

**MEETING MINUTES
GREENSBORO BOARD OF ADJUSTMENT
SEPTEMBER 23, 2024**

The meeting of the Greensboro Board of Adjustment was held on Monday, September 23, 2024, at 5:49 p.m. in-person in the City Council Chamber. Board members present were: Chair Leah Necas, Vice Chair Cory Randolph, Chuck Truby, Ted Oliver, Tiffanie Rudd, Drew Wofford, and Stephen Barkdull. City staff present were Mike Kirkman, Shayna Thiel, Carla Harrison and Andrew Nelson (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 like a court decision. Anyone appearing before this Board has a right to offer evidence, cross-examine witnesses, and inspect documents. The Board will proceed according to the agenda, a copy of which was provided. Chair Necas further explained the way 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 she explained how to appeal decisions.

Chair Necas advised that all testimony and evidence from applicants or opposition speakers must be relevant to the case(s) before the Board and the four criteria it uses to make decisions.

APPROVAL OF MINUTES (August 26, 2024 Meeting)

Vice Chair Randolph made a motion to approve the August 26, 2024 minutes, seconded by Ms. Rudd.

The Board voted 6-0-1 in favor of the motion, (Ayes: Truby, Oliver, Rudd, Wofford, Vice Chair Randolph, Chair Necas; Nays: None; Abstention: Barkdull). Chair Necas advised the minutes were approved.

SWEARING IN OF STAFF

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

CONTINUANCES / WITHDRAWALS

Ms. Thiel stated that BOA-24-39 at 1108 Julian Street and BOA-24-43 at 301 Fisher Park Circle will be continued to the October 28th regular meeting, and that BOA-24-41 at 101 Frederick Road has been withdrawn by the applicant.

NEW BUSINESS

a. BOA-24-38: 5502 West Friendly Avenue (APPROVED)

Ms. Thiel stated in BOA-24-38, Three White Oaks Properties LLC requests a variance to allow a short term rental to be separated 390 feet from a short term rental at 5411 Foxwood Drive when a minimum of 750 feet is required. Evidence provided by the applicants included Exhibit A. Supporting documentation from staff included Exhibits 1 through 8. The Land Development Ordinance reference was Section 30-8-10.4(U): A short term rental must be separated from any other short term rental by a minimum of 750 feet, as measured from property lines.

Background and Site Information: The subject lot is located on the north side of West Friendly Avenue, east of Dolley Madison Road, and is zoned O (Office). Tax records indicate the lot contains approximately 32,234 square feet, and the building was constructed in 1926. The applicant is changing the existing building on the subject property from a commercial use back to a single-family residential use and intends to operate it as a whole house short term rental. The Land Development Ordinance defines a whole house

short term rental as the rental of all available bedrooms of an entire residence (at any time) to persons for a fee. After applying for the required zoning permit, City staff advised the applicant that another short term rental was located at 5411 Foxwood Drive, which is within 750 feet so the permit could not be issued unless a variance is approved for reduced separation. At this time, the applicant seeks a variance to allow a proposed short term rental to be separated 390 feet from the other short term rental. If the variance is granted, the applicant will proceed with the short term rental zoning permit process.

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

Chair Necas asked about residential uses in the Office district, and Mr. Kirkman stated those uses are allowed by right.

Chair Necas asked the applicants to provide their name/address for the record and swore in Susan Lambert and Jon McLean for their testimony.

Jonathan McLean, 2409 Walker Avenue, stated that he has rented the garage of the subject property for approximately two years and it had previously been a real estate office, but the tenants have left.

Susan Lambert, 4621 Francisco Drive, stated that her corporation owns residential rental properties, and acquired the subject property in 2013. There are multi-tenant offices adjacent to the property, including 24-hour emergency dental services. She stated that the property is unlikely to be used as a primary residence, and she is not aware of any single-family residences within this area of West Friendly Avenue.

Robert Brown, 4406 Oak Hollow Drive, High Point, property owner's attorney, stated that Council's stated intent of the Ordinance section on short term rentals is to prevent the change of a character of a property from a residential use or negatively impact the residential character of an area. This section of West Friendly Avenue is not residential in character, and neither this property nor any adjacent properties are residential uses on this street. The nearest residences are on a separate street, and occupants of this short term rental would not be in proximity. He stated that an unnecessary hardship is imposed because there are commercial uses adjacent, it is not practical to use this property for long term residential purposes, and there is not a need for commercial occupancy as indicated by its long term vacancy. Mr. Brown stated that this hardship is peculiar to the subject property because it is not in a conventional residential neighborhood. The applicant has owned the property since 2013, the adjacent office uses have existed since at least that point, and the applicant has not created the hardship.

Mr. Truby asked to confirm that hotel/motel uses are allowed in the O (Office) zoning district, and Mr. Kirkman stated that was correct. Mr. Truby stated that the Ordinance section regarding short term rentals was clearly designed to regulate short term rentals in single-family neighborhoods, which the subject property is not.

Ms. Guarascio stated that the Board must rule on the Ordinance as it is written.

Vice Chair Randolph asked if any neighbors have contacted the applicant about the request, and Mr. Brown stated they had not.

Mr. Oliver asked what the applicant would do without the variance, and Mr. Brown stated that the subject property had previously been an office use, but it is unlikely to be viable for a long term residential rental due to the adjacent uses.

Mr. Oliver stated he believed there was a need for long term rental properties in the City, and Ms. Lambert stated that there was also a need for short term accommodations near Guilford College.

Vice Chair Randolph asked how the applicant knew this was viable for use as a short term rental. Mr. McLean stated that he hired a short term rental consultant to assess the market viability and believes it will be a good investment. Vice Chair Randolph asked if the applicant had any inquiries to lease the property for commercial use, and Ms. Lambert stated she did not.

Mr. Oliver asked if the applicant had consulted staff to see if there were any nearby short term rentals, and Mr. McLean stated that his short term rental consultant attested she had, and he was not aware there was another nearby short term rental property when the zoning permit application was filed.

Mr. Wofford asked how much the applicant would list the subject property for sale, and Ms. Lambert stated roughly \$540,000 to \$550,000. Mr. Wofford asked how much the applicant would list the subject property for long-term rental, and Mr. McLean stated approximately between \$2,400 and \$2,500 a month. Mr. Wofford stated that the subject property would not be an affordable long term rental property and the proposed short term rental use is an appropriate use for the subject property.

Vice Chair Randolph asked to confirm there were four bedrooms, and Mr. McLean stated that was correct. Vice Chair Randolph asked if the property would be rented per room, and Mr. Maclean stated it would be a whole house rental.

Ms. Rudd asked to confirm there was not a short term rental operating at this address prior, and Mr. Brown stated that was correct, that the property had been vacant for roughly two years. Ms. Rudd then asked about commercial tenancy of the subject property, and Mr. McLean stated that he has only rented the garage, and Mr. Brown stated that the property was not used for residential occupancy in the last two years.

Vice Chair Randolph asked about the distance between the subject property and the nearest short term rental. Mr. Kirkman stated that the ordinance specified property line separation for measurement. Mr. Brown stated that the adjacent residential properties' neighborhood is not accessed on the same street frontage as the subject property.

Seeing no opposition, Chair Necas closed the public hearing.

BOARD DISCUSSION

Mr. Truby stated that the subject property and existing short term rental are very different properties on different streets and sees no potential for negative impact on adjacent properties associated with this request.

Mr. Oliver stated that the City needs more long term rental properties, given the intense demand in this area.

Ms. Guarascio stated that the Board must rule on a case-by-case basis based on the findings of fact and the Ordinance as written to Council intent.

Mr. Truby stated that it was extremely unlikely for the subject property to be used as a long term rental.

Mr. Wofford concurred and stated that the operation of the subject property as a short term rental supports the GSO2040 Comprehensive Plan's Becoming Car Optional Big Idea.

MOTION

Vice Chair Randolph moved that in BOA-24-38, 5502 West Friendly 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 will be unable to utilize the property for its income value and the property could remain vacant which is not the in best interest of the applicant; (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 residential location is sandwiched in between commercials uses to its south, to its east, and to its west; (3) The hardship is not the result of the applicant's own actions because the property was owned by the applicant in 2013, the short term rental regulations were passed by the City Council and then became effective post the applicant's ownership 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 assures that the character of the neighborhood is actually not disturbed, the existing residential

character of the neighborhood includes frontage of commercial uses that are included in or adjacent to the residential properties, and the increased use of the property for short term rentals, which is a commercial uses, would not have a negative impact on the adjacent properties any more than what is currently existing, which the properties are subject to several commercial and other office uses. Mr. Truby seconded the motion.

The Board voted 6-1 in favor of the motion, (Ayes: Barkdull, Rudd, Truby, Wofford, Vice Chair Randolph, Chair Necas; Nays: Oliver). Chair Necas advised the motion passed.

b. BOA-24-40: 4300 Ravenstone Drive (APPROVED)

Ms. Thiel stated in BOA-24-40, Maureen Grimaldi requests a variance to allow a proposed swimming pool to be located in front of the principal structure when viewed from a road or street. Evidence provided by the applicant included Exhibits A through C. Supporting documentation from staff included Exhibits 1 through 7. The Land Development Ordinance reference was Section 30-8-11.9(C)(1): Swimming pools (as well as the decking and equipment associated with the pool) and interactive water features that are located on single-family 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 Ravenstone Drive, east of Dover Park Road, and is zoned PUD (Planned Unit Development). Tax records indicate the cul-de-sac lot contains approximately 30,492 square feet, and the house was constructed in 2003. The applicant proposes to install a swimming pool in front of the existing house, surrounded on three sides by a courtyard. The submitted site plan shows that the proposed pool will be blocked from view along Ravenstone Drive by a brick wall and extensive vegetation. 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 Necas asked the applicants to provide their name/address for the record and swore in Charles Milks, Jr. and Maureen Grimaldi for their testimony.

Charles Milks, Jr., 316 Dