated if tower fell right now, it would fall on empty land. Mr. Pifer advised the Fire Department was notified and agreed with locating the tower there. There is no risk to the barracks where the fire fighters stay, as it is beyond the 100 foot radius of the tower.

Mr. Andrews, City Attorney, advised Exhibit B had the wind and ice loading data and was in the record. Ms. Necas stated it appeared to be general information and did not know which risk category or structure applied for this site. Mr. Randolph asked if there were other existing towers like this in the City of Greensboro located at another fire house or was this the first one. Ms. Goldberg stated towers were not at any other fire station locations. This is a common lattice tower used at other sites all throughout the area without any type of issue. One of the reasons this tower is selected is because of its stability. Chair Truby stated in the past when addressing cell tower variances, the towers are designed to fall straight down within their footprint. This tower does not appear as that type of tower and does not appear to be a tower designed to fall straight down. A tornado came through Greensboro and a tower went down. There is precedent and Chair Truby did not feel this request had been thought out enough. It would not be fair to the adjacent property owner if the tower did fall to the north. Chair Truby asked Mr. Kirkman if that property was developed as single-family, in the future, would the City allow lots right against the property line. Mr. Kirkman responded he did not know if there were any prohibitions in terms of the residential up against the other types of facilities. The present standards relate to the facilities themselves. Chair Truby stated the ordinance was written the way it is for a reason which was to protect adjoining properties. If it is unknown what the design of the tower is and what kind of wind loads it could tolerate, or whether it is designed to fall on itself. Chair Truby stated he had trouble supporting this request. Answers need to be provided regarding the tower itself and what types of winds it can sustain. Chair Truby advised for him, he wanted answers. Mr. Ramsay inquired if a continuance could be made for this request to allow more investigation. Mr. Andrews advised the applicant would need to make that request. Mr. Pifer requested a continuance to obtain more answers for the Board. Mr. Pifer understood the concerns. Ms. Goldberg advised there was a comparable new tower built at the North Buffalo Waste Water Treatment Plant and thought it would be the exact same tower. Mr. Pifer stated they were not able to identify what class it is or how it falls. Chair Truby inquired if there was any opposition to the request. Ms. Thiel responded there was none. Chair Truby closed the public hearing.

Chair Truby made motion for BOA-22-11 to be continued to the next meeting in order to obtain further information. Second by Mr. Ramsey. The Board voted 7-0 in favor of the motion. Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Randolph. Nays: 0.) Chair Truby stated this case was continued to the next month's meeting.

c. BOA-22-12: 805 Blanton Place (APPROVED)

Ms. Thiel stated in BOA-22-12, 805 Blanton Place, Ashlee and John Wagner 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 A 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 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).

Background and Site Information: The subject lot is located on the south side of Blanton Place, east of Wynnewood Drive, and is zoned R-3 (Residential Single-Family). Tax records indicate the through lot contains approximately 38,848 square feet and the house was constructed in 1986. The applicants proposed to install a swimming pool in the back yard behind the existing house. The subject property is considered a through lot, which is a lot that fronts two streets that do not intersect at the corner of the lot. A through lot has two street setbacks, but no rear setback. Because Willoughby Boulevard is treated like a front street, the proposed swimming pool will be located in front of a principal structure when viewed from a road or street. If the variance is granted, the applicants 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 or plans.

Chair Truby asked the applicants to state their name/address for the record and swore in John Wagner for his testimony.

John Wagner, 805 Blanton Place, stated he and his wife were hoping to place a pool in their backyard. Mr. Wagner was advised by his contractor that it could not be viewed from the through street. There is a buffer of trees in the backyard and approximately 80% of the back yard is not visible a 100% of the time because of the elevation difference from Willoughby Boulevard to the tree buffer. There is a section that is street level with Willoughby Boulevard. There is a privacy fence that can show inside slightly. To coincide with this variance, the applicants would close the gate that is there presently. The applicants are planting privacy trees in that area to ensure all throughout the year, the pool would not be visible from Willoughby Boulevard.

Chair Truby inquired if there were questions for the applicant from Board members. Hearing none, 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 and requested Board discussion or a motion.

Ms. Necas moved that in BOA 22-12, 805 Blanton Place, 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 compliance with the ordinance prohibits the building of anywhere on 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 property is a through lot and has no backyard. Hence, not rear setback and has two front setbacks instead; (3) The hardship is not the result of the applicant's own actions because the two front setbacks and utility easement were created by the City; (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 landscape buffers along Willoughby Boulevard reduces visibility in the backyard and reduces visibility to the pool from the road. Privacy fencing also blocks visibility of the pool. Second by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Randolph. Nays:0.) Chair Truby stated the variance passed unanimously.

d. BOA-22-13: 1902 Westridge Road (APPROVED)

Ms. Theil stated in BOA-22-13, 1902 Westridge Road, Karen Bolyard on behalf of Jacqueline Williams, requested two variances: (1) To allow an existing principal structure to encroach 1.4 feet into a required 15 foot side setback. The principal structure is 13.6 feet from the side property line. (2) To allow an existing accessory structure to encroach 13.4 feet into a required 15 foot side setback. The accessory structure is 1.6 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 30-7-5.1 – Table 7-14: In the O District, the minimum side setback when adjacent to all R-Districts is 15 feet. Section 30-8-11.1(C)(3): Accessory structures must meet the required setbacks for the zoning district.

Background and Site Information: The subject lot is located on the east side of Westridge Road, south of Battleground Avenue, and is proposed to be rezoned to CD-O, pending Planning and Zoning

Commission approval on February 21, 2022. Tax records indicate the lot contains approximately 16,988 square feet, and the structure was constructed in 1983. The applicant proposed to convert the existing single-family dwelling into an office, subject to the successful rezoning. If the property is zoned to CD-O, the existing principal structure meets the dimensional requirements for residential use. However, if the property is rezoned CD-O and the principal structure converted to an office use, the principal structure becomes nonconforming because it encroaches 1.4 feet into a required 15 foot side setback. The existing accessory structure is nonconforming in both the existing R-3 district and the proposed CD-O District. In the R-3 District, the nonconformities stem from the accessory structure's location in front of the front building line of the principal structure being located with a required front street setback and encroaching into a required 3 foot side setback. Though requirements change if the rezoning to CD-O is approved, the accessory structure would still be nonconforming as it encroaches 13.4 feet into a required 15 foot side setback and remains 1.6 feet from the side property line. At this time, the applicant wishes to address the nonconformities resulting from the pending rezoning and change of use, so that she may establish an office use in the existing principal structure and utilize the accessory structure as-is. If the variances are granted and the rezoning approved, the applicant will proceed with the plan review process and 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 asked the applicant to come forward and state her name/address for the record and swore in Karen Bolyard for her testimony.

Karen Bolyard, 6328 Poplar Forest Drive, Summerfield, stated she would like to convert the home into a small residential real estate office. It has gone through a rezoning and was approved at the meeting on February 21, 2022. It is in the middle of the appeal period, but there have not been any objections to date. The variance will enable Ms. Bolyard to use the home as an office space. It is an existing structure and will not cause any unsafe conditions to the public.

Chair Truby asked if Ms. Bolyard was the current owner. Ms. Bolyard said no and advised the current owner was present. Chair Truby requested the owner to state her name/address for the record. Chair Truby asked Attorney Andrews if the Board had to have the owner speak since she was not being represented by an attorney. Attorney Andrews advised she could speak. Chair Truby swore in Jacqueline Williams for her testimony.

Jaqueline Williams, 1939-A Eastchester Drive, High Point, stated she was the owner of this property and supported the application.

Chair Truby inquired if there was anyone in opposition to the request. Ms. Thiel responded there was none. Chair Truby requested Board discussion or a motion. Mr. Kirkman advised that the motion would need to be clear that approval was subject to final action of the Planning & Zoning Commission.

MOTION

Mr. Ramsey moved that in BOA 22-13, 1902 Westridge Road, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and both variances granted, subject to final rezoning approval to CD-O and 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 will not be able to be used an office under its new rezoning classification of CD-O; (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 accessory structure were built in 1983 and is compliant with the residential zoning but not office zoning; (3) The hardship is not the result of the applicant's own actions because the property was acquired by the applicant in 2009 while the house and accessory structure were constructed in 1983; (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 allow the house to be used as an office, which would comply with the lots rezoning for office use and make the accessory structure compliant. Second by Mr.

Randolph. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Randolph. Nays: 0.) Chair Truby stated the variance passed unanimously.

e. BOA-22-14: 3223 Battleground Avenue (APPROVED)

Ms. Thiel stated in BOA-22-14, 3223 Battleground Avenue, DCTN3 558 Greensboro NC LLC, requests a variance to allow a proposed building to encroach 5 feet into a required 15 foot street setback. The building will be 10 feet from the property line along Battleground Avenue.

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 30-7-5.1 – Table 7-14: In the C-M District, the minimum street setback is 15 feet.

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/operate an oil change facility. On June 28, 2021, the Board of Adjustment approved a variance to allow a drive-through stacking lane to be 43.8 feet from an abutting residential zoning district when at least 50 is required. Since the approval, the applicant has revised the proposed site plan to accommodate a different building design with roofs/canopies that will be 10 feet from the property line along Battleground Avenue. Because of the change, the applicant is now requesting a variance to allow a proposed building to encroach 5 feet into a required 15 foot street setback. If the variance is granted, the applicant will continue 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 overlay and plans. Chair Truby requested the applicant to state their name/address for the record.

Ben Rafte, 804 Green Valley Road, Suite 200, attorney with Isaacson and Sheridan, represented the applicant and stated Colleen Thelen and Janet Davidson were present on behalf of N-3 Real Estate. Mr. Rafte stated this application for a variance was for property at 3223 Battleground Avenue, near the intersection of Battleground Road and Westridge Road. The property is currently vacant and previously operated as a Citgo gas station until approximately 2016. The client intends to redevelop the site to be used as an oil change facility, operated by Strickland Brothers and based out of Winston-Salem. There was a previous variance request in June 2021 regarding the requirement that stacking lanes be setback 50 feet from the neighboring residential properties. The Board of Adjustment unanimously approved that variance request allowing the stacking lanes to encroach 6.2 feet into the 50 foot setback requirement. The client is seeking a variance from the ordinance's right-of-way setback requiring all buildings and structures be setback 15 feet from any right-of-way. The walls of this facility would be set back 15 feet from Battleground Avenue. The roof and awnings facing Battleground Avenue, over the entrance to the building, would encroach approximately 3 to 5 feet into the 15 foot setback requirement. The clients were asking the variance to allow the 5 foot encroachment to the setback. The property backs up to residential properties and neighbors to the north and south by other commercial properties. Letters were sent to all of the neighboring property owners. As of the time of this hearing, none have responded. An aerial photograph was shown of the subject property, other commercial properties, and residential properties. The proposed site plan was shown depicting the roof and awning, which is the portion of the building facing Battleground Avenue. They do not face the residential properties and would encroach approximately 5 feet into the 15 foot setback requirement. Photographs of construction drawings were shown. The encroachment will be minimal and does not affect sight lines along Battleground Avenue. Mr. Rafte stated the application was triggered by the ordinance's street right-of-way setback requirements. The encroaching portion of the roof and awning will be suspended in the air and have little to no impact on traffic safety or neighboring property owners. The purpose of the ordinance is to reduce traffic hazards and obstructions in a traveler's line of sight. The subject parcel is limited in size, which prevents the building from being placed any further back than currently planned and would not encroach the setback requirement for stacking lanes abutting residential properties. Placing the building further back would not allow for sufficient turning radius for cars entering and exiting the property. The client asked the Board of Adjustment to grant this variance and allow the 5 foot encroachment into the 15 foot right-of-way setback.

Chair Truby inquired if Board members had questions for the applicant. Chair Truby asked if there was anyone present in opposition to this request. Ms. Thiel responded there was no opposition. Chair Truby closed the public hearing and requested Board discussion or a motion.

Mr. Waddell moved that in BOA 22-14, 3223 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 on of the ordinance because limited space is available for the proposed building due to current building setbacks and landscape requirements; (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 not possible to comply the ordinance due to the size, shape, and topography of the parcel; (3) The hardship is not the result of the applicant's own actions because the parcel size and shape were predetermined due to the former use of a gas station; (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 buffer in the rear of the subject property will enhance the appearance for the neighbors. The canopy and roof upgrade will help beautiful the area, in addition to granting a new business owner into area. Second by Ms. Necas. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Savoy, and Randolph. Nays: 0.) Chair Truby stated the variance request passed unanimously.

OTHER BUSINESS

Mr. Ramsey welcomed Mr. Randolph to the Board. Mr. Kirkman stated many of the Board members have Board/Commission ID badges that allow entrance into MMOB and asked them to check the expiration dates, as some have expired since COVID-19. The new members will need to obtain ID badges. Mr. Kirkman asked Board members to advise Ms. Thiel on whether an ID card is needed or if it has expired. Security can update the permissions/time or provide replacements.

None.

ADJOURNMENT

The meeting was adjourned at 7:27 p.m.

Respectfully submitted,

Chuck Truby, Chair
Greensboro Board of Adjustment
CT/cgs

MEETING MINUTES
GREENSBORO BOARD OF ADJUSTMENT
March 28, 2022

The meeting of the Greensboro Board of Adjustment was held on Monday, March 28, 2022, at 5:36 p.m. online via Zoom. Board members present were: Chairman Truby, James Waddell, Vaughn Ramsey, Ted Oliver, Leah Necas, Cory Randolph and Deb Bowers. City staff present were Shayna Thiel, Mike Kirkman and Luke Carter of the 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. Mr. Truby went on to explain how the Board would make its decision and votes, based on findings of fact and other factors, and he explained how to appeal decisions.

APPROVAL OF THE MINUTES (February 28, 2022 Meeting)

Mr. Waddell made a motion to approve the February 28, 2022, minutes; second by Mr. Ramsey. Ms. Bowers abstained from voting, as she was not present. The Board voted 6-0-1 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas and Randolph. Nays: 0, Abstain: 1, Bowers). Chair Truby advised the minutes were approved.

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.

OLD BUSINESS

1. VARIANCE

a. BOA-22-11: 3803 Reedy Fork Parkway (APPROVED)

Ms. Thiel stated in BOA-22-11, 3803 Reedy Fork Parkway, the City of Greensboro and Sensus, a Xylem brand, request a variance to allow a proposed 100 foot wireless telecommunication tower to be setback 46.75 feet from all property lines when at least 100 feet is required. Zoning PUD (Planned Unit Development): Section 30-8-10.2(K)(2)(b)(i): Cross Street – US Highway 29.

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 30-8-10.2 (K) (2)(b)(i): At a minimum, wireless telecommunication towers (that are not attached concealed WTFs) must be setback a distance equal to the height of the tower from all property lines.

Background and Site Information: The subject lot is located on the north side of Reedy Fork Road, Parkway, east of US Highway29, and is zoned PUD (Planned Unit Development). Tax records indicate the lot contains approximately 3.31 acres. The City-owned subject property is currently utilized as a fire station. Together with Sensus, a Xylem brand, the City proposes to erect a 100 foot tall self-support tower utility monitoring station that will be used to collect smart water meter reads within the surrounding area. The proposed wireless communication tower will be located between a vehicle storage building and US

Highway 29. It will be 46.75 from the closest property line, when the minimum setback is at least a distance equal to the tower height, or 100 feet, as requested by the applicants. If the variance is granted, the applicants will proceed with the plan review process.

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

Chair Truby asked applicants to state their name/address for the record and swore in Justin Pifer for his testimony.

Justin Pifer, Senior Counsel, Sensus, 1 International Drive, Ryebrook, NY, 10573, focused on the safety concerns surrounding the tower that were raised at the February Board of Adjustment meeting for this case. The general contractor and site engineer were present at the meeting and started a question and answer period. Mr. Pifer reviewed a slide presentation and discuss the type of tower, the winds it could withstand, and how it would collapse in a catastrophic event. He advised that the tower would not collapse on itself but to the side if there was a traumatic event and would be able to withstand up to 110 miles-per-hour weather event. Mr. Pifer noted that he reached out to adjacent property owner twice by letter in December 2021 and March 2022 to discuss the project and proposed land use and did not hear any response.

Ms. Bowers asked if the company would have insurance in place to deal with any damage ensued should the tower fall. Mr. Pifer responded that the Advanced Meter Infrastructure (AMI) contract in place with the City of Greensboro and Sensus would cover should property or bodily injury from such an event.

Mr. Truby asked if the tower fell, would the tower hit the fire station quarters or would it fall short of this area. Mr. Pifer showed a site plan of the proposed tower location and the fire station.

Chair Truby asked Celeste Goldberg to state her name/address for the record and swore her in for her testimony.

Celeste Goldberg, Sensus, 637 Davis Drive, Morrisville, NC 27560, advised that the existing building closest to the proposed tower shown on the site maps is a storage building for vehicles, not a building used to house firefighters or living quarters, and that building is located approximately 150 feet away from the proposed tower.

Mr. Ramsey asked if tower fell towards US Highway 29, would it be within the highway area. Ms. Goldberg replied that no, the tower is located approximately 120 from the highway. Mr. Pifer reiterated that the tower is built to withstand 110 miles-per-hour wind speed and that type of weather event would cause widespread damage.

Mr. Truby referenced a recent tornado that hit Greensboro with high wind speeds, and if another event like that happened, he was worried about loss of life. However, if a bad storm came through, if the tower fell on to the building, people would not be hurt.

Chair Truby inquired if Board members had any questions for the applicants. He asked Ms. Thiel if there was anyone to speak in opposition to the case and she replied that there were no speakers in opposition. Mr. Truby asked for Board discussion and/or a motion.

MOTION

Mr. Oliver moved that in BOA 22-11, 3803 Reedy Fork Parkway, 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 after careful due diligence by the City of Greensboro, this location was deemed best. If this application is denied, all parties have to start all over again and consider less desirable locations; (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 City-owned property is the first place the City of Greensboro looks. This location

presents little risk and appears to be a good choice; (3) The hardship is not the result of the applicant's own actions because the property already has a fire station on the site. Even if the tower falls, there is little damage of safety risk; (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 location is fairly remote there is minimal risk to public safety. The applicants have provided additional information related to this safety issue. Second by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Randolph and Bowers. Nays: 0.) Chair Truby stated the variance request passed unanimously.

NEW BUSINESS

1. VARIANCE

a. BOA-22-15: 307 North Holden Road (APPROVED)

Ms. Thiel stated in BOA-22-15, 307 North Holden Road, Lawrence and Melissa Moore 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 was Exhibit A 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 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).

Background and Site Information: The subject lot is located on the west side of North Holden Road, south of Dogwood Drive, and is zoned R-3 (Residential Single-Family). Tax records indicate the corner lot contains approximately 22,216 square feet and the house was constructed in 1954. The applicants propose to install a swimming pool in the back yard behind the existing house that will meet setback and separation requirements. The subject property is a corner lot, so there is also a side street setback measured from the property line that runs along Dogwood Drive. Since the corner lot has two road/street frontages, the proposed swimming pool, even though technically located behind the house, will be located in front of a principal structure when viewed from Dogwood Drive. If the variance is granted, the applicants 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 or plans.

Chair Truby asked the applicants to provide their name/address for the record and swore in Lawrence and Melissa Moore for their testimony.

Lawrence Moore, 307 North Holden Road, advised that they want to build a pool in their backyard but have dogwood trees on the side of Holden Road. Mr. Moore explained that they have already started to secure the pool financially and have taken safety precautions in preparation by building a new privacy fence from their neighbors. The pool will be more than 15-20 feet away from Dogwood Drive and more than 8-10 feet on the left side yard and rear of property line as well.

Chair Truby inquired if Board members had any questions for the applicants. Seeing none, he inquired if there was anyone in opposition to the request. Ms. Thiel advised there was no one in opposition. Chair Truby then asked for Board discussion and/or a motion.

MOTION

Mr. Waddell moved that in BOA 22-15, 307 North Holden 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 originally constructed in 1954. Since the home is located on a corner lot, it is subject to both front and side 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 subject property is located on a corner lot which directly impacts the location where the pool can be constructed; (3) The hardship is not the result of the applicant's own actions because the topography of the property limits the location where the pool can be built; (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 privacy fence and trees have been installed to maintain privacy and curb appeal, and the completion of the project will increase the value of the property. Second by Mr. Ramsey. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Randolph and Bowers. Nays: 0.) Chair Truby stated the variance request passed unanimously.

b. BOA-22-16: 909 Glenwood Avenue (APPROVED 1 & 2; DENIED 3)

Ms. Thiel stated in BOA-22-16, 909 Glenwood Avenue, Gregory Butler and Anna Kaplan request three variances. (1) To allow a proposed accessory dwelling to encroach 2.5 feet into a required 5 foot side setback. The accessory dwelling will be 2.5 feet from the side property line. (2) To allow the heated floor area of a proposed accessory dwelling to be 340 square feet when at least 400 square feet is required. (3) To not require the owner of the property owner to occupy either the primary or accessory dwelling.

Evidence provided by the applicants included Exhibit A and B. Supporting documentation from staff include Exhibit 1 through 7. The Land Development Ordinance references were Section 30-8-11.2(B): The owner of the property must occupy either the primary or the accessory dwelling; Section 30-8-11.2(D): The accessory dwelling may be located within the primary dwelling; however, if it is detached, it must meet the location and dimensional requirements of the principal structure; Section 30-8-11.2(E): The heated floor area of the accessory dwelling must be at least 400 square feet in area, but it may not exceed 30% of the floor area of the primary dwelling; 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 east side of Glenwood Avenue, south of Haywood 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 1928. The applicants propose to convert a 340 square foot portion of an existing detached garage into an accessory dwelling. While the existing structure 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 2.5 feet into a required 5 foot side setback, as prescribed in the R-5 District. Additionally, the applicants live out-of-state and are seeking a variance to allow them to not occupy either the principal or accessory dwelling. 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 there were no applicable overlays and or plans.

Chair Truby asked the applicants to provide their name/address for the record and swore in Gregory Butler and Anna Kaplan for their testimony.

Gregory Butler and Anna Kaplan, 2097 West 29th Ave, Eugene, OR, 97405, stated that they purchased their house at 909 Glenwood Avenue last summer with the intention of moving to Greensboro and using the additional space of the accessory dwelling for Ms. Kaplan's parents to live in. Mr. Butler explained that the house and garage were both built in 1928 and that they intended to keep with the same original aesthetic with the garage just as they had when remodeling the main house. They noted that the garage had a footprint of 340 square feet, under the 400 square foot threshold, which was one reason why they were seeking a variance. The current garage is located 4 feet from the property line and the roof line is located 2.5 feet from property line. In neighboring houses in this neighborhood, many accessory structures and even main houses go right up to the property line, like the neighbor's property

to the north. They asked for a variance and stated their plan to work on the renovation and move over the next year in preparation of living there with Anna's parents.

Mr. Oliver asked what the building would be used for. Ms. Kaplan replied that the building would be a living structure for her parents, like a mother-in-law quarters.

Mr. Oliver asked if the structure would have a kitchen and a bathroom. Ms. Kaplan replied that yes.

Mr. Waddell asked if the accessory dwelling would be taking power from the main house. Secondly, he asked if it would have a separate meter. Mr. Butler answered that yes, it would draw power from the main house and from what he understood from our permitting process, it would have to be on the same meter. The water, sewer and electrical would all be connected to the principal dwelling.

Mr. Waddell asked about Exhibit 3 with the meter seemingly shown on the front of the house. Mr. Butler said that the meter on the back of the house was directly in front of the garage.

Mr. Truby asked if windows and a typical door would be added to the existing structure. Mr. Butler replied that they would be adding those elements. They intended to keep the building small in an effort not to disrupt their neighbors and to keep with the aesthetics. Originally, there were a washer and dryer in the building with existing hook-ups. Based on sewer location information they received from a plumber, the garage is close to the sewer connecting point at the house, so it would not be difficult to prepare the remodel and infrastructure support.

Mr. Ramsey asked what was being done with the main house right now. Mr. Butler answered that they were renting the house to a family that's been in the neighborhood for 10 years. The family has adult children and would like to use the built-out garage for their children until Mr. Butler and Ms. Kaplan moved back and assumed residency of the house.

Mr. Truby asked if there was any opposition to the case and Ms. Thiel indicated that there were people to speak in opposition to the request.

Mitzi Griffin, 914 Glenwood Avenue, stated that she lived three houses down on the street on the opposite side of the property. Mr. Truby sworn her in.

Ms. Griffin voiced a concern that another dwelling on the property would make the housing multifamily on a single-family designated property. She said there are storage buildings on lots with other houses in surrounding the area, but there are not people living in those buildings behind the house. She worried that it was misleading to say there was room for enough parking because as it is, the cars of people that live there are parking within 2-3 houses, and another dwelling would mean more parking on-street, since the garage would not be used for parking and driveway cannot be widened because of existing conditions on the property. She referred to Exhibit B that showed the porch and pointed out that no more parking could be added. Additionally, she said Exhibit 4 showed that 2 cars could not fit in the back part of the property. She concluded that she wanted to have it stay single-family, which is also supported by the neighborhood association that is trying to keep the neighborhood mostly single family, as presented in their plan to City Council.

Mr. Truby asked if the Board had any questions for Ms. Griffin.

Mr. Oliver asked if this change would make the land use multifamily by zoning definition and if the proposal violated those rules. Mr. Griffin answered that as far as she knew, adding another structure would make it multifamily. Mr. Kirkman responded that the property would still be single-family under the Land Development Ordinance (LDO) with a principal residence and an accessory dwelling based on certain stipulations in the LDO.

Mr. Randolph asked if there were additional parking requirements for an accessory dwelling unit on a principal property. Mr. Kirkman replied that yes, one additional on-street parking space was required for an accessory dwelling. Mr. Kirkman suggested that the applicant could speak to the parking situation further.

Ms. Kaplan explained that the existing paved driveway ran in front of the garage, providing additional parking behind the house. Mr. Butler acknowledged Ms. Griffin's point about the narrow driveway but he also explained that he and Ms. Kaplan had instructed the current tenants not to park in the driveway while the garage was under renovation. He also noted that existing garage was for two cars.

Mr. Truby asked if there were any other questions for Ms. Griffin. Hearing none, he invited Ms. Wisneski to speak and swore her in.

Patricia Wisneski, 1607 Bailiff Street, stated that she was opposed to this because the homeowners are not current residents. She worried that the accessory dwelling unit would be an additional structure to rent, not an in-law suite, and that a granting of a variance would not require the property owners to move back. Since the area was already dense and the zoning R-5, adding more people living on the property would not make sense to the neighborhood.

Mr. Truby asked if there were any questions for Ms. Wisneski. Seeing none, Mr. Truby offered a rebuttal period to the applicant.

Ms. Kaplan said that she appreciated Ms. Wisneski's concerns. Ms. Kaplan said that she was born and raised in Greensboro and attended Grimsley High School, and she understood the concerns about out-of-state people developing the area. She stated that their goal was to make the property work for the future of their lives and their family. She noted that Glenwood is a collegiate neighborhood with UNCG expanding over so there are concerns, however, having renters currently residing on the property made it so she and her family can financially afford to have a long-term plan for the home. While she understood the complications around that for those who spoke, ultimately the goal was to provide extra living space and to not be an out-of-state landlord. Mr. Butler said that they want to restore the garage and not change the aesthetic but to replace the rot, add windows, and better the neighborhood.

Mr. Truby asked if there were any other questions for the applicant.

Mr. Ramsey asked Mr. Kirkman if a variance was granted, could it be subject to conditions such as owner occupancy or did the variance run with the land. Mr. Kirkman advised that one of the standards for an accessory dwelling is that the owner of the property needed to live in the accessory or principal dwelling, which is why this was a variance request. He confirmed that the variance would run with the property. In regard to the question about a condition, the Board may have the authority to do that, and deferred to the City Attorney to advise appropriate language.

Attorney Al Andrews said that the Ordinance required owner occupancy of either the primary or accessory dwelling. He advised that the Board could allocate a time limit as a condition to the grant, but if the property was used contrary to the Ordinance, that use would be a violation of or invalidate the granted variance. In his reading, an accessory dwelling unit was not intended to be rental property unoccupied by the owner; an accessory dwelling was meant to be residential property occupied by the owner.

Ms. Bowers said that she wondered if the applicants had standing to be asking for the variance if the property owners do not live in the house at the time that the variance was being requested. Mr. Kirkman said that the issue of occupancy was one of the reasons the property owners applied for the variance. He stated further that any development standard subject to use was subject to a variance request, and the Board had to consider if the evidence met the standards of approval. Ms. Thiel also noted that the third variance request was to allow the property owners to not live there.

Mr. Ramsey said that he understood the applicant's plan, but if the variance was granted and ran with the land, and the current property owners sold the property, someone else could not live there and use both structures as rental properties. Mr. Ramsey said that the Board could grant the variance subject a time of 18-24 months, but the property would have to be owner-occupied within that time frame so that the variance did not run with the land, which would be contrary to the goals of the Glenwood Master Plan.

Mr. Truby suggested that the Board approve variance 1 and 2 but not approve 3, so the applicants could renovate the garage, but they could not use it as an accessory dwelling until they lived on the property. Mr. Truby said that he was also concerned that the accessory dwelling could be used as a rental and if the variance was granted, it could be a separate rental in addition to the current tenants on-site.

Mr. Ramsey agreed that if the property owners created the accessory dwelling and then sold the property, the Board would have granted another rental house, and while he was in favor of an accessory dwelling, the property owners needed to be residents so that the use was subject to the existing zoning rules. He also noted that if the Board did not approve variance 3, the existing tenants could not use the accessory dwelling for their adult children.

Mr. Waddell suggested an amendment that if a time limit was imposed on the owners, the clock should not start until the completion of the project. If the clock started prior to that and there were supply chain issues, the project could be halted for an indefinite period of time, and the Board could have imposed an additional hardship.

Mr. Ramsey asked the applicants if they could agree to these amendments. Mr. Butler said that in consideration of what Mr. Waddell just added, they could agree to the stipulations.

Mr. Truby offered the opposition time to speak.

Ms. Wisneski expressed her concern that the applicant was so far away and it would be better if the applicant could reapply for the variance once they moved here, which would assure the neighborhood that they would live in the house, as they had stated they would.

Mr. Truby asked if there were any questions for Ms. Wisneski.

Mr. Ramsey said that he understood Ms. Wisneski's concerns, but he imagined that the applicant wanted to move Ms. Kaplan's parents into the accessory dwelling in preparation of their move. He said that if the Board were to grant this, they would prevent it from being a rental property while the applicant fixed-up the garage. He said that it would be in the interest of the neighborhood for the structure to be fixed up, but a period should be established from the date of the Certificate of Occupancy, in order for the requirements of the Ordinance to be met. If the owners did not move to the property, the garage will be fixed-up, but could not be used as an accessory dwelling because the property would not be owner-occupied. The Board would be giving the applicant an opportunity to fix the structure while looking at the long-term interest of the neighborhood that Ms. Wisneski and Ms. Griffin had mentioned.

Mr. Oliver asked staff if this proposal was a viable option and how staff would track this and know the condition was being met. Mr. Kirkman said that the applicant would have to get a building permit to convert the garage to an accessory dwelling. He would work with internal staff to ensure Planning was involved in the building permit review. Planning staff would also keep in touch with the neighborhood association to keep apprised of activity on the property. Mr. Kirkman said that the applicant would need to prove residency, which could provide administrative challenges but could work if the Board wanted to pursue the option.

Mr. Waddell said that he supported Mr. Ramsey in that once the Certificate of Occupancy was granted, the clock would start, which would also provide documentation that the project had been completed.

Ms. Griffin asked if there could be a stipulation that the accessory dwelling not be used for rental property in the future. Mr. Truby deferred to Mr. Kirkman. Mr. Kirkman weighed the options and Mr. Andrews interjected to respond directly.

Mr. Andrews advised that the Board should not differentiate between rental and homeowner property. The vote needed to be for variances 1, 2 and 3, with or without conditions; or vote for 1 and 2 and not for 3, and would need to keep in mind the requested actions. He further advised that the vote needed to be "yay" for all of the requests or the vote needed to be qualified for clarity with clear information provided. Mr. Andrews said that the Board should keep within the language of the regulatory provisions and that

rental was not a part of the conditions. The regulation focused on the property, owner, and residency. The Board did have the latitude to grant the variances with a time limit but the Board could not restrict use as far as rental or not.

Mr. Ramsey suggested that the Board vote yay on 1 and 2 and approve 3 subject to living on property within 12 months of issuance of the Certificate of Occupancy. Mr. Andrews stated that he believed the Mr. Ramsey's proposed motion was within the Board's power.

Mr. Truby closed the public hearing and opened discussion to the Board.

Mr. Randolph asked Mr. Ramsey to explain reasoning behind the 12 month period as the Board's decision could not be arbitrary. Mr. Ramsey replied that he thought it was a reasonable amount of time to move from across the country back to Greensboro and that a time period of lesser than 12 months seemed too short of a transition.

Mr. Randolph said that there should be more context around the timeframe so that it was not an arbitrary stipulation.

Mr. Truby said that variance 3 should not be granted as variance 1 and 2 would allow the applicant to up-fit the garage, and the structure could not be occupied as dwelling until the property owners moved on-site. The garage could still be used for storage but could not be used as a dwelling until which time the property owners moved to the property.

Mr. Oliver said that the condition related to a time period could place an undue burden on City staff to track the case. He said that the Board should state that when the property owners moved to the property, they could occupy the accessory dwelling.

Mr. Waddell asked for clarity that the property owners could continue their project even though could not occupy the accessory dwelling until which time they lived on-site. Mr. Oliver confirmed Mr. Waddell's point of clarity.

Ms. Bowers asked if the proposed way of handling the motion would mean that the current renter's adult children could not occupy the accessory dwelling either. Mr. Truby said no, they could not occupy it, which would be no different than any other accessory dwelling in the city.

Mr. Kirkman said that there had been cases where accessory dwelling had been unpermitted or non-owner occupied and staff had investigated those cases and could investigate if the issue came-up for this property.

Mr. Ramsey agreed with Mr. Truby's proposal because it was fair and equitable, while avoiding the rental property dilemma for the Glenwood neighborhood.

Mr. Truby asked if there was any further discussion or a motion.

Mr. Kirkman asked if the Board wanted to take items 1 and 2 together as a motion.

Mr. Ramsey said that his motion would be to accept items 1 and 2 together and reject item 3, and state the criteria on why the Board approved 1 and 2.

Mr. Kirkman asked Mr. Andrews if the Board would need to have reasoning on why number 3 was rejected.

Mr. Ramsey said he could formulate wording regarding the denial of number 3.

Mr. Thiel advised that suggested language had been prepared in the Board's materials.

MOTION (Variances 1 & 2)

Mr. Ramsey moved that in BOA 22-16, 909 Glenwood Avenue, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and variances 1 and 2 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 garage is in a state of disrepair but is

original and matches the character of the house, thus restoring it as an accessory dwelling is the best option and makes best use the realty and 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 original garage was constructed when the house was built in approximately one-hundred years ago and thus pre-dates current regulatory regimes; (3) The hardship is not the result of the applicant's own actions because the existing garage was in place prior to the current applicant's purchasing of the property and before current setback requirements; (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 exiting footprint will not change and the restoration of the garage will enhance property values while retaining neighborhood characteristics. Second by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Randolph and Bowers. Nays: 0.) Chair Truby stated variance requests 1 and 2 passed unanimously.

MOTION (Variance 3)

Mr. Ramsey moved that in BOA 22-16, 909 Glenwood Avenue, based on the stated Findings of Fact, the Zoning Enforcement Officer be upheld and variance 3 denied based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will not result to the property by applying strict application of the ordinance because they will be able to use the property as an accessory dwelling when they move to the property and comply with the Ordinance as it exists right now. Second by Mr. Waddell. The Board voted 6-1 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas and Bowers. Nays: Randolph.) Chair Truby stated the variance request was denied by a vote of 6-1.

c. BOA-22-17: 1101 Country Club Drive (APPROVED)

Ms. Thiel stated in BOA-22-17, 1101 Country Club Drive, Robert and Barbara Braswell request a variance to allow a proposed accessory structure to encroach 12 feet into a required 15 foot side street setback. The accessory structure will be 3 feet from the property line along Pembroke Road. Zoning R-5 (Residential Single-Family): Section 30-8-11.1(B)(1): Cross Street – Pembroke Road.

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(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 south side of Country Club Drive, west of Pembroke Road, and is zoned R-5 (Residential Single-Family). Tax records indicate the corner lot contains approximately 20,473 square feet and the house was constructed in 1960. The applicants propose to construct a 308 square foot detached carport behind the front building line of the principal structure. The proposed detached carport will meet rear setback and accessory structure separation requirements, but will encroach 12 feet into a required 15 foot side street setback. It will be 3 feet from the side property line along Pembroke Road. A GDOT engineer visited the site and determined that the proposed detached carport would not create any additional sight obstructions for the neighboring property's driveway. If the variance is granted, the applicants 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 or plans.

Chair Truby asked applicants to state their name/address for the record and swore in Donald Vaughan for his testimony.

Donald Vaughan, 612 West Friendly Avenue, stated that he was representing his client, Bob Braswell, who with his wife, Barbara, had owned the subject property for over eight years. Mr. Vaughan explained that Mr. Braswell was seeking to put-up a carport and had been to every neighbor to discuss the idea

and received no objections. Mr. Vaughan referenced the proposed site plan of the attractive carport and requested the Board's approval of this item.

Chair Truby asked if the Board had any questions. Seeing none, he asked Ms. Thiel if there was any opposition. Ms. Thiel said that there were no speakers in opposition to the request. Mr. Truby closed the public hearing and asked for a motion.

MOTION

Ms. Necas moved that in BOA 22-17, 1101 Country Club 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 applicant would be unable to construct a carport to protect their vehicles in the most convenient 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 driveway's location dictates that the carport cannot be added without encroaching into the 15-foot setback; (3) The hardship is not the result of the applicant's own actions because of the unique placement of the driveway on the applicant's corner property; (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 it allows for optimal use of the land directly adjacent to the driveway and will not create an additional sight obstructions for the neighboring property's driveway. Second by Mr. Randolph. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Randolph and Bowers. Nays: 0.) Chair Truby stated the variance request passed unanimously.

2. SPECIAL USE PERMIT

a. BOA-22-18: 1500 Huffine Mill Road (APPROVED)

Ms. Thiel stated in BOA-22-18, 1500 Huffine Mill Road, James Gardner on behalf of Christ's Commission Ministries International, Inc. requests a Special Use Permit to operate a community garden on the property that will (1) exceed one acre in size; (2) have an accessory structure that exceeds 12 feet in length, width and height; and (3) have electricity.

Ms. Thiel noted that there were no proposed conditions.

Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance reference were Section 30-8-10.6(C)(2): A community garden exceeding one acre in size shall be permitted with the approval of a special use permit; Section 30-8-10.6(C)(4): Detached accessory structures such as storage or utility buildings, gazebos, trellises, or accessory structures are permitted, subject to an approved zoning and/or building permit. The maximum size for an accessory structure affiliated with a community garden, permitted by right, in a residential district is 12 feet by 12 feet and shall not exceed 12 feet in height. A larger structure may be permitted with the approval of a special use permit; and Section 30-8-10.6(C)(6): Community gardens are not permitted to have electricity. Electricity is permitted with the approval of a special use permit.

Background and Site Information: The subject lot is located on the south side of Huffine Mill Road, east of Mount Zion Street, and is zoned R-5 (Residential Single-Family). Tax records indicate the lot contains approximately 8.17 acres. The applicant, as part of Positive Direction for Youth and Families Inc., has been growing organic produce on the subject property, which contains a 432 square foot greenhouse and many planting beds, and providing it to the community. The LDO defines community gardens as areas of land used solely to grow and harvest food crops and non-food ornamental crops, for personal or group use, consumption or donation. They may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include

common areas maintained and used by the group. A community garden is a permitted use in the R-5 District, subject to certain use requirements. Specifically, a special use permit is required to allow a community garden to operate on a property that will exceed one acre in size; have an accessory structure that exceeds 12 feet in length, width and/or height; and have electricity. When attempting to obtain a permit to provide electricity to the greenhouse, the applicant became aware of the need for a special use permit. If the special use permit is approved, the applicant will apply for a use registration permit and proceed with the plan review process.

Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays or plans. The 2040 GSO Comprehensive Plan identifies the property as Residential within the Future Land Use Map and as Urban Central within the Future Built Form Map.

Chair Truby asked the applicant to state their name/address for the record and swore in James Gardner for his testimony.

James Gardner, 5031 Tamarack Drive, stated that he was joined by his counsel and the property owner. He introduced himself as Director of the non-profit Community Garden Project with Positive Direction for Youth and Family which has been in existence for 30 years and provided some history of the non-profit. Last year, they grew fresh organic produce and from that made 104,000 meals. This year, their goal is to feed 200,000 people by using a greenhouse to practice hydroponics and aquaponics as a technique to increase the amount of produce they are able to give to the community. Mr. Gardner explained that the new growing technique requires additional electricity and is the reason this request is before the Board. Mr. Gardner is already mentoring youth on how to grow seedlings as part of the complete process of growing from ground to plates.

Mr. Truby asked if the Board had any questions.

Mr. Oliver asked what portion of the 8.17 acres Mr. Gardner intended to use for the garden. Mr. Gardner said that they are using a portion of the land of approximately two acres.

Mr. Randolph asked Mr. Gardner to talk more about the aquaculture involved with this project. Mr. Gardner explained that the process of aquaculture was raising fish but aquaponics was the process of raising fish so that fish raise the vegetables. He described a tank that would house 25-30 fish, typically Tilapia. Staff would feed the fish and the fish feed the produce and with this technique, they almost double the amount of produce they make while using less than half the carbon footprint.

Mr. Randolph asked if the yield of increase was a byproduct of the greenhouse technique and the aquaponics. Mr. Gardner confirmed Mr. Randolph's understanding.

Mr. Randolph asked what was that anticipated yield over last year. Mr. Gardner said that organization also operated an emergency pop-up pantry with non-perishable items. The garden produced about 1,600 meals last year straight from the ground. The aquaponics in the greenhouse would allow the organization to produce 50-60 heads of lettuce on a bi-weekly basis. In the greenhouse, they could grow food year-round with several different crops. They estimated that they could create 3,000 meals from food they will grow in the ground and from the greenhouse, they would be able to match those numbers in their first year.

Mr. Oliver asked how they distributed the food. Mr. Gardner replied that a group packs boxes of food Wednesday for distribution on Thursdays at 2207 East Cone Boulevard, their current headquarters at Evangel Fellowship's campus. They provide boxes of food with 10-15 meals to the most vulnerable in the community to come pick-up. No money is exchanged, this is for people that have a need. In regards to vegetables, the system would be the same with harvesting, cleaning and prepping on Wednesday for box distribution on Thursdays.

Mr. Truby asked if there were any other questions. Hearing none, he asked Ms. Thiel if there was anyone to speak in opposition. Ms. Thiel noted that there was someone who wanted more information and invited Deborah Woods to speak. Mr. Truby swore-in Ms. Woods.

Deborah Woods, 6017 Roundup Drive, owns property at 1414-A Huffine Mill Road and asked if there was a map or image showing where the garden would be located. Mr. Truby asked Ms. Thiel to share

her screen showing the site map and Ms. Thiel shared her screen and went over the surrounding streets in relation to the community garden.

Ms. Woods recognized the location as the old Mount Zion School. She asked how far away the garden was from Mount Zion Street. Mr. Truby said that community garden location was about as far away from Huffine Mill Road and Mount Zion Street as it could be.

Ms. Woods said that she wanted to know the garden location in relation to the church and with the visual, she understood the location. Mr. Oliver said that he drove past the subject property and could barely see the community garden from the road.

Ms. Woods described an existing fence and woods off of Mount Zion Street and noted that it was away from that area. She explained that she knew the area very well, had family there, and noted the graveyard there, and that she was at first concerned for the single-family dwellings near the garden. She said that her questions were answered.

Mr. Truby asked if there were any other speakers and Ms. Thiel indicated that there were no other inquiries.

Mr. Truby closed the public hearing and went to Board discussion. He said that he thought the proposal was wonderful and planned to support it and would make a motion if there were no other Board comments. With the Board's encouragement, he made a motion.

MOTION:

Mr. Truby moved that in BOA 22-18, 1500 Huffine Mill Road, based on the stated Findings of Fact, 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 land will be used to house a community garden. The garden produces organic vegetables that are packaged and given to the community. This will improve the health within the community; (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 system will be used to educate the community on cutting-edge technologies for raising organic vegetables as well as introducing them to aquaculture. The produce will continue to be given to those that face food insecurity; and (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 the garden will feed the needy as well as providing a green space for enjoyment and physical activity. Second by Mr. Randolph. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Randolph, and Bowers; Nays: 0.) Chair Truby stated the motion passed unanimously. Mr. Truby thanked Mr. Gardner for what he did for the community, and Mr. Gardner thanked the Board.

3. SPECIAL EXCEPTION

a. BOA-22-19: 2127 McKelvey Drive (APPROVED)

Ms. Thiel stated in BOA-22-19, Nolan and Tyisiha Henry request a special exception to allow a proposed family care home to be 2,580 feet from another facility located at 2006 Old Jones Road when at least 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): To increase housing alternatives available to resident persons and fully integrate them into the community mainstream by allowing them to live in typical homes in typical neighborhoods, 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 Adjustment for reduced separation.

Background and Site Information: The subject lot is located on the south side of McKelvey Drive, east of Galway Drive, and is zoned R-5 (Residential Single-Family). Tax records indicate the lot contains approximately 11,761 square feet and the house was constructed in 1961. The applicants wish to

establish to establish a family care home at the subject property, which is located within ½-mile of one other existing facility. A family care home, J. Gee's House, operates at 2006 Old Jones Road, which is 2,580 feet away. The required separation between family care homes is measured from property line to property line, so the ½-mile buffer associated with the existing facility at 2006 Old Jones Road crosses through the subject property. To approve a special exception for 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 overlay or plans.

Chair Truby asked the applicants to come forward and state their names/address for the record and swore in Tyisiha and Nolan Henry for their testimony.

Tyisiha and Nolan Henry, 2127 McKelvey Drive, explained that they wanted to get zoning approval for a family care home and initially noticed that the separation distance or radius that separates family care homes from another overlapped in their front yard but on their house. She further explained that the issue was the front yard is within the radius where a family care home could not be located, and that the closest family care home was separated from their property by a major highway, Interstate 85. There was no direct flow between the existing family care home and their proposed family care home.

Mr. Truby asked if Ms. Henry could tell the Board more about the type of home they wanted to operate. Ms. Henry replied that she would have a family care home, also called an adult residential care home. She described the potential clients as people who may have dementia or other conditions and wanted to live together in a residential setting versus a nursing home. Ms. Henry said that she and Mr. Henry would provide minimal non-medical care, and the residents would be acclimated in community and have family-style living arrangement versus a clinical setting.

Mr. Oliver asked how many people would live in the home. Ms. Henry responded that they could have up to six people, but due to furniture design restrictions, they thought that three to four people at the most would live in the house and allow plenty of room and privacy.

Mr. Oliver asked how many restrooms were in the house. Ms. Henry responded that there were two restrooms.

Mr. Truby asked if the Board members had any other questions for the applicant.

Mr. Ramsey asked Mr. Kirkman about the rule of no more than four unrelated people living together in a dwelling and asked if this application was an exception to this definition.

Mr. Kirkman replied that four unrelated people would meet the definition of a family to occupy a dwelling and would not have any specific requirements. He explained that because the applicant wanted approval for up to six people, the applicant would have a family care home and was required to go through this analysis and request the special exception. Mr. Ramsey thanked Mr. Kirkman for the additional information.

Mr. Truby asked Ms. Thiel received any opposition to the request.

Ms. Thiel noted that Ms. Pegram was on the call and may want additional information. Ms. Pegram did not speak.

Mr. Truby, hearing no further comments, closed the public hearing and moved to Board discussion.

Mr. Waddell said that there was truly clear separation with the highway. He took the opportunity to look closely at the case, since there is typically opposition with these types of cases. He noted his support for this case.

Mr. Truby echoed his support for the case.

Mr. Oliver said that he drove the distance of eight or nine-tenths of the mile and that distance could not be walked because it would require crossing the highway, which people do not want to do.

Mr. Truby asked if there was any further discussion or a motion.

MOTION

Ms. Bowers moved that in BOA-22-19, 2127 McKelvey Drive, 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 required distance between group homes is 2,640 feet which is 60 feet more than the location of the proposed family care home at 2127 McKelvey Drive. The location of the other family care home on Old Jones Road is 2,580 feet away, measured by property line to property line, but the actual house and backyard of the proposed location is farther away and outside of the one half-mile radius provided by the Ordinance. Further, there is a main highway between the proposed family care home and the existing family care home on Old Jones Road; and (2) The granting of the special exception assures the public safety and welfare and does substantial justice because the distance of the proposed family care home is far enough away from the closest other family care home at 2006 Old Jones Road, such that clustering of homes is not promoted; cloistering of residents of the two homes is highly unlikely; and interaction of the residents with their respective communities will not be discouraged by the location of the proposed family home. Seconded by Waddell. The Board voted 7-0 in favor of the motion. (Ayes: 0. Nays: Truby, Waddell, Ramsey, Oliver, Necas, Randolph, and Bowers). Chair Truby stated the application passed unanimously, so the special exception was approved. Chair Truby wished the Henry's good luck with their home.

OTHER BUSINESS

Mr. Kirkman started a discussion with the Board about bringing meetings back in-person to City Council chambers for the month of April, as other Boards and Commissions are heading in this direction. Mr. Truby said that he agreeable to returning and asked how other Board members felt. Mr. Oliver said that he was ready and had activated his ID badge for entry. Mr. Kirkman reminded other Board members to ensure they had working ID badges to use at the Melvin Municipal Office Building, and offered to assist members who needed badges in preparation for the next meeting. Mr. Kirkman noted that in light of the quasi-judicial nature of the Board of Adjustment, all Board members would need to be in the room along with applicants and that there would be no option for Zoom participation if the meeting will be in-person. Mr. Ramsey asked where he could get a new badge and Ms. Thiel gave him directions to the Security Office in the Melvin Municipal Office Building. Mr. Andrews asked for staff to talk to the Board about parking. Ms. Thiel provided some parking options for Board members. Staff confirmed that the Board was meeting in-person in April.

Mr. Truby acknowledged the absence of Terry Savoy. Ms. Thiel reminded members to send their motion sheets to Mr. Truby and Mr. Truby adjourned the meeting.

ADJOURNMENT

The meeting was adjourned at 7:26pm.

Respectfully submitted,

Chuck Truby, Chair
Greensboro Board of Adjustment
CT/ram

MEETING MINUTES
GREENSBORO BOARD OF ADJUSTMENT
April 25, 2022

The meeting of the Greensboro Board of Adjustment was held on Monday, April 25, 2022, at 5:36 p.m. in-person in City Council Chambers. Board members present were: Chairman Truby, James Waddell, Vaughn Ramsey, Ted Oliver, Leah Necas and Cory Randolph. City staff present were Shayna Thiel and Mike Kirkman of the Planning Department, and Al Andrews (Chief Deputy City Attorney).

Chairman Truby welcomed everyone to the 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. Mr. Truby went on to explain how the Board would make its decision and votes, based on findings of fact and other factors, and he explained how to appeal decisions.

APPROVAL OF THE MINUTES (March 28, 2022 Meeting)

Mr. Waddell made a motion to approve the March 28, 2022, minutes; second by Mr. Ramsey. The Board voted 6-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas and Randolph. 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 their testimony in the following cases.

CONTINUANCES / WITHDRAWALS

Ms. Thiel advised there were no continuances or withdrawals.

NEW BUSINESS

1. VARIANCE

a. BOA-22-20: 500 Rockford Road (APPROVED)

Ms. Thiel stated in BOA-22-20, 500 Rockford Road, Anthony and Lee Meley 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 A 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 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).

Background and Site Information: The subject lot is located on the north side of Rockford Road, west of Marston Road, and is zoned R-3 (Residential Single-Family). Tax records indicate the subject lot contains approximately 25,700 square feet and the house was constructed in 1965. The applicants propose to install a 144 square foot swimming pool in the back yard behind the existing house that will meet setback and separation requirements. The subject property is considered a corner through lot, as it is bound on three sides by streets, so there are three applicable street setbacks and no rear setback. A side street setback is measured from the property line that runs along Marston Road and a thoroughfare

setback is measured from the property line that runs along West Cone Boulevard. Since the lot has three road/street frontages, the proposed swimming pool, even though technically located behind the house, will be located in front of a principal structure when viewed from either Marston Road or West Cone Boulevard. If the variance is granted, the applicants 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 or plans.

Chair Truby asked applicants to state their name/address for the record and swore in Anthony and Lee Meley for their testimony.

Anthony and Lee Meley, 500 Rockford Road, said that they recently moved to the property about 8 months ago and wanted to install a pool like they had at their old house in Summerfield. They are proposing a swim spa which would be configured like two hot tubs put together, 16 feet in length, situated in their backyard. Chair Truby inquired if Board members had any questions for the applicants. Mr. Ramsey noted that the Board had seen cases similar to this where the subject property was on an end lot. Mr. Meley noted that they have a 6 foot fence around the perimeter of the backyard. He noted that West Cone Boulevard was the main road behind their property, and the only thing visible from their background was the traffic light at Marston Road and Cone Boulevard and that there was often noise from traffic and emergency vehicles. Mr. Waddell asked staff if there was a difference between a swimming pool and swim spa in terms of paperwork. Mr. Kirkman responded that the generic definition states that if an interactive water feature holds more than 4 inches and is of a certain size, it falls into the same category as a swimming pool.

Mr. Truby asked if there was anyone else to speak in favor of the case. Seeing none, he asked if there was anyone to speak in opposition to the case. Seeing no additional speakers, he closed the public hearing. Mr. Truby asked if the Board had any discussion and/or a motion.

MOTION

Mr. Waddell moved that in BOA 22-20, 500 Rockford 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 permitting process is delayed due to the swimming pool construction being impacted by three setbacks and no rear setback; (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 bound by three side streets and considered as a corner lot; (3) The hardship is not the result of the applicant's own actions because since the lot has three frontages, even though the pool will be technically behind the house, it is considered as the front when viewed from Marston Road or West Cone Boulevard; (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 backyard is technically not visible due to a privacy fence and completion of project will increase the value of the property. Second by Ms. Necas. The Board voted 6-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas and Randolph. Nays: 0.) Chair Truby stated the variance request passed unanimously.

Mr. Truby thanked the applicants and wished them luck and the applicants thanked the Board in return.

b. BOA-22-21: 108 South Josephine Boyd Street (APPROVED)

Ms. Thiel stated in BOA-22-21, 108 South Josephine Boyd Street, Anne Vaughan requests two variances. (1) To allow a proposed addition to encroach 12.2 feet into a required 20 foot rear setback. The addition will be 7.8 feet from the rear property line. (2) To allow an existing house to encroach 15.5 feet into a required 20 foot rear setback. The house is 5.5 feet from the rear property line. Evidence provided by the applicant was Exhibit A through D. Supporting documentation from staff included Exhibits

1 through 7. The Land Development Ordinance reference was Section 30-7-3.2 – Table 7-2: In the R-5 District, the minimum rear setback is 20 feet.

Background and Site Information: The subject lot is located on the west side of South Josephine Boyd Street, south of West Market Street, and is zoned R-5 (Residential Single-Family). Tax records indicate the subject lot contains approximately 5,358 square feet and the house was constructed in 1938. The applicant proposes to demolish an existing deck at the rear of the house and construct an addition instead that will encroach 12.2 feet into a required rear setback. The approximately 242 square foot addition, which will include a bathroom, storage and sun room, will be 7.8 feet from the rear property line when at least 20 feet is required. The site plan provided by the applicant shows the existing house to be a nonconforming structure as it also encroaches 15.5 feet into the same 20 foot rear setback and is 5.5 feet from the rear property line. The applicant seeks a variance to bring the existing house into conformance at this time, as well. The applicant also owns the adjacent property to the north that shares the same rear property line and provided notarized letters of support from two neighbors. 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 or plans.

Chair Truby asked the applicant to provide their name/address for the record and swore in Anne Vaughan for her testimony.

Anne Vaughan, 108 South Josephine Boyd Street, explained that she had a deck in her backyard that was built a number of years ago that she currently uses about 6 months out of the year. Her desire is to build a sunroom in place of the deck that is heated and cooled so that she can enjoy the space year-round. She said that she has lived in the residence since 1973 and she consulted with her adjacent neighbors and received 3 letters of support for the request. Ms. Vaughan said that the sunroom would not have an adverse effect and suggested that it could even add value the area. Chair Truby inquired if Board members had any questions for the applicant. Ms. Necas asked if the proposed addition of the sunroom would encroach further into the rear setback than the current deck. Ms. Vaughan answered that no, the sunroom would replace the deck. Ms. Necas thanked Ms. Vaughan for her reply. Mr. Oliver asked Ms. Vaughan to confirm if the sunroom would encroach on property that she also owns. Ms. Vaughan responded yes. She purchased the property in back of hers in 1982 so no one would build on it. Mr. Oliver asked if there was ever a house on the back property and Ms. Vaughan replied that there had not been a house there. She explained that the property had formerly belonged to someone who lived at 106 South Josephine Boyd Street or a nearby property and that person was kind enough to sell it to Ms. Vaughan in the 1980s. Mr. Oliver thanked her for the information. Chair Truby asked if there was anyone else to speak in favor of the request. Seeing no other speakers in favor, he asked if there was anyone to speak in opposition to the case. Seeing none, he closed the public hearing and opened time for Board discussion and/or a motion.

MOTION

Ms. Necas moved that in BOA 22-21, 108 South Josephine Boyd Street, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and variances 1 and 2 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 does not allow for year-round use and the current setbacks would not allow for enclosing the deck; (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 is irregularly shaped with a rear setback that cuts diagonally across, reducing the backyard size and limiting the buildable space; (3) The hardship is not the result of the applicant's own actions because the house was built in 1938, well before the LDO and prior to the current homeowner's purchase; (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 addition will add value to the property, increase livable space for the residents, and do no harm to the public. Second by Mr. Waddell. The Board voted 6-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas and Randolph. Nays: 0.) Chair Truby stated the variance request passed unanimously.

c. BOA-22-22: 1402 Colonial Avenue (APPROVED)

Ms. Thiel stated in BOA-22-22, 1402 Colonial Avenue, Elizabeth Brownlee Bryant requests a variance to allow a proposed addition to encroach 4 feet into a required 46 foot front setback. The addition will be 42 feet from the front property line.

Evidence provided by the applicants included Exhibit A, B, and C. Supporting documentation from staff include Exhibit 1 through 7. The Land Development Ordinance reference was Section 30-7-1.4(A)(1)(b): Front setback computation. Where 50% or more of the lots on the same block face as the subject lot are occupied by single family detached dwellings, buildings on the subject lot must comply with the minimum street setback determined by calculating the average (mean) setback that exists on the 2 lots on either side of the subject lot (total of 4).

Background and Site Information: The subject lot is located on the east side of Colonial Avenue, north of Liberty Drive, and is zoned R-5 (Residential Single-Family). Tax records indicate the subject lot contains approximately 11,326 square feet and the house was constructed in 1946. As part of a home improvement project, the applicant proposes to add a screened porch at the back of the house and a covered porch and master bath addition at the front of the house. The proposed porch additions meet setback requirements, but the proposed master bath addition does not. The approximately 168 square foot master bath addition encroaches 4 feet into a required 46 foot front setback. It will be 42 feet from the front 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 there were no applicable overlays and or plans.

Chair Truby asked the applicants to provide their name/address for the record and swore in Elizabeth Brownlee Bryant and James A. King for their testimony.

Elizabeth Brownlee Bryant and James King, 1402 Colonial Avenue, stated that she, Ms. Bryant, had lived in her home since 1998 and described it as a small house with one bathroom. Last year, she and Mr. King decided to combine their households, after being partners for 16 years, and they both have adult children and grandchildren. In consideration of these changes, a small house with one bathroom felt too crowded. The proposed addition to the porch on the back would give them more space for living. Ms. Bryant showed and explained to the Board the layout of the house with the additions. She explained that the changes would make their house more livable and would make it easier to have their families all together. She noted that she had letters of support from her neighbors living to the right and left of her and her neighbors across the street are all in support of the proposal. She said that in her opinion, the change would not only increase the value of her home but also that of her neighbors', and enhance the look and feel of the neighborhood in her area.

Mr. Truby asked if there were any questions for the applicant. Hearing none, he asked if there was anyone else to speak in favor of the request and hearing no one else come forward, he asked if there was any opposition to the case. Seeing none, he closed the public hearing and moved to Board discussion and/or a motion.

MOTION

Ms. Necas moved that in BOA 22-22, 1402 Colonial Avenue, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and variances 1 and 2 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 homeowner would be unable to add a second

bathroom to the residence to all residents to live comfortably; (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 subject lot is long and narrow and only allows for additions in the front or back and is limited by placement of the master bath; (3) The hardship is not the result of the applicant's own actions because; the house was built in 1946, before the Land Development Ordinance, and before the current homeowner's purchase; (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 addition would not create any safety issues and will increase the value of the home and surrounding properties. The addition will be in keeping with the style of the existing house. Second by Mr. Randolph. The Board voted 6-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas and Randolph. Nays: 0.) Chair Truby stated the variance request passed unanimously. Mr. Truby wished the applicants good luck with their project and the applicants thanked the Board.

d. BOA-22-23: 2207 Carlisle Road (APPROVED)

Ms. Thiel stated in BOA-22-23, 2207 Carlisle Road, Andrew and Dana Davis request a variance to allow a proposed addition to encroach 4.7 feet into a required 10 foot side setback. The addition will be 5.3 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 west side of Carlisle Road, south of Rockford Road, and is zoned R-3 (Residential Single-Family). Tax records indicate the subject lot contains approximately 15,246 square feet and the house was constructed in 1959. The applicants propose to demolish an existing detached carport on the subject property and, in its place, construct an addition consisting of a garage on the first floor and a bonus room on the second floor, which will connect to the existing house by an enclosed breezeway. The proposed addition at the back of the existing house will encroach 4.7 feet into a required 10 foot side setback and be 5.3 feet from the side property line. If the variance is granted, the applicants 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 or plans.

Chair Truby asked applicants to state their name/address for the record and swore in Dana Davis for her testimony.

Dana Davis, 2207 Carlisle Road, stated that she had an existing two-car carport with a storage room that was built in the early 1990s. She explained that she wanted to tear down the existing carport and replace it with a garage that would be attached to the house. The existing carport is setback 3 feet from the property line, but since the garage will be attached, the new required setback would be 10 feet off the property line. In order to park easily and use the existing driveway, the garage would need to encroach into the 10 foot setback. Mr. Waddell asked if the proposed encroachment with the new garage would be farther back than the original encroachment. Ms. Davis confirmed this and stated that the existing carport was 3 feet off the property line and that the new attached garage would be 5 feet off the property line. Chair Truby asked if the Board had any questions. Seeing none, he asked if there were other speakers in favor of the request. He then asked if there was any opposition to the request. Seeing none, Mr. Truby closed the public hearing and opened the time for Board discussion and a motion.

MOTION

Mr. Waddell moved that in BOA 22-23, 2207 Carlisle 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 project requires a variance to continue with the residential permitting process. The garage would not line-up with driveway if Ordinance was enforced; (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 and carport are pre-existing requiring a variance to continue the project within a similar footprint; (3) The hardship is not the result of the applicant's own actions because the subject property was originally constructed in 1959, carport was added in 1995, existing structure is already 3 feet from the property line; (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 existing structure will be demolished and replaced with a new structure and bonus room that will increase value of the property. Second by Ms. Necas. The Board voted 6-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas and Randolph. Nays: 0.) Chair Truby stated the variance request passed unanimously. Mr. Truby wished the applicant good luck with her project and she thanked the Board.

e. BOA-22-24: 312 Willoughby Boulevard (APPROVED)

Ms. Thiel stated in BOA-22-24, 312 Willoughby Boulevard, Michael and Amber Munoz request a variance to allow a proposed addition to encroach 15 feet into a required 30 foot rear setback. The addition will be 15 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 east side of Willoughby Boulevard, south of Lake Forest Drive, and is zoned R-3 (Residential Single-Family). Tax records indicate the subject lot contains approximately 22,651 square feet and the house was constructed in 1980. The applicants propose to add an attached accessory dwelling at the back of the existing house that will meet all required use conditions except the minimum rear setback. Because the proposed accessory dwelling will be part of the primary dwelling, the standard R-3 dimensional requirements for principal structures apply. The proposed accessory dwelling addition will encroach 15 feet into a required 30 foot rear setback and be 15 feet from the rear property line. If the variance is granted, the applicants 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 or plans.

Chair Truby asked applicants to state their name/address for the record and swore in Amber Munoz and Millie Munoz for their testimony.

Amber and Millie Munoz, 312 Willoughby Boulevard, introduced themselves to the Board. Amber Munoz stated that she currently owned the house, and Millie Munoz said that she had sold the house to Amber. Amber Munoz went on to say that she wanted to add-on to the house into the 30 foot rear setback by encroaching 15 feet into the setback. She explained that there are many family members living together including adult children and grandchildren, and they wanted more space and flexibility with living arrangements so that they could all continue living together. Millie Munoz explained that the proposed accessory dwelling unit met all of the other Ordinance requirements of size, proportion, and worked with the existing house layout and lot configuration. She also said that the existing driveway and garage also presented challenges in terms of where to add the accessory dwelling unit that would fit with the Ordinance requirements. She noted that the house next door had a similar configuration and that the owners there had added a recreational room in the same location as the Munoz's proposed accessory dwelling unit. Amber and Millie have spoken to their neighbors and the neighbors were in support of the proposed addition. Mr. Truby asked the applicants if they had contacted their neighbors to the rear of the property. Amber and Millie Munoz responded that they had spoken to the neighbors behind them as well. Mr. Truby asked if there were any other speakers in favor of the request. Hearing none, he asked if there

was anyone to speak in opposition. With no additional speakers present, he closed the public hearing and went to Board discussion or a motion.

MOTION:

Mr. Ramsey moved that in BOA 22-24, 312 Willoughby Boulevard, 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 there will be no place on the property where an accessory dwelling unit of any size can be constructed without encroachments to 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 dwelling is set far back from Willoughby Boulevard with little side and rear space so the inclusion of an accessory dwelling unit can only occur with a variance; (3) The hardship is not the result of the applicant's own actions because the applicants acquired the property in 2022; (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 variance will not affect the street view of the property and is consistent with the neighborhood and will increase the value of the property. Second by Mr. Waddell. The Board voted 6-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas and Randolph. Nays: 0.) Chair Truby stated the variance request passed unanimously. Mr. Truby wished the applicants luck with their project and the applicants relayed their appreciation to the Board.

f. BOA-22-25: 2204 Battleground Avenue (APPROVED)

Ms. Thiel stated in BOA-22-25, Battleground Storage Associates, LLC, requests a variance to allow a proposed multistory self-storage facility to be 59 feet in height when the maximum permitted height is 50 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 30-8-10.4(S)(2)(c): For multistory self-storage facilities, the maximum height is limited to 50 feet.

Background and Site Information: The subject lot is located on the east side of Battleground Avenue, south of Markland Drive, and is zoned C-M (Commercial-Medium). Tax records indicate the vacant lot contains approximately 1.26 acres. The applicant proposes to construct a multistory self-storage facility on the property that will be 59 feet tall, when the maximum height is limited to 50 feet. Per the submitted application, 4 feet of the proposed 9 foot variance request consists of roof parapets used to shield appurtenances located on the roof. Additionally, the applicant indicates that various site constraints limit the buildable area of the subject property. If the variance is granted, the applicant will proceed with the City 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 and or plans.

Chair Truby asked the applicant to state his name/address for the record and swore in Marc Isaacson for his testimony.

Marc Isaacson, 804 Green Valley Road, Suite 200, introduced himself and his colleague Ben Rafte, another attorney in his firm, who was assisting on this project. He said that they were representing Battleground Storage Associates, LLC, which owns the subject property and planned to build a self-storage facility on the property. Mr. Isaacson explained that the property has been vacant for many years and was formerly a gas station. He said that the proposed use of self-storage would fit with the commercial zoning of the property and for the particular location. Mr. Isaacson presented to the Board an illustrative sketch plan of the proposed site plan and highlighted some of the following site constraints: its shape, the greenway dedication on-site, the billboard on the property with a view corridor that must remain visible, and City development requirements such as setbacks and access areas for the site. When the constraints are added up, they encumber about 43 percent of the parcel, which is significant, Mr. Isaacson explained. Next, Mr. Isaacson presented additional photographs of the site to highlight the constraints. He showed a street view and noted the surrounding and adjacent shopping centers, a vacant

restaurant, and stated the need for redevelopment and activity in the area on a main thoroughfare. He went over an aerial photograph of the site to show that the area of Battleground Avenue had a turn lane and that the only residential uses were buffered heavily by trees. He also reviewed elevation drawings of each floor of the building and how the building would be structurally laid-out, and a detail of the floor-to-floor sections and clearance areas within the proposed building that met the industry standard for fire prevention and related codes of 10 feet between floors of the facility. He discussed community outreach efforts by noting the outreach letter sent to property owners within the notification radius. They heard no responses nor had Planning staff received calls or communications in regards to the variance request. Mr. Isaacson concluded his remarks, reviewing the factors of the variance starting with the variance for height. He acknowledged that the maximum height of self-storage facilities of 50 feet and discussed the rooftop elements and infrastructure which would allow an additional 4 feet of screening by a parapet wall, where the variance accounted for that 4 feet allowed with the screening, plus 5 feet for total overage in the request, a net request of 5 feet for a total of 59 feet in height. He submitted that the purpose of the Ordinance was being served because there would not be an adverse effect on residential with an increase in the height of the proposed building, and that absent a variance, the applicant would have to redesign the entire building and likely would need to remove the top floor of the proposed storage units or dig a significantly lower foundation, and would not be able to provide the number of storage units in demand in this area. He restated that 43 percent of the property would be unusable due to the constraints caused by the setback requirements, restrictions of the greenway dedication, the billboard visibility restriction and others. If not for these constraints, Mr. Isaacson said that the building could go out, but in this case, it will need to go up. He said that the hardship resulted from the Ordinance, due to the Ordinance restrictions on height for self-storage facilities that would prevent construction of this storage facility from including an adequate number of storage units. He stated that the hardship would not be the result of the applicant's actions in that the lot was uniquely configured and in light of the aforementioned constraints, the applicant was still trying to make the highest and best use of the property as they have found it. He said that the property had remained vacant for so long and that this would be a desirable use in the location, and that being a unique lot, it needed a fairly unique use. He said that the height of the storage facility would have minimal impact and would keep with the purpose and intent of the Ordinance to allow for commercial land use on major thoroughfares like Battleground Avenue. Further, he said that it would not negatively effect views or sightlines on Battleground Avenue or impact nearby residential properties. This assures public safety and welfare so applicant could make appropriate use of the property on a major thoroughfare while minimizing potential impact on residential properties, he said in conclusion. He noted to the Board that a similar height variance was approved in November 2021, and stated that if precedence was of importance and bears any weight, he wanted to mention it to the Board. Mr. Isaacson asked the Board to consider the request and hoped for their approval. Ms. Necas asked Mr. Isaacson about information in the application stating that applicant's ability to provide adequate storage units which was later worded as the applicant's ability to have sufficient storage units. She asked who the unit count pertained to; customers or the company's commercial viability. She asked him to clarify what he meant by adequacy of storage units. Mr. Isaacson responded that the number of units was based on a market study showing a demand for more storage units in this particular area based on various factors from a market analysis such as but not limited to demographics, homeownership, rooftops in the area, and other points. He said that the company had a lot of experience setting-up self-storage facilities and that the company did the market study for this property to determine how many units would meet the expectations and requirements of homeowners in the area. He noted that anyone involved in real estate knows that there is a big population boom happening here and a lot of people are moving into this community. He went on to say that there was a lot of development in the area and depending on the stage of life, some people need to store things especially when families need to consolidate things, and in light of this need, these businesses are thriving. As far as the demand in the market place, Mr. Isaacson said that the demand was shown in the market study for number of units. In terms of the unit count for the company, they have economic considerations, but in looking at the property, the aforementioned constraints, especially in terms of access, made it so the units had to be arranged vertically instead of being spread-out horizontally. Mr. Isaacson said he remembered a former business on-site had two access points, but one access point had since been closed at the northern part of the property, so the only access as of today is on Battleground and there is a pinching-in of the property by the greenway and other constraints. Ms.

Necas asked staff to clarify the information presented on the height variance request totaling 9 feet. Mr. Kirkman responded that the standard in the Ordinance in regards to height had some exemptions or additional flexibility, and he explained that parapet wall that could be 4 feet in height, and that flexibility gave staff administrative authority to handle certain height requests directly. Because the applicant was asking for 9 feet total, the variance had to be for the full 9 feet. Mr. Kirkman concluded that the Board had the authority to grant the variance for the full amount beyond what Staff was able to do. Mr. Waddell asked if there were traffic lights at the corner of Markland Drive and Battleground Avenue where the largest portion of the building would be, and Mr. Isaacson answered that there was a traffic light at that corner with left turn utilization. Mr. Oliver asked if Mr. Isaacson was referring to the case at I-85 and South Elm Eugene Street in his previous comments and Mr. Isaacson responded that he believed that he was the case regarding a height variance previously approved by the Board. Mr. Oliver asked if the greenway would expand beyond the existing railroad track. Mr. Isaacson said that based on their understanding, the rights-of-way and easement had been put into place and were set. Mr. Kirkman said that he thought the case regarding the height variance to which Mr. Isaacson referred was for 238 Ritters Lake Road for an overall building height variance. Mr. Oliver asked if that area was around I-85 and South Elm-Eugene Street and Mr. Kirkman confirmed that Ritters Lake Road was near that area. Mr. Randolph asked staff that since the Board was quasi-judicial, would they be subject to precedents of past rulings on cases. He acknowledged that precedents may be a factor in consideration but wanted to confirm that they were not rulings under which the Board would have to operate. Mr. Andrews, City Attorney, responded that the Board was not like a court but that the Board should try to be equitable in the rulings to the extent that things are the same, because they are appealable. However, the Board was not bound by prior decisions and prior Boards in that regard, he advised. Mr. Randolph asked Mr. Isaacson about the possibility noted for the applicant to build a foundation that was 5 feet deeper in order to meet the 54foot threshold. He asked for elaboration on the hardship this design would create on the applicant. Mr. Isaacson said he appreciated the question. He was not aware of information from an excavation analysis for digging that deep, but he was advised by the applicant and the site engineer that the creation of such a foundation would be a significant hardship. He said that it was difficult to estimate how they would go about it and account for it, inclusive of stepdown into the building and how ADA compliance would fit into that. Mr. Randolph added that soil testing may need to be done and feasibility analysis. He said that he had no further questions. Mr. Truby asked if the Board members had any other questions for the applicant. Hearing none, he asked if there was anyone else present to speak in favor of the proposal. Next, Mr. Truby asked if anyone was present to speak in opposition to the request. Hearing none, he closed the public hearing and opened the floor for Board member discussion and/or a motion. Ms. Necas asked Mr. Andrews how her intimate knowledge as a frequent user of the intersection and resident of Greensboro should factor into her decision-making on this case, since this knowledge is in the back of her mind in weighing the decision. Mr. Andrews advised that it was impossible to erase this thinking from her mind because of her Board membership and that many people go by the subject property and busy intersection. The only issue would if there was a due process issue because of conflict of interest, described as a fixed opinion unlikely to be changed despite what she has heard. He said that he did not hear that from Ms. Necas, but would be the standard of concern in which she would not be able to vote or render if she had a fixed opinion that was unlikely to be changed. Ms. Necas responded that she did not feel like her opinion was unlikely to be changed, she was just weighing how she was more familiar with this intersection than she would be with a residential home she had no knowledge of prior to a Board hearing. Mr. Truby made the comment that as an engineer and thinking about lowering the slab of the building 5 feet, the logistics of trying to work out access into the building on the ground floor, and the amount of dirt that would have to be moved from the site, would be a hardship in itself. He recalled the traffic coming in and out of the old gas station at the site and how traffic was busy, in contrast to a self-storage facility which is a low traffic generator. He said that he did not have concerns about the request and that he imagined when the building was finished, it would be hard to notice the additional 5 feet being proposed. He also noted that taking off a floor would remove many storage units, which would be of economic concern to the applicant, and the property being at such a busy corner, it must have been expensive to purchase. The number of units would make it viable, and Mr. Truby said that he would rather see the proposed building at the site over vacant property. He noted that he could not see many other uses being added to the site. Mr. Truby said that he would be supporting the request based on that

reasoning. Mr. Ramsey agreed that the applicant was asking for the height variance in order to meet the industry standard and requirements and said he would be supporting the request. Ms. Necas said that she liked that Chairman Truby mentioned the traffic and since the request would not be generating as much traffic and because the height increase was minimal, she was willing to support the variance request as well. Mr. Waddell said that his question had been answered regarding the traffic and he did not think it would be an issue either. He also agreed that in order for this type of facility to be profitable, and in light of the changes in the industry standards, the layout would require this height increase, and he stated that he would not have a problem with supporting the request. Mr. Truby asked if there was any further discussion or a motion.

MOTION

Mr. Randolph moved that in BOA 22-25, 2204 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 the applicant has submitted its designs so to go back and redesign to try to accomplish either additional space for the foundation to the built would be expensive; (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 uniquely configured. It is bordered by a greenway trail. There are other significant requirements regarding a billboard which restricts the use of available space of the property; (3) The hardship is not the result of the applicant's own actions because there are setbacks that are required for the property that limit its actual spatial use and in order to maximize the storage units, it must meet certain industry standards and due to the size and location of the property, the only expansion to which the property could be used would be to extend upward; (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 additional height will not impair or cause harm to the adjoining properties, sightlines or views of or from the property, and will enable the property owner proper storage operation and management of the facility, and allows for the property to meet applicable safety standards that are required. Second by Ms. Necas. The Board voted 6-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas and Randolph. Nays: 0.) Chair Truby stated the variance request passed unanimously.

g. BOA-22-26: 220 Mistletoe Drive (APPROVED)

Ms. Thiel stated in BOA-22-26, Kenneth Riley requests a variance to allow a proposed addition to encroach 5 feet into a required 10 foot side setback. The addition will be 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 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 Mistletoe Drive, south of Edgewater Drive, and is zoned R-3 (Residential Single-Family). Tax records indicate the subject lot contains approximately 19,620 square feet and the house was constructed in 1959. The applicant proposes to add a 400 square foot attached two-car garage along the back side of the existing house that will align with the existing driveway. The proposed garage addition will encroach 5 feet into a required 10 foot side setback and be 5 feet from the side 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 there were no applicable overlays and or plans.

Chair Truby asked applicant to state their name/address for the record and swore in Kenneth Riley, 220 Mistletoe Drive, and Robert Russell with Associated Surveying and Engineering, 2705-B West Gate City Boulevard, for their testimony.

Kenneth Riley, 220 Mistletoe Drive, explained that he had recently moved to Greensboro and purchased this home in the summer of 2021, and since that time has been working on projects to improve the property. The house was built in 1959 and the property does not have a garage or a carport. He wants to have a two-car garage to protect his vehicles and to improve the value of the property as it stands now. Without a variance, he would only be able to fit one vehicle inside a garage that would be built on the property. He said that he talked to his neighbors and was able to get 8 letters of support for the project. Mr. Russell provided materials to the Board that included the letters of support from Mr. Riley's neighbors who realized that this project could help increase the value of homes in the area.

Robert Russell, 2705-B West Gate City Boulevard, went over the current floor plan and noted that the proposed addition would come off of the foyer. The foyer is an entrance to the outside and would provide the most logical way to enter into the house from the garage into a foyer then into a mudroom and has direct access to the laundry room and the family room. Mr. Russell guided the Board to look next at the rendering of the proposed garage, also included in the materials he provided to the Board. He said that the two-car garage would be 16 feet wide with windows at the front. Mr. Riley noted that the proposed windows emulate the existing windows across the front of the house. Mr. Russell shared a photograph of the house taken that day to illustrate that the slope of the roof would be carried out to the corner of the house, would not cover existing windows on the living portions of the house, and would line-up directly with the driveway. Mr. Russell also showed a photograph capturing the existing vegetation and fence which would not be changed with the proposed project. He said that there would be enough room to continue to maintain the fence and that there would be virtually no impact on the adjacent property as the screening would not be changed and existing roofline would stay as it is now. Mr. Truby asked if the Board members had any other questions for the applicant. Mr. Waddell asked a question in reference to an area shown on the rendering above the windows on the garage as to if the area was cosmetic or served a particular function for storage. Mr. Riley said that it would be cosmetic to flow with the existing architecture. Mr. Russell added that the design helped with natural light being directed into the garage.

Mr. Truby asked if there was anyone to speak in favor of the request. Seeing no other speakers, he asked if there was anyone to speak in opposition to the request.

Chair Truby asked the speaker to state their names/address for the record and swore in Sarah Edmonds Green, 50 Greenley Circle in Asheville, and Allen Edmonds, 2600 Merrywood Road, Charlotte, NC, for their testimony.

Sarah Edmonds Green, 50 Greenleaf Circle, Asheville, NC, and Alan Edmonds, 2600 Merrywood Road, Charlotte NC, sister and brother, explained that they had grown-up in the house at 218 Mistletoe Drive, which is next door to the subject property, and along with their brother, had inherited the house after their mother passed away last summer. They said that their parents had bought the house in 1965 when it was first built. Ms. Edmonds Green noted that she had sent a letter to Board members stating her family's concerns. One main concern was that the proposed garage would be built within 5 feet of the property line right at their kitchen window, blocking the view and the light from their kitchen window. She stated that they were concerned that this proposal would decrease the value of their house, and that there were other areas on 220 Mistletoe Road where the garage could be built and would not encroach or affect their property. Ms. Edmonds Green acknowledged that Mr. Riley had obtained letters of support from neighbors that live further away, but that they would be most affected since their house is located on the side where the garage would be built. She said that originally, she thought the placement of the garage would be in another location on the driveway and in areas where trees had been removed.

Mr. Edmonds added that the picture of the fence that the applicants provided to the Board did not show the full existing conditions on-site where the fence is located on a little hill and drops down about 2 feet to their driveway, so the proposed location of the garage, even 5 feet back from the fence, would tower above the fence and change the feel of the neighborhood to more urban, inner-city with a tall building next door. He said that no one envisioned this type of height for this part of Starmount and that there would be an empty area in the upper level of the garage with the windows. The proposed project is very different than anything else the neighborhood. He also noted that when they lived in the house as a family years ago, there was a carport that has since been enclosed as what is today the foyer. The design of the driveway showed evidence of the old carport. He said that they do not oppose a garage going next

to their property, but they would like to have the benefit of the 10 foot setback and they think that the proposed garage could be relocated to comply with the setback.

Mr. Truby asked if there were any questions. Mr. Oliver asked if either Ms. Edmonds Green or Mr. Edmonds lived at the property currently. Ms. Edmonds Green responded that no, they do not, but they may move there, as they are still trying to figure out what they will do with the property in the wake of their mother's recent death this past summer. She also noted her other brother's opposition to this project. Mr. Ramsey asked the speakers if they had spoken to Mr. Riley about their concerns. Ms. Edmonds Green replied that last week, Mr. Riley showed her the area where the proposed garage would go, and that was when she realized it was being proposed for right outside their kitchen window and would block the light and the view. She conveyed again that they wanted the restriction of the 10 foot setback to be honored and she thought that Mr. Riley still had other options to situate the garage on another part of the property. Mr. Waddell asked the speakers if Mr. Riley knew about their opposition. Ms. Edmonds Green said that once she found out the plans, she wrote a letter of opposition and sent it to Planning staff. Mr. Edmonds answered that he was aware of plans to build a garage but he was not aware of the details. He wished that he could have seen renderings and reviewed the location on-site with Mr. Riley before this time. Mr. Randolph noted that the Edmonds family conveyed in their letter that the proposal would cause a direct impact on property values. He asked if they had a property assessment done. Ms. Edmonds Green answered that no, she did not have a property assessment done but that the statement was based on the fact that the location of the proposed garage would be in the kitchen window view and that would affect their property. Mr. Randolph and Ms. Edmonds discussed the layout of the property and the existing tree line. Mr. Randolph asked if the trees cast a shadow. Ms. Edmonds Green and Mr. Edmonds answered that the current vegetation was growing in the area between the two driveways along with the existing fence. Mr. Truby asked if there were any other questions. Ms. Edmonds Green added that she did not understand the hardship that Mr. Riley was enduring for the variance request.

Mr. Truby opened the floor to rebuttal from the applicant. Mr. Riley said that the proposal was for an attached garage and if the project was moved elsewhere on the property, it could only be a detached garage. He disagreed that there were other locations on the property to attach a two-car garage to the house. Mr. Truby asked Ms. Thiel that if the proposed garage were detached, it could be placed within 3 feet of the property line. Ms. Thiel said if the garage was less than 15 feet tall, it could be within 3 feet of the side property line. Mr. Truby asked how tall the garage would be and Mr. Russell answered that it would be the same height as the existing roof, about 15 feet tall and would be designed to connect with the roofline to extend across to the garage. Mr. Russell noted that adding the garage to the back of the house would require major modifications to the roof for the slope to continue off that section of the house. The most logical and practical place to add the garage would be to the proposed location at the driveway in order to extend the roofline the exact same height as it was now to accommodate the garage doors. Mr. Russell also added that Mr. Riley had been trying to talk to his neighbors so that he could review the proposal with them before the meeting, but that he has been unable to go over it with them ahead of this meeting. Mr. Riley said that he had shared his contact information with his neighbors when he first moved in but had not received the same from the Edmonds. Since they are not owner-occupants, Mr. Riley said that he could only communicate with them if they saw each other in person. Mr. Truby thanked Mr. Riley and Mr. Russell for their comments and invited Ms. Edmonds Green and Mr. Edmonds back to the dais for rebuttal.

Mr. Edmonds said that he thought what most of Mr. Riley said was true but that he currently lives in Greensboro, works for Guilford County, and had given Mr. Edmonds his contact information. He said that he wished Mr. Riley had left him a note at the 218 Mistletoe Drive house so that they could have communicated sooner. They received the letter from Planning staff in regards to the variance first, and if they had more information from Mr. Riley sooner, maybe their stance would have been different, but in the absence of that, they did not know the exact location or how tall it would be. All they knew about was the variance for the setback. Ms. Edmonds said that she and her siblings had cared for her mother for the past 7 years while she was sick, and when her mother passed away, they inherited the house. Mr. Waddell asked if driveways for 220 and 218 Mistletoe converged together and Ms. Edmonds Green answered that was correct. Mr. Waddell reviewed the situation of the proposed garage and the Edmonds' kitchen window again, and Ms. Edmonds Green said that the minimized setback would negatively impact

the view from and light into the kitchen. Mr. Waddell asked if their driveway was one car wide. Mr. Edmonds noted that the approximate setback from their house to Mr. Riley's property line was about 10 feet. Mr. Truby asked if there were any other questions. Hearing none, he thanked the speakers and closed the public hearing. He opened the floor for Board discussion.

Mr. Oliver said that there were 8 letters of support for the proposal and one not in support. The people not in support of the proposal did live right next door but on the other hand, the Edmonds could sell the property in the next few months and it may not be their problem anymore. It was for these reasons Mr. Oliver said he was inclined to grant the variance. Ms. Necas remembered Mr. Randolph asking about precedent and she noted a past case where the Board told the opposition that the applicant could have built a separate carport even closer to the neighbor's property line and take-up more space. In terms of the current proposal, she said that her line of thinking was the same. Mr. Truby agreed and he noted his earlier comment about detached verses attached garage to Ms. Thiel. If detached, the applicant could put the garage 2 feet closer than what was being proposed in the request. Mr. Randolph said that the question for him was in regard to the opportunity for the applicant and the folks who are objecting to find a resolution, and it seemed like the parties involved may not have had a chance to find a resolution. If there was an opportunity for this, he wanted to ask the Board for their consideration. Mr. Ramsey asked staff if the applicant could ask for a continuance. Mr. Andrews reviewed the Rules of Interpretation and stated that it was the Board's policy, when less than 7 Board members were present, an applicant had the option to request a continuance, prior to the hearing of the matter. If the applicant exercised the option, the request would be placed on the agenda for the next regularly scheduled Board meeting. Mr. Kirkman added that there was a vacant position on the Board right now, so there were only 6 Board members, and the idea was that if an applicant have a unanimous vote for a variance, the applicant had the opportunity to return to the Board. This was not supposed to be applied to a case where there was concern that there would be one negative vote. However, Mr. Kirkman said that the Board could re-open the public hearing to further discuss the matter if they wish to. He confirmed this with Mr. Andrews, and Mr. Andrews said that they would have to show good cause. Mr. Kirkman said that if the Board grants the variance, the applicant would not have to build up to the requested setback if they had other negotiations. The variance would just allow them to build up to that point but did not require them to build to that point. Mr. Ramsey said that it appeared that the proposed garage had already been designed. Mr. Randolph said that there was some speculation about the shadow line and what those impacts would be, and there may be further information relevant to the Board's decision that was not yet studied. Mr. Waddell said that he was inclined to support the request, his reasoning being that the space between the proposed build and the additional driveway, in comparison with the small trees on-site and the slope in the land and the proposed height, he thought that the window would not be as impacted due to the distance of the driveway location. Mr. Truby asked if there were any other questions or comments. He asked Mr. Andrews if in order for there to be a continuance, it would have to be requested before the meeting. Mr. Andrews said that there are two ways: (1) the Board could continue the public hearing or delay voting with a showing of good cause that goes on the record; or (2) the Board could delay voting and push to a second meeting if the applicant requested the delay or continuance prior to the meeting. Mr. Truby asked if they could ask the applicant if they wanted to continue the case, and other Board members chimed-in in agreement. Mr. Truby called the applicant back to the dais and asked if he would be willing to work with the neighbors and bring the matter back to the next meeting or if he wanted the Board to continue with the vote at this meeting. Mr. Riley said that he was not in favor of the continuance because there was a finite area where he could locate the attached garage and in consideration of financial feasibility with the excavation work of locating the garage in the back of the property, he said he would decline the continuance. Mr. Truby asked for a motion to re-open the public hearing. Mr. Ramsey made the motion and Mr. Randolph seconded the motion, and Mr. Truby called for the vote. The Board voted 6-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Randolph. Nays: 0). Mr. Waddell asked 218 Mistletoe Drive was currently occupied by a renter or if someone was staying in the house. Mr. Riley said that the 218 Mistletoe residence was vacant. Mr. Truby closed the public hearing.

MOTION

Mr. Oliver moved that in BOA 22-26, 220 Mistletoe 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 for a home of this size a two-car garage is a reasonable request. It will align with the existing 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 when the home was built in 1959, the setback lines did not exist. The current owner bought the home in 2021; (3) The hardship is not the result of the applicant's own actions because the structure will still be 5 feet from the property line. The lines were put in place after the home was built; (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 no harm or reduction in public safety will result from this action. Second by Mr. Waddell. The Board voted with a show of hands with a 5-1 vote in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas. Nays: Randolph) Chair Truby stated the variance request passed.

h. BOA-22-27: 811 Jefferson Road (APPROVED)

Mr. Ramsey noted that he had a conflict of interest with this case. Mr. Lineberry from Mr. Ramsey's law firm was representing the applicant. Mr. Kirkman asked if the Board wanted to take a break in light of the two-hour time mark, but Mr. Truby said that they preferred to finish the last item. Mr. Truby asked if the Board had to vote to approve Mr. Ramsey's recusal. Mr. Andrews said that as long as Mr. Ramsey put it on the record, there was no need for a vote and Mr. Truby thanked Mr. Andrews.

Ms. Thiel stated in BOA-22-27, Christ Covenant Church ARP, Inc. f/k/a Christ Community Church ARP, Inc. requests a variance to allow a proposed addition to encroach 7.5 feet into a required 30 foot front setback. The addition will be 22.5 feet from the front 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 30-7-3.5 – Table 7-12: In the R-3 District, the minimum front setback for nonresidential development is 30 feet.

Background and Site Information: The subject lot is located on the west side of Jefferson Road, north of West Friendly Avenue, and is zoned R-3 (Residential Single-Family). Tax records indicate the subject lot contains approximately 6.01 acres and the church building was constructed in 1975. The applicant proposes to expand the footprint of its existing main church facility east towards Jefferson Road to meet the growing needs of its congregation. The proposed addition will encroach 7.5 feet into a required 30 foot front setback and be 22.5 feet from the front property line. Per the submitted application, the proposed addition will include a 115 foot tall steeple, which is exempt from building height requirements, as outlined in Section 30-7-1.7(A)(2) of the Land Development Ordinance. The applicant indicates that the existing ingress/egress to the property and the desire to construct a steeple dictate the most suitable location for the proposed addition. If the variance is granted, the applicant will proceed with the City 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 and or plans.

Chair Truby asked applicants to state their name/address for the record and swore in **Patrick Lineberry**, 400 Bellemeade Street, Suite 800, and **Paul Holst**, 5411 Tory Hill Dr, for their testimony.

Patrick Lineberry, 400 Bellemeade Street, Suite 800, explained that he was representing the applicant, Christ Community Church, and was joined by Paul Holst, a deacon of Christ Community Church, along the President of Christ Community Church, and the architect working on this project. Mr. Lineberry said that Christ Community Church was a growing congregation and had owned the property since 2011. He said that the church had already completed Phase 1 of a 2-phase of the project to meet the needs of their expanded congregation. Phase 1 was an expansion of the fellowship hall in the rear of the building and

Phase 2 would be an expansion of their sanctuary so that they can accommodate up to 600 worshippers in a given sitting; they now can accommodate 300 worshippers. Mr. Lineberry said that this was evidence of the Church expanding and working successfully at what they are doing, including working in their community. Mr. Lineberry said that Exhibit A noted the request for about 7.5 feet of encroachment into the 30 foot setback area. He pointed to the Phase 2 footprint showing where the applicant intends to build. He said that the applicant reached out to neighbors and they have not received responses back. There was a neighbor who reached out about the request to Planning staff regarding a taking of her property, but the concern was cleared-up with the clarification that the request was proposing no such thing. Mr. Truby asked if there were any questions. Mr. Oliver asked if the request would expand the sanctuary and Mr. Lineberry confirmed this. Mr. Truby asked if there were any other speakers in favor of the request or in opposition, and hearing none, he closed the public hearing and transitioned into Board discussion. Mr. Truby said that he did not see any issues with the request and made a motion.

MOTION

Mr. Truby moved that in BOA 22-27, 811 Jefferson 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 addition would not be able to be built in addition to the steeple; (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 R-3 zoning requires a greater setback than other adjacent zoning districts; (3) The hardship is not the result of the applicant's own actions because the existing building is located close to Jefferson Road and the only feasible place for the expansion is towards Jefferson Road; (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 applicant will not interfere with the means of ingress and egress to and from Jefferson Road and it will allow a growing congregation to meet together. Second by Mr. Randolph. The Board voted 5-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Oliver, Necas and Randolph. Nays: 0. Abstain: Ramsey) Chair Truby stated the variance request passed unanimously. Mr. Truby thanked the applicant.

OTHER BUSINESS

There were no absences. Mr. Ramsey let the Board know that he would not be present for the May Board of Adjustment meeting and Mr. Kirkman thanked Mr. Ramsey for letting staff know and he thanked the Board for working with Staff on the first in-person meeting back in Chambers. Mr. Truby adjourned the meeting and wished everyone a good night.

ADJOURNMENT

The meeting was adjourned at 7:36pm.

Respectfully submitted,

Chuck Truby, Chair
Greensboro Board of Adjustment
CT/ram

**MEETING MINUTES
GREENSBORO BOARD OF ADJUSTMENT
May 23, 2022**

The meeting of the Greensboro Board of Adjustment was held on Monday, May 23, 2022, at 5:30 p.m. in-person in City Council Chambers. Board members present were: Chairman Truby, James Waddell, Vaughn Ramsey, Ted Oliver, Leah Necas, Cory Randolph and Stephen Barkdull. City staff present were Shayna Thiel, Steve Galanti and Rachel McCook of the Planning Department, and Al Andrews (Chief Deputy City Attorney).

Chairman Truby welcomed everyone to the 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. Mr. Truby went on to explain how the Board would make its decision and votes, based on findings of fact and other factors, and he explained how to appeal decisions.

APPROVAL OF THE MINUTES (April 25, 2022 Meeting)

Mr. Ramsey made a motion to approve the April 25, 2022, minutes; Second by Mr. Waddell. The Board voted 6-0-1 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas and Randolph. Nays: 0. Abstain: Barkdull). Chair Truby advised the minutes were approved.

SWEARING IN OF STAFF

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

CONTINUANCES / WITHDRAWALS

Staff advised there were no continuances or withdrawals.

NEW BUSINESS

1. VARIANCE

a. BOA-22-28: 801 Milton Street (APPROVED)

Ms. McCook stated in BOA-22-28, Su Chu Cheng requests a variance to re-establish an existing multifamily triplex dwelling use within a structure that had damage exceeding 50% of its pre-damage tax value. Evidence provided by the applicant included Exhibits A-E. Supporting documentation from staff included Exhibits 1 through 9. The Land Development Ordinance reference was Section 30-2-3.6(B): A nonconforming use located within a structure that has been damaged by accidental causes beyond the control of the owner may not be replaced if the damage to the structure exceeds 50% of its pre-damage tax value.

Background and Site Information: The subject lot is located on the east side of Milton Street at the intersection of Pomroy Street, and is zoned RM-18 (Residential Multifamily). Tax records indicate the corner lot contains approximately 6,534 square feet and the structure was constructed in 1928. While the RM-18 district allows multifamily dwellings, the existing triplex is considered a nonconforming use because the subject property does not contain enough lot area to accommodate three dwelling units, per LDO Section 30-7-3.2 – Table 7-7. The LDO states that nonconforming use status will be lost if damage to the structure containing the nonconforming use exceeds 50% of the pre-damage tax value. The fire incident report indicated that a fire occurred on the subject property on February 14, 2022 causing an

estimated property loss of \$70,000. Based on the Guilford County property records, showing a total building value of \$119,600, the fire caused damage of approximately 59% of the structure's pre-damage tax value. Staff review of the Polk City Directories for Greensboro indicates that the triplex use was established approximately between 1980 and 1982. A Notice of Violation was issued on February 23, 2022 advising the applicant that the nonconforming multifamily triplex use could not be re-established due to the amount of damage to the associated structure. The applicant seeks a variance to rebuild the existing structure to allow the nonconforming multifamily triplex dwelling use to continue. The applicant indicates that the footprint of the structure will remain the same and that no enlargement of the triplex use is planned. 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 overlays and or plans.

Chair Truby asked applicant to state their name/address for the record and swore in Nick Blackwood for his testimony.

Nick Blackwood, 804 Green Valley Road, Suite 200, said that he was joined by Ms. Su Chu Cheng, the applicant, and one of her tenants, in case the Board had any questions for them. Mr. Blackwood distributed packets of documents to the Board that included maps, a notification letter, and letters of support for the variance request. Mr. Blackwood said that he was representing Su Chu Cheng, the applicant, who had owned and resided at 801 Milton Street, a 3-unit residential dwelling, since 2008. Mr. Blackwood explained that Ms. Cheng had rented out the other 2 units. In February 2022, a fire destroyed most of the building; specifically, the fire destroyed over 50% of its pre-damage tax value. Mr. Blackwood explained that Ms. Cheng had been working with the City to determine the best path forward for repairs. When Ms. Cheng first acquired the Property, each of the 3 units had its own kitchen and bathroom, and at the time, the City's Land Ordinance allowed there to be 3 separate dwelling units on the Property. However, since the City's current Land Development Ordinance now requires 8,500 square feet in order to house 3 separate dwelling units in the RM-18 zoning district, Ms. Cheng's property does not meet that requirement, her property being only about 6,500 square feet in land area with in the RM-18 zoning district. Mr. Blackwood went on to state that since Ms. Cheng used her property in the same way continuously throughout the time she has owned and lived in it, her use was grandfathered under the prior Ordinance. Mr. Blackwood went on to explain that due to the extent of the repairs needed, the current Ordinance prevented Ms. Cheng from renting the other 2 units once repairs had been completed, due to the square-foot deficiency. He said that Ms. Cheng's situation adequately satisfied factors necessarily for variance approval, in that an undue hardship would be the result from the strict application of the Ordinance and that Ms. Cheng would be prevented from using her property in the manner in which she always had lived, following completion of repairs. Mr. Blackwood noted that the zoning district of RM-18 was similar to the surrounding properties and character of the surrounding uses. The zoning designation of RM-18 for the Property indicated that the use had been contemplated and expected for this area. He said that the lot size deficiency was approximately four-tenths of an acre, a minimal request. He also noted that Ms. Cheng had invested in the Property in the late 2000s and had made financial decisions based on the understanding that she would rent the 2 units; and the building had already been separated into 3 units when she acquired it. The inability to rent the other units, especially after completing necessary repairs, would pose a significant hardship for Ms. Cheng, said Mr. Blackwood. The financial hardship of repairing the house would be exacerbated should she not be able to continue to rent 2 additional units, once repairs had been made. Mr. Blackwood said that the hardship was not of Ms. Cheng's making and that the fire had been caused by factors outside of her control. Mr. Blackwood reiterated that Ms. Cheng had continuously used her home in alignment of its existing design when she purchase the home with 3 dwelling units. Ms. Cheng wished to repair the home to its pre-fire condition without expanding her previously permitted use. Mr. Blackwood said that the variance was in harmony with the general intent and purpose of the Ordinance with the multifamily zoning in-line with surrounding

properties and permitted continuation of 3 separate dwelling units was consistent with surrounding properties as well. Ms. Cheng has been a member of the Milton Street community for over a decade and had operated her property without any issues from neighboring property owners. Mr. Blackwood drew the Board's attention to 3 letters of support from nearby tenants and one property owner. He noted that after sending around the notification letter regarding this request, they received no comments of concerns, only positive comments. The granting of this variance would allow Ms. Cheng to rebuild her property and continue using it as she had before. Mr. Blackwood said that a denial of the variance would result in an extreme hardship for Ms. Cheng and would jeopardize her ability to remain a valued member of the Milton Street community. The variance would have no impact on surrounding property owners, as indicated in the letters of support. Mr. Blackwood concluded his remarks. Mr. Truby asked if the Board had any questions for the applicant. Mr. Oliver asked about the value discrepancies of the property on Zillow noting \$276,500 versus the estimates from the applicant at \$119,600. He asked what the insurance paid for compensation. Mr. Truby spoke to Ms. Cheng and she responded to Mr. Oliver's question.

Su Chu Cheng, 801 Milton Street, said the insurance company had sent her information by email and had already paid her \$19,000 as a down payment. The balance was \$114,000, she said. The insurance company will pay her more than \$200,000 to repair the house, an amount more than the City of Greensboro's estimate.

Mr. Truby asked if there was anyone else to speak in favor of the case. Seeing none, he asked if there was anyone to speak in opposition to the case. Seeing no additional speakers, he closed the public hearing. Mr. Truby asked if the Board had any discussion and/or a motion.

MOTION

Mr. Waddell moved that in BOA 22-28, 801 Milton 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 applicant would be prevented from continuing the once permitted nonconforming use after reconstruction; Property was in use until February of 2022; (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 principal structure was originally constructed to align with the applicant's intended use; (3) The hardship is not the result of the applicant's own actions because the damage to the Property was caused by and being restored to its pre-fire condition; (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 construction to repair the damage is a significant improvement and coexists in harmony with neighboring properties. Owners of neighboring properties documented their support of Ms. Cheng moving forward with the project. Second by Necas. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Randolph, Barkdull. Nays: 0.) Chair Truby stated the variance request passed unanimously and was granted.

b. BOA-22-29: 2201 West Cornwallis Drive (APPROVED)

Ms. McCook stated in BOA-22-29, 2201 West Cornwallis Drive, Greensboro Elks Lodge 602 requests a variance to allow 100% of a proposed 26 square foot sign face to be an electronic message board when no more than 50% is allowed. Evidence provided by the applicant was Exhibit A through E. Supporting documentation from staff included Exhibits 1 through 6. The Land Development Ordinance reference was Section 30-14-8 – Table 14-4: In the O District, the maximum percentage of sign face that can be an electronic message board is 50%.

Background and Site Information: The subject lot is located on the south side of West Cornwallis Drive at the intersection of Lendew Street, and is zoned O (Office). Tax records indicate the corner lot contains

approximately 4.39 acres and the building was constructed in 1966. The applicant proposes to install a 26 square foot electronic message board on an existing brick structure as a replacement for a 53 square foot freestanding sign. The applicant indicates on submitted Exhibit C that the proposed electronic message board will be smaller than the current freestanding sign and that the existing brick structure will remain in its current location and will not be enlarged. Even though smaller than the current sign, the proposed electronic message board will comprise 100% of the sign face because the brick structure will not contain any other sign components. Because the proposed electronic message board exceeds 50% of the sign face, the applicant must seek a variance. If the variance is granted, the applicant will proceed with the zoning sign review and commercial building permit processes. Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays and or plans.

Chair Truby asked the applicant to provide their name/address for the record and swore in Nick Blackwood for his testimony.

Nick Blackwood, 804 Green Valley Road, Suite 200, said that he was present with Bill Cassell, a representative from Elks Lodge 602, the applicant. He said that the Elks Lodge's mission was to promote and practice charity, justice, brotherly love and fidelity. He explained that Mr. Cassell's Elks chapter was proposing to install an enhanced digital sign along the property's street frontage to be used in advertising community events, membership, and other things. Mr. Blackwood conveyed that the reason for the variance request was because the proposed sign's digital component would exceed the allowable sign face area percentage under the Land Development Ordinance. Mr. Blackwood turned over further remarks to Mr. Cassell.

Chair Truby asked the applicant to provide their name/address for the record and swore in Bill Cassell for his testimony.

William Cassell, 3010 Redford Drive, addressed the Board and reiterated the Land Development Ordinance size maximum for digital signs within the Office zoning district. He thanked Planning staff, Shayna Thiel, Ingrid Gottlieb, and Mike Kirkman, for their time, support, and professionalism. Mr. Cassell said that he was an officer of the Elks Board and the land owner of the adjacent properties, 1949 and 1951 Battleground Avenue and 2105 West Cornwallis Drive, that would be most impacted by the proposed sign. Specifically, the request was to replace the existing sign and refurbish it with a digital sign that encompasses 100 percent of the new sign. He explained that this was an adaptive reuse of the existing sign and that the property was allowed a maximum 200 square feet of signage, based on the Land Development Ordinance but the existing brick sign would only support a sign of 26 square feet, 13-percent of what is permissible. Mr. Cassell said that the Elks wished to maintain the existing brick sign which had been on the property for 20-30 years its character and character of the neighborhood, and to enjoy the sign's digital component while also having minimal disruption in this section of Cornwallis to mitigate impact on neighborhood as so far as possible. He explained that the Elks were a fraternal order, a non-taxable nonprofit and described their mission, emphasizing the goal of enriching healthy social connections, engaging in enrichment and charitable acts within Greensboro, and practicing of equity, diversity and inclusion. He noted that digital signs were proliferating across town but like churches and other nonprofits, the Elks' sign would be a service to their organization and would serve the community by informing the community of activities, illustrating charitable works like their summer camp, Camp Carefree, attracting new members. He went on to say that the sign content would be non-commercial and would promote the goals of the organization. He said that since the Sign Ordinance was adopted about 12 years ago, technology had advanced, and that in their case, an adaptive reuse of the existing sign could occur now thanks to the updates in digital signage structure. The proposed sign would be easy to affix to the existing brick sign that was in front of the Elks Lodge today. Mr. Cassell said that the Ordinance, if written today, could have viewed an adaptive reuse of the existing sign and in this case, only using 13 percent of what would be allowed by the size area. He emphasized a minimal impact on

neighbors and the community versus what was allowed and could be an enormous and out of character sign, relative to the street and character of the building. He explained that the Elks were committed to adhering to the sign standards for digital signs regarding brightness, time an image could be shown, and hours of operation. He thanked the Board and offered to answer any questions. Ms. Necas asked about the sign face size and how the existing brick structure could be separate that; the calculation appeared to be different from the base of the sign and the sign face. Al Andrews asked Ms. Necas to further clarify her question. Ms. Necas asked why the proposal for the sign was a problem to begin with if the sign was being reduced from what was allowed in size and how the 50 percent sign face maximum was factoring into the Board's decision. Mr. Andrews said that the purpose was not to disturb the character of a neighborhood by putting what used to be red LED letters emitting bright light into an area that did not have that before, or add moving letter that would draw the attention of drivers causing them to be distracted in areas where kids may be playing, for example. The goal, he continued, of the sign regulation was to prevent a visual distraction. The calculation was meant to create a neutral way of obtaining that; the purpose of the provision was focused on the activity. In this case, in regard to the measurement, the Board could consider if the creation of static lettering that was lit OK and the area of the sign. If the Sign Ordinance were to be rewritten, perhaps this area would be massaged to get away from the strict sign requirement because there did not appear to be anything so significant regulatory-wise about size area and measurement stipulations. In this case, the sign was not increasing but reducing. The Board could consider if the sign would be a distraction, visual disturbance in the area. Mr. Truby said that he thought the applicant could have gotten around the provision by putting a whole other sign below the main digital sign with anything on there, but that the applicant did not seem to want to do that. Mr. Barkdull said that he drove by the subject property often and that the sign was low to the ground, back from the street, and would not be a billboard, and was not located near any residential neighbors. Mr. Randolph noted that the sign would not be located at a curb but rather down a hill. Mr. Cassell pointed to a visual he had brought to the Board and said that the request for a variance was the difference between a maximum allowable sign versus the size of the sign as seen from the road, and how the sign would be seen slightly above grade east to west and slightly below grade west to east. Mr. Andrews asked if Mr. Cassell could describe the message on the sign he was showing in his visual so that the Board could understand. Mr. Cassell distributed copies of the visual to the Board. Mr. Truby asked if anyone had any questions.

Chair Truby asked if there was anyone else to speak in favor of the request. Seeing no other speakers in favor, he asked if there was anyone to speak in opposition to the case. Seeing none, he closed the public hearing and opened time for Board discussion and/or a motion.

MOTION

Ms. Necas moved that in BOA 22-29, 2201 West Cornwallis Drive, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and variances 1 and 2 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 brick structure would have to be destroyed and replaced by a new metal sign to encase the digital sign and would be the size of the of the original 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 replacing the current brick structure with a new metal sign would not be an aesthetic improvement; (3) The hardship is not the result of the applicant's own actions because the LDO regulations did not consider the current technology available to sign production; (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 preserving the current brick structure and adding a digital sign would allow for timely messaging while preserving the character and harmony of the property. Second by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Randolph, Barkdull. Nays: 0.) Chair Truby stated the variance request passed unanimously. Mr. Truby thanked the applicant.

c. BOA-22-30: 3220 East Gate City Boulevard (APPROVED)

Ms. McCook stated in BOA-22-30, 3220 East Gate City Boulevard, M M Fowler Inc. requests a variance to allow a proposed building to encroach 15 feet into a required 15 foot street setback. The building will be 0 feet from the right-of-way adjacent to Interstate 40.

Evidence provided by the applicants included Exhibit A and B. Supporting documentation from staff include Exhibit 1 through 7. The Land Development Ordinance reference was Section 30-7-5.1 – Table 17-14: In the C-M District, the minimum street setback is 15 feet.

Background and Site Information: The subject lot is located on the south side of East Gate City Boulevard at the intersection of the onramp to Interstate 40 West, and is zoned C-M (Commercial-Medium). Tax records indicate the subject lot contains approximately 30,056 square feet and the existing building was constructed in 1997. The applicant proposes to demolish the existing convenience store and rebuild a new one in its place, leaving the existing fuel pumps and canopy intact. The applicant indicates that the unique property line along the Interstate 40 onramp and the desire to maintain the existing canopy and assure public safety create hardships. The proposed convenience store will encroach entirely into the 15 foot street setback measured from the adjacent right-of-way along Interstate 40. If the variance is granted, the applicant will proceed with the site plan and commercial building permit processes. Ms. McCook provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays and or plans.

Chair Truby asked the applicants to provide their name/address for the record and swore in Patrick Byker for his testimony.

Patrick Byker, 700 West Main Street, Durham, Morningstar Law Group, addressed the Board and said he was representing M M Fowler, Incorporated. He handed-out his resume and the resume of the contractor for the proposed project, Bob Brantley, along with a letter to the adjacent convenience store for the record to all Board members. Mr. Byker thanked the Board and explained that M M Fowler Incorporated operated over 103 convenience stores ranging from Wytheville, Virginia to Wilmington, North Carolina. He provided a slide presentation and show a visual of the subject property, a size of 0.9 acres, and as Staff indicated, it was located at the intersection of Gate City Boulevard and I-40. He stressed that the existing convenience store was approximately 25 years-old. He said that his client wanted to replace the older convenience store with a new one. He showed a recent store MM Fowler just had rebuilt in Fayetteville, NC, under Mr. Brantley's supervision. Mr. Byker explained that the new Family Fare stores provided much better amenities and products for the traveling public and residents of Greensboro who live on this side of town. In terms of finding number one, Mr. Byker explained that the applicant wanted to build a new convenience store without the 15-foot required setback. He showed the jagged property line existing on-site, something he had not encountered during this time practicing as an attorney, and showed the property line in relation to the highway on-ramp. He said that the unnecessary hardship arose from conditions of the property line jogging-in 26.5-feet. If the property line were straight, he would not have come to the Board with the variance request. He recounted that his paralegal and he had combed City property records for background on the property line and thought that it may have been a consent judgement in the 1960s or 1970s that never got recorded. Mr. Oliver asked for the distance between from the interstate highway to the building. Mr. Byker thought it was a distance of at least 75 feet and was all woods. Meeting the required setback would make it so the canopy and fueling station would have to be removed, though they had only been recently installed by M M Fowler around 2018, resulting in an unnecessary hardship from a strict application of the Ordinance. Doing so would require M M Fowler to slide the building a significant distance and would require demolition of the existing canopy and fuel pumps, which still have much life in them. In contrast, the existing store was 25 years-old and

obsolete. It was not built by M M Fowler but rather by BP in 1997, and in April 2002, M M Fowler acquired the site.

Mr. Truby swore-in Bob Brantley to give testimony on the case.

Bob Brantley, 389 Instrument Drive, Rocky Mount, introduced himself to the Board as the general contractor. He referred to his resume said that he had come to the building profession by way of Wake Forest, and had been a builder since 1974. He noted that the primary focus of his company has been the planning and construction of convenience stores. He said that they do most of the planning internally and have clients in Virginia and North Carolina to build and design to them. He said he had built 2 stores for M M Fowler over the past two years and that M M Fowler had liked Mr. Brantley's company's work so much, they hired him to do all of their stores. Mr. Brantley said that M M Fowler had given his company 3 jobs to do in Greensboro, one being this store. The jobs are to tear-down existing stores like this one that have become functionally obsolete and were prefabricated buildings with 15-20 year lifespans that are not meant to last 50 years. If the variance is granted, this store would be the second of the 3 stores built in Greensboro. He noted that the other stores would be on Randleman Road and West Gate City Boulevard. Mr. Brantley said he had been challenged with how to make the design work on the subject lot, which was a small lot with one entrance/exit. He said that M M Fowler's prototype store will not fit on the lot with the way the lot was deeded. If the sliver off I-40 was not there, the store would fit; the lot was not designed to accommodate a modern retail facility. Mr. Brantley said the new store would be built out of steel bar joists, brick, and the proposal would clean-up the lot by adding light to the dark site. He said that they did not want to tear down all existing elements like the canopy and fueling had a value of about \$200,000 to tear down the canopy, move the gas pumps, which would be a tremendous waste of resources for something only 3 years old or so. Mr. Brantley showed the canopy area on the slide and where the store would need to be moved to the zero lot line mark. He said that CAD work had shown 46 feet from edge of sidewalk to edge of canopy which would not work for the prototype building. Mr. Oliver asked if the existing building went to the lot line and Mr. Brantley replied that yes, it does. Mr. Brantley said that it was his understanding that when the building was built, there was a zero lot line because the building is right-up against the intersection. If there was a neighbor, perhaps the setback would make more sense. He recalled a 15-foot street yard setback for some other BP stores. The zoning restriction of 15 feet was put-on after he bought the property and built the store. He thought the new LDO was not established until after 1998.

Mr. Byker resumed the presentation and said that the subject area was not a result from actions taken by the property owner. M M Fowler had acquired the subject property in 2002 and the existing store had been built in 1997. No title search showed any evidence that M M Fowler took any action that resulted in the need for this variance. Mr. Byker said that in regard to the fourth finding of factor, the variance would be in the spirit of the goal that owners invest and improve their property, citing also section 30-1-3.6. He said that the existing convenience store was at the end of its useful life and it was time to move forward with a new store to provide first-class amenities and a safe environment for travelers and Greensboro residents. He offered to answer any questions. Mr. Randolph asked for more information on the benefit of expanding the size of the building on the property and what would be gained. Mr. Byker answered that there would be much better restrooms, better ADA, changing tables, better products and a state-of-the-art convenience store all-around. Mr. Randolph asked how the foot traffic might be affected. Mr. Byker answered that he did not think it would change, but a safer, cleaner, better environment would serve existing residents in the neighborhood. He shared his good experience with the Family Fare in his neighborhood which he said he frequented once or twice a week and didn't have to go all the way to Food Lion or Harris Teeter. Mr. Truby asked if there were any questions for the applicant. Hearing none, he asked if there was anyone else to speak in favor of the request and hearing no one else come forward, he asked if there was any opposition to the case. Mr. Byker said that if the Board was inclined to approve the variance, they respectfully requested 24 months to build the store instead of the required 12 month

timeframe that the LDO stipulated. Mr. Truby consulted Mr. Andrews for advice on the request. Mr. Andrews said that the timeframe could be a part of the motion offered by the Board. Mr. Truby said that they would waive the 12-month period and give the applicant 24 months to begin the project. Mr. Byker said that timeframe would mirror what he had seen in other jurisdictions. Mr. Truby closed the public hearing. He said that he drove by the gas station often and saw how it needed to be improved and he appreciated the applicant coming before the Board. Mr. Waddell said that the site was one of the only places to get gas in the area and that he thought everyone who lived in the East Greensboro area would be a regular at the site and that it was an awesome project.

MOTION

Mr. Oliver moved that in BOA 22-30, 3220 East Gate City Boulevard, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and variances 1 and 2 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 new canopy would need to be replaced to make room for a complying building; (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 land lot line is angled making it hard to replace the building. The road would still a good distance away; (3) The hardship is not the result of the applicant's own actions because the existing building was on the lot when the current owner purchased it; (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 they are replacing an existing building and staying in the same zero (0) setback lot line. Public safety would not be harmed. Also the Board will waive the 12-month timeframe and allow 24-months for construction to begin. Second by Ms. Necas. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas, Randolph, and Barkdull. Nays: 0.) Chair Truby stated the variance request passed unanimously and wished the applicants good luck with their project.

d. BOA-22-31: 2519 Randleman Road (APPROVED)

Ms. McCook stated in BOA-22-31, 2519 Randleman Road, Schmidt Holdings NC LLC requests a variance to not require a Type C buffer planting yard to screen a drive-through facility stacking lane from a roadway.

Evidence provided by the applicant included Exhibits A, B, and C. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance references were Section 30-8-10.4(l)(3)(c): If the service areas and stacking lanes are within 50 feet of and visible from the roadway, they must be set back at least 20 feet from the right-of-way and landscaped in accordance with the "C" buffer planting yard standards of 30-10-2.3; and Section 30-10-2.3: Buffer planting yard requirements.

Background and Site Information: The subject lot is located on the east side of Randleman Road at the intersection of Creek Ridge Road, and is zoned C-M (Commercial-Medium). Tax records indicate the corner lot contains approximately 23,522 square feet and the existing building was constructed in 1975. The applicant proposes to demolish the existing fast food restaurant with drive-through facility and replace it with a new one that has a smaller building footprint. The Land Development Ordinance requires that service areas and stacking lanes within 50 feet of and visible from the roadway must be set back at least 20 feet from the right-of-way and landscaped with a Type C buffer planting yard. A buffer planting yard is not installed on the subject property, as it is presently configured. The extent of the proposed work on the subject property requires development to comply with current Land Development Ordinance requirements. The applicant indicates that safe vehicle circulation and required parking on the narrow, corner lot limit the ability to provide a buffer planting yard and seeks a variance from that ordinance provision. If the variance is granted, the applicant will proceed with the site plan and commercial building

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

Chair Truby asked applicants to state their name/address for the record and swore in Kathleen Treadwell for her testimony.

Kathleen Treadwell, 1694 Westbrook Avenue, Burlington (PO Box 2290, Burlington, NC), said that she was with the Pittman and Steele Law Firm. Mr. Andrews confirmed her status as an NC attorney. Ms. Treadwell said that she was joined by Matt Knupp, the Wendy's construction advisor, and Justin Schmidt, the owner of Schmidt Holdings, LLC. She explained that Schmidt Holdings, LLC, purchased the subject property and the business on the property on March 24, 2021, just over a year ago. To the best of their knowledge, Ms. Treadwell noted that the building on-site was built in 1975, which made the Wendy's at that location one of the oldest operating restaurants currently in NC. She said that Schmidt Holdings, LLC, also owned 25 other Wendy's locations in North Carolina all within a 1-hour radius of the subject property, and said that they were involved in the community and surrounding local communities. When Schmidt Holding took control of the store, they noticed that the pick-up business comprised a significant portion of their business about, about 80 percent, which led itself to a different design. They also noted that the building needed significant renovations and repairs, or complete demolition. Schmidt Holdings decided that they wanted to demolish the building and build a new structure in its place. The one-million dollar investment into a new environmentally-friendly building would take-up less energy than the existing building and would be second design of its type in the United States. She said that Greensboro would be getting something in the area that no one else had. Ms. Treadwell referred to a packet she had distributed to Board members saying that the proposed building footprint would be smaller than what was currently on-site. The existing location had site constraints as a narrow corner lot, she said, and that Wendy's worked with design professionals and Staff to meet community needs and improve upon existing conditions but also comply with current LDO regulations. In consideration of ADA connectivity and parking, and pedestrian and vehicular traffic to traverse the site, the required landscape buffer, shown in the packet, would take-up all parking spaces to south side of the property off Creek Ridge Road. As proposed they would keep the angled parking as existed to allow for safe traffic; however, the existing parking along the north would be replaced with parallel parking primarily used for employees to allow for safe vehicular movement. Ms. Treadwell explained that the applicant had added landscaping to the design but they were not able to accommodate all of the requirements of the Type C Landscape Buffer. She drew the Board's attention to the site plan and noted that if the applicant was made to install the landscape buffer along the bottom corner, they would lose all the parking, ADA parking spaces, along Creek Ridge Road. Additionally, there would only be room for the drive-thru circulation, and adding the landscape buffer would not allow for the drive-thru traffic to safely traverse the site and meet the parking requirements. Ms. Treadwell stated that while they wanted to build a new building, the new building would be smaller than the existing building on the site. She explained that there was no landscape buffer currently on-site and the existing conditions do not allow for a landscape buffer. She said that as a condition of the permit allowing the business to operate, they entered into a consent agreement to tear down the building and build a new building in its place, finding that the land was too narrow to allow for the required landscape buffer and operate the site safely. Ms. Treadwell said that they were asking the Board to grant a variance to waive the Type C landscape buffer. She said that the variance was in harmony with the general intent of the Ordinance and preserved its spirit. It would maintain the existing appearance of the site and maintain the existing parking. The parking in the buffer yard would be updated to 45-degree angles which has been shown to allow safer circulation, versus the 60-degrees currently. Additional landscaping and greenspace would be added to the site, beyond existing conditions, it was just not in the buffer yard. Ms. Treadwell passed out an exhibit to the Board members and Staff showing existing conditions compared to the proposed site to show the existing green space versus the proposal that would provide green space while allowing for safety on-site and safe access to the site for pedestrian

use based on the inclusion of an accessible sidewalk path to accommodate the ample foot traffic. She continued with Findings of Fact and said that the design allowed for necessary parking which they would not have if the variance was not granted. She said that the new building would be an aesthetic improvement to the existing site and Randleman Road, energy-effective, environ friendly building materials and fully ADA compliant. Ms. Treadwell offered to bring-up the rest of her team should the Board have any questions. Chair Truby asked if the Board had any questions. Mr. Randolph asked for more information on the existing parking. Ms. Treadwell said that the existing parking would be a little bit different than as proposed, mostly due to the angles. The north parking area would be changed to parallel spaces and referred to Exhibit B for the best visual representation. She also referenced Exhibit 2 as the existing parking layout. Mr. Oliver said that on the colorful landscaping being proposed was fun. Mr. Truby asked if there were other speakers in favor of the request. He then asked if there was any opposition to the request. Seeing none, Mr. Truby closed the public hearing. Mr. Truby said that he was an engineer and that it would be physically impossible to configure the drive-through with the parking needed to meet the 20-foot requirement. He thought that Randleman Road could be improved with a building like this, noting that the applicant was adding a significant amount of green space and plantings. To him, to approve the variance would be a no-brainer.

MOTION

Mr. Ramsey moved that in BOA 22-31, 2519 Randleman 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 requirement of the type C buffer planting yard would require removal of all parking spaces on the south side of the store to allow for continued use of the drive through; (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 narrow nature of the existing lot and being located on a corner and the original building was built in 1975 before applicant took ownership in 2021; (3) The hardship is not the result of the applicant's own actions because the new building footprint is smaller than the existing footprint and the city required a rebuild vs a remodel of the facility; (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 it will allow better car circulation and visibility and continue existing pedestrian access and the new building will aesthetically improve the area and allow for existing parking to continue. Second by Mr. Randolph. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas and Randolph. Nays: 0.) Chair Truby stated the variance request passed unanimously.

e. BOA-22-32: 1802 Granville Road (APPROVED)

Ms. McCook stated in BOA-22-32, 1802 Granville Road, David and Erica Worth request a variance to allow a proposed addition to encroach 7 feet into a required 10 foot side setback. The addition will be 3 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 7-1: 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 Granville Road, north of Country Club Road, and is zoned R-3 (Residential Single-Family). Tax records indicate the subject lot contains approximately 14,810 square feet and the house was constructed in 1996. The applicants propose to construct an addition, which will include a covered patio at the back of the existing house, along the side property line. The proposed covered patio addition will encroach 7 feet into a required 10 foot side setback and be 3 feet from the side property line. The applicants indicate that the narrow configuration of the lot, the layout of the existing residential structure and topographical difficulties

constrain their ability to improve their property. If the variance is granted, the applicants will proceed with the residential building permit process.

Chair Truby asked applicants to state their name/address for the record and swore in Nick Blackwood for his testimony.

Nick Blackwood, 804 Green Valley Road, Suite 200, distributed a packet to the Board members for the case. He noted the survey on the first page, a photo from the Staff Report showing the dense vegetation along the southern property line, serving as a buffer between the applicants' proposed patio addition and neighboring property. He pointed to the aerial image on the third page showing an approximate measurement taken from the property line to the home of the southern neighbor, showing about 87 feet. He also noted the notification letter sent to property owners on the City's notification list and a letter of support from the southern neighbor where the encroachment would exist, if the variance were granted. Mr. Blackwood explained that he was representing the property owners, Erica and David Worth, and had owned the property since 2016. The Worth's were seeking to improve their property by adding living space for their family by constructing a rear addition to their home which would include a covered patio addition at the southeastern corner of the property. The way the covered patio is currently designed would encroach 7 feet into the required interior setback, the reason for the variance application. In addition to the application meeting the factors for the variance approval, Mr. Blackwood discussed other mitigating factors which would ensure that the proposed patio would not interfere with the adjoining neighbors enjoying the use of their properties. The unnecessary hardship would result from the Ordinance in this case due to the existing topography of the property with a significant slope running west to east across the backyard of the property. The architect working on the design took these site factors in his design of the addition with expanded living space area without necessitating additional construction cost due to the grade of the yard. Mr. Blackwood said that the property was narrow, as seen in the GIS image, and the topography posed challenges for locating a patio addition in the most economic and efficient manner possible. He explained that the distance from the existing home to the southern property line and topography were existing site element when the Worth's purchased the home in 2016. The required minimum interior setback was 10 feet; however, explained Mr. Blackwood, compliance with the setback would cause unnecessary construction difficulty and cost. The added space would improve the value of the home, but the narrow lot and topographical issues limit the location of the addition. The proposal effects on neighboring property owners are mitigated by the existing vegetation buffer between the addition and the property to the south, as referenced in the photo shown earlier in Mr. Blackwood's presentation. Additionally, the neighbor's home to the south is approximately 87 feet from the property line, far greater than the 10 foot required setback, a substantial gap between the existing structure and their property line, despite the encroachment into the side setback. The Worth's informed their neighbors to the south (Barbers) about their proposal, encroachment into the setback and intent to seek a variance, and they provided their support as documented in the letter of support as the last page of the handout provided to the Board. Mr. Blackwood concluded that the granting of the request would improve their property, add living space to improve quality of life and enjoyment of home, and neighboring property owners most impacted in were support of the request. Mr. Blackwood reiterated findings of fact and concluded his presentation. Mr. Truby asked if there were any questions for the applicant. Mr. Randolph asked what type of trees were in the vegetative buffer. Mr. Blackwood asked Ms. Worth if they knew, and she said that they were on the neighbor's property. Mr. Truby asked if there were any other speakers in favor of the request. Hearing none, he asked if there was anyone to speak in opposition. With no additional speakers present, he closed the public hearing and went to Board discussion or a motion.

MOTION:

Mr. Barkdull moved that in BOA 22-32, 1802 Granville 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 owner would not be able to install additional living space (covered patio) due to topographical issues, lot shape, and additional cost; (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 hardship particular to property are narrow configuration and significant grade drop. Architect plan for sufficient design and dimensions required building into setback; (3) The hardship is not the result of the applicant's own actions because property dimensions and topography are same as when the owner acquired property; (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 architect planned architecture design that fits cohesively with existing structure, existing vegetative buffer, and distance, approximately 85 feet, will guarantee negligible or no impact on neighbors. Second by Mr. Waddell. The Board voted 7-0 in favor of the motion. (Ayes: Chair Truby, Waddell, Ramsey, Oliver, Necas and Randolph. Nays: 0.) Chair Truby stated the variance request passed unanimously.

OTHER BUSINESS

There were no absences. Mr. Truby asked if there was work being done on filling the vacancy on the Board of Adjustment. Ms. Thiel said that yes, they were aware for the vacancy. Mr. Truby asked if staff knew which City Council district the vacancy was in. Ms. Thiel said that she would advise the Board.

Mr. Truby adjourned the meeting and wished everyone a good night.

ADJOURNMENT

The meeting was adjourned at approximately 7:05pm.

Respectfully submitted,

Chuck Truby, Chair
Greensboro Board of Adjustment
CT/ram

**MEETING MINUTES
GREENSBORO BOARD OF ADJUSTMENT
June 27, 2022**

The meeting of the Greensboro Board of Adjustment was held on Monday, June 27, 2022, at 5:30 p.m. in-person in City Council Chambers. Board members present were: Chairman Truby, Vaughn Ramsey, Ted Oliver, Leah Necas, Cory Randolph and Deb Bowers. City staff present were Shayna Thiel, and Mike Kirkman of the Planning Department, and Al Andrews (Chief Deputy City Attorney).

Chairman Truby welcomed everyone to the 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. Mr. Truby went on to explain how the Board would make its decision and votes, based on findings of fact and other factors, and he explained how to appeal decisions.

APPROVAL OF THE MINUTES (April 25, 2022 Meeting)

Mr. Randolph made a motion to approve the May 23, 2022, minutes; Second by Ms. Necas. The Board voted 6-0 in favor of the motion (Ayes: Chair Truby, Ramsey, Oliver, Necas, Randolph and Bowers. 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 their testimony in the following cases.

CONTINUANCES / WITHDRAWALS

Staff advised there were no continuances or withdrawals.

NEW BUSINESS

1. VARIANCE

a. BOA-22-33: 2007 East Wendover Avenue (APPROVED)

Ms. Thiel stated in BOA-22-33, 2007 East Wendover Avenue, DuB Properties LLC requests two variances. (1) To allow a proposed car wash 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-D. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance references are Section 30-8-10.4(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 30-8-10.4(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 vacant lot contains approximately 31,363 square feet. The applicant proposes to construct an automatic car wash with a modern-style tunnel system with reduced building and drive-through facility setbacks from residentially zoned property. As proposed, the new car wash will be 25 feet from an interior lot 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. The Board of Adjustment previously approved these same variance requests in BOA-21-18 at its meeting on April 26, 2021. Per the Land Development Ordinance, a variance becomes void if construction, operation or installation does not start within 12 months of its issue date. Because construction has not commenced on the subject lot, the applicant must seek new variances. If the variances are granted, the applicant will proceed with the Technical Review Committee review process and commercial 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 or plans.

Chair Truby asked applicant to state his name/address for the record and swore in Craig Turner for his testimony.

Craig Turner, 230 N Elm Street, Suite 1200, representing DUB Properties LLC, stated that he is the attorney for Fox Rothschild and requested re-approval of two variances for the construction of an automated carwash. The request was approved in April 2021 with a unanimous 7-0 vote. The variances they are requesting now are the same variances, moving from 75 to 25 feet away from a residential property line, as well as moving from 50 to 25 feet for the stacking lanes in order for cars going into the automated car washing machine to enter properly. The machine is located parallel to Wendover Avenue, cars would enter and exit parallel to Wendover. The property was previously used for manual self-service carwash bays. Mr. Turner submitted that the automated carwash would be more technologically advanced and therefore much quieter. Furthermore, it will operate much faster and will have people to monitor the car wash at all times that it is in operation. This is different from the manual carwash bays as they were a 24/7 operation. This operation would be quieter and is in keeping with the LI uses that are adjacent to it. This includes a Speedway, Citgo, AutoZone. The lines of houses that run behind the property are zoned for R-5 residential use. Mr. Turner brought up that there is already a brick wall barrier between the property and the houses, as well as a naturally occurring berm that runs above the brick wall. Prior to the approval of the variances requested back in April 2021, members of Mr. Turner's firm sent letters to notify neighbors of the plans, and both provided a telephone number and set up a Zoom meeting to discuss the changes further. There were no inquiries from any of the residents. Again on May 5, 2022, another set of letters was sent out prior to this meeting, and no inquiries were made. The way the property is sitting now, it would not be able to psychically accommodate an automated carwash.

Hill Dubose, 2404 Beechridge Road, Raleigh, said there would not be a widening of Raleigh Road. He added that the construction has been delayed due to issues getting permits for a driveway from the DOT, but they have made a compromise they believe will work.

Mr. Truby asked if there was anyone else to speak in favor of the case. Seeing none, he asked if there was anyone to speak in opposition to the case. Seeing no additional speakers, he closed the public hearing. Mr. Truby asked if the Board had any discussion and/or a motion.

MOTION

Ms. Necas moved that in BOA 22-33, 2007 East Wendover 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 applicant would be unable to upgrade the older multi-bay carwash into a state of the art carwash with a tunnel style system; (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 slightly too small for a modern carwash to satisfy Greensboro city setbacks; (3) The hardship is not the result of the applicant's own actions because the size necessary for site entry, drying and other functions as dictated by modern car sizes and safety requirements; (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

a state of the art carwash with a tunnel style system would be beneficial for the local community's car washing needs and will not adversely impact residential buildings due to elevation differences between the car wash site and neighboring residences and will be quieter with an attendant when in operation. Second by Mr. Randolph. The Board voted 6-0 in favor of the motion (Ayes: Chair Truby, Ramsey, Oliver, Necas, Randolph, Bowers. Nays: 0.). Chair Truby stated the variance request passed unanimously.

b. BOA-22-34: 4697 Long Valley Road (APPROVED)

Ms. Thiel stated in BOA-22-34, **4697 Long Valley Road**, Fabian Popescu requests a variance to allow an existing house and proposed exterior alterations to encroach 26 feet into a required 30 foot rear setback. The house and exterior alterations will be 4 feet from the rear property line. Evidence provided by the applicant was Exhibit 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 rear setback is 30 feet.

Background and Site Information: The subject lot is located on the west side of Long Valley Road, south of Pleasant Ridge Road, and is zoned R-3 (Residential Single-Family). Tax records indicate the subject lot contains approximately 1.08 acres and the house was constructed in 1975. The subject lot is triangularly shaped, and because one of the sides is opposite the front property line, it is considered a rear property line and subject to rear setback requirements. The existing house is considered a nonconforming structure since it encroaches 26 feet into required 30 foot rear setback. The applicant proposes to enclose the existing carport at the side of the house to create additional living space. A variance is necessary to allow the existing structure and proposed exterior alterations to remain 4 feet from the rear property line. The applicant indicates that the footprint of the house will not change as a result of the proposed alterations. 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 overlays and or plans.

Chair Truby asked the applicant to provide his name/address for the record and swore in Fabia Popescu for his testimony.

Fabian Popescu, 4697 Long Valley Road, said he would like to enclose the existing carport in order to accommodate more living space on the property. Popescu stated that this would not at all change the original footprint of the house, since everything they want to enclose is already existing.

Kermit Robinson, Jr., 4703 Long Valley Road, said that his family owns 33 acres which adjoin this property to the west. The Greensboro city limits line goes directly between the two properties. Mr. Robinson deeded a strip of land with a 50 ft. flag lot to his son which directly adjoins the property and also deeded another strip of land with a 50 ft. flag lot to his daughter which adjoins the other side of the property. Having the closest house to this property, Robinson stated that he was unaware when the original property owner constructed the carport that it would encroach onto their property. Due to the placement of the flag lots, Mr. Robinson is unable to sell Mr. Popescu enough property to accommodate the setback requirements. Lastly, Robinson described how his driveway is used by four properties and that the carport blocked from view by trees, therefore, it in no way would affect them. In fact, it would look better enclosed and would not create any problems.

MOTION

Mr. Ramsey moved that in BOA 22-34, 4697 Long Valley 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 triangular nature of the applicants lot prevents enclosure of the carport on its existing footprint; (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 lot lines were set prior to the applicants purchase of the property and prevent any

material improvements without a variances given that the house is currently non-conforming; (3) The hardship is not the result of the applicant's own actions because the lot dimensions were set prior to the applicants purchase of the property; (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 it will allow the applicant to improve their property, increase tax values, make the house compliant, and does not change the current house footprint. Second by Ms. Necas. The Board voted 6-0 in favor of the motion (Ayes: Chair Truby, Ramsey, Oliver, Necas, Randolph, Bowers. Nays: 0.). Chair Truby stated the variance request passed unanimously.

OTHER BUSINESS

The Board elected new Chair and Vice-Chair positions. In a motion, Chair Truby nominated Leah Necas as Chair and Vaughan Ramsey as Vice-Chair. Second by Ms. Bowers. The Board voted 6-0 in favor of the motion (Ayes: Chair Truby, Ramsey, Oliver, Necas, Randolph, Bowers. Nays: 0.). They will assume their new roles at the next meeting.

ACKNOWLEDGEMENT OF ABSENCES

None.

ADJOURNMENT

The meeting was adjourned at approximately 6:00pm.

Respectfully submitted,

Chuck Truby, Chair
Greensboro Board of Adjustment
CT/as

MEETING MINUTES
GREENSBORO BOARD OF ADJUSTMENT
July 25, 2022

The meeting of the Greensboro Board of Adjustment was held on Monday, July 25, 2022, at 5:30 p.m. in-person in City Council Chambers. Board members present were: Chair Leah Necas, Chuck Truby, Vaughn Ramsey, Ted Oliver and Cory Randolph. City staff present were Shayna Thiel and Mike Kirkman of the Planning Department, and Al Andrews (Chief Deputy City Attorney) and Anthony Baker (Senior Assistant City Attorney).

Chair Necas welcomed everyone to the 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. Chair Necas further explained the manner in which the Board conducts its hearings and methods of appealing any ruling made by the Board. Chair Necas 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. Chair Necas went on to explain how the Board would make its decision and votes, based on findings of fact and other factors, and he explained how to appeal decisions.

APPROVAL OF MINUTES (June 27, 2022 Meeting)

Mr. Randolph made a motion to approve the June 27, 2022, minutes; Second by Mr. Ramsey. The Board voted 5-0 in favor of the motion (Ayes: Chair Necas, Truby, Ramsey, Oliver and Randolph. Nays: 0.). Chair Necas advised the minutes were approved.

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

Chair Necas advised that BOA-22-37 has been continued to the September meeting. She also stated that BOA-22-36 would be heard first because of staff availability. BOA-22-35 would be heard second.

NEW BUSINESS

1. APPEAL OF CODE COMPLIANCE ADMINISTRATIVE DECISION

a. BOA-22-36: 1012 Haywood Street (UPHELD)

Ms. Thiel stated in BOA-22-36, 1012 Haywood Street, Bulent Bediz appeals a Post-Tow Hearing Decision that the City demonstrated probable cause to tow abandoned and junked motor vehicles from the property. Evidence provided by the applicant included Exhibit A. Supporting documentation from staff included Exhibits 1 through 12. The Code of Ordinance references were Section 17-50 - Authority: The City of Greensboro hereby finds that regulation of abandoned and junked vehicles is necessary and desirable to protect the health and safety of the residents of the city and to promote and enhance community, neighborhood and city appearance; and Section 17-57(f) - Hearing: Any aggrieved party may appeal the hearing officer's decision to the board of adjustment by filing an appeal in writing within fifteen (15) calendar days after the date of the report of the hearing officer, but not thereafter.

Background and Site Information: The subject lot is located on the north side of Haywood Street, east of Lexington Avenue, and is zoned RM-12 (Residential Multifamily). Tax records indicate the lot contains approximately 8,276 square feet, and the house was constructed in 1921. The applicant appeals a Post-Tow Hearing Decision that the City demonstrated probable cause to tow abandoned and junked motor vehicles on the property. On March 29, 2022, the City provided notice to the applicant that a Pre/Post

Tow Hearing had been set for April 13, 2022 to determine if the inspector had probable cause to remove abandoned or junked motor vehicles. On April 20, 2022, the City provided a post-tow hearing decision letter to the applicant advising that the City had probable cause to have towed the vehicles and that the towing stands. In the post-tow hearing decision letter, the City also provided to the applicant instructions for appealing the hearing officer's decision to the Board of Adjustment. The applicant filed his appeal within the required 15 day appeal period. Ms. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays and or plans.

Chair Necas asked Anthony Baker, Senior Assistant City Attorney, to come forward to present the City's case.

Anthony Baker, Senior Assistant City Attorney, advised that he would present the record that was presented to the Hearing Officer, Troy Powell, at the evidentiary hearing that was appealed. The questions for the Board of Adjustment were limited to if the City had probable cause to tow the vehicles and if the City had substantial evidence to determine that it had probable cause to tow the vehicles. The evidence presented to the hearing officer was that there was a vehicle found at this address parked very close to the right-of-way, the back window of the vehicle was smashed out, the last registration sticker on the vehicle was 2018, the rear tires of the vehicle were deflated, and the vehicle was tagged with the orange sticker indicating that the vehicle may be towed if not moved. The tag was left on the vehicle for an excess of seven days, the inspector returned to the vehicle after seven days, and the vehicle had not been moved, there was no indication that the vehicle had been moved or towed. The property that the vehicle sits on appears from the street to be an abandoned property. Photos were provided of the broken rear window and deflating rear tires, as well as the expired registration sticker and orange sticker. Posted March 1st was a notice to move the vehicle before March 8th, and the inspector returned March 10th. The vehicle was still there and did not appear to have been moved. The vehicle was then towed. This is the evidence that was presented to the hearing officer. Mr. Bediz argued that he was requesting an extension of his ability to move the vehicle, the hearing officer heard the evidence and was not convinced that an extension had been granted or had been properly requested. The recordings indicated that Ms. Harrison had continuously asked for an email request and never received that email request. After hearing the recording calls, the hearing officer made a determination that staff had probable cause to believe that the vehicle was a junked/abandoned vehicle, and because it was a threat to public safety that it could be towed off of private property.

Chair Necas asked the applicant to come forward to provide his name/address for the record and swore in Bulent Bediz for his testimony.

Bulent Bediz, 808 Lexington Avenue, said that according to his files, on March 1st, the city came and put condemnation/violation notices on each of the properties he listed from his files. In this the car that is the subject of this hearing is included. He stated it is total bologna. This car had been purchased by Mr. Bediz and his intention was to fix it up. There was an issue with the door, and the battery was dead, but the car was drivable. It was towed from his property at 808 Lexington Avenue to 1012 Haywood Street. The car was parked on his property outside of the right-of-way. In the process of this investigation, he asked who the complainant was. He was not given an answer. He stated that the rear window was broken by a neighbor who also allegedly broke the window of a Mercedes that was parked on his property across the street. He was alerted by a next door neighbor that they say another neighbor driving a red truck to his vehicles around the time the windows were broken, therefore the police were called. Mr. Bediz suspects that the person who filed the complaint is also the person who broke the windows. He stated that because of the investigation, the vehicle had to stay there. He stated that he called Carla Harrison several times to alert her of the investigation, on the afternoon of March 8th. He alerted her that he wanted to move the car, but he did not have the keys. He claims they came to an understanding that the car was not to be moved prior to a pre-tow hearing. On March 9th, he claims they had another conversation on the phone in which he stated that he said he was looking for the keys and was going to move it. On March 10th, he had found the keys and got a helper to move the car out of the driveway and to a commercial

property he owns. He stated that then the car did not have to be moved due to an ordinance that states if the vehicle cannot be towed in its current state since it is more than \$500. He said that he and supervisor Harrison were supposed to meet to discuss the car. He asked to play recorded conversations with the city. He stated that at the city hearing, an attorney prevented him from playing his recordings to offer his testimony. Mr. Bediz does not believe this car should have been towed. He mentioned that before the car was towed away on March 10th – while he was at the doctor’s office – he had someone go to the property with the keys to move the car, but it had already been towed. He then called Ms. Harrison and stated she was shocked it had already been towed and would investigate, then return his call later. He stated that she told him an intern had towed the car away without giving Ms. Harrison any information regarding what was going on. He stated that she apologized and told him they were going to meet, and then called Troy Powell who said the car could not be returned to him. He did not move it to his commercial property because he was not under the understanding that there was a code violation. Mr. Bediz states he did not fix the broken glass because he did not break the window and there was a police report, also that he was given a verbal extension.

The public hearing was closed.

MOTION

Mr. Ramsey moved that in BOA 22-36, 1012 Haywood Street, after reviewing the record of the evidence presented at a Post-Tow hearing, the Hearing Officer’s decision be upheld and confirm that the evidence supports the conclusion that the Inspector had probable cause to tow the motor vehicles, based on the following: (1) That the Inspector legally developed probable cause to believe that there existed abandoned or junked motor vehicles on the private property in question that could either see the vehicles from the public property or had permission to be on the private property. Permission may be consent or a properly executed administrative warrant; (2) That these vehicles were junked pursuant to Section 17-51, junked motor vehicle means a vehicle that does display a current license plate and that is partially dismantled or wrecked or cannot be self-propelled or moved in the manner in which it originally was intended to move; or is more than 5 years old and appears to be worth less than \$500; (3) 17-5: That the Code Enforcement Officer declared in writing the vehicle to be a health, safety, or fire hazard where the Code Enforcement Officer made a finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens opposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community neighborhood or area appearance; (4) 17-56, Pre-Tow Notice: such motor vehicle was towed after notice was provided by posting a warning notice on the vehicle. Such notice was affixed to the windshield or some other conspicuous place on the vehicle. That notice stated the vehicle was to be removed on a specified date, no sooner than 7 days after the notice was affixed to the vehicle, unless the vehicle was brought into compliance by the owner or legal possession prior to that time. The notice also stated the procedure the owner must follow to request a probable cause hearing before the towing; and (5) The vehicles were towed at the expiration of the Pre-Tow notice. Second by Mr. Truby. The Board voted 5-0 in favor of the motion. (Ayes: Chair Necas, Truby, Ramsey, Oliver and Randolph. Nays: 0.) Chair Necas stated the motion passed unanimously and the City’s decision was upheld.

2. VARIANCE

a. BOA-22-35: 1306 Lakewood Drive (APPROVED)

Ms. Thiel stated in BOA-22-35, 1306 Lakewood Drive, Maynard and Carolyn McMillian request 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 through B. Supporting documentation from staff included Exhibits 1 through 6. The Land Development Ordinance reference is 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 Lakewood Drive, north of Farrar Drive, and is zoned R-3 (Residential Single-Family). Tax records indicate the subject lot contains approximately 11,326 square feet and the house was constructed in 1958. The existing house is considered a nonconforming structure since it encroaches approximately 5 feet into a required 30 foot rear setback. The applicants propose to demolish an existing screened porch and carport, containing approximately 526 square feet, at the rear of the house and replace it with a sunroom, laundry room and carport in a larger footprint of 723 square feet. The applicants state that a curve in Lakewood Drive in front of their lot makes it shorter than others on the block and creates a hardship to build elsewhere on the lot. If the variance is granted, the applicants will proceed with the residential building permit process. Mrs. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays and or plans.

Chair Necas asked applicants to come forward to state their name/address for the record and swore in Maynard and Carolyn McMillian, and also Steve Lalumondier, for their testimony.

Maynard and Carolyn McMillian, 1306 Lakewood Drive, stated that they are remodeling their house. They have a screened in back porch that they would like to turn into a sun room/laundry room. By having 5 extra feet it would give them more room for the laundry room. She believes it would enhance the house. They would also add in a car port. Mr. McMillan stated that this addition would not change the footprint of the house. The house is angled in an easterly direction. The house is already 5 feet into the rear setback and they are asking for an additional 5 feet. The carport will be within this area. The extension will be at the same level as the existing kitchen. They stated the neighbors had no opposition to the addition.

Steve Lalumondier, 7750 Robinson Road, Summerfield, was present as the applicant's contractor to answer any questions.

The public hearing was closed.

Chair Necas asked if there was anyone else to speak in favor of the case. Seeing none, she asked if there was anyone to speak in opposition to the case. Seeing no additional speakers, she closed the public hearing. Chair Necas asked if the Board had any discussion and/or a motion.

MOTION

Mr. Randolph moved that in BOA 22-35, 1306 Lakewood 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. Based on the stated findings of fact that the zoning enforcement officer be overruled and the variance be granted based on the following: if the applicant complies with the ordinance that unnecessary hardship will result to the property by applying strict application of the ordinance because the utility of the existing carport and screen porch which would be expanded for the convenience of adding a sunroom and additional space for appliances would not be served. Additionally the addition would expand the livable space that is part of the 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 rear property line concaves slightly inward thus reducing the property area of which they have to expand for this new construction site. The size of the lot is shrunk relative to the other properties on the same block due to the curvature of Lakewood drive; (3) The hardship is not the result of the applicant's own actions because the home is in the same site as it was originally constructed in 1958; (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 value to the property is more substantial than the encroachment that is currently being varied. There will remain a significant buffer of 20 feet between the existing property line and the neighbors. No objections were made to the improvements or the application, thus confirming approval of

the application. The addition seems to be in line with adjoining property owner's porches and enclosed carports that are on the same block and street. Second by Mr. Truby. The Board voted 5-0 in favor of the motion (Ayes: Chair Necas, Truby, Ramsey, Oliver and Randolph. Nays: 0.). Chair Necas stated the variance request passed unanimously.

OTHER BUSINESS

None.

ACKNOWLEDGEMENT OF ABSENCES

None.

ADJOURNMENT

The meeting was adjourned at approximately 6:45pm.

Respectfully submitted,

Leah Necas, Chair
Greensboro Board of Adjustment
LN/as

**MEETING MINUTES
GREENSBORO BOARD OF ADJUSTMENT
AUGUST 22, 2022**

The meeting of the Greensboro Board of Adjustment was held on Monday, August 22, 2022, at 5:30 p.m. in-person in City Council Chambers. Board members present were: Vice-Chair Vaughn Ramsey, Ted Oliver, Cory Randolph, Tifanie Rudd, Stephen Barkdull and Deb Bowers. City staff present were Shayna Thiel and Steve Galanti of the Planning Department, and Anthony Baker (Senior Assistant City Attorney).

Vice-Chair Ramsey welcomed everyone to the 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. Vice-Chair Ramsey further explained the manner in which the Board conducts its hearings and methods of appealing any ruling made by the Board. Vice-Chair Ramsey 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. Vice-Chair Ramsey went on to explain how the Board would make its decision and votes, based on findings of fact and other factors, and he explained how to appeal decisions.

APPROVAL OF MINUTES (July 25, 2022 Meeting)

Mr. Randolph made a motion to approve the July 25, 2022, minutes; Seconded by Mr. Oliver. The Board voted 5-0-1 in favor of the motion (Ayes: Ramsey, Oliver, Randolph, Rudd and Bowers. Nays: 0. Abstain: Barkdull.). Vice-Chair Ramsey advised the minutes were approved.

SWEARING IN OF STAFF

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

CONTINUANCES / WITHDRAWALS

Vice-Chair Ramsey advised that BOA-22-42 has been continued to the September meeting. Additionally, he requested that BOA-22-40 and BOA-22-43 be heard out of order at the start of the meeting.

NEW BUSINESS

a. BOA-22-40: 2506 Byron Place (APPROVED)

Ms. Thiel stated in BOA-22-40, 2506 Byron Place, Charles and Wanda Jeffries request two variances. (1) 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. (2) 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 is 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. The Board of Adjustment previously approved these same variance requests in BOA-21-01 at its meeting on January 25, 2021. Per the Land Development Ordinance, a variance becomes void if construction, operation or installation does not start within 12 months of the issue date of issuance. Because construction has not commenced on the subject lot, the applicants must seek new variances. If the variances are granted, the applicants will submit a residential building permit application and proceed with the permit process.

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

Vice-Chair Ramsey asked the applicants to come forward to state their name/address for the record and swore in Wanda Jeffries for her testimony.

Wanda Jeffries, 2506 Byron Place, explained that she had a hard time finding a contractor after the variances were approved last year, but has now found one who is ready to do the work. The proposed carport and porch additions would make access to the house easier with mobility issues and provide cover from inclement weather.

Vice-Chair Ramsey indicated that it appears that nothing has changed since last time. He asked if there was anyone else to speak in favor of the case. Seeing none, he asked if there was anyone to speak in opposition to the case. Seeing no additional speakers, he closed the public hearing. Vice-Chair Ramsey asked if the Board had any discussion and/or a motion.

MOTION

Mr. Ramsey moved that in BOA 22-40, 2506 Byron Place, 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 without the variance the applicant will have mobility issues during the inclement weather events; (2) The hardship of which the applicant complains results from conditions that are particular to the property and unique circumstances related to the applicant's property because the car port cannot be constructed anywhere else as it will cover the existing pad, in addition the screen porch will cover the existing pad; (3) The hardship is not the result of the applicant's own actions because the property was in its current condition when purchased in 1974; (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 addition of the carport and screened in porch is consistent with the neighborhood and will allow a safer residence for the applicant. Second by Mr. Oliver. The Board voted 6-0 in favor of the motion (Ayes: Ramsey, Oliver, Randolph, Rudd, Barkdull, Bowers. Nays: 0.). Vice-Chair Ramsey stated the variance request passed.

b. BOA-22-43: 2709 McConnell Road (APPROVED)

Ms. Thiel stated in BOA-22-43, 2709 McConnell Road, Vicente Lopez and Antonia Aragon request two variances. (1) To allow the building coverage of proposed accessory structures to exceed 50% of the principal structure's building coverage. The building coverage of all accessory structures on the lot will be 1,692 square feet when no more than 660 square feet is allowed. (2) To allow two accessory structures smaller than 600 square feet each to be separated by 3.5 feet when at least 5 feet is required. Evidence provided by the applicants included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance references are 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 principal structure on the lot or 600 square feet, whichever is greater; and 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.

Background and Site Information: The subject lot is located on the north side of McConnell Road, east of Banner Avenue, and is zoned R-5 (Residential Single-Family). Tax records indicate the subject lot contains approximately 1.33 acres and the house was constructed in 1936. The applicants constructed four accessory structures on the subject property without necessary building permits. A Notice of Violation was issued on April 25, 2022 advising the applicant of a number of issues on the subject property that did not comply with Land Development Ordinance (LDO) requirements. The applicants have addressed violations associated with a home occupation and keeping of livestock and are seeking a variance to remedy the remaining violations related to accessory structures. The LDO states that 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 and that accessory structures less than 600 square feet must be separated by at least 5 feet. When combined, the building coverage of the accessory structures is 1,692 square feet when no more than 660 square feet is allowed, so the

applicants seek a variance to allow the building coverage to exceed the required maximum. In addition, the applicants seek another variance to allow two of the accessory structures to be 3.5 feet apart instead of the required 5 foot minimum separation. The applicants indicate that the subject property is large, and that only one of the accessory structures is visible from the street. If the variances are granted, the applicants will proceed with the residential building permit process. Mrs. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays and or plans.

Vice-Chair Ramsey asked the applicants to come forward to provide their name/address for the record and swore in Vicente Lopez, Paul Ayivon and Isabel Gil for their testimony.

Vicente Lopez, 2709 McConnell Road, was accompanied and assisted by his neighbor.

Paul Ayivon, 2711 McConnell Road, stated that Mr. Lopez he purchased the large piece of property for his family to live. He didn't know that he had to have permits to construct storage buildings and didn't know about size and spacing requirements.

Vice-Chair Ramsey explained the issue is that the land development ordinance says that structures have to be a certain distance apart for safety reasons, and that there are setback rules.

Isabel Gil, City Community Relations Specialist, assisted Mr. Lopez with Spanish interpretations. She stated that he said that he used the accessory structures to store personal items and that only one could be seen from the street.

MOTION

Mr. Ramsey moved that in BOA 22-43, 2709 McConnell 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 applicant would have to demolish or remove over \$12,000 of structures that are not a nuisance to the neighborhood; (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 applicants total lot is 57,900 square feet while the structures comprise only 4.79% of that total, the applicant did not realize these structures were subject to the setback rules of the land development ordinance and the other rules of the land development ordinance; (3) The hardship is not the result of the applicant's own actions because given the size and location of the applicants lot, the applicant did not think the structures were regulated and has taken all other compliance measures related to the violations; (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 applicant represents there will be no business operations within the structures and that only one of the structures is visible from the street, moreover the structures are consistent with the neighborhood. Second by Mr. Oliver. The Board voted 5-1 in favor of the motion (Ayes: Ramsey, Oliver, Randolph, Barkdull, Bowers. Nays: Rudd.). Vice-Chair Ramsey stated the variance request passed.

c. BOA-22-38: 5006 Beale Avenue (DENIED)

Ms. Thiel stated in BOA-22-38, 5006 Beale Avenue, Usame Tak requests a special use permit to operate a tourist home on the property in addition to all uses permitted in the R-5 District. There are no proposed conditions and the partial ID number is 7833673954. The parcel size is .24 acres. Per Section 30-4-1.4 of the Land Development Ordinance, 148 notices were mailed to property owners within 600 feet of the subject property. Evidence from the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance reference is Section 30-8-10.4Q; a tourist home is a permitted use in the R-5 district with the 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 six 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) Regulations applicable to home occupations must be used for the tourist home.

Background and Site Information: The subject lot is located on the North side of Beale Avenue, west of Stanley Road is the zoned CD-R-5 (Conditional District- Residential Single-Family). Tax records indicate the lot contains approximately 10,454 square feet and the house was constructed in 2017. On June 3, 2022, a zoning enforcement officer issued a notice of violation indicating that a special use permit is required to operate a tourist home in the R-5 district, and that the owner or operator must live on site. To bring the property into compliance and remedy the notice of violation the applicant applied for a special use permit within the required 30 day appeal period. At the same time, the applicant also applied for a variance in BOA-22-39 to allow the owner or operator of a proposed tourist home to reside off site. The Board of Adjustment can consider the related variance request if it approves the special use permit request. The 2040 GSO Comprehensive Plan Future Land Use Map: Residential includes both single-family and multi-family residential. Other uses should generally be in the scale or a neighborhood or 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 a largest area of physical development in Greensboro which occurred post-WWII and reflects national trends and development patterns in that time. The growth of middle income families, automobile ownership and single-family home ownership. Changes in retail patterns to the 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 for surrounding neighborhoods and increasing development intensity along existing corridors which will strengthen transit service and other transportation options. Mrs. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays and or plans. Vice-Chair Ramsey asked the applicant to come forward to provide their name/address for the record and swore in Usume Tak and Rodney Hill for their testimony.

Usume Tak, 545 Sykesville Road, Sykesville, MD, stated that he owned the property and rented it to Rodney Hall, who managed short term rental of the property.

Rodney Hall, 3217 Pleasant Garden Road, stated that he lives in Greensboro and manages the property for short term rental by mostly business professionals. He stated that clients agree to terms that do not allow parties, smoking or animals. The house and yard are regularly maintained.

George and Drenda Jennings, 2521 West Woodlyn Way and 5011 Beale Avenue; Renee Dantignac, 5006-A Beale Avenue; MaKayla Schill, 5004 Beale Avenue; and Dave Marcone, 821 Montpelier Drive, spoke in opposition of the special use permit request. They wanted to maintain the single-family nature of the neighborhood. They discussed negative incidents caused by renters, lack of communication with the owner or operator, and have called the police. They indicated that the commercial use of the property as a short term rental is not compatible with the community. Additional neighbors opposed to the special use permit request were present and stood up to express their opposition, but did not speak on the record. Mr. Hall disagreed with the opposition and said that police calls were unwarranted.

Vice-Chair Ramsey moved to close the public hearing, seconded by Deb Bowers. (Ayes: Ramsey, Oliver, Randolph, Rudd, Barkdull, Bowers. Nays: 0).

Deb Bowers asked for clarification on what the rules and requirements were for a special use permit under the current tourist home regulation. One of the requirements of the special use permit is that the owner or operator must reside on site, so in order to grant the special use permit, they have to comply with all of the requirements. She acknowledged the variance request in place, if the application is approved, but expressed that many of the complaints heard from the neighbors would be alleviated by the owner or operator residing on site.

Vice Chair Ramsey stated that it would be close to impossible for this to work in a single family home. If people are going to be renting, they probably will not want their property manager intruding on their privacy. The Board discussed tourist home requirements, the special use permit request and the related variance request. After discussion, Vice-Chair Ramsey closed the public hearing.

MOTION

Deb Bowers moved that in BOA-22-38, 5006 Beale Avenue, based on the findings of fact, the special use permit be denied based on the following: (1) The proposed use will be detrimental to the health or safety of persons residing or working in the vicinity or injurious to property improvements in the vicinity because people who live in the neighborhood are there because of the residential character of the neighborhood. Traffic is potentially increased by the people renting for short periods, there are reports of too many vehicles in the area by renters and occupiers of neighborhood properties. Garbage has been seen left out without collecting the cans, and the general residential character of the neighborhood is negatively impacted. (2) The proposed use of the potential location does not provide a service or facility that will contribute to the general well-being of the neighborhood or the community because the residential character of the neighborhood is impacted by short term rentals and therefore make it more commercial in nature. The property manager has not been historically attentive to the neighbors' concerns. There are plenty of hotels nearby that fill the need for short term rentals. (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 the residential neighborhood character is negatively impacted by what is perceived by neighbors as commercial use. Failure to enforce rules for use and other negative incidents with tenants. Seconded by Ted Oliver. The Board voted 5-1 in favor of the motion (Ayes: Ramsey, Oliver, Rudd, Barkdull, Bowers. Nays: Randolph). Vice-Chair Ramsey stated the special use permit request was denied.

d. BOA-22-39: 5006 Beale Avenue (NOT HEARD)

e. BOA-22-41: 2345-2347 Randleman Road (APPROVED)

Ms. Thiel stated in BOA-22-41, 2345-2347 Randleman Road, Ralph and Susan Burroughs and Franchise Realty Interstate Corp request a variance to provide 32 parking spaces for an existing eating and drinking establishment when at least 42 spaces are required. Evidence from the applicants included Exhibits A through C. Supporting documentation from staff includes Exhibits 1 through 7. The Land Development ordinance reference is Section 30-11-5 – Table 11-1: For eating and drinking establishments, the parking ratio is one space per 100 square feet of gross floor area.

Background and Site Information: The subject lot is located on the East Side of Randleman Road, North of West Meadowview Road and is zoned C-M (Commercial-Medium). Tax records indicate the property contains 1.02 acres and the existing building was constructed in 2004. The applicant proposed to construct a double lane drive-thru for the existing fast food restaurant which would eliminate some of the parking spaces. The Land Development Ordinance requires one parking space per every 100 square feet of gross floor area for eating and drinking establishments. To accommodate a larger drive through component, the applicants propose to provide 32 parking spaces when 42 are required based on the 4,210 square foot building. The Land Development Ordinance gives the planning director discretion to offer up to a 15% reduction in required parking for uses located within 1000 feet of an active transit stop, even though an active stop is within 1000 feet of the subject lot, the applicants must seek a variance from the total amount of required parking since they propose to provide fewer spaces than could be allowed through the administrative reduction. The applicants indicate that far more patrons use the drive-thru as a result of the pandemic, so less on-site parking is needed. If the variance is granted the applicants will proceed with the commercial building permit process. Mrs. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays and or plans.

Vice-Chair Ramsey asked the applicants to come forward to provide their name/address for the record and swore in Kristin Lang and Patrick Byker for their testimony.

Kristin Lang, 101 Falls Park Drive, Greenville, SC and Patrick Byker, 700 North Main Street, Durham, stated that dining habits have changed, especially since COVID, and that fast food industry models were adjusting. Large dining rooms were no longer desired. By allowing the reduction in parking, the second drive-through lane could serve customers more efficiently on the small lot and allow the existing building to remain functional.

Vice-Chair Ramsey moved to close the public hearing, seconded by Deb Bowers. (Ayes: Ramsey, Oliver, Randolph, Rudd, Barkdull, Bowers. Nays: 0).

MOTION

Cory Randolph moved that in BOA-22-41, 2345-2347 Randleman Road, based on the stated findings of facts, the zoning 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 property owner would be restricted to a one-lane access which would not meet the customer service needs that have resulted and the customers have demanded. Additionally the lack of a second lane would create under-utilization of the existing parking lanes because more customers are choosing to drive-thru as oppose to dine-in. (2) The hardship of which the applicant complains results from conditions that are particular to the property and unique circumstances related to the applicants property because the property size is relatively small in terms of expanding for a second lane there is only 1.02 acres and it is landlocked on both sides. Therefore there is limited ability for the applicant to be able to meet the parking requirements and add the additional lane without the variance. (3) The hardship is not the result of the applicants own actions because the requested variance is due to the size of the property, and also to meet the market demands that are driven by customers and as a result of Covid-19. (4) The variance is in harmony with the general purpose of the intent of this ordinance and preserves its spirit and ensures public safety, welfare, and substantial justice because the additional lane will increase customer service and will add safety benefits to Randleman Road, by allowing more vehicles to properly use the drive-thru lanes. It will proportionally meet the parking requirements from 42 to 32 which are proportional to the actual dine-in customers that will actually use the property. Seconded by Deb Bowers. The Board voted 6-0 in favor of the motion (Ayes: Ramsey, Oliver, Randolph, Rudd, Barkdull, Bowers. Nays: 0.). Vice-Chair Ramsey stated the variance request passed.

f. BOA-22-44: 4607 Trailwood Drive (APPROVED)

Ms. Thiel stated in BOA-22-44, 4607 Trailwood Drive, James Kirkpatrick requests two variances. (1) To allow a proposed house to encroach 15.5 feet into a required 58 foot front setback, the house will be 42.5 feet from the front property line. (2) Proposed accessory structure to encroach 15.2 feet into a required 58 foot front set back. The accessory structure will be 42.8 feet from the front property line. Evidence from the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance references are Section 30-7-1.4(A)(1)(b): Where 50% or more of the lots on the same block facing the subject lot are occupied by single-family detached dwellings. Buildings on the subject lot must comply with the minimum street setback determined by calculating the average setback that exists on the two lots on either side of the subject lot. 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 east side of Trailwood Drive at the intersection of Lockhaven Circle, and is zoned R-3 (Residential Single-Family). Tax Records indicate the vacant lot contains approximately 43,124 square feet. The applicant proposes to construct a new home and detached garage on the subject property that will both encroach into a required 58 foot setback. The proposed house will encroach 15.5 feet into the set back and be 42.5 feet from the front property line. The proposed accessory structure, detached garage, will be behind the front building line of the proposed house, but will encroach 15.2 feet into the set back and be 42.8 feet from the front property line as shown on a submitted site plan and recorded plat. A significant portion of the subject property lies within the 100-500 year floodplain; the applicant indicated compliance with the average front setback would push the proposed structures into the floodplain. If the variance is granted, the applicant will submit a residential building permit application and proceed with the permit process. Mrs. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays and or plans.

Vice-Chair Ramsey asked the applicants to come forward to provide their name/address for the record and swore in James Kirkpatrick and Tiffany Kirkpatrick for their testimony.

James Kirkpatrick and Tiffany Kirkpatrick, 4052 Dover Park Road, stated that they wanted to build a new house and detached garage on the lot that would be compatible with the neighborhood. They can't move the house any farther back, as it would be located in the floodplain.

Vice-Chair Ramsey moved to close the public hearing, seconded by Tifanie Rudd. (Ayes: Ramsey, Oliver, Randolph, Rudd, Barkdull, Bowers. Nays: 0).

MOTION

Ted Oliver moved that in BOA-22-44, 4607 Trailwood Drive, based on the stated findings of fact, the zoning enforcement officer be overruled and a variance granted based on the following: (1) If the applicant complies with the provisions of the ordinance and necessary hardship will result to the property by applying strict application of the ordinance because the property would be pushed back into the floodplain in order for it to be built. (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 three other homes are included the average setback is 53.5 feet, or much closer to the 58 feet required. (3) The hardship is not the result of the applicants own actions because if this lot is to ever be built on, a variance must be granted otherwise the home must be in the floodplain. (4) The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit and ensures public safety, welfare, and substantial justice because the lot is empty now, this will allow a home to be built on the lot and improve the general appearance of the area. Seconded by Vice-Chair Ramsey. The Board voted 6-0 in favor of the motion (Ayes: Ramsey, Oliver, Randolph, Rudd, Barkdull, Bowers. Nays: 0.). Vice-Chair Ramsey stated the variance requests passed.

g. BOA-22-45: 309 Waverly Way (APPROVED)

Ms. Thiel stated in BOA-22-45, 309 Waverly Way, Peter Helseth requests a variance to allow the proposed addition to encroach 1.1 feet into a required 5 foot side setback. The addition will be 3.9 feet from the side property line evidence from the applicant included Exhibit A through D. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance reference is 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 east side of Waverly Way at the intersection of Camden Road and is zoned R-5 (Residential Single-Family). Tax records indicate the lot contains approximately 8712 square feet and the house was constructed in 1945. The applicant proposes to add a screen porch on the south side of the house that will encroach 1.1 feet into the required 5 foot side setback, and be 3.9 feet from the side property line. The applicant indicates that the side property angles in towards the house and that only the back corner of the proposed screen porch will encroach into the setback. If the variance is granted the applicant will submit a residential building permit application and proceed with the permit process. Mrs. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays and or plans.

Vice-Chair Ramsey asked the applicants to come forward to provide their name/address for the record and swore in Peter Helseth for his testimony.

Peter Helseth, 309 Waverly Way, stated that he wanted to add a screen porch on the side of the house and that a corner of it will encroach into the side setback. The property is not a perfect rectangle, as the side property line angles in towards the house, which makes it difficult to meet the setback requirement.

Vice-Chair Ramsey moved to close the public hearing, seconded by Cory Randolph. (Ayes: Ramsey, Oliver, Randolph, Rudd, Barkdull, Bowers. Nays: 0).

MOTION

Ted Oliver moved that in BOA-22-45 at 309 Waverly Way, based on the stated findings of fact, the zoning enforcement officer be overruled and a 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 addition will not be allowed if a variance is not granted. (2) The hardship with which the applicant complains results from conditions that are peculiar to the property and unique circumstances related to the applicant's property because the shape of the lot is pie shaped not rectangular shaped, as a result a corner of the proposed addition encroaches only a small portion. (3) The hardship is not the result of the applicants own actions because the home's position on the lot

was done by previous owners and the shape of the lot was done many years before. (4) The variance is in harmony with the general purpose and intent of this ordinance and preserves in spirit and assures public safety welfare and substantial justice because the variance is minimal and will not negatively impact the area the addition will only be an improvement. Seconded by Cory Randolph. The Board voted 6-0 in favor of the motion (Ayes: Ramsey, Oliver, Randolph, Rudd, Barkdull, Bowers. Nays: 0.). Vice-Chair Ramsey stated the variance request passed.

h. BOA-22-46: 104 East Greenway Drive North (APPROVED)

Ms. Thiel stated in BOA-22-46, 104 East Greenway Drive North, Michael and Allison Garrett request a variance to allow a proposed addition to encroach 17.4 feet into a required 20 foot rear setback. The addition will be 2.6 feet from the rear property line. Evidence from the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance reference is 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 east side of East Greenway Drive, south of Madison Avenue, and is zoned R-5 (Residential Single-Family). Tax records indicate the lot contains approximately 17,424 square feet and the house was constructed in 1953. The applicants propose to construct home and porch additions that will connect the existing house to the existing detached carport storage. By doing so, the carport storage will become part of the principal structure and will be subject to R5 dimensional requirements instead of accessory structure ones. The newly expanded principal structure will encroach 17.4 feet into a required 20 foot setback and be 2.6 feet from the rear property line. The applicants indicate that the carport storage will remain in its existing location and will not encroach any further into the rear setback than it already does. A residential building permit was previously issued to allow the additions to connect the existing house to the carport but did not include the storage building, keeping it as a detached accessory structure as shown in the field photos. Work has already started but the applicants now wish to keep the carport connected to the other accessory storage and make them both part of the principal structure. If the variance is granted, the applicant applicants will revise their existing residential building permit to accommodate the changes or submit a new one for review and approval. Mrs. Thiel provided the land use and zoning for this property and surrounding properties, and noted there were no applicable overlays and or plans.

Vice-Chair Ramsey asked the applicants to come forward to provide their name/address for the record and swore in Allison Garrett for her testimony.

Allison Garret, 104 East Greenway Drive North, stated that they were doing extensive renovations on the property and were seeking a variance to allow the connection to remain between the existing carport and storage.

In support of the variance, Stephen Jobe was also sworn-in for his testimony.

Stephen Jobe, 3319 Watauga Drive, stated that a building permit has already been issued and work already started on renovations. That permit required that the roof connecting the existing carport to the storage be removed. The property owners now are asking for that roof portion be allowed to remain.

With concerns about the variance, Jim Kime was sworn-in for his testimony.

Jim Kime, 2005 Madison Avenue, wanted clarification on the variance request. His side property line was the applicants' rear property line. He asked if they were building any more structures within 3 feet of the shared property line. Stephen Jobe said no and that only the existing carport and storage structures would be that close and encroach into the setback. No additions were planned in that area. After hearing the explanation, Mr. Kime was not opposed to the variance request.

Vice-Chair Ramsey moved to close the public hearing, seconded by Cory Randolph. (Ayes: Ramsey, Oliver, Randolph, Rudd, Barkdull, Bowers. Nays: 0).

MOTION

Stephen Barkdull moved that in BOA-22-26, 104 East Greenway Drive North, based on the stated findings of fact, the zoning enforcement officer be overruled and a 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 complying with the setbacks

in the ordinance will not allow for the additions to be made. (2) The hardship with 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 and other existing structures were present when the property was purchased by the applicant. They wish to connect the already existing structures for protection from weather. (3) The hardship is not the result of the applicants own actions because the house was built in 1953 and the additions were not made by the applicant. (4) The variance is in harmony with the general purpose and intent of this ordinance and preserves in spirit and assures public safety welfare and substantial justice because the proposed project maintains existing setbacks. Public safety and welfare will remain the same or potentially improve with renovation. Seconded by Ted Oliver. The Board voted 6-0 in favor of the motion (Ayes: Ramsey, Oliver, Randolph, Rudd, Barkdull, Bowers. Nays: 0.). Vice-Chair Ramsey stated the variance request passed.

OTHER BUSINESS

None.

ACKNOWLEDGEMENT OF ABSENCES

Leach Necas and Chuck Truby.

ADJOURNMENT

The meeting was adjourned at approximately 8:05pm.

Respectfully submitted,

Vaughan Ramsey, Vice-Chair
Greensboro Board of Adjustment
HVR/as

**MEETING MINUTES
GREENSBORO BOARD OF ADJUSTMENT
September 26, 2022**

The meeting of the Greensboro Board of Adjustment was held on Monday, September 26, 2022, at 5:32 p.m. in-person in the City Council Chamber. Board members present were: Chair Leah Necas, Chuck Truby, Vaughn Ramsey, Ted Oliver, Cory Randolph, Tifanie Rudd and Stephen Barkdull. City staff present were Shayna Thiel, Mike Kirkman and Steve Brumagin of the Planning Department, Al Andrews (Chief Deputy City Attorney) and Allen Buansi (Assistant City Attorney).

Chair Necas welcomed everyone to the 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. Mr. Truby went on to explain how the Board would make its decision and votes, based on findings of fact and other factors, and he explained how to appeal decisions.

APPROVAL OF MINUTES (August 22, 2022 Meeting)

Mr. Ramsey made a motion to approve the August 22, 2022, minutes; second by Mr. Barkdull. The Board voted 5-0-2 in favor of the motion. (Ayes: Ramsey, Oliver, Randolph, Rudd and Barkdull. Nays: 0. Abstain: Chair Necas and Truby.). Chair Necas advised the minutes were approved.

SWEARING IN OF STAFF

Shayna Thiel, Mike Kirkman and Steve Brumagin 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.

OLD BUSINESS

a. BOA-22-37: 4823 Summit Avenue (UPHELD)

Ms. Thiel stated in BOA-22-37, Karen Martin appeals a decision of a zoning enforcement officer that an illegal use exists on the property. 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 30-8-1.1 – Table 8-1: Permitted Use Table – Storage use not permitted as principal use in R-3 District; Section 30-8-11.1(A)(2): An accessory structure must be clearly subordinate to the principal structure in all dimensional aspects; and Section 30-15-20: An accessory use or structure must be clearly incidental to and customarily found in connection with a principal building or use.

Background and Site Information: The subject lot is located on the west side of Summit Avenue, south of Brightwood School Road, and is zoned R-5 (Residential Single-Family). Tax records indicate the subject lot contains approximately 14,375 square feet. The applicant constructed two structures on the property, a storage building and tent, without a principal dwelling. The applicant indicates that she intends to build a single-family dwelling on the property at a later date, but no plans have been submitted to the City to date for a principal dwelling. Absent a principal residential dwelling, any other structure/uses on the property may not be considered accessory structures or use and instead are considered the principal use of that property. After receiving a complaint that a building was being built without a permit, an electrical meter was being used improperly, and that a person was living in a car that may need housing

services, code enforcement officers visited the subject property on March 24, 2022. In an email dated March 27, 2022, Troy Powell stated that there were no code compliance violations and advised that zoning enforcement staff would need to investigate further. Based on a referral from code compliance staff, a zoning enforcement officer inspected the property on March 25, 2022. As a result of the investigation, the officer issued a Notice of Violation on March 28, 2022 advising the applicant that the two existing structures on the subject property created an illegal nonresidential storage use. The applicant subsequently appealed the zoning Notice of Violation within the required 30 day appeal period. As part of the submitted appeal documents, the applicant provided a physician's letter dated April 6, 2022, stating that she was unable to finalize building plans with a contractor because of medical conditions, disability and COVID restrictions, and indicated that allowing additional time to complete building plans would be in the best interest of the applicant's overall health. If the decision of the zoning enforcement officer is upheld, the applicant will have to remove the structures in violation and/or construct a principal dwelling large enough to bring them into compliance with accessory structure dimensional requirements. This appeal was originally scheduled to be heard by the Board of Adjustment at its meeting on July 25, 2022, but was continued to its meeting on September 26, 2022 to meet an accommodations request by the applicant.

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

Assistant City Attorney Buansi asked questions of Steve Brumagin, Zoning Enforcement Officer and Mike Kirkman, Zoning Administrator, about their position and tenure with the City of Greensboro. He also asked them to discuss the zoning violation observed on the subject property, standard protocol for zoning enforcement officers and the City's basis for the determination.

Steve Brumagin outlined what prompted his inspection of Ms. Martin's property, what he observed, the protocol used in his inspection and the decision that Ms. Martin's property violated the City's Land Development Ordinance.

Mike Kirkman indicated that Mr. Brumagin's protocol was consistent with that of zoning enforcement officers for investigating and documenting zoning violations. He also agreed with Mr. Brumagin's determination that a violation existed on Ms. Martin's property. There is no principal residential dwelling on the property, as a dwelling must have cooking, sleeping and sanitary facilities. Neither the existing tent structure nor storage building meets these requirements. Absent a principal residential dwelling, the other structures on site are considered the principal use of the property, and principal storage uses are not allowed in the R-5 residential zoning district.

Chair Necas asked the applicant to state her name/address for the record and affirmed Karen Martin and Louis Pitts for their testimony.

Karen Martin, 4823 Summit Avenue, provided the board with her live birth certificate to prove she is a North Carolinian, however she stated that due to extenuating circumstances her status is not normal. Martin stated the structures on her property included a shed, which was not inspected. Her goal for this property was to construct a home she had designed for people on a fixed income to live in. Martin stated that she paid a contractor to construct the home but he walked away with the money. This left Martin living in her car on her property. Martin stated that the building that is on the land is not a tent, rather it is portable garage made of metal which can be moved, and that she sleeps in her car. She shared that she had a default judgement against the city, the planning department, the mayor and the attorney and that she did not intend to get a building permit. Martin also shared that she did intend to ask the city to inspect the house she built with the intention to pass code and be available for disabled and low-income individuals. She then said that she has not shared the plans for this house with the city due to personal and religious beliefs and called a fact witness.

Louis Pitts, 824 Rankin Place, fact witness and friend of Karen Martin, said that during conversations with Yvonne Johnson that the city councilman intended to work with others to try to help facilitate the construction of a primary residence on this piece of property. He also stated that Martin is an elderly woman who bought the property and then became ill, lived in her car, and was hurt by the Covid-19 pandemic. Pitts urged the board to delay their decision so that Martin could have more time to get better.

Chair Necas declared a five-minute recess.

Chair Necas asked if there was anyone else to speak in favor of the case. Seeing none, she asked if there was anyone to speak in opposition to the case. Seeing no additional speakers, she closed the public hearing. Chair Necas asked if the Board had any discussion and/or a motion.

DISCUSSION

Mr. Truby clarified that the board's only purpose in this matter is to vote on if the zoning officer's ruling was correct. Truby stated that he could not vote against the zoning officer, but hoped that the city would be patient with Ms. Martin if the decision were to be upheld.

Mr. Randolph agreed with Mr. Truby and stated that there was overwhelming evidence of violation, therefore he concurred with code enforcement decision.

Chair Necas concurred with Mr. Truby and Mr. Randolph in that the city has met their burden of proof, that they have had testimony that was simple and straightforward, and that she feels very strongly for Ms. Martin and was sad to have to vote to uphold the decision.

MOTION

Chair Necas moved that in BOA 22-37, 4823 Summit Avenue, the Board of Adjustment uphold the Zoning Enforcement Officer Decision that stated: (1) Base Zoning: A structure on a property that is not a dwelling would fall into a storage use (as principal use) and therefore is not allowed (Section 30-8-1.1 – Table 8-1); and (2) Accessory Uses and Structures: An accessory structure must be clearly subordinate to the principal structure in all dimensional aspects. Therefore since no principal structure is located on the property a storage building and tent would not be allowed (Section 30-8-11.1(A)(2)). In support of this motion to uphold the Board finds the following facts: (1) The property located at 4823 Summit Avenue is within the corporate limits of the City of Greensboro and subject to its jurisdiction and the application of its Ordinances. (2) The City of Greensboro Land Development Ordinance (LDO) applies to the property and sections relevant to this decision include Sections 30-8-1.1 and 30-8-11.1(A)(2). (3) The Board accepts the following testimony and evidence as true in support of its decision: that the Zoning Enforcement Officer came to a reasonable decision in citing the property. The greater weight of the evidence presented shows that the Zoning Enforcement Officer Decision is consistent with LDO Sections 30-8-1.1 and 30-8-11.1(A)(2). Second by Ms. Rudd. The Board voted 7-0 in favor of the motion. (Ayes: Chair Necas, Truby, Ramsey, Oliver, Randolph, Rudd and Barkdull. Nays: 0.)

b. BOA-22-42: 5 Heathrow Court (DENIED)

Ms. Thiel stated in BOA-22-42, Stephen and Emily Gobbo request a variance to allow an existing fence to exceed the maximum 7 foot height allowed by 4.25 feet. Evidence provided by the applicant included Exhibits A through F. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance reference was Section 30-9-4.6(A): No fence or wall may exceed 7 feet in height for residential uses.

Background and Site Information: The subject lot is located on the west side of Heathrow Court, north of Hobbs Road, and is zoned R-3 (Residential Single-Family). Tax records indicate the lot contains approximately 14,375 square feet and the house was constructed in 1992. The applicants erected a privacy fence in their back yard and a portion of the fence behind a basketball goal is 11.25 feet tall, including a retaining wall, which exceeds the maximum 7 foot height allowed by 4.25 feet. Per the Land Development Ordinance, fence height is to be measured at the highest point, not including columns or

posts, of the fence section from the grade on the side nearest the abutting property or street. Additionally, any retaining wall or berm below the fence is considered part of the overall fence or wall height. After receiving a complaint, a zoning enforcement officer inspected the property on June 17, 2022, and issued a Notice of Violation. The applicants subsequently applied for a variance within the required 30 day appeal period. The applicants indicate that decaying large trees in the area were removed and the fence, with the 11.25 foot section behind the basketball goal, protects privacy and provides security. In their submitted application and proposed landscape plan, the applicants commit to planting trees/shrubs behind the basketball goal to eventually conceal the fence.

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

Chair Necas asked the applicant to state his name/address for the record and swore in Stephen Gobbo for his testimony.

Stephen Gobbo, 5 Heathrow Court, thanked the board for their time and patience. He then shared that he is the applicant, and owner of 5 Heathrow Court as well as the father to two children, ages six and three. Mr. Gobbo stated that denial of this variance would create hardship for his family. His primary reason for purchasing the property was in order to construct a basketball court. Mr. Gobbo showed a photograph from the front of the property that showed aspects of the property including where the fence reached over eight feet. His reason for choosing this property was that it was ideal for the construction of a basketball court which he could enjoy with his children and that removal or reconstruction of the fence would cause safety issues, decreased privacy and loss of value in expense. He planned to provide plantings for the opposite side of the fence where there were once trees blocking the view of the fence and concealing his backyard and that he did not have the funds to modify the fence at this stage. Mr. Gobbo stated that the conditions exist that are peculiar to the property; the orientation of the subject property is on an angle and is pie-shaped, and the elevation changes twelve feet between his property and the neighbor's property, and the garage is in the rear. Mr. Gobbo stated it is not the result of his own actions because the home was constructed in 1972 and purchased in 2018 with the garage already rear facing and a circular drive in the front. Mr. Gobbo shared that there is a retaining wall that causes the fence to go above the 7-foot height limit. He then cited safety concerns for his two daughters because the modification of his fence would put them at risk of falling from a great height over the fence and the retaining wall. Additionally, he shared that eight feet is the perfect height for shooting basketballs since they would likely not go over the fence if missed. He stated the fence is in harmony with the city's ordinance because it provides safety and privacy for this family. He acknowledged that the fence was very tall from the other side, but was willing to find ways to compromise with his neighbors as long as the fence was able to remain the way it is. Mr. Gobbo cited previous variance requests that were approved due to topography being a primary cause. After talking with real estate agents, he thought the property value is increased by the fence and the privacy it provides for him and his neighbors. He also would not have built the fence had the cypress trees still been there to provide privacy and safety, however they were affected by disease, but he planned to replace them, regardless.

Chair Necas asked if there was anyone else to speak in favor of the case. Seeing none, she asked if there was anyone to speak in opposition to the case.

Pam Streeter, 3 Heathrow Court, stated she and her husband live at the abutting property to Mr. Gobbo. Mrs. Streeter expressed her concern about the violation in a letter written to the city July 18th. In the letter she stated that Mr. Gobbo alerted the neighbors of his violation notice, and then sent out a poll asking for feedback with the intention of having the violation appealed by the Board of Adjustment. Mrs. Streeter shared that since her property directly adjoins Mr. Gobbo's, she is unable to open her blinds in her main living area for large portions of the day due to very bright sunlight glaring off the light-colored fence. She also shared that she had witnessed the basketball go over the fence although Mr. Gobbo stated to her

his primary purpose was to prevent this and offered the suggestion that he look into getting a basketball backstop net to prevent this rather than the unsightly fence. Mr. and Mrs. Streeter answered the poll and did not remain anonymous, telling Mr. Gobbo that they were not in favor of the fence. They then followed up with an email suggesting he comply with the city and offered more reasons for their opinion as well as other compromises. Lastly, she stated that she is speaking because she wants the fence to comply with ordinance standards and hoped the fence could be modified.

Mr. Gobbo then came forward to answer questions and stated that before the construction they had conversations and he complied with all the wishes of the Streeters at the time. Chair Necas asked if Mr. Gobbo would be willing to paint the fence in order to soften the glare. Gobbo said he would be willing to do this. Mr. Ramsey asked if Mr. Gobbo had thought about cutting off a few feet instead of coming to request a variance. Mr. Gobbo stated that this was because the city measured the fence incorrectly and he was therefore unaware that the amount that needed to be taken off was 4.25 feet rather than 12 inches due to the retaining wall and topography. Mr. Ramsey clarified that he was wondering why Mr. Gobbo did not request a variance for just a couple feet rather than 4.25 to which Mr. Gobbo replied that budget was a large deciding factor in his application.

Melvina Davis, 14 Heathrow Court, stated she hated the fence and that when she saw the fence she was flabbergasted. She was upset because the rest of the neighbors had to comply and as a result their fences looked good. She also mentioned that there is the option of using a local public basketball court and that they live on a cul-de-sac and near an elementary school where they could play basketball. Ms. Davis said it is not fair and since they all had to follow the ordinance, he should too.

Seeing no additional speakers, Chair Necas made a motion to close the public hearing, seconded by Ms. Rudd (Ayes: Chair Necas, Truby, Ramsey, Oliver, Randolph, Rudd and Barkdull. Nays: 0.)

DISCUSSION

The board discussed how they felt sympathy for both sides. Chair Necas said they always consider the feelings of the neighbors, but also understand the reasons why Mr. Gobbo constructed the fence. Mr. Ramsey stated that he did not support it, but would have supported the variance if Mr. Gobbo had requested a smaller one as a better compromise with the neighbors. Mr. Randolph added that the Board should consider the extenuating circumstances caused by the topography and that he also felt for both sides, but if the reasoning behind the fencing was for utility or security, he does not know what changes if the topography is not the fault of the applicant. Mr. Barkdull stated that due diligence would have prevented much of these problems and that Mr. Gobbo should have gotten advice from the City rather than a fencing company. Mr. Randolph reminded him that the Board has granted variances of this type before.

MOTION

Mr. Randolph moved that in BOA 22-42, 5 Heathrow 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 the reduction of the fencing height to come into compliance will cause significant cost to the applicant, in addition it will reduce the utility of the fence for privacy, safety and property enclosure aspects; (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 existed since the applicant came into possession of the property, the preexisting natural fence was eroded due to natural causes which are not the fault of the applicant; (3) The hardship is not the result of the applicant's own actions because the shape and the conditions of the property existed at the time of ownership and were not manipulated or caused by the homeowner, the decay of the trees was not due to any actions of the applicant.; (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 existing fence provides safety for the children to play in privacy from the neighbors, it also encloses the applicant's property from the adjacent neighbors. Second by Ms. Rudd. The Board voted 1-6 in favor of the motion. (Ayes: Randolph. Nays: Chair Necas, Truby, Ramsey, Oliver, Randolph, Rudd and Barkdull.) Chair Necas stated the variance request did not pass because it did not receive the required 4/5 vote.

NEW BUSINESS

a. BOA-22-47: 501 South Lindell Road (APPROVED)

Ms. Thiel stated in BOA-22-47, William Gibson requests a variance to allow an existing fence located within 15 feet of a street right-of-way to exceed the maximum 4 foot height allowed by 2 feet. 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 30-9-4.6(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 South Lindell Road, south of Walker Avenue, and is zoned R-5 (Residential Single-Family). Tax records indicate the corner lot contains approximately 14,375 square feet and the house was constructed in 1992. The applicant erected a 6 foot privacy fence along the side and rear property lines to provide safety and privacy and to allow for enclosed off-street parking of a personal vehicle. Because the fence is located within 15 feet of the street right-of-way along Walker Avenue, a variance is necessary to allow the fence to exceed the maximum 4 foot height by 2 feet. A Zoning Enforcement officer issued a Notice of Violation for the fence height on June 1, 2022. The applicant 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. A Greensboro Department of Transportation (GDOT) engineer inspected the fence and concluded that the fence, in its current location, is a sight obstruction and creates a public safety issue. If the variance is granted, the applicant plans to relocate the fence outside of sight triangles associated with the Walker Avenue intersection and the subject property's driveway to comply with GDOT requirements. Additionally, the applicant indicates that he plans to remove or cut down a number a mature trees and replace them with smaller shrubs to reduce sight obstructions on the subject property.

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

Chair Necas asked the applicant to state his name/address for the record and swore in William Gibson for his testimony. She also swore in two supporters, Josh Sherrick and Patti Eckard.

William Gibson, 501 South Lindell Road, stated that due to the lack of a homeowner's association, he was unaware of the restrictions to his property and that the fence company that he worked with did not alert him to this. He replaced an existing 4 foot fence that was leaning into the sidewalk on the Walker Avenue side. He was informed that the existing fence was a sight obstruction violation and was told that the fence could not be 48 inches, but rather had to be 30 inches to be in compliance with the sight obstruction violation. The previous fence had been there for a number of years along with several mature trees that were also in violation. He stated he is willing to remove the trees and move the fence five feet back and request a variance of 6 feet primarily for the protection of his service dog and provide a safe space. Mr. Gibson added that having a gate that swung in would take away space from his parking area, so he was unsure of if he would be able to have the gate swing in.

Josh Sherrick, 2918 Sherwood Street, chairman of Lindley Park Neighborhood Association, stated he and his executive team would have no problem granting this variance.

Patti Eckard, 2621 Beechwood Street, first-vice chair of Lindley Park Neighborhood Association, stated she lives just around the corner, so she experiences the sight line problem when entering the intersection,

but added that she would be in favor of the variance with the conditions that Mr. Gibson move the fence back and remove the trees.

Chair Necas asked if there was anyone else to speak in favor or in opposition of the request. Seeing no other speakers, she closed the public hearing and moved to Board discussion and/or a motion.

DISCUSSION

There was no further discussion.

MOTION

Mr. Oliver moved that in BOA 22-47, 501 South Lindell Road, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the variance granted with a condition that the fence will be moved back five feet and trees will be removed, 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 be very expensive for the applicant to do this; (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 had bad information from the fence company; (3) The hardship is not the result of the applicant's own actions because the old fence was already there which gave him the impression that he could put another fence on the same location; (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 neighbors were in agreeance that the variance should be granted and does not harm the neighborhood in any way. Second by Mr. Truby. The Board voted 6-1 in favor of the motion. (Ayes: Chair Necas, Truby, Ramsey, Oliver, Rudd and Barkdull. Nays: Randolph.) Chair Necas stated the variance request passed.

b. BOA-22-48: 4805 Eagle Rock Road (APPROVED)

Ms. Thiel stated in BOA-22-48, 4805 Eagle Rock Road, Walter Eells requests a variance to allow a proposed garage addition to encroach 4.7 feet into a required 10 foot side setback. Evidence provided by the applicant was 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 west side of Eagle Rock Road, south of Pleasant Ridge Road, 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 1991. The applicant proposes to add a garage on the south side of the house that will cover a portion of the existing concrete driveway. The proposed garage addition will encroach 4.7 feet into a required 10 foot side setback and be 5.3 feet from the side property line. The applicant indicates that an angled side property line and the desire to preserve mature pine trees affect placement of the proposed attached garage. 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 or plans.

Chair Necas asked the applicant to provide his name/address for the record and swore in Walter Eells for his testimony.

Walter Eells, 4805 Eagle Rock Road, explained that the hardship centers around the fact that his wife has lupus which is a deteriorating disease, therefore she has reached the point where it is difficult for her to walk and get in and out of the car. By having the car in the garage, it makes it more secure for them to get in and out, as well as unloading groceries and bringing them into the house and protection from vandalism. Mr. Eells added that he and his wife frequently go on trips out of the country and are

uncomfortable leaving their car parked in the driveway which would be remedied by the addition of a garage. The garage would be situated on top of the driveway that exists now and would not be as wide as the driveway. It is also on the blind side of the house next to him.

Chair Necas asked if there was anyone else to speak in favor or in opposition of the request. Seeing no other speakers, she closed the public hearing and moved to Board discussion and/or a motion.

There was no further discussion.

MOTION

Mr. Ramsey moved that in BOA 22-48, 4805 Eagle Rock 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 applicant will not be able to construct a reasonably located garage on their property and protect existing trees; (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 unique angle of the sideline causes a side setback issues and the applicant desires to preserve existing trees while still constructing the garage; (3) The hardship is not the result of the applicant's own actions because the applicant acquired the property with the existing pad/carpark upon which the proposed garage will be built; (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 it will allow the applicant to safely park their car and allow greater means of entry while avoiding the elements, the garage will also increase the property's value and is consistent with the neighborhood. Second by Mr. Randolph. The Board voted 7-0 in favor of the motion. (Ayes: Chair Necas, Truby, Ramsey, Oliver, Randolph, Rudd and Barkdull. Nays: 0.) Chair Necas stated the variance request passed.

c. BOA-22-49: 805 Sunset Drive (APPROVED)

Ms. Thiel stated in BOA-22-49, 805 Sunset Drive, Matthew and Amy Eskridge request two variances. (1) To allow an existing accessory dwelling and proposed carport addition to encroach 7 feet into a required 10 foot side setback. (2) To allow an existing accessory dwelling and proposed carport addition to encroach 27.4 feet into a required 30 foot rear setback. Evidence provided by the applicants included Exhibit A through E. Supporting documentation from staff include Exhibits 1 through 6. The Land Development Ordinance references were Section 30-2-4.1(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 30-8-11.2(D): A detached accessory dwelling must meet the location and dimensional requirements of the principal structure. 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 on the south side of Sunset Drive, east of Woodland Drive, and is zoned R-3 (Residential Single-Family). Tax records indicate the lot contains approximately 21,780 square feet, and the house was constructed in 1935. The existing accessory dwelling on the property is considered a nonconforming structure since it encroaches into the side and rear setbacks. 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 applicants propose to add a 440 square foot two-car carport on the north side of the accessory dwelling that will cover a portion of the existing concrete driveway. The accessory dwelling and carport addition will encroach 7 feet into a required 10 foot side setback and be 3 feet from the side property line. They will also encroach 27.4 feet into a required 30 foot rear setback and be 2.6 feet from the rear property line. The applicants indicate that the proposed carport will not encroach any further into setbacks than the existing accessory dwelling does. 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 or plans.

Chair Necas asked the applicants to provide their name/address for the record and swore in Mathew Eskridge for his testimony.

Matthew Eskridge, 805 Sunset Drive, stated the house was built in 1935 and sat vacant for a few years and was a casualty from the 2008 turndown. He bought the house in 2013 and it was been a labor of love. They had the carport done as well as the circle driveway up front and a driveway to the back. The last phase of the restoration is the guest house. The renovation of the existing guest house will require adding the carport to the front. Mr. Eskridge sent photos of the plans to his neighbors and received letters of their support.

Chair Necas asked if there was anyone else to speak in favor or in opposition of the request. Seeing no other speakers, she closed the public hearing and moved to Board discussion and/or a motion.

There was no further discussion.

MOTION

Mr. Truby moved that in BOA 22-49, 805 Sunset 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 would not be able to construct 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 guest house is existing and the only logical place for the carport is in front of the guest house; (3) The hardship is not the result of the applicant's own actions because the guest house existed prior to the purchase of the guest house in 2013; (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 addition is entirely on the owner's property and does not infringe on any public safety or welfare. Second by Mr. Oliver. The Board voted 7-0 in favor of the motion. (Ayes: Chair Necas, Truby, Ramsey, Oliver, Randolph, Rudd and Barkdull. Nays: 0.) Chair Necas stated the variance request passed.

OTHER BUSINESS

None.

ADJOURNMENT

The meeting was adjourned at 8:42 p.m.

Respectfully submitted,

Leah Necas, Chair
Greensboro Board of Adjustment
LN/as

**MEETING MINUTES
GREENSBORO BOARD OF ADJUSTMENT
October 24, 2022**

The meeting of the Greensboro Board of Adjustment was held on Monday, October 24, 2022, at 5:33pm in-person in the City Council Chamber. Board members present were: Chair Leah Necas, Vice Chair Vaughn Ramsey, Chuck Truby, Ted Oliver, Tifanie Rudd, Larry Wright and Stephen Barkdull. City staff present were Shayna Thiel and Mike Kirkman of the Planning Department, and Allen Buansi (Assistant City Attorney).

Chair Necas welcomed everyone to the 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. Chair Necas further explained the manner in which the Board conducts its hearings and methods of appealing any ruling made by the Board. Chair Necas 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. Ms. Necas went on to explain how the Board would make its decision and votes, based on findings of fact and other factors, and she explained how to appeal decisions.

APPROVAL OF MINUTES (September 26, 2022 Meeting)

Mr. Ramsay made a motion to approve the September 26, 2022, minutes; second by Mr. Truby. The Board voted 6-0-1 in favor of the motion. (Ayes: Chair Necas, Vice Chair Ramsey, Truby, Oliver, Rudd, Barkdull; Nays: 0; Abstention: Wright). Chair Necas advised the minutes were approved.

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 that BOA-22-54 will be continued to the November 28th meeting.

OLD BUSINESS

None.

NEW BUSINESS

1. VARIANCE

a. BOA-22-50: 500 East Washington Street (APPROVED)

Ms. Thiel stated in BOA-22-50, Alex Ritchy requests 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 through C. 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 property is located on the south side of East Washington Street, east of South Murrow Boulevard, and is zoned LI. 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. The Board of Adjustment previously approved this

same variance request in BOA-21-27 at its meeting on May 24, 2021. Per the Land Development Ordinance, a variance becomes void if construction, operation or installation does not start within 12 months of the issue date of issuance. Because construction has not commenced on the subject lot, the applicant must seek a new variance. If the variance is granted, the applicant will continue with Technical Review Committee review and 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 and or plans.

Chair Necas asked the applicant to state his name/address for the record and swore in Alex Ritchy for his testimony.

Alex Ritchy, 1 Reel Court, stated he is requesting this variance again because site plan review has taken longer than anticipated. He can now move forward, and the process requires the variance. Chair Necas asked if anything has materially changed since last year, and Mr. Ritchy stated not. Mr. Ramsey asked if the applicant needed the variance due to the subject property being a corner lot, and Mr. Ritchy stated that was correct.

Chair Necas asked if there was anyone else to speak in favor of the case. Seeing none, she asked if there was anyone to speak in opposition to the case. Seeing no additional speakers, she closed the public hearing. Chair Necas asked if the Board had any discussion and/or a motion.

MOTION

Mr. Ramsey moved that in BOA 22-50, 500 East Washington 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 without the variance, a reasonably sized building cannot be placed on the property giving setbacks to Washington Street and Morrow Boulevard due to the property's location on a corner; (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 setback requirements and railroad right-of-way drastically restrict the building area of the lot and thus its practical uses; (3) The hardship is not the result of the applicant's own actions because the railroad right-of-way and setback requirements are what so severely limits the use of the property given its corner location; (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 improvement will be consistent with the light industrial zoning and other realty uses in the area. Second by Mr. Truby. The Board voted 7-0 in favor of the motion, (Ayes: Chair Necas, Vice Chair Ramsey, Truby, Oliver, Rudd, Barkdull, Wright; Nays: 0) Chair Necas stated the variance request passed unanimously.

b. BOA-22-51: 1706 Madison Avenue (APPROVED)

Ms. Thiel stated in BOA-22-51, 1706 Madison Avenue, Tracy Shuford requests two variance. (1) To allow a proposed accessory structure to encroach 6.5 feet into a required 10 foot side setback. The accessory structure will be 3.5 feet from the side property line. (2) To allow a proposed accessory structure to encroach 6.5 feet into a required 10 foot rear setback. The accessory structure will be 3.5 feet from the rear property line. Evidence provided by the applicant was Exhibit A through D. Supporting documentation from staff included Exhibits 1 through 6. The Land Development Ordinance reference was Section 30-8-11.1(C)(2): In R- districts, the side and rear setback is 10 feet for accessory structures over 15 feet tall.

Background and Site Information: The subject lot is located on the north side of Madison Avenue, east of Overlook Street, and is zoned R-5. Tax records indicate the lot contains approximately 10,890 square

feet and the house was constructed in 1937. The applicant proposes to construct a 725 square foot detached garage on the property that will be 21.6 feet tall. With that height, the minimum required side and rear setback is 10 feet. The proposed detached garage will encroach 6.5 feet into a required 10 foot side setback and be 3.5 feet from the side property line. It will also encroach 6.5 feet into a required 10 foot rear setback and be 3.5 from the rear property line. The applicant indicates that the rear and side property lines are very close to West Friendly Avenue and that the proposed detached garage will serve as a visible screen and sound barrier. 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 or plans.

Chair Necas asked the applicant to state her name/address for the record and swore in Tracy Shuford for her testimony.

Tracy Shuford, 1710 Wright Avenue, stated she is seeking to move her garage. The subject property is on a dead-end of the street and she wants to establish a buffer from Friendly Avenue with a new garage, which requires placing it closer to the house. She stated she is trying to maintain the architectural integrity of the house. There are comparable structures around the neighborhood, and she intends to position the new garage similarly. Mr. Oliver asked if the applicant was renovating the subject property, and Ms. Shuford stated she was. Mr. Truby asked if the applicant spoke to her neighbors about this, and Ms. Shuford stated she did and had no opposition. Ms. Thiel asked the applicant to display the property deed to confirm ownership for the record, which Ms. Shuford did.

Lee Comer, 1710 Wright Avenue, was also sworn in, but did not provide testimony.

Chair Necas asked if there was anyone else to speak in favor of the case. Seeing none, she asked if there was anyone to speak in opposition to the case. Seeing no additional speakers, she closed the public hearing. Chair Necas asked if the Board had any discussion and/or a motion.

MOTION

Mr. Truby moved that in BOA 22-51, 1706 Madison Avenue, based on the stated 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 without the variance, the owner would not be able to build the accessory 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 the property line is very close to the busy intersection and provides a visible screen and sound barrier; (3) The hardship is not the result of the applicant's own actions because the garage can only be placed in the proposed location to allow reasonable access; (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 general public will benefit from a less congested street and will add value to the neighborhood. Second by Mr. Oliver. The Board voted 7-0 in favor of the motion. (Ayes: Chair Necas, Vice Chair Ramsey, Truby, Oliver, Rudd, Wright, Barkdull; Nays: 0) Chair Necas stated the variance request passed unanimously.

c. BOA-22-52: 205 West Avondale Drive (APPROVED)

Ms. Thiel stated in BOA-22-52, 205 West Avondale Drive, Valerie Daniels requests two variances. (1) To allow a proposed accessory dwelling to encroach 7 feet into a required 10 foot side setback. The accessory dwelling will be 3 feet from the side property line. (2) To allow an existing and expanded accessory structure to be separated by 4 feet from another structure on the lot when at least 10 feet is required. Evidence provided by the applicant included Exhibit A through E. Supporting documentation

from staff include Exhibit 1 through 7. The Land Development Ordinance reference were Section 30-8-11.2(D): A detached accessory dwelling must meet the location and dimensional requirements of the principal structure; and Section 30-8-11.1(E)(2): Accessory structures 600 square feet or larger must be separated by at least 10 feet from any other structure on the site.

Background and Site Information: The subject lot is located on the west side of West Avondale Drive, north of Madison Avenue, and is zoned R-3. Tax records indicate the lot contains approximately 19,166 square feet and the house was constructed in 1957. The applicant proposes to convert an existing detached garage into an accessory dwelling and add an additional 264 square feet of living space. The existing garage meets accessory structure side setback requirements, but when converted to an accessory dwelling, it does not meet the side setback of the principal structure. The proposed accessory dwelling will encroach 7 feet into a required 10-foot side setback and be 3 feet from the side property line. The applicant indicates that the portion of the accessory dwelling that is within 10 feet of the side property line will not be increased in size. The existing and expanded accessory structure is 4 feet away from an existing deck, when the required separation is 10 feet, so the applicant is seeking another variance to address the issue and bring the structure into compliance. 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 or plans.

Chair Necas asked the applicant to state her name/address for the record and swore in Valerie Daniels for her testimony.

Valerie Daniels, 205 West Avondale Drive, stated that the nonconforming garage and deck situation existed before she purchased the property. Her father is 90 years old and she wants to furnish the accessory structure as a living space for him. Nothing will change about the existing structure, except it will have a new roof and upgraded siding. She stated that her neighbors have been supportive. Chair Necas asked if she was adding more to the accessory structure, and not adding further encroachment into the setback. Ms. Daniels stated that was correct, but since the garage would become partially a living space, the setback requirements change. Mr. Oliver asked if proximity to the deck would cause any hardship. Ms. Daniels stated she did not think so. Mr. Oliver stated it looked like it would modify the back yard quite a bit. Ms. Daniels stated that was correct but that the subject property is large and they will need to move some of the larger trees.

Chair Necas asked if there were any questions for the applicant. Hearing none, she asked if there was anyone else to speak in favor of the case. Seeing none, she asked if there was anyone to speak in opposition to the case. Seeing no additional speakers, she closed the public hearing. Chair Necas asked if the Board had any discussion and/or a motion.

MOTION

Mr. Oliver moved that in BOA 22-52, 205 West Avondale Drive, based on the stated 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 applicant wants to convert a garage to a structure for an elderly relative to live and without this variance they cannot do it; (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 wants to convert an existing building to a living space, that building already is only three feet back from the setback line, and the applicant proposes to keep the building in the same place; (3) The hardship is not the result of the applicant's own actions because the current building was in place when the property was purchased; (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 addition will be attached to the existing structure, it will be only 4 feet away from the deck, no harm will be done by this, and it is within the property and not near its boundaries. Second by Ms. Rudd. The Board voted 7-0 in favor of the motion. (Ayes: Chair Necas, Vice Chair Ramsey, Truby, Oliver, Rudd, Wright, Barkdull; Nays: 0) Chair Necas stated the variance request passed unanimously.

d. BOA-22-53: 102 Howell Place (APPROVED)

Ms. Thiel stated in BOA-22-53, 102 Howell Place, Margaret and Jeffrey Hensley request a variance to allow a proposed accessory dwelling to encroach 15 feet into a required 30 foot rear setback. The accessory dwelling will be 15 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 30-8-11.2(D): A detached accessory dwelling must meet the location and dimensional requirements of the principal structure.

Background and Site Information: The subject lot is located on the east side of Howell Place, north of Kirk Road, and is zoned R-3. Tax records indicate the lot contains approximately 19,166 square feet and the house was constructed in 1964. The applicants propose to construct an accessory dwelling with a carport and storage area in their back yard that will encroach 15 feet into a required 30-foot rear setback and be 15 feet from the rear property line. The submitted site plan shows that all other accessory structure and accessory dwelling dimensional requirements will be met. The applicants indicate that the angled rear lot line affects placement of the proposed accessory dwelling and that the existing storage shed in the back yard will be removed. If the variance is granted, the applicants 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 or plans.

Chair Necas asked the applicants to state their name/address for the record and swore in Margaret and Jeffrey Hensley for their testimony.

Margaret Hensley, 102 Howell Place, stated that she is seeking to build a small cottage for her mother to live in. The placement proposed is the only possible location for construction on the lot as the rear lot line is at an odd angle, requiring the variance. She stated this location is the most pleasing for her and the neighboring properties and provides the easiest build process. Chair Necas asked if the applicant talked to neighbors, applicant stated she had spoken to all the neighbors around her property and none expressed opposition.

Chair Necas asked if there were any questions for the applicant. Hearing none, she asked if there was anyone else to speak in favor of the case. Seeing none, she asked if there was anyone to speak in opposition to the case. Seeing no additional speakers, she closed the public hearing. Chair Necas asked if the Board had any discussion and/or a motion.

MOTION

Mr. Barkdull moved that in BOA 22-53, 102 Howell Place, 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 build the accessory structure due to the angled rear lot line effecting the building placement; (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 pre-existing angled lot line creates a hardship for the placement of the proposed building; (3) The hardship is not the result of the applicant's own actions

because the angled rear lot line was in place when the property was purchased by the applicant; (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 applicant will remove the existing storage shed and replace it with a new structure, improving the property and the neighborhood. Second by Mr. Truby. The Board voted 7-0 in favor of the motion. (Ayes: Chair Necas, Vice Chair Ramsey, Truby, Oliver, Rudd, Wright, Barkdull; Nays: 0) Chair Necas stated the variance request passed unanimously.

OTHER BUSINESS

The board welcomed Mr. Wright and acknowledged Mr. Randolph's absence. Chair Necas wished everyone a good night.

ADJOURNMENT

The meeting was adjourned at 6:14pm.

Respectfully submitted,

Leah Necas, Chair
Greensboro Board of Adjustment
LN/arn

**MEETING MINUTES
GREENSBORO BOARD OF ADJUSTMENT
November 28, 2022**

The meeting of the Greensboro Board of Adjustment was held on Monday, November 28, 2022, at 5:33 p.m. in-person in the City Council Chamber. Board members present were: Chair Leah Necas, Vice Chair Vaughn Ramsey, Chuck Truby, Larry Wright, Ted Oliver, and Cory Randolph. City staff present were Shayna Thiel and Mike Kirkman of the Planning Department, and Emily Guarascio (Associate City Attorney).

Chair Necas welcomed everyone to the 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. Chair Necas further explained the manner in which the Board conducts its hearings and methods of appealing any ruling made by the Board. Chair Necas 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. Ms. Necas went on to explain how the Board would make its decision and votes, based on findings of fact and other factors, and she explained how to appeal decisions.

APPROVAL OF THE MINUTES (October 24, 2022 Meeting)

Vice Chair Ramsey made a motion to approve the October 24, 2022, minutes. Mr. Truby seconded. The Board voted 5-0-1 in favor of the motion, (Ayes: Chair Necas, Vice Chair Ramsey, Truby, Wright, Oliver; Nays: 0; Abstention: Randolph). Chair Necas advised the minutes were approved.

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.

OLD BUSINESS

a. BOA-22-54: 621-625 Arlington Street (APPROVED)

Ms. Thiel stated in BOA-22-54, 621-625 Arlington Street, Corrine Trueblood requests a variance to allow the building coverage of all accessory structures on the lot to exceed 50% of the principal structure's building coverage. The building coverage of all accessory structures is 1,419 square feet when no more than 1,185 square feet is allowed. Evidence provided by the applicant included Exhibits A-C. Supporting documentation from staff included Exhibits 1 through 6. The Land Development Ordinance reference was 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 principal structure on the lot or 600 square feet, whichever is greater.

Background and Site Information: The subject lot is located on the east side of Arlington Street, south of Carolyn Coleman Way, and is zoned R-5. Survey records indicate the lot contains approximately 22,754 square feet. Without obtaining a building permit, the applicant constructed a 1,251 square foot garage on the property. In response to a complaint, a zoning enforcement officer visited the property and issued a Notice of Violation on August 4, 2022 for having an accessory structure on a lot without a principal structure. When the Notice of Violation was issued, the subject property contained two lots, 621 and 625 Arlington Street, which were both owned by the applicant. To remedy the violation, the applicant combined the two lots into one by combination instrument recorded with the Guilford County Register

of Deeds. In doing so, however, another zoning violation was created. Per the Land Development Ordinance, the maximum building coverage of all accessory structures may not exceed 50% of the building coverage of the principal structure on the lot. When the unpermitted garage is added to the pre-existing 168 square foot storage shed, the total building coverage of all accessory structures becomes 1,419 square feet, when no more than 1,145 square feet is allowed. The applicant indicates that a larger accessory structure is necessitated due to the on-street parking constraints created by the nearby Union Square Campus and the age of the house. 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 overlays and or plans

Chair Necas asked the applicant to state her name/address for the record and swore in La-Deidre Matthews for her testimony.

La-Deidre Matthews, 101 North Tryon Street, Charlotte, an attorney representing the applicant, stated that the subject property was two lots until recently. The residence on the first lot is very old, built in the 1900s, with a small storage shed added in 1980. The applicant built the garage in 2020 on the second lot and she used the foundation of a previous structure destroyed in a fire for the new structure. Ms. Matthews stated that her client recombined the lots based on guidance from staff and has been working to get the lots into compliance. She stated that a site plan has been filed in preparation for a building permit if the variance is granted. Ms. Matthews then displayed a plat diagram indicating the location of the structure in question, and displayed photographs of the subject property illustrating the location of buildings on the subject property. She stated that the proximity to the Union Square Campus has caused her client to lose access to parking around her property, and the currently nonconforming structure is critical to her client's use of her property. Ms. Matthews stated that the variance is requesting minimum relief necessary to remediate this situation and that accessory structures such as this are typical in this neighborhood. There are no health or safety issues presented by it, and her client is not aware of any complaints from neighbors.

Mr. Oliver asked where automobiles entered into the structure. Ms. Matthews stated that they entered to the right and drove around to the back.

Mr. Randolph asked about the necessity of combining the lots. Ms. Matthews stated that the Land Development Ordinance (LDO) considers the garage an accessory structure that needs a principal structure to be permissible in the subject parcel's residential zoning district. She stated that with the lots combined, it serves as an accessory structure. Mr. Kirkman confirmed that the garage/storage structure would not be permissible as a principal use in a residential district. The combination of the lots made the accessory use acceptable, but the size of the structure necessitated the variance.

Mr. Wright asked if the applicant had a permit to construct the metal-framed structure. Ms. Matthews stated that her client was not aware she needed a permit to construct that structure.

Chair Necas asked if there was anyone to speak in opposition. With no additional speakers present, she closed the public hearing and went to Board discussion and/or a motion.

MOTION

Vice Chair Ramsey moved that in BOA 22-54, 621-625 Arlington 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 applicant would not have adequate and reliable parking due to diminished parking available from the creation of the Union Square Campus, even though the garage would have complied with the setbacks had the lots not been combined; (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 parking limits which arose with the 2016 opening of the Union Square Campus and a 1900s house which does not have a modern garage, moreover where the two lots still separate the garage could be in compliance on lot 2; (3) The hardship is not the result of the applicant's own actions because the opening of Union Square necessitated the construction of the garage for reliable parking for the applicant; (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 property is large enough to accommodate all three structures with open space and is a positive addition to the neighborhood. Seconded by Mr. Randolph. The Board voted 6-0 in favor of the motion, (Ayes: Chair Necas, Vice Chair Ramsey, Truby, Wright, Oliver, and Randolph; Nays: 0). Chair Necas stated the variance request passed unanimously.

NEW BUSINESS

b. BOA-22-55: 6306-6312-6314-6318 West Market Street and 102 Stage Coach Trail (APPROVED)

Ms. Thiel stated in BOA-22-55, H and N Investments LLC and NC Auto Dealer Inc. request a special use permit to operate a salvage yard on the property in addition to all uses permitted in the HI District. Evidence provided by the applicant included Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 9. The Land Development Ordinance references were Section 30-8-1 – Table 8-1: Salvage yards, junk yards and scrap processing is a permitted use in the HI District with a Special Use Permit, and Section 30-8-10.5(F): Salvage yards, junk yards and scrap processing facilities must meet the following standards: (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 (see 30-9-4). The fencing must be positioned between the activity and any required buffer planting yard. (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 north side of West Market Street, between Stage Coach Trail and North Swing Road, and is zoned HI (Heavy Industrial). Tax records indicate the lot contains approximately 6.7 acres. The applicants intend to operate a salvage yard on the property in conjunction with the auto storage use. In compliance with the salvage yard use standards, the subject property is at least 5 acres in area and is separated from any residential use by at least 300 feet. The applicants are aware of the standard that requires an opaque fence at least 8 feet in height around the perimeter of the activity and between any required buffer planting yard. The rezoning of the property to HI (Heavy Industrial) from LI (Light Industrial) and C-M (Commercial – Medium) was approved by the Planning & Zoning Commission on March 21, 2022 and became effective on April 1, 2022. At that time, staff recommended approval of the rezoning and indicated that the request was consistent with the intent and purpose of the zoning code, the Comprehensive Plan (GSO2040) and generally compatible with the existing development and trend in the surrounding area. If the special use permit is granted, the applicants will proceed with review by the Technical Review Committee (TRC).

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

Chair Necas asked the applicant(s) to state their name/address for the record.

Marc Isaacson, 804 Green Valley Road, introduced his colleague Nick Blackwood. **Nick Blackwood, 804 Green Valley Road**, an attorney representing NC Auto Dealer Inc. and H and N Investments LLC, stated that the applicant is a state-licensed automobile dealer that has been operating at this location since 2010 and is seeking to bring their operations into compliance with the City's ordinances regarding salvage yards. He stated that the applicant purchases vehicles at auction and brings them into working order and sold, all on site. He stated the applicant is requesting the special use permit to allow the storage of nonfunctional vehicles on site until necessary repairs are completed. This is not a traditional salvage

yard housing junk vehicles for parts scavenging. The applicant will strictly store vehicles in inventory for repair and eventual resale on site. He stated that the applicant has sold vehicles on the subject property in compliance with zoning district requirements for more than a decade but as their operation has grown, they need the security of the special use permit to ensure compliance with the use on site. Mr. Blackwood stated that the applicants rezoned this property to the Heavy Industrial district to secure this use. There are no zoning conditions restricting the subject properties, and varieties of uses are available for the applicants by right without requesting a special use permit. He stated the applicant is requesting the special use permit and is willing to follow the additional restrictions to facilitate their already permissible automobile sales use. Mr. Blackwood stated that they mailed letters to neighbors on the City's notification list but did not receive any responses. He stated that there are a wide variety of other industrial uses in the area, the request is necessary for the operation of the applicant's business, is consistent with the character of the neighborhood and the GSO2040 Comprehensive Plan, and provides a positive service to the community.

Chair Necas asked how long the applicant would have to construct the fence that is required by the LDO. Mr. Blackwood stated that he believed the applicant would need to construct the fence immediately given the use is already in operation. Mr. Kirkman stated that if the Board granted the special use permit it would be granting the applicant the right to the salvage yard use, and they would then need to consult with TRC for a limited review to confirm the conformity of their site layout and quickly proceed with the construction of the required fence.

Mr. Wright stated there was a multifamily development behind the subject property and asked about the potential impact of the request. Mr. Blackwood stated that the request meets the 300-foot buffer requirement under the LDO. Mr. Wright asked about specifications for the fence, and Mr. Blackwood stated it would be 8 feet high and opaque.

Chair Necas asked if there was anyone else to speak in favor of the case. Seeing none, she asked if there was anyone to speak in opposition to the case. Seeing no additional speakers, she closed the public hearing. Chair Necas asked if the Board had any discussion and/or a motion.

Mr. Truby stated that he travels near the subject property every day and supports the applicant's work to improve the neighborhood.

MOTION

Mr. Truby moved that in BOA 22-55, 6306-6312-6314-6318 West Market Street and 102 Stage Coach Trail, based on the stated Findings of Fact, 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 current land use is auto storage and has been established since 2010, the business purchases salvage vehicles from car accidents and restores the vehicles in the repair shop on location, the business needs to store these vehicles on site while repairs are in process, the business is insured and has routine safety inspections to ensure there are no hazards; (2) The proposed use at the particular location provides a service or facility that will contribute to the general well-being of the neighborhood or the community because there are few land uses like this throughout the city to fill the public's need to salvage and repair vehicles and auto accidents and an 8-foot fence will be constructed around the perimeter of the property; (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 the properties were recently rezoned from LI (Light Industrial) and C-M (Commercial – Medium) to HI (Heavy Industrial) which allows for the proposed use. Vice Chair Ramsey seconded the motion. The Board voted 6-0 in favor of the motion, (Ayes: Chair Necas, Vice Chair Ramsey, Truby, Wright, Oliver, and Randolph; Nays: 0). Chair Necas stated the special use permit request passed unanimously.

c. BOA-22-56: 2103 Mimosa Drive (APPROVED)

Ms. Thiel stated in BOA-22-56, 2103 Mimosa Drive, James and Margaret Wynn request a special use permit to operate a tourist home on the property in addition to all uses permitted in the R-5 district. Evidence provided by the applicant was Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance references were Section 30-8-1 – Table 8-1: A Tourist Home is a permitted use in R- districts with a Special Use Permit, and Section 30-8-10.4(Q): Tourist Homes must meet the following standards: (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 Mimosa Drive, north of Catalina Drive, 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 1956. The applicants reside on site and advertise their attached accessory dwelling as a short-term rental through online platforms, such as Airbnb. On September 9, 2022, a zoning enforcement officer issued a Notice of Violation indicating that a special use permit is required to operate a tourist home in the R-5 District and that only one kitchen facility is allowed. To bring the property into compliance and remedy the Notice of Violation, the applicant applied for this special use permit within the required 30-day appeal period. At the same time, the applicant also applied for a variance (BOA-22-57) to allow for more than one kitchen facility in a proposed tourist home since there is one in the main area of the house and another in the accessory dwelling. The Board of Adjustment can consider the related variance request if it approves this special use permit request.

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

Chair Necas asked the applicant to provide their name/address for the record and swore in James and Margaret Wynn and Paul Davis for their testimony.

Margaret Wynn, 2103 Mimosa Drive, stated that they moved into the subject property in 1995 and it took 25 years to save enough money to remodel their home. With their children no longer living with them, they remodeled the structure to renovate the bottom floor and listed the property on Airbnb in 2020. She stated they were not aware they were in violation of the ordinance. They are aware of the negative impact of some short-term rentals, but they live in this home full-time, care about the neighborhood, and seek to protect it. She stated most of her neighbors are supportive and they received no specific complaints about noise or traffic. Ms. Wynn stated that the short-term rental income is an important supplement income to their retirement savings. They have watched Planning staff's presentations on potential regulation of short-term rentals, are supportive of these efforts, and do not believe they would be in violation of the potential new regulations.

Chair Necas asked if the applicant was renting out an accessory dwelling unit or a part of their home. Ms. Wynn stated that the short-term rental was the 400 square foot lower level of their split-level home.

James Wynn, 2103 Mimosa Drive, stated that their short-term rental is only approximately half of the basement level of their home, not an expansion of the footprint. They love Greensboro and enjoy sharing it with their guests, and are willing to following all potential short-term rental guidelines from the City when they are established. He stated he had to retire early and the income from the rental is important to them. The permit and variance process makes up approximately 10% of the annual income they make from the

short-term rental. Mr. Wynn stated that their renovation was has passed all City inspections and they did not believe they were in violation of short-term rental guidelines when they established the rental.

Vice Chair Ramsey asked staff if the subject property would comply with the ordinance if it were an accessory dwelling apartment. Mr. Kirkman stated that if the applicant leased for longer than 30 days it would be a standard apartment under the ordinance. Ms. Wynn stated she understood the regulations about fire hazards in tourist homes, but their home's situation is unique.

Mr. Oliver stated that his view is that everything is in compliance apart from the kitchen, but asked about stays over 30 days. Mr. Kirkman stated that the 30-day limit has to do with specific individual renters. Vice Chair Ramsey asked if a property owner could have 12 30-day rentals in a year and it would not qualify as a tourist home, and Mr. Kirkman stated it was correct.

Mr. Truby asked the applicants how often it was rented, Ms. Wynn stated that it was booked approximately 80% of the time, but they block out time for family gatherings and that is why they appreciate the short-term rental format. Mr. Wynn stated that someone would rent the downstairs if they do not block time off because of the popularity of the platform and quality of their offering.

Mr. Wright asked if this was an apartment, could the subject property have multiple kitchens. Mr. Kirkman stated that accessory dwelling units within a principal structure could have multiple kitchens. The standard for tourist homes regulates the level of commercial activity in residential areas and maintains the use standards of single-family zoning districts.

Paul Davis, 2105 Mimosa Drive, stated he lives immediately adjacent to the short-term rental unit and has lived next to the Wynns since 2008. They have been good neighbors and have only improved the property. He stated they consulted him before they started listing it for rental and he has only gotten more comfortable with the short-term rental process since the Wynns began operating it. He stated he has never had any issues with the short-term tenants. He stated that the security improvements the Wynns have installed have benefited him as well.

Chair Necas asked if there was anyone else to speak in favor of the request. Seeing no other speakers in favor, she asked if there was anyone to speak in opposition to the case. Chair Necas asked the speakers in opposition to provide their name/address for the record and swore in Anthoula Contogiannis for her testimony.

Anthoula Contogiannis, 5022 US Highway 220 N, Summerfield, stated that she had difficulty finding out about the hearing due to mail transit times. She stated that the property is within close proximity to a public school and development over the last few decades has changed the nature of the neighborhood. She asked why a short-term rental should have two kitchens, and stated her opposition to this use in R-5 single-family zoning districts. She stated she believes the City should not approve any new short-term rentals because it cannot know where they are currently operating. Ms. Contogiannis then displayed a news article discussing issues other cities are having with short-term rentals and stated that traditional multi-family uses have different development and service standards. She believes the subject property does not have enough parking to accommodate the rental tenants. She stated that she believes short-term rentals should have stronger regulation and taxes, and that neighbors want to live in this area for its privacy and this request puts that at risk.

Mr. Randolph asked Ms. Contogiannis about her relationship to the property, and she stated that was acting as the power of attorney for the previous resident of 2101 Mimosa Drive and that she does not live at the property. Mr. Randolph asked what issues she has had with selling the property, and Ms. Contogiannis stated she has not tried to sell it yet.

Valerie Senning, 605 Catalina Drive, stated she thought neighbors had short notice for this hearing, and had questions about the potential impact on their property values. She asked about the vetting

process for renters and if the special use permit remains if the owners sold the subject property. Mr. Kirkman stated that as long as there is maintenance of the use, it goes with the property.

Rebecca Taylor, 604 Catalina Drive, asked to confirm the rental time limitations that classified the property as a tourist home versus an accessory dwelling, and Mr. Kirkman stated that rental under 30 days falls under the tourist home guidelines, and that a primary dwelling can have an accessory dwelling unit built into it. Ms. Taylor asked if the 400-foot separation guideline applies if they receive this permit, Mr. Kirkman stated that was correct. Ms. Taylor stated that this is a pedestrian-friendly neighborhood and neighbors are not in favor of on-street parking.

Chair Necas stated that this property has been operating as a short-term rental for approximately two years and asked if Ms. Taylor had observed any issues so far, and she stated she has not. Chair Necas clarified that if the Board grants the special use permit, the subject property maintains the single-family residential zoning district.

Mr. Wright asked what the approval process for prospective renters is, and Ms. Wynn stated that the Airbnb platform vets guests, and that the space is too small to have disruptive uses like parties. Mr. Wright asked if they think they should have conducted neighborhood outreach prior to opening the short-term rental. Ms. Wynn stated she did, but that some of the opponents do not live in the neighborhood and have only been present in the area for the past few months.

Vice Chair Ramsey asked if the applicants are there when the tenants are present. Mr. Wynn stated that this is their residence and they would only not be at home if they were traveling, but that is uncommon.

Mr. Randolph asked staff if the owners are required to be there 24 hours a day, and Mr. Kirkman stated they are not as long as it is their primary residence.

Mr. Wynn stated that he thinks the potential influence on property values is overstated and most of his neighbors would not know there was a short-term rental on the property unless they told them. He stated that the schools nearby generate much more traffic than their single parking spot short-term rental can.

Ms. Contogiannis stated she does not live at the property but has been renovating it.

Mr. Randolph asked if Ms. Contogiannis discussed her concerns with the applicant. She stated she did not, and that she did not know about the situation until the day before the hearing due to issues with the mail. Mr. Kirkman stated that State law dictates the notice procedure the City must follow, requiring the mailing of notices only between 10 and 25 days before a scheduled public hearing.

Chair Necas closed the public hearing and moved to Board discussion and/or a motion.

Mr. Truby asked Mr. Kirkman when the short-term rental ordinance would be complete. Mr. Kirkman stated that staff has produced material for this and is waiting for council direction. He stated that unique situations regarding uses are the reason for the special use permit process. Mr. Truby stated he struggles with short-term rental requests because while the applicants have presented a good request, he wonders about the fairness to neighbors, and the lack of a set ordinance makes it difficult.

Mr. Oliver stated he also has concerns with this process and is concerned about setting precedent.

Chair Necas asked to clarify that they were only voting on the special use permit for this hearing, and Mr. Kirkman stated that was correct.

Vice Chair Ramsey stated that decisions on short-term rentals are difficult and that it is likely there are more short-term rentals than the City knows about. He stated that he is uncomfortable with granting the permit given that it is on the property and not based on the positive conduct of the applicants.

Mr. Randolph stated that he agrees with Mr. Truby. He does not have an issue with this specific request, and that property value concerns are difficult to resolve tangibly.

Mr. Wright stated that he believes the presence of short-term rentals in a neighborhood can make it more difficult for neighbors to sell their property, and that the city does not know the location of short-term rentals. He stated that he understands neighbors' potential concerns about strangers, and stated his support for the city to establish a firmer procedure on short-term rentals.

Chair Necas stated that she feels the opposition has not convinced her that any problems exist with this arrangement that would require her to vote against the request. She stated she has rented small apartments before and that living on set income is a difficult hardship.

MOTION

Chair Necas moved that in BOA 22-56, 2103 Mimosa Drive, based on the stated Findings of Fact, 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 apartment is for short-term rental and only accommodates two adults and no pets or children; (2) The proposed use at the particular location provides a service or facility that will contribute to the general well-being of the neighborhood or the community because the rental unit is in a central location in the community and due to the owners' presence, guests are expected to follow the apartment's rules; (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 the character of the neighborhood has not been disrupted, because access is not visible from the street, and tenants are expected to follow house rules enforced by owners on site. Seconded by Mr. Randolph. The Board voted 4-2 in favor of the motion, (Ayes: Chair Necas, Vice Chair Ramsey, Truby, Randolph; Nays: Oliver, Wright). Mr. Oliver stated he voted against the request because he believes the lack of established City regulations requiring the Board to address short-term rentals on a one-by-one basis is unreasonable. Mr. Wright stated that the neighbors' interest in their property value required him to vote against the request. Chair Necas stated the variance request passed.

d. BOA-22-57: 2103 Mimosa Drive (DENIED)

Ms. Thiel stated in BOA-22-57, 2103 Mimosa Drive, James and Margaret Wynn request a variance to allow two kitchen facilities in a proposed tourist home when no more than one is allowed. Evidence provided by the applicants included Exhibits A through C. Supporting documentation from staff include Exhibit 1 through 8. The Land Development Ordinance reference was Section 30-8-10.4(Q)(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.

Background and Site Information: The subject lot is located on the west side of Mimosa Drive, north of Catalina Drive, 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 1956. The applicants reside on site and advertise their attached accessory dwelling as a short-term rental through online platforms, such as Airbnb. On September 9, 2022, a zoning enforcement officer issued a Notice of Violation indicating that a special use permit is required to operate a tourist home in the R-5 District and that only one kitchen facility is allowed. To bring the property into compliance and remedy the Notice of Violation, the applicant applied for a special use permit within the required 30-day appeal period (BOA-22-56). At the same time, the applicant also applied for this variance to allow for more than one kitchen facility in a proposed tourist home since there is one in the main area of the house and another in the accessory dwelling. If the Board of Adjustment approves the special use permit request, it can consider this related variance request.

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

Chair Necas requested speakers to provide testimony only on the matter of the kitchen.

Chair Necas asked the applicant to provide their name/address for the record and swore in James and Margaret Wynn and Paul Davis for their testimony.

Margaret Wynn, 2103 Mimosa Drive, stated that the additional kitchen was installed to help them age in place in their home, and they wanted a full apartment available as they get older.

Paul Davis, 2105 Mimosa Drive, stated he supports the request.

Chair Necas asked about the definition of a kitchen under the ordinance. Mr. Kirkman stated that it could be appliances, a sink, and an area to prepare food, but the ordinance does not strictly define it. Chair Necas stated that some other municipal ordinances have specific appliance guidelines, and Mr. Kirkman stated neither the applicable State building code nor zoning code has those codified requirements.

Chair Necas asked if there was anyone else to speak in favor of the request. Seeing no other speakers in favor, she asked if there was anyone to speak in opposition to the case. Chair Necas asked the speakers in opposition to provide their name/address for the record and swore in Anthoula Contogiannis for her testimony.

Anthoula Contogiannis, 5022 US Highway 220 N, Summerfield, stated that her belief was that the law prohibited short-term rental units from having separate kitchens and asked about the appeal process. Vice Chair Ramsey stated that she could appeal any decisions to Superior Court within 30 days.

Vice Chair Ramsey asked for clarification about the Board's authority to waive ordinance requirements. Mr. Kirkman stated the Board could vary development rules based on evidence and considerations germane to their standard of review, and that the special use permit has the same appeal process.

Mr. Oliver asked if this variance sets any precedent regarding the presence of multiple kitchens and short-term rental as a whole in the City, and Mr. Kirkman stated it does not. Vice Chair Ramsey asked to confirm that granting this variance is not binding the Board for any future action on other individual situations, and Mr. Kirkman stated that was correct.

Mr. Wright asked about the LDO's kitchen regulations. Mr. Kirkman stated that under the current ordinance, tourist homes can only have one kitchen facility, and the variance is based on that.

Mr. Oliver asked if the applicant could have a second kitchen for rentals over 30 days, and Mr. Kirkman stated that was correct, as it would be an accessory dwelling unit not a tourist home under the ordinance.

Ms. Guarascio stated the applicant could issue rebuttal on the issue of the kitchen.

Chair Necas closed the public hearing and moved to Board discussion and/or a motion.

Mr. Truby stated that this comes down to it being a short-term versus long-term level and finds the need for a variance to be unreasonable. Mr. Randolph stated he agreed.

MOTION

Mr. Randolph moved that in BOA 22-57, 2103 Mimosa 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 to allow one kitchen would render the apartment residence impracticable, it would reduce the value of the apartment and would diminish the property value of 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 property is a split-level home, the applicants built the property with the intention of living in the primary residence and having an inlaw suite for rental and the inlaw suite has a kitchen which is part of the renovation, additionally the short-term rental regulations are temporarily imposed and there is not clear guidance on why the second kitchen would not be tenable; (3) The hardship is not the result of the applicant's own actions because the second kitchen was originally part of the basement renovation for

the inlaw suite and it affords the applicants greater rental ability and gives renters the ability to use the kitchen without disturbing the homeowners; (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 it provides the most utility for the rental property, having a kitchen as part of the rental is attractive to market renters and the applicants are present at the property as part of the tourist home and can ensure maintenance and proper use of the kitchen. Seconded by Chair Necas. The Board voted 4-2 in favor of the motion, (Ayes: Vice Chair Ramsey, Truby, Randolph, Chair Necas; Nays: Oliver, Wright). Chair Necas stated the variance request does not pass.

Chair Necas advised there would be a break at 7:50 p.m., and the meeting resumed at 8:01 p.m.

e. BOA-22-58: 12 Gamble Place (APPROVED)

Ms. Thiel stated in BOA-22-58, 12 Gamble Place, Paul and Linda Wilkinson request a variance to allow the building coverage of all accessory structures on the lot to exceed 50% of the principal structure's building coverage. The building coverage of accessory structures is 1,463 square feet when no more than 805 square feet is allowed. 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 30-8-11.1(A)(3): In R- districts, 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 south side of Gamble Place, east of Garden Lake Drive, and is zoned R-3. Tax records indicate the lot contains approximately 32,234 square feet and the house was constructed in 1971. The applicants proposed to construct an 864 square foot garage on the property. Per the Land Development Ordinance, the maximum building coverage of all accessory structures may not exceed 50% of the building coverage of the principal structure on the lot. When the proposed garage is added to the pre-existing 484 square foot storage building and 115 square foot greenhouse, the total building coverage of all accessory structures becomes 1,463 square feet, when no more than 805 square feet is allowed. The applicants also own the adjacent property to the north at 10 Gamble Place and indicate that the proposed accessory garage will be used to store/protect classic cars and tools. If the variance is granted, the applicants 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 Necas asked the applicant to state their name/address for the record and swore in Paul and Linda Wilkinson for their testimony.

Linda Wilkinson, 12 Gamble Place, stated that they have a very small house on a large piece of land. She stated that their existing accessory uses put them just over 9% of covered land. She stated they own the property to the north, 10 Gamble Place, and a berm and fence buffers the multi-family use. She stated they spoke to their neighbors about this matter and heard no opposition.

Mr. Randolph asked would happen to the applicants' vehicles without the garage. Mr. and Ms. Wilkinson stated that they would remain exposed to the elements.

Chair Necas asked if there was any opposition to the request. Seeing none, Chair Necas closed the public hearing moved to Board discussion and/or a motion.

MOTION

Mr. Truby moved that in BOA 22-58, 12 Gamble Place, 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 they would not be able to build the garage to house the classic cars; (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 too small to house the classic cars and tools; (3) The hardship is not the result of the applicant's own actions because the house was built in 1972 with a carport which is not protected from the weather; (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 location of the garage is in the rear of the property and not visible to the street, the garage will match the exterior of the house. Seconded by Vice Chair Ramsey. The Board voted 6-0 in favor of the motion, (Ayes: Chair Necas, Vice Chair Ramsey, Truby, Wright, Oliver, and Randolph; Nays: 0). Chair Necas stated the variance request passed unanimously.

f. BOA-22-59: 108 Knollwood Drive (APPROVED)

Ms. Thiel stated in BOA-22-59, 108 Knollwood Drive, Roger Jay Gann and Ann Whitley Crabtree request two variances. (1) To allow a proposed accessory structure to exceed the height of the principal structure; (2) To allow a proposed accessory structure to encroach 6.5 feet into a required 10 foot side setback. The accessory structure 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 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 principal structure on the lot or 600 square feet, whichever is greater, and Section 30-8-11.1(C)(2): In R- districts, accessory structures over 15 feet tall must be set back 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 20,473 square feet, and the house was constructed in 1954. The applicants propose to construct a 1,020 square foot detached garage in their backyard that will align with the existing shared driveway on the property. The proposed garage will be approximately 22.25 feet tall and 3.5 feet from the side property line. The garage will be taller than the existing house and will encroach 6.5 feet into a required 10 foot side setback, so the applicants seek two variances to address those issues. The Board of Adjustment previously approved these two variance requests and another related to building coverage in BOA-21-24 at its meeting on May 24, 2021. Per the Land Development Ordinance, a variance becomes void if construction, operation or installation does not start within 12 months of the issue date. Because construction has not commenced on the subject lot, the applicant must seek new variances. Since the previous variance approvals, the applicants have reduced the size of the proposed garage so it no longer exceeds the allowable building coverage. If the new variances are granted, the applicants 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 Necas asked the applicant to state their name/address for the record and swore in Roger Jay Gann and Ann Whitley Crabtree their testimony.

Roger Jay Gann, 108 Knollwood Drive, stated that they had previously applied for a variance in 2021 and after delaying their construction plans they have adjusted their plans due to the increase of building costs. He stated that his neighbors are all in favor.

Chair Necas asked if the applicants had made any significant changes since the previous variance request, and Mr. Gann stated the garage was a bit smaller.

Mr. Oliver asked the applicant if they had reduced the height of the garage, and Mr. Gann stated they had not.

Chair Necas asked if there were any other speakers in favor of the request. Hearing none, she asked if there was anyone to speak in opposition. With no additional speakers present, she closed the public hearing and went to Board discussion and/or a motion.

MOTION

Mr. Oliver moved that in BOA 22-59, 108 Knollwood 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 proposed garage is on the same footprint as the prior carport, if not granted they will lose the access they had before; (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 slope of the land will reduce the visibility of the higher garage, also there are trees that will obscure the view of the garage; (3) The hardship is not the result of the applicant's own actions because the footprint for the carport was already there and the property slopes, neither was done by the current homeowner; (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 no harm will come from this action, the slope of the land will not make the added height noticeable. Seconded by Truby. The Board voted 6-0 in favor of the motion, (Ayes: Chair Necas, Vice Chair Ramsey, Truby, Wright, Oliver, and Randolph; Nays: 0). Chair Necas stated the variance request passed unanimously.

g. BOA-22-60: 325 Erwin Street (DENIED)

Ms. Thiel stated in BOA-22-60, 325 Erwin Street, Nicole Davis and Hatfield Charles request two variances. (1) To allow an existing principal structure to encroach 5.9 feet into a required 25 foot side setback. The principal structure is 19.1 feet from the western side property line. (2) To allow an existing principal structure to encroach 11.1 feet into a required 25 foot side setback. The principal structure is 13.9 feet from the eastern 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 30-7-3.5 – Table 7-12: In the RM-8 District, the minimum side setback for nonresidential development is 25 feet.

Background and Site Information: The subject lot is located on the south side of Erwin Street, east of Randleman Road, and is zoned CD-RM-8 (Conditional District – Residential Multi-family). Tax records indicate the lot contains approximately 14,375 square feet, and the structure was constructed in 1956. The rezoning of the property to CD-RM-8 (Conditional District – Residential Multi-family) from R-5 (Residential Single-Family) was approved by the Planning & Zoning Commission on August 15, 2022 and by the City Council on September 20, 2022. At that time, staff recommended approval of the rezoning and indicated that the request was consistent with the intent and purpose of the zoning code, the Comprehensive Plan (GSO2040) and generally compatible with the existing development and trend in the surrounding area. Additionally, a number of conditions were approved as part of the rezoning that dictate future development of the property. Consistent with those conditions, the applicants propose to convert an existing single-family home into a day care center without changing the size or foundation of the existing structure. After the rezoning, the existing principal structure meets the dimensional requirements for residential use, but if converted into a day care center, the structure becomes nonconforming because a larger 25 foot side setback applies to nonresidential development in residential multifamily zoning districts. The existing principal structure encroaches 5.9 feet into the western side

setback and 11.1 feet into the eastern side setback, so the applicants seek variances to remedy the nonconformities. If the variances are granted, the applicants will proceed with the change of use process.

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

Chair Necas asked the applicant to state their name/address for the record and swore in Nicole and Hatfield Charles and Mack Summey for their testimony.

Hatfield Charles, 4006 Gaston Court, stated that this request is to move forward with the next stage of development. The goal is to let parents enter and exit in different directions to make traffic flow safer for children and the neighborhood and to incorporate a playground. He stated they intend to install a 6-foot opaque fence on the eastern property line as required by the conditions of the zoning. They are requesting the variance due to the existing layout of building on the premises. Mr. Charles stated that this variance would permit them to operate a daycare facility following state and city regulations, which is a service this area greatly needs.

Vice Chair Ramsey asked if the subject property's zoning permits only daycare. Mr. Charles stated that the zoning also permits a single-family residential use. Mr. Kirkman clarified that the subject property's CD-RM-8 zoning district allows daycare center or single-family dwelling. Vice Chair Ramsey asked about license capacity for children at the facility, and Mr. Charles stated their final capacity would depend on the layout that the site topology requires. Vice Chair Ramsey asked to confirm that the applicant would have sufficient parking to meet requirements. Mr. Charles stated that their current plans calls for siting parking for employees at the rear of the subject property. Mr. Kirkman stated that this variance, if granted, would handle building setback issues.

Chair Necas asked if there were any other speakers in favor of the request. Hearing none, she asked if there was anyone to speak in opposition. Chair Necas asked the speakers in opposition to provide their name/address for the record and swore in Christine Marshall, Brenda Barksdale and Angela Mahoney for their testimony.

Christine Marshall, 319 Erwin Street, stated she has lived in this neighborhood for 34 years and has had positive relationships in their tight-knit community, and she believes the neighborhood needs more affordable housing, not businesses. She stated that she believes the subject property is an instance of spot zoning that damages the character of their neighborhood. Ms. Marshall believes the business owners have not engaged sufficiently with the neighborhood. This request will increase traffic issues in the area, and there is not a lack of daycare in her neighborhood. She stated that the constant flow of people into the neighborhood would expose the community to disruption, and that the subject property has a stormwater runoff problem that has flooded her property recently.

Chair Necas stated that the Board has no authority over the zoning or the daycare use, and will only be voting on the setback requirements for the existing structure.

Brenda Barksdale, 308 Erwin Street, president of Oak Grove Community Watch, stated that she and her neighbors are in opposition to this request. She believes the conversion of the subject property has been substandard and not properly monitored. She stated that with the lack of sidewalks and traffic issues in the area, it is an unsafe place for children.

Angela Mahoney, 201 Erwin Street, stated that safety is the neighborhood's primary concern. She stated that the traffic is very congested and hazardous, and that there is no parking lot on the subject property currently.

Mr. Wright asked if the neighbors were more concerned about the safety of the neighborhood or the children at the potential daycare use on the subject property, and the neighbors in opposition stated both are at risk. Mr. Kirkman stated that the zoning district for the subject property is established, and the

applicants are only asking the Board to vary the setback requirements for the existing structure that the LDO requires for the daycare use. Mr. Wright asked if this variance request considers the construction of a parking lot, and Mr. Kirkman stated that would need to be determined in the technical review process.

Mr. Truby asked if the applicants would need a variance to demolish the existing structure and build a new one compliant with the setback requirements. Mr. Kirkman stated that they would not, and the variance is only required to bring the existing structure into compliance for the by-right daycare use.

Mr. Wright asked to confirm that the Board has no control over the daycare use, and Mr. Kirkman stated that was correct.

Ms. Marshall stated that the applicant's driveway already encroaches on her property. Mr. Randolph asked Ms. Marshall to clarify her statement, and Ms. Thiel displayed Exhibit B.

Chair Necas asked Ms. Marshall if she was directly adjacent to the subject property, and Ms. Marshall stated that was correct. Ms. Marshall stated that the fence currently separating their properties is on her property, and her assessment of the drawing presented showed that the proposed driveway would be as well.

Mr. Truby stated that his reading of the site plan shows that the applicant would remedy the encroachment and would be a few feet off the property line. Ms. Marshall stated her concern that the variance would allow new construction that could maintain the existing encroachment. Mr. Kirkman stated that the variance request regards only the position of the existing structure, and the driveway will be a subject of review by TRC. He advised that the applicant could speak further on their site planning process.

Chair Necas asked for the applicant to provide more details based on the prior discussion.

Nicole Charles, 4006 Gaston Court, stated that their drawing comes from a new survey and they do not intend to encroach on Ms. Marshall's land after their development work. She then introduced their engineer.

Mack Summey, 150 South Fayetteville Street, Asheboro, an engineer working with the property owners, stated that the new driveway would be a few feet further from the property line to account for the fence mandated by the daycare use conditions under the approved zoning.

Chair Necas clarified again that the Board will only be voting on the setback requirements. She asked the applicant's engineer if they would rebuild the house if the Board does not grant the variance.

Mr. Summey stated they have not discussed that but that without the variance they will have to modify their plans.

Vice Chair Ramsey asked Mr. Summey to indicate where Ms. Marshall's property is on their map, which Mr. Summey did.

Mr. Truby asked the applicant if they knew they would need this variance when they applied for rezoning. Ms. Charles stated they did not, but that they are entering this area trying to do things well and all inspections of the subject property indicate it is in good condition. She stated they have sought guidance from the City how best to conduct their development, and that she has operated daycare facilities in residential areas in the past. Their preliminary site plan includes a number of safety and security elements for the children at the facility, but also the neighborhood at large.

Mr. Oliver asked the applicant to confirm they would not be living there, and Ms. Charles stated that was correct, and that they have agreed to all the conditions the Oak Grove neighborhood asked for during the rezoning process, including fences and hours of operation. She stated that they have engaged with the neighborhood as much as possible trying to build consensus.

Mr. Charles stated that the conditions on the subject property's zoning district were from requests by the neighborhood. Mr. Kirkman stated that the staff report contains the zoning information.

Mr. Oliver asked if the petition from the opposition can be considered. Ms. Guarascio stated that the Board has to set aside non-relevant testimony and their consideration is only factors germane to the setbacks and the requirements of the variance.

Chair Necas asked if anyone wished to speak in rebuttal.

Ms. Mahoney asked if there was a building permit issued for the applicant's project. Mr. Kirkman stated that the process regarding the variance is changing the use from residential to nonresidential, and that triggers requirements in the building, zoning, and fire codes that have been flagged on the subject property as needing a variance to continue.

Ms. Marshall stated he had visited the subject property prior to the applicants purchasing it, and it had changed significantly. She stated that their existing fence and driveway encroach onto her property and asked if the new fence will be off her property. Ms. Marshall reiterated her belief that the neighborhood did not need another daycare facility. She stated that commercial uses in proximity of her home and the subject property are not in good condition, and her neighborhood is concerned this will add to those problems.

Mr. Wright asked to confirm that the Board was only voting on the setback variance, and asked about the relevance of some of the concerns expressed by neighbors. Mr. Kirkman confirmed it was a vote on the setbacks alone. Mr. Wright asked to confirm that the applicant has the ability to operate a daycare use by right, and Mr. Kirkman stated that was correct, but not in the existing structure without the variance. The rest of the development process would address the other considerations involving the neighbors.

With no additional speakers present, Chair Necas closed the public hearing and went to Board discussion and/or a motion.

Mr. Truby asked Mr. Kirkman if the lower setbacks imposed for daycare uses in the Office (O) district would modify the situation for the subject property. Mr. Kirkman stated that the Office district allows daycare uses. Chair Necas asked what the setback differences were in the RM-8 versus O districts, and Mr. Truby stated that the Office district might not have required as significant of a variance, if one at all.

Mr. Oliver asked if the applicant could operate a daycare use in the current structure if they do not grant the variance, and Mr. Kirkman stated that it would require significant modifications to the existing structure to satisfy the setback requirements.

Vice Chair Ramsey stated that he saw this as a difficult case given all the considerations, but that the Board's actions are limited to the variance.

Mr. Wright asked if the Board could continue this item. Mr. Kirkman stated that the board has the authority to continue an item, but in this case, it might require re-opening the public hearing.

Ms. Guarascio clarified again that the board can only consider relevant testimony regarding the setback variance request.

MOTION

Vice Chair Ramsey moved that in BOA 22-60, 325 Erwin Street, based on the stated Findings of Fact, the Zoning Enforcement Officer be overruled and the two 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 applicant would have to substantially alter the building to comply with its intended use as a childcare; (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 rezoning and intended childcare use caused an increase in the setbacks; (3) The hardship is not the result of the applicant's own actions because the rezoning and intended childcare use resulted in increased setbacks beyond the footprint of the building; (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 it would allow the use of the property as zoned for childcare, does not change the exterior of the property, and is in general harmony with the neighborhood. Seconded by Mr. Randolph. The Board voted 4-2 in favor of the motion, (Ayes: Truby, Oliver, Randolph, Wright; Nays: Chair Necas, Vice Chair Ramsey). Chair Necas stated the variance request did not pass.

OTHER BUSINESS

Chair Necas acknowledged the absence of Ms. Rudd.

Mr. Kirkman stated that the next Board meeting is on December 12.

ADJOURNMENT

The meeting was adjourned at 9:08pm.

Respectfully submitted,

Leah Necas, Chair
Greensboro Board of Adjustment
LN/arn

**MEETING MINUTES
GREENSBORO BOARD OF ADJUSTMENT
December 12, 2022**

The meeting of the Greensboro Board of Adjustment was held on Monday, December 12, 2022, at 5:42 p.m. in-person in the City Council Chamber. Board members present were: Chair Leah Necas, Vice Chair Vaughn Ramsey, Steven Barkdull, Tiffanie Rudd, Ted Oliver, Cory Randolph, and Larry Wright. City staff present were Shayna Thiel and Mike Kirkman of the Planning Department, and Al Andrews (Chief Deputy City Attorney) and Emily Guarascio (Associate City Attorney).

Chair Necas welcomed everyone to the 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. Chair Necas further explained the manner in which the Board conducts its hearings and methods of appealing any ruling made by the Board. Chair Necas 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. Ms. Necas went on to explain how the Board would make its decision and votes, based on findings of fact and other factors, and she explained how to appeal decisions.

APPROVAL OF MINUTES (November 28, 2022 Meeting)

Mr. Randolph made a motion to approve the November 28, 2022, minutes. Mr. Oliver seconded. The Board voted 6-0-1 in favor of the motion, (Ayes: Chair Necas, Barkdull, Rudd, Oliver, Randolph, Wright; Nays: 0; Abstention: Vice Chair Ramsey). Chair Necas advised the minutes were approved.

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 stated that item BOA-22-67 will be continued until the January meeting.

Dave Pokela stated that communication with the public regarding BOA-22-68 revealed a conflict of interest that makes him unable to proceed with the application.

Vice Chair Ramsey made a motion to continue BOA-22-68 until the January meeting. Ms. Rudd seconded. The Board voted 7-0 in favor of the motion, (Ayes: Chair Necas, Vice Chair Ramsey, Barkdull, Rudd, Oliver, Randolph, Wright; Nays: 0).

Mr. Oliver made a motion to adjust the order of the agenda and move case BOA-22-69 to the top of the agenda. Mr. Barkdull seconded. The Board voted 7-0 in favor of the motion, (Ayes: Chair Necas, Vice Chair Ramsey, Barkdull, Rudd, Oliver, Randolph, Wright; Nays: 0).

NEW BUSINESS

a. BOA-22-69: 3901 Huckabee Drive (APPROVED)

Ms. Thiel stated in BOA-22-69, FG Green Homes LLC requests a variance to allow a proposed principal dwelling to encroach 25.3 feet into a required 35-foot thoroughfare setback. The principal dwelling will be 9.7 feet from the property line along Franklin Boulevard. 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 30-2-2.2(B): 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, and only a single-family dwelling may be permitted on a nonconforming lot of record in residential zoning

districts, and Section 30-7-3.2 – Table 7.2: In the R-5 District, the minimum thoroughfare setback is 35 feet.

Background and Site Information: The subject lot is located on the north side of Huckabee Drive, east of Franklin Boulevard, and is zoned R-5 (Residential Single-Family). Tax records indicate the vacant lot contains approximately 5,663 square feet. The property is considered a nonconforming lot for two reasons. It contains approximately 5,663 square feet, when the minimum lot size in the R-5 district is 7,000 square feet, and the lot is only 50 feet wide when the minimum lot width for a corner lot is 58 feet. One single-family dwelling may be built on a nonconforming lot in a residential zoning district if compliance is achieved with regard to all ordinance requirements except for lot area or width. Per the submitted site plan, the applicant proposes to construct a principal dwelling that will encroach 25.3 feet into a required 35-foot thoroughfare setback and be 9.7 feet from the property line along Franklin Boulevard. If the Board of Adjustment approves the variance request, 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 or plans

Chair Necas asked the applicant to state his name/address for the record.

Nick Blackwood, 804 Green Valley Road, Suite 200, on behalf of FG Green Homes LLC, stated that the applicant is applying for the variance to construct a single-family home, and stated that the strict application of the setback requirement makes the lot unbuildable for that use. He stated that despite the encroachment necessary to build, the home has a proposed setback significantly away from Franklin Avenue, and the variance is necessary to make use of this lot, platted before the establishment of the current setback requirements.

Mr. Oliver asked about the platting of the subdivision. Mr. Blackwood stated that the original developer platted the lots in the 1920s, and the subject property has been vacant since.

Mr. Barkdull asked if there was any opposition to this request.

Mr. Wright asked if there had been construction on the lot, and Mr. Blackwood stated that there has been recent development in the area but there has been no improvement on the subject property.

Chief Deputy City Attorney Andrews asked to clarify the name of the applicant, and Mr. Blackwood stated that Francisco Garcia is the managing member of FG Green Homes, LLC.

Chair Necas asked if there was anyone to speak in opposition. With no additional speakers present, she closed the public hearing and went to Board discussion and/or a motion.

MOTION

Mr. Barkdull moved that in BOA 22-69, 3901 Huckabee 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 strict application of the ordinance applied to this small, nonconforming lot would make new construction impossible; (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 lot's small size along with the narrow measurement and the fact that it is considered a corner lot, more stringent setback requirements apply; (3) The hardship is not the result of the applicant's own actions because this property was nonconforming at the time of purchase; (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 is trying to put new construction on the property, thus improving the neighborhood and removing a vacant lot. Seconded by Vice Chair Ramsey. The Board voted 7-0 in favor of the motion, (Ayes: Chair Necas, Vice

Chair Ramsey, Barkdull, Rudd, Oliver, Randolph, Wright; Nays: 0). Chair Necas stated the variance request passed unanimously.

b. BOA-22-61: 5603 Buddingwood Drive (APPROVED)

Ms. Thiel stated in BOA-22-61, Stuart Nichols requests a special use permit to operate a tourist home on the property in addition to all uses permitted in the R-3 district. Evidence provided by the applicant includes Exhibit A. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance references were Section 30-8-1 – Table 8-1: A Tourist Home is a permitted use in R- districts with a Special Use Permit, and Section 30-8-10.4(Q): Tourist Homes must meet the following standards: (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 south side of Buddingwood Drive, west of Meadowood Street, and is zoned R-3 (Residential Single-Family). Tax records indicate the lot contains approximately 25,265 square feet and the house was constructed in 1964. The applicant rents the subject property to a tenant who operates it as a short-term rental through online platforms, such as Airbnb, and also does not reside on site. Per the Land Development Ordinance, short-term rentals are considered tourist homes, which are subject to a special use permit in R- districts and a number of use standards. On September 6, 2022, a zoning enforcement officer issued a Notice of Violation indicating that a special use permit is required to operate a tourist home in the R-3 District and that the owner or operator must reside onsite. To bring the property into compliance and remedy the Notice of Violation, the applicant applied for this special use permit within the required appeal period. At the same time, the applicant also applied for a variance (BOA-22-62) to allow the owner or operator of a proposed tourist home to reside off-site. The Board of Adjustment can consider the related variance request if it approves this special use permit request.

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

Chair Necas asked the applicant to provide their name/address for the record and swore in Stuart Nichols for his testimony.

Stuart Nichols, 2202 Hawthorne Street, stated that he has owned the subject property for years and has listed it for conventional long-term rental in the past, which was difficult to operate due to issues with some tenants. Instead, he now rents it to an operator that lists the subject property for short-term rental, and the property has an occupancy rate of approximately 72%. He stated that he has significant experience with short-term rental and believes this use is compatible with then neighborhood, given the large lot sizes, significant spaces between houses, and high level of maintenance of the subject property. Mr. Nichols stated he had received no opposition to his request, and that he works in close proximity to the subject property.

Vice Chair Ramsey asked Mr. Nichols if he knew about the Land Development Ordinance's tourist home requirements prior to operating the short-term rental and Mr. Nichols stated he did not. He stated that after searching for short-term rentals in the City on multiple online platforms, he saw many listings and assumed they were permissible. Vice Chair Ramsey asked how this case came to be, and Mr. Nichols stated he did not know. He stated that he was not aware of any complaints regarding the operation of the subject property.

Mr. Randolph asked the applicant how close the applicant works to the subject property, Mr. Nichols stated he works approximately two miles away, and lives approximately 11 minutes driving from the subject property.

Mr. Oliver asked for clarification about how the subject property's short-term rental operates. Mr. Nichols stated that he is not the operator of the short-term rental, but rents the property to people that do.

Mr. Barkdull asked what the client base looked like for short-term rentals. Mr. Nichols stated that the subject property was mid-market, and the clientele was mainly business travelers who do not find a hotel or motel acceptable.

Ms. Rudd stated that she visited the subject property and the applicant has maintained it well.

Mr. Wright asked Mr. Nichols if he was going from long-term rental to short-term and about his level of monitoring of the subject property. Mr. Nichols stated that he does not actively monitor his tenants' operation of the short-term rental, but he receives information if there are issues with the subject property. Mr. Wright asked if the operator is present for the hearing, and Mr. Nichols stated that they are.

Mr. Randolph asked if the occupancy rate reflected the three bedrooms as individual units or the subject property as a single rental, and Mr. Nichols stated that the property is a single unit. Mr. Randolph asked if that could mean up to six occupants, and Mr. Nichols stated that was correct. Mr. Randolph asked how far away the operator lived, and Mr. Nichols stated he lived approximately 15 minutes driving distance, and that the operator and his team is in position to check on the subject property regularly. He stated again that he is unaware of any complaints about the subject property.

Mr. Oliver asked if economics or some other factor influenced the applicant moving from long- to short-term rental. Mr. Nichols stated that his arrangement with the operator guarantees that he is paid rent even if the subject property is occasionally vacant as a short-term rental, and that his tenant's ability to turn over short-term occupants makes regular maintenance easier.

Chair Necas asked if there was anyone else to speak in favor of the request. Seeing no other speakers in favor, she asked if there was anyone to speak in opposition to the case.

Mr. Andrews asked to clarify that the Board is now calling for opposition speakers on the special use permit only, and Chair Necas confirmed that was correct.

Chair Necas asked the speakers in opposition to provide their name/address for the record and swore in Gunn Chusakul and Steven Cancian for their testimony.

Gunn Chusakul, 508 Meadowood Street, stated that he did not receive notification about the request, and that he is speaking on behalf of some other neighbors as well. He stated that there had been large numbers of new groups in the neighborhood every weekend due to the short-term rental, which has been disruptive. He stated that in the past, large numbers of motorcycles had been at the subject property. He has lived in this neighborhood since 2001, and preferred long-term rental of the subject property because he could get to know his neighbors better. Mr. Chusakul stated that he received no outreach from the applicant.

Ms. Rudd asked about the presence of the bikers at the subject property, and Mr. Chusakul stated that the large group of bikers stayed at the subject property for approximately 2-3 days and it was extremely disruptive at night.

Mr. Wright asked if this kind of disruptive rental happened regularly, and Mr. Chusakul stated that some of the party rentals had bothered his family, and that he saw this use as more commercial and incompatible with the character of the neighborhood.

Ms. Rudd asked how often there were more than six occupants, and Mr. Chusakul stated it has happened six or seven times due to events. He stated that no one is present at the subject property to regulate the number of occupants.

Vice Chair Ramsey asked if he had contact information for the operators of the short-term rental, and Mr. Chusakul stated that he did not. He reiterated he did not receive notification of the special use permit request.

Mr. Randolph asked if Mr. Chusakul's opinion of the short-term rental would be different if someone was always present on-site, and Mr. Chusakul stated that it would be different with a resident living there.

Steve Cancian, 209 West Bessemer Avenue, stated that he is speaking to support the neighbors of the subject property, and that while he does not live in that neighborhood, he does not support short-term rentals in residential areas.

Mr. Andrews stated that anyone could speak on a matter presented before the Board in a wider policy issue context, but the record of the hearing notes the closeness of the party's relationship to the subject property, or lack thereof, and thus the weight of its consideration on the quasi-judicial matter before the Board.

Mr. Cancian stated that his interest in this case is support of affordable housing and downtown development.

Mr. Oliver stated that the Board is not a policy deliberation body, that the Board is limited to the facts of the case and the application of the ordinance, and that the Board will only make a decision within those limits. Mr. Cancian stated that he did not think choosing to run a certain type of business was a sufficient hardship to justify granting a variance. He stated that the residents of this neighborhood might feel disempowered to resist this request.

Mr. Wright stated that the neighbors' opposition seemed to involve short-term versus long-term rental on this specific property, and asked if Mr. Cancian lived in proximity to the subject property. Mr. Cancian stated that he did not.

Mr. Kirkman reiterated that the request was about the special use permit request to permit the short-term rental, not the associated variance request.

Chair Necas asked if the applicant or anyone in support of the request wished to speak in rebuttal.

Mr. Nichols stated that he is sympathetic to situations involving unfortunate short-term rental occupants, but that objectionable behavior can happen with long-term rental as well. He stated that the opponents could not point to any significant systemic issues with the subject property apart from two isolated instances, and indicated that it could be preferable to long-term rentals. Mr. Nichols stated that he believed Mr. Cancian's statements on general policy were irrelevant to the issue before the Board.

Vice Chair Ramsey asked if guests with issues interact with the operator instead of Mr. Nichols, and Mr. Nichols stated that was correct, but that he has worked with the operator when maintenance issues arose.

Ms. Rudd stated that introducing alternative uses in residential neighborhoods benefits from outreach, and asked if Mr. Nichols was aware of the reported issues. She stated that it sounds like the occupancy and rules enforcement by the operator being lax contributes to the disruption reported by the neighbor. Mr. Nichols stated that occupants of short-term rentals sign agreements to follow the guidelines of the rental, and he cannot control potential violations of the lease or short-term agreements. He stated that if neighbors make the operator aware of issues, the operator could attempt to enforce the agreements. Mr. Nichols stated that the operator of the short-term rental can set rules, the same as in long-term rental, but both are subject to compliance or not depending on the specific tenant or occupant, and that he did

not feel short-term rental was significantly worse than long-term rental about that. Ms. Rudd asked how long this property has been a short-term rental, and Mr. Nichols stated approximately one year.

Mr. Barkdull stated that there is nothing inherently objectionable about motorcycles, apart from some noise, and that this situation is difficult given the fact that the rules are not keeping up with the reality of short-term rentals.

Chair Necas asked if anyone in opposition of the request wished to speak in rebuttal.

Mr. Chusakul stated that motorcycles are fine, but the behavior they have had to deal with in that case was unreasonable. He understands the applicant's goals as a fellow business owner, but that this is disruptive, and he does not think the applicant understands the impact it has on his neighborhood. He stated that while Meadowood can have traffic noise issues, party rentals add a different and significant disruption on the weekend. Mr. Chusakul stated that large groups regularly rent the subject property, and that some of his neighbors did not attend the hearing tonight because of language and mobility issues. He also stated that the 400-foot buffer prohibiting other short-term rentals would prevent him from getting the same benefit the applicant is requesting.

Vice Chair Ramsey asked if the special use permit goes with the land or its owner, and Mr. Kirkman stated it would grant the use to the subject property.

Ms. Rudd asked Mr. Chusakul if he knew of any neighbors who had complained. Mr. Chusakul stated that a few older neighbors who could not attend to the hearing had complained about the large groups.

Mr. Andrews reiterated that this is a quasi-judicial hearing for an issue before the Board and not policy determination, and that while the Board can speak to wider policy issues, the Board makes determinations solely based on the specific situations of the cases.

Mr. Chusakul stated that at least with a long-term rental, he could speak with the tenant if there were any significant disruptions.

With no additional speakers, Chair Necas closed the public hearing, and the Board went to discussion and/or a motion.

DISCUSSION

Mr. Oliver stated that with short-term rentals, the benefits or downsides of an occupant are by definition temporary.

Vice Chair Ramsey stated that the lack of neighborhood outreach in this case was disturbing, even after the applications for the special use permit and variance.

Mr. Randolph stated that this was a difficult issue, that while he was not opposed to short-term rentals when operated well, it is complicated to know when that is the case, and that is a wider policy question than the Board can consider. He stated he also would have liked to see some communication between the applicant, operator, and the neighbors. He stated that he understands the rights of the subject property's owner to make the best use of the property he owns, as well as the interest of the neighbors to have a pleasant residential community.

Ms. Rudd stated that she also can support short-term rentals, but she was concerned about compliance and communication as indicated in this case.

MOTION

Ms. Rudd moved that in BOA 22-61, 5603 Buddingwood Drive, based on the stated Findings of Fact, 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 previous use is not materially different from the use as a long-term rental; (2)

The proposed use at the particular location provides a service or facility that will contribute to the general well-being of the neighborhood or the community because it enhanced the property value, reflected in numerous economic studies, supporting visitors to the city; (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 the difference between long-term and short-term rentals is not significant. Mr. Randolph seconded the motion. The Board voted 5-2 in opposition of the motion, (Ayes: Necas, Oliver, Randolph, Rudd, Barkdull; Nays: Ramsey, Wright). Chair Necas stated the special use permit request passed.

c. BOA-22-62: 5603 Buddingwood Drive (DENIED)

Ms. Thiel stated in BOA-22-62, Stuart Nichols requests a variance to allow the owner or operator of a proposed tourist home to reside off-site. Evidence provided by the applicant includes Exhibits A and B. Supporting documentation from staff includes Exhibits 1 through 8. The Land Development Ordinance reference was Section 30-8-10.4(Q)(3): The owner or operator of a tourist home must reside onsite.

Background and Site Information: The subject lot is located on the south side of Buddingwood Drive, west of Meadowood Street, and is zoned R-3 (Residential Single-Family). Tax records indicate the lot contains approximately 25,265 square feet and the house was constructed in 1964. The applicant rents the subject property to a tenant who operates it as a short-term rental through online platforms, such as Airbnb, and also does not reside on site. Per the Land Development Ordinance, short-term rentals are considered tourist homes, which are subject to a special use permit in R- districts and a number of use standards. On September 6, 2022, a zoning enforcement officer issued a Notice of Violation indicating that a special use permit is required to operate a tourist home in the R-5 District and that the owner or operator must reside onsite. To bring the property into compliance and remedy the Notice of Violation, the applicant applied for a special use permit within the required appeal period (BOA-22-61). At the same time, the applicant also applied for this variance to allow the owner or operator to reside off-site. If the Board of Adjustment approves the special use permit request, it can consider this related variance request.

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

Chair Necas asked the applicant to provide their name/address for the record and swore in Stuart Nichols for his testimony.

Stuart Nichols, 2202 Hawthorne Street, stated that he would be taking feedback from the board to ensure the proper operation of the subject property as a short-term rental. He stated that there is a mix of uses in proximity to the neighborhood, making the short-term rental a reasonable use in the area. He stated that while neither he nor the operator live on-site, they both reside close enough to operate it well.

Vice Chair Ramsey asked how this hardship was not of the applicant's making. Mr. Nichols stated it was of his own making based on his use of the property as an investment, but that he did not know the special use permit and variance would be required to operate the subject property as a short-term rental.

Chair Necas asked if Mr. Nichols' tenant, as a professional short-term rental operator, knew about the requirement or had conducted due diligence. Mr. Nichols stated that there is a general lack of awareness of and confusion about the rules regarding short-term rentals.

Mr. Oliver asked the applicant what he would do if the board did not approve the variance. Mr. Nichols stated that he would return the subject property to long-term rental, and this would deprive the operator of their business. Mr. Oliver asked if it would create a significant hardship for the applicant, and Mr. Nichols stated that it could affect his investment in the short to mid-term. Mr. Oliver asked if the applicant had considered the reduction in housing availability caused by short-term rentals. Mr. Nichols stated he did not believe that was a significant factor, and that incentivizing real estate investment could increase

housing availability. Mr. Oliver stated that there is significant research to indicate short-term rental leads to less long-term rentals available.

Mr. Randolph asked what the occupancy rate for the short-term rental was, and Mr. Nichols said approximately 72%, and asked if that applied to the entire subject property, and Mr. Nichols stated that was correct. Mr. Randolph asked why the applicant could not have an operator living on the premises. Mr. Nichols stated that reducing the available unoccupied bedrooms makes it less desirable on the short-term rental market. Mr. Randolph asked if the applicant had tried to have an operator on the site, and Mr. Nichols stated he had not.

Mr. Wright asked to clarify the operating structure of the subject property. Mr. Nichols stated that he rented the subject property to the operator for a flat monthly fee who lists it on online services such as Airbnb. He stated that without the variance, he could continue renting it long-term to a different tenant.

Chair Necas asked if there was anyone to speak in opposition and swore in Gunn Chusakul for his testimony.

Gunn Chusakul, 508 Meadowood Street, stated with long-term rental he could meet the tenant and establish a friendly neighbor relationship to address any concerns. With short-term rental, it is just about the owner making money, and has had a negative impact on his neighborhood. Long-term renters may occasionally be disruptive, but the situation is different when it is a neighbor, compared to a stranger leaving in a few days.

Chair Necas asked Mr. Chusakul if he would feel more comfortable with a resident operator, and Mr. stated that was correct. He could speak with them about any problems and they would have more investment in the condition of the property and the environment of the neighborhood.

With no additional speakers present, she closed the public hearing and went to Board discussion and/or a motion.

DISCUSSION

Vice Chair Ramsey stated that the tourist home rules are difficult to apply to contemporary short-term rentals.

Mr. Randolph stated that the Board had to maintain the fair application of the current regulations, and stated that he felt the applicant had not demonstrated significant hardship.

Mr. Oliver stated that he also thought the applicant had not demonstrated a hardship.

Chair Necas asked Mr. Andrews for clarification about motion language the Board could use. Mr. Andrews stated that while individual members may always vote in favor or opposed as they see fit, the motion should reflect the overall will of the Board. Mr. Kirkman stated that the material for this case had language for approval or denial of the variance.

Mr. Barkdull stated that he believes the Board is in a difficult position based on the reality of the short-term rental business.

MOTION

Mr. Randolph moved that in BOA 22-62, 5603 Buddingwood Drive, based on the stated Findings of Fact, the Zoning Enforcement Officer be upheld and the variance denied based on the following: (1) If the applicant complies with the provisions of the ordinance, unnecessary hardship will not result to the property by applying strict application of the ordinance because the property will still have utility as a long-term rental, thus negating any financial difficulties or hardships incurred by the applicant by not being able to utilize the property as such; (2) The hardship is the result of the applicant's own actions because the as the applicant himself stated, he created the hardship through ignorance of the ordinance and did not know or understand that he needed to operate the property in accordance with the strict letter of the

short-term rental provisions of the Land Development Ordinance. Seconded by Mr. Oliver. The Board voted 6-1 in favor of the motion, (Ayes: Chair Necas, Vice Chair Ramsey, Oliver, Randolph, Wright, Barkdull; Nays: Rudd). Chair Necas stated the variance was denied.

Chair Necas advised there would be a break at 7:29 p.m. and the meeting resumed at 7:45 p.m.

d. BOA-22-63: 624 Scott Avenue (DENIED)

Ms. Thiel stated in BOA-22-63, Don Alan Ray Jr. requests a special use permit to operate a tourist home on the property in addition to all uses permitted in the R-5 district. Evidence provided by the applicant includes Exhibits A and B. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance references were Section 30-8-1 – Table 8-1: A Tourist Home is a permitted use in R- districts with a Special Use Permit, and Section 30-8-10.4(Q): Tourist Homes must meet the following standards: (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 Scott Avenue, north of Sherwood Street, and is zoned R-5 (Residential Single-Family). Tax records indicate the lot contains approximately 21,344 square feet and the house was constructed in 1916. The applicant operates the subject property as a short-term rental through online platforms, such as Airbnb, and does not reside on site. Per the Land Development Ordinance, short-term rentals are considered tourist homes, which are subject to a special use permit in R- districts and a number of use standards. On September 20, 2022, a zoning enforcement officer issued a Notice of Violation indicating that a special use permit is required to operate a tourist home in the R-5 District and that the owner or operator must reside onsite. To bring the property into compliance and remedy the Notice of Violation, the applicant applied for this special use permit within the required appeal period. At the same time, the applicant also applied for a variance (BOA-22-64) to allow the owner or operator of a proposed tourist home to reside off-site. The applicant indicates that he owns and lives at the adjacent property, 628 Scott Avenue, and maintains the subject property. The Board of Adjustment can consider the related variance request if it approves this special use permit request.

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

Chair Necas asked the applicant to provide their name/address for the record and swore in Stuart Nichols for his testimony.

Don Alan Ray Jr., 628 Scott Avenue, stated that he lives at the adjacent property which shares a driveway, and that he had rehabilitated the subject property in the last few years. He stated that he has been able to maintain the subject property, improving it from its previous condition. He thought he had followed the regulations regarding short-term rentals, and he stated that he believed it was easy to misunderstand the ordinance if someone did not think they were operating a traditional bed and breakfast.

Mr. Oliver asked about the distance between the two homes. Mr. Ray stated it was under 200 feet, and that he had been living at his home since the 1970.

Vice Chair Ramsey asked what the applicant would do without the special use permit. Mr. Ray stated that he liked the short-term rental experience, and he is not sure what he would do. With the two properties' shared driveway, he appreciates the occasional vacancy and lower utilization that comes with short-term rentals.

Chair Necas asked how long the applicant has been operating the subject property as a short-term rental, and Mr. Ray stated approximately a year.

Mr. Oliver asked if he operated the rental himself, and Mr. Ray stated that he and his wife operated it.

Mr. Randolph asked what the occupancy rate was, and Mr. Ray stated it was approximately 70% and that occupants rent the whole house.

Vice Chair Ramsey asked if the applicant believes this changes the character of the neighborhood, and Mr. Ray stated that he believes it does not. He stated that it has been positive, introducing people to the appeal of the Lindley Park neighborhood, given its walkability and charm. He stated that a primary tourist attraction of Greensboro is youth sports, and he gets many occupants for those purposes.

Chair Necas asked if there was anyone else to speak in favor of the request. Seeing no other speakers in favor, she asked the speakers in opposition to provide their name/address for the record and swore in Michelle Kennedy, Dyan Arkin, and Patti Eckard for their testimony.

Michelle Kennedy, 633 Scott Avenue, stated that Lindley Park's diverse housing stock makes it particularly welcoming and walkable. She believes this variance request creates an undue burden on the neighborhood, despite the proper maintenance and pleasant condition of the subject property. She stated that her and some neighbors had found a firearm in the parking lot of the subject property, and noted there had been difficulty establishing contact with the applicant about this issue. She stated that she believed anyone wishing to operate a business has an obligation to understand the rules and requirements and be a positive influence to the neighborhood. Ms. Kennedy stated that there is a box truck regularly parked at the subject property doing maintenance work that has exacerbated parking and traffic maneuverability issues in the area. She stated that short-term rentals are a significant problem for neighborhoods in Greensboro, and especially so given the decreasing housing stock in the City. She stated that the applicant has not conducted sufficient neighborhood outreach, and that her and her neighbors cannot support this request, given that the subject property is managed by a large company, and not the applicant.

Vice Chair Ramsey asked if the firearm had an association with the subject property, and Ms. Kennedy stated that one of the occupants of the short-term rental stated they left it accidentally.

Mr. Wright asked if any other incidents like the lost firearm had occurred. Ms. Kennedy stated that had only happened once, but that the disruption caused by the box truck has been going on for a long time. Mr. Wright asked if Ms. Kennedy was basing her concern solely on that incident, and Ms. Kennedy stated that she had numerous concerns regarding the short-term rental on the subject property. She stated that the lack of communication from the applicant is unacceptable for her neighborhood, and gives them pause about how the applicant will operate the short-term rental. Mr. Wright stated that this case was representative of the issues the Board faces in determining how to regulate short-term rentals on a case-by-case basis.

Mr. Kirkman stated that the Board's role in this case is to use its best judgment in determining how best to apply the ordinance's tourist home use definition to the operation of short-term rentals.

Dyan Arkin, 635 Scott Avenue, stated that she understood the awkward position regarding applying the tourist home regulations with contemporary short-term rentals. She stated that the lost firearm incident was significantly concerning for the neighborhood. She stated that the applicants have rehabilitated the subject property wonderfully, and maintain it well. Ms. Arkin stated that multiple short-term rentals operate in a close radius. Short-term rentals are an issue in many neighborhoods in Greensboro, and she stated she believes it is becoming particularly difficult in Lindley Park. She stated that she did not believe the short-term rental use of the subject property contributes to the neighborhood, and is generally not

compatible with the character of the neighborhood. This is a desirable neighborhood and renting it long-term would not be difficult.

Patti Eckard, 2621 Beechwood Street, representing the Lindley Park Neighborhood Association, stated that they oppose the requests, as they do not believe the short-term rental contributes to the neighborhood. She stated that as a real estate agent, she does not believe short-term rentals are a benefit to property values and neighborhood cohesion. She stated that she also supports a comprehensive regulation for short-term rentals.

Chair Necas asked if the applicant or anyone in support of the request wished to speak in rebuttal.

Mr. Ray stated that his son found the firearm on his property away from the rental, and that they called the police about it. He stated he had not received information from the police report before the hearing tonight, and that he has not had to deal with any police presence regarding the rental before.

Vice Chair Ramsey asked about the management company discussed by the opposition speaker. Mr. Ray stated that the management company acts as a broker to let him list the short-term rental on multiple platforms. Vice Chair Ramsey asked if an occupant would contact the management company or him regarding issues with the subject property, and Mr. Ray said they could contact either but he provides his contact information to all occupants.

Mr. Oliver asked if he meets all occupants before they check in, and Mr. Ray stated he does not necessarily meet all of them. Mr. Oliver asked about the box truck, and Mr. Ray stated that he was unaware it was an issue in the neighborhood. The truck belongs to a business associate of his that regularly does work on the subject property.

Ms. Rudd asked if he distributes his contact information to the neighbors, and Mr. Ray stated that he has talked to many of the neighbors and has been a resident in the neighborhood for over fifty years. Ms. Rudd asked if Mr. Ray's son found the firearm, Mr. Ray stated that was correct, that his eighteen-year-old son saw it on his way to work in the morning.

Chair Necas asked if anyone in opposition of the request wished to speak in rebuttal.

Ms. Kennedy stated that her neighbor called the police, and she was present when the Greensboro Police Department arrived. She stated that she was present when GPD attempted to contact the applicant, and he was not home at the time. She stated that she feels his conduct on that matter was unreasonable. Ms. Kennedy stated that the immediate neighbors do not know how to contact Mr. Ray or the rental management company.

Ms. Eckert stated that the applicant has been out of compliance for a year, and asked the Board to consider the ordinance carefully. She stated that these requests follow the property, and that the case-by-case review is an important protection mechanism for their neighborhood.

DISCUSSION

Vice Chair Ramsey stated that based on the Board's standards of review, he did not feel the request was materially detrimental to the neighborhood, but he understood the desire for neighborhoods to remain residential and not have too many short-term rental properties. He stated that he views this use as not in harmony with the area's neighborhood character.

Mr. Oliver stated that the Board must settle the issue of the special use permit request before it can consider the variance and more evidence about how the applicant operates the subject property as a tourist home.

Mr. Randolph stated that he can support the request but he understands the concerns of neighbors given a particularly distressing incident. He stated that he has concerns with how the management structure of short-term rentals may contribute to disruptions.

Ms. Rudd asked to clarify that the applicant is not in compliance with the ordinance, and Chair Necas stated that her understanding of the record is that the applicant has never been in compliance.

Mr. Kirkman stated there were two compliance issues, the need for the special use permit and the need for the variance to address development standards of the tourist home use.

Mr. Wright asked for guidance on the standards the Board follows to grant special use permits for tourist home uses.

Mr. Kirkman stated that the Board has to make three findings to grant a special use permit, that the use is not detrimental to the health or safety of persons residing or working in the vicinity or injurious to property or improvements in the vicinity, that the use in the location provides a service or facility that contributes to the general wellbeing of the neighborhood or community, and that the location and character of the use is generally in harmony with the area where it's located and in general conformity with the GSO2040 Comprehensive Plan.

Mr. Randolph asked if he could ask an interpretation question to staff without opening the public hearing. Mr. Andrews stated that is permissible. Mr. Randolph asked if the ordinance has any impact on whether homeowners' associations could restrict short-term rentals. Mr. Andrews stated that HOA membership could be a legal restriction binding on a property based on deed, or voluntary neighborhood associations. Voluntary associations have only their bylaws to determine their activities, where deed obligations have the force of contract. Mr. Randolph asked if one could regard the LDO's regulations as the minimum requirements in the situation of a contractual association, and Mr. Andrews stated that was correct, that HOAs can have far more restrictive rules.

Vice Chair Ramsey asked to clarify if the Lindley Park Neighborhood Association was a voluntary association, and Mr. Andrews stated that was not on the record. Mr. Kirkman stated that the City can only enforce its Land Development Ordinance, and is not involved with any private agreements.

Chair Necas stated that the neighborhood representatives and directly adjacent neighbors did not believe the applicant's request would contribute to the general wellbeing of the neighborhood.

MOTION

Mr. Oliver moved that in BOA 22-63, 624 Scott Avenue, based on the stated Findings of Fact, 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 while the property owner does not reside on site, they live next door and very close, and as a result they can closely supervise the property; (2) The proposed use at the particular location provides a service or facility that will contribute to the general well-being of the neighborhood or the community because the current owners have improved the property and continue to maintain it to a high standard, the property provides short-term rental; (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 the proximity to UNCG, the Greensboro Aquatic Center, and other local attractions keeps this property in conformity with the neighborhood. Mr. Randolph seconded the motion. The Board voted 4-3 in opposition of the motion, (Ayes: Oliver, Randolph, Barkdull; Nays: Necas, Ramsey, Rudd, Wright). Chair Necas stated the special use permit request was denied.

Mr. Kirkman stated that due to the denial of the special use permit request, the Board did not need to hear the associated variance request as it was now irrelevant.

e. BOA-22-65 and BOA-22-66: 319-A and 319-B West Fisher Avenue (DENIED)

Chair Necas stated that the Board would hear the two cases together to have the testimony but the Board would still vote on the four separate variances. Mr. Kirkman stated that because the subject property contains two dwelling units in the same building on the same lot, the material facts are the same apart from the unit addresses.

Vice Chair Ramsey asked to confirm that the subject properties did not require a special use permit. Mr. Kirkman stated that was correct. As the application for one variance references the other, staff can read the facts of the case into the record for both pairs of request, and the Board can then vote on each of the requests. Chair Necas asked if the Board would need to conduct four separate votes after the public hearing is closed. Mr. Kirkman stated that if the Board denies the first variance, the Board would not need to vote on the second variance, as it was a separation request.

Dave Pokela, 800 Green Valley Road, Suite 500, stated that the consolidation of hearings was acceptable and asked to confirm that there is one record, and Chair Necas stated that was correct. Mr. Pokela asked what the Board's preferred procedure was for objecting to testimony given by speakers. Chair Necas stated that each side has 20 minutes for testimony and a five-minute rebuttal period. Vice Chair Ramsey stated that the Board would hear objections in rebuttal periods.

Mr. Andrews stated that the Board could approve a consolidation of the cases if it chooses. Chair Necas stated that she had no opposition to the consolidation as long as the sides maintained the 20-minute times.

Mr. Pokela stated that he had printed material prepared for the Board to review and to enter into the record. Mr. Kirkman asked to confirm that there was a copy available to display electronically, and Mr. Pokela stated that was correct. Mr. Andrews asked if visual exhibits were included in the packet that are not in application, and asked Mr. Pokela to display them via the overhead camera during his presentation.

Ms. Thiel stated in BOA-22-65 and BOA-22-66, RFH Properties LLC requests two variances. (1) To allow a proposed tourist home to be located 0 feet from another tourist home when at least 400 feet is required; (2) To allow the owner or operator of a proposed tourist home to reside off-site. Evidence provided by the applicant included Exhibit A. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance references were 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 a tourist home must reside onsite.

Background and Site Information: The subject lot is located on the south side of West Fisher Avenue, east of North Eugene Street, and is zoned O (Office). Tax records indicate the lot contains approximately 4,792 square feet and the structure was constructed in 1931. The applicant rents two units, 319-A and 319-B, within the same building on the subject property to a tenant who operates them as short-term rentals through online platforms, such as Airbnb, and also does not reside on site. Per the Land Development Ordinance, short-term rentals are considered tourist homes, which are permitted in the O District, subject to a number of use standards. On August 31, 2022, a zoning enforcement officer issued a Notice of Violation advising of the tourist home use standards. To bring 319-A and 319-B units into compliance and remedy the Notice of Violation, the applicant applied for variances within the required appeal period to allow the proposed tourist home to be located less than 400 feet from another tourist home and to allow the owner or operator to reside off-site. At the same time, the applicant applied for the same two variances to bring 319-A and 319-B into compliance, BOA-22-65 and BOA-22-66.

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

Chair Necas asked the applicant to state his/her/their name/address for the record and swore in Elizabeth Felsen and Rodney Hall for their testimony.

Mr. Andrews asked to clarify if there was one applicant or two. Chair Necas stated that the application states the owner is the applicant. Ms. Felsen stated that she wished to defer her testimony to her tenant.

Dave Pokela, 800 Green Valley Road, Suite 500, stated that their interpretation of the ordinance is that the variance process required the owner to sign the application, but his client has a property interest by way of the lease, has joined as a co-applicant, and intends to present together. Chair Necas asked if the applicant required counsel or if she can represent herself.

Mr. Andrews stated that RFH Properties is the applicant of record, and the applicant can represent herself. Chair Necas asked if Ms. Felsen can defer to her tenant, and Mr. Kirkman stated the property owner was available to answer any questions the Board might have.

Elizabeth Felsen, 208 Kensington Road, stated that she purchased and began rehabilitating the subject property in 2016 or 2017. The property is in close proximity to a number of eating and drinking establishments, a grocery store, and a number of other amenities in the Downtown area. She stated, however, that the subject property does not have a parking space and this has caused significant issues keeping long-term renters. Ms. Felsen stated that multiple tenants have abandoned leases mid-term due to this. When Mr. Hall approached her with the short-term rental proposal, she agreed without doing enough research. She stated that it is difficult to maintain long-term renters in the subject property

Rodney Hall, 3217 Pleasant Garden Road, on behalf of RCR Travel LLC, displayed photographs of the subject property and stated that the owner and applicant leases the subject properties to his company to operate as a short-term rental. The property gives renters an experience closer to renting a house than staying at a hotel or motel. The area has numerous commercial uses directly adjacent. He stated that while it is possible to rent units individually, their positioning inside the same building makes them desirable to families visiting the City to rent as one. Mr. Hall stated that the property makes it impractical for either the owner or operator to reside on-site given its size and market demands. His company has a good record of managing the subject property, and the company has not received any complaints from neighbors about the subject property. He stated that he lives approximately ten minutes driving distance from the subject property, and RCR has on-call service available to maintain the property. He stated that reports from occupants requesting maintenance have been limited, and the property has numerous positive reviews. Mr. Hall stated that the rules for the subject property clearly prohibit parties and disruptive behavior. He stated they have had no police calls regarding the property and no complaints from neighbors.

Chair Necas asked about parking situation. Mr. Hall stated that there is no parking or driveway on the property. The only parking available is on street, first-come first-serve.

Ms. Felsen stated that she lives five minutes away from the property and has family members less than one minute away.

Mr. Randolph asked if tenants have asked to contact her, and Ms. Felsen stated they have, and that she has a team of contractors and maintenance workers as well.

Mr. Barkdull asked what they would do without the variance. Ms. Felsen stated she would return to long-term rental, and she expects the same issues as she had before.

Mr. Pokela introduced RCR Travel LLC's evidence packet to the record, and Chair Necas approved. Mr. Pokela stated that the Board should consider the unique circumstances of the subject property. The intensity of commercial uses in the area makes these requests reasonable. Displaying a map of the subject property and the surrounding area, Mr. Pokela stated that the Office zoning district permits this use by right, and that the variances are justified given the peculiar conditions of the subject property.

Ms. Felsen stated that her directly adjacent neighbor is supportive of her maintenance of the subject property.

Mr. Pokela stated that his interpretation of the intent of the ordinance's tourist home regulations is to maintain the residential character of neighborhoods, but the conditions of this area make that irrelevant. He stated that strict enforcement of the residency and spacing requirements is an unreasonable imposition on the subject property due to how it is constructed. Mr. Pokela stated that buying a nonconforming property is not in and of itself a self-imposed hardship. He stated that long-term rental is not a reasonable alternative for the applicant due to the parking issues, and that a potential alternative use does not mean that a hardship is not present. The residency requirement creates an unreasonable hardship due to the small size of the subject property and the business operations of the owner and operators. Mr. Pokela stated that generalized concerns from the general public could not be the basis for denying a variance request.

Mr. Oliver asked about the home between the grocery store use and the subject property. Ms. Felsen stated that she owns that property and it has no parking as well. The tenants there have issues with parking, but do not drive as much.

Chair Necas asked the speakers in opposition to provide their name/address for the record and swore in Cheryl Pratt, Ann Stringfield, and Steven Cancian for their testimony.

Cheryl Pratt, 910 Magnolia Street, representing the Fisher Park Neighborhood Association, stated that FPNA is a voluntary affinity organization and the FPNA board does not believe short-term rentals benefit their neighborhood. She stated they have concerns about outside investors buying housing stock given how difficult it is to find housing in Fisher Park, and that the loss of long-term rentals makes it harder for people to move to Downtown Greensboro. She stated that parking in Fisher Park is extremely poor, and most of the residents of the neighborhood expect to have to park on the street. Ms. Pratt stated that they have had bad experiences with short-term rentals nearby, involving a party that resulted in an assault on a neighborhood member.

Ann Stringfield, 1005 North Eugene Street, stated that the Fisher Park neighborhood has been collaborating with the City for multiple years to support updated regulations for short-term rentals. The on-site residency and proximity requirements are important to them, given the small lot sizes in Fisher Park. She stated that the requirement would permit a high density of short-term rentals even with the guidelines as written in the ordinance. Ms. Stringfield stated that the neighborhood finds most short-term rental operations reasonable when following the City's ordinance guidelines for tourist homes. She stated that Fisher Park supports long-term rentals, as the neighborhood is over half rental, but the residency requirement for short-term rental operations is important.

Steve Cancian, 209 West Bessemer Avenue, stated that the by-right tourist home use of the Office zoning district does not separate the subject property from the other development standards. He believes that renting out your primary residence is a very different situation than an investor or management group operating a business outside of their neighborhood. Mr. Cancian stated that he does not believe the applicant has a significant hardship under the current ordinance. He stated that Fisher Park needs long-term rentals, and the reduction of the housing stock for the use of short-term rental will only make it worse. It is a very desirable neighborhood and there would be no hardship finding a long-term tenant.

Mr. Barkdull asked about the geography of the neighborhood. Mr. Cancian stated that the zoning in the area is complex. Even though the subject property is not in a residential zoning district, it is part of a residential neighborhood.

Ms. Pratt stated that single-family homes are in close proximity to the subject property, and this is a very desirable residential area for rental and purchase.

Ms. Stringfield stated that all of these properties are within the Fisher Park Neighborhood boundaries as defined in 1982.

Mr. Wright asked to confirm they had no issues with long-term rentals. Mr. Cancian stated that they have no issue with either, as long as short-term rental operations follow the ordinance requirements. Ms. Pratt stated that multiple short-term rentals in the neighborhood operate under the ordinance, and the neighborhood does not oppose them. Mr. Cancian stated that he also has neighbors who rent out their basement and he has no problem with it. Mr. Wright asked if those short-term rental operators reside on-site, and Ms. Pratt stated they did. Ms. Stringfield stated that Fisher Park Neighborhood Association does not oppose rentals or short-term rentals that follow the City's regulations.

Chair Necas asked if the applicant or anyone in support of the request wished to speak in rebuttal.

Mr. Pokela objected to all of the opposition speakers, stating that they presented general opposition and/or speculative assertions that were irrelevant to the variance requests. He stated that the Board has granted variances in very similar situations to this and that the owners and operators of the subject property live and work close enough to the subject property that strict application of the residence requirement is an unreasonable imposition. He stated that there was no evidence of issues with the subject property in its operation as a short-term rental, and its unique characteristics make the variance requests reasonable.

Mr. Randolph asked why the parking issue created a hardship given the commonality of a lack of parking in Fisher Park. Ms. Felsen stated that many single-family houses in Fisher Park do have driveways, but the subject property does not. She stated that the property is not large enough for her or the operator to live on site. Mr. Pokela stated that the hardship requirement relates to the characteristics of the area around the subject property, and the lack of a driveway on the subject property and direct experience of the applicant with long-term rentals are evidence of a hardship.

Mr. Randolph asked if the applicant owned an adjacent property without parking she operates as a long-term rental, and Ms. Felsen stated that her tenant at that property parks as close as possible to the home but does not use his vehicle often. Mr. Randolph stated that it seemed more like an inconvenience in finding an appropriate tenant than a serious hardship. Mr. Pokela stated that he views the situation as a hardship, as the applicant will have a limited applicant pool for potential tenants. Mr. Randolph stated that the applicant could have reasonably anticipated this given the property's situation. Mr. Pokela stated that buying a property with knowledge of potential issues is not a self-created hardship.

Ms. Rudd asked to confirm that the applicant's sister lives approximately a minute away from the subject property and if she is part of the management team. Ms. Felsen stated she did live very close, but she is not a part of the management but could assist with the maintenance of the subject property.

Chair Necas asked if anyone in opposition of the request wished to speak in rebuttal.

Ms. Stringfield stated that the City's has established regulations for short-term rentals and the applicant should follow them. She stated that she understands the difficulty of enforcing the rules when the short-term rental market has changed, but that the Board must uphold the policy as it exists.

Mr. Cancian stated that it is unreasonable to suggest that the owners or operators of the subject property are essentially living on site, and that that intention of the ordinance is about the context of how neighbors engage with each other and take responsibility for the shared neighborhood environment, and not just how quickly property maintenance can be scheduled. He stated that Fisher Park is a very desirable neighborhood and that the applicant would not have trouble renting the subject property long-term.

Mr. Wright asked if anyone in the neighborhood has had to call the police regarding the subject property. Mr. Cancian stated he was not aware of any calls. Mr. Wright asked why Mr. Cancian was concerned if there was not a history of significant issues. Mr. Cancian stated that the owner occupancy requirement of the development standards is in the ordinance for a reason, and that the variance process requires the applicant to demonstrate a compelling reason not to strictly follow the rules.

Chair Necas asked if this has already been operating as a tourist home, as the application states it is a proposed tourist home. Mr. Kirkman stated that the applicant has advertised the subject property for rental and that was the source of the notice of violation.

Mr. Hall stated that the property has been operating as a short-term rental. Chair Necas asked if that fact changes their considerations, and Mr. Kirkman stated that the question before the Board remains.

Mr. Oliver asked if the Office zoning district changes the situation considerably, given that some of the opposition speakers live in residential zoning districts. Mr. Kirkman stated that the Office district grants the tourist home use by right and thus does not require a special use permit but has the same the development standards for tourist homes.

Mr. Andrews stated that the Board must consider neighbors' standing and the weight of any evidence they present.

Hearing no further speakers, Chair Necas closed the public hearing

DISCUSSION

Mr. Barkdull asked staff about the residency requirement and the uses in proximity. Mr. Andrews stated that the residency requirement applies even if the subject property has significant commercial uses adjacent to it. Mr. Kirkman stated that the development standards are the same regardless of the base zoning district.

Mr. Randolph stated that he did not think the applicant has proven a significant hardship regarding parking. He stated that the applicant's argument regarding the residency requirement was more reasonable given proximity of the subject property's owner and short-term rental's operator and a lack of notable issues.

Vice Chair Ramsey stated that he believes the conditions of this case are suitable for a variance, and that general opposition is not a sufficient basis to make determinations.

Chair Necas stated that she understands the applicant's argument but that small dwellings in general do not necessarily present an insurmountable obstacle amounting to a hardship.

Vice Chair Ramsey asked about the motion language the Board should use.

Mr. Kirkman stated that the pair of variances for each unit would require separate motions.

MOTION

Vice Chair Ramsey moved that in BOA 22-65, 319-A West Fisher Avenue, based on the stated 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 requirement of a 400-foot distance between tourist homes prevents utilization of both units of a duplex as a tourist home, and use as a single-family residence is not practical, moreover the small size of the units make the owner living at the site impractical; (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 two units are adjacent to one another, it is not practical for the owner to reside on site due to the small size of the duplex unit, moreover there are multiple responsible parties living a short distance away from the property; (3) The hardship is not the result of the applicant's own actions because the property is built as a duplex such that the required 400-foot spacing is impossible to comply with and there is no place for the owner to reside; (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 given the proximity of the property to Cone Health hospital and Downtown Greensboro, the use of the property as a tourist home fits within the character of the neighborhood, to date the use of the property as a tourist

home has not generated any complaints from the neighbors. Seconded by Mr. Oliver. The Board voted 5-2 in opposition of the motion, (Ayes: Vice Chair Ramsey, Oliver, Rudd, Wright, Barkdull; Nays: Necas, Randolph). Chair Necas stated the variance was not approved.

MOTION

Vice Chair Ramsey moved that in BOA 22-66, 319-B West Fisher Avenue, based on the stated 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 requirement of a 400-foot distance between tourist homes prevents utilization of both units of a duplex as a tourist home, and use as a single-family residence is not practical, moreover the small size of the units makes the owner living at the site impractical; (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 two units are adjacent to one another, it is not practical for the owner to reside on site due to the small size of the duplex unit, moreover there are multiple responsible parties living a short distance away from the property; (3) The hardship is not the result of the applicant's own actions because the property is built as a duplex such that the required 400-foot spacing is impossible to comply with and there is no place for the owner to reside; (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 given the proximity of the property to Cone Health hospital and Downtown Greensboro, the use of the property as a tourist home fits within the character of the neighborhood, to date the use of the property as a tourist home has not generated any complaints from the neighbors. Seconded by Mr. Oliver. The Board voted 5-2 in opposition of the motion, (Ayes: Vice Chair Ramsey, Oliver, Rudd, Wright, Barkdull; Nays: Necas, Randolph). Chair Necas stated the variance was not approved.

OTHER BUSINESS

Chair Necas acknowledged the absence of Chuck Truby.

Ms. Thiel stated that the next Board meeting is on January 23.

Mr. Kirkman stated that this is Mr. Andrews' final hearing with the Board. Staff and the Board thank him for his work and wish him well in the future.

ADJOURNMENT

The meeting was adjourned at 9:53 p.m.

Respectfully submitted,

Leah Necas, Chair

Greensboro Board of Adjustment

LN/arn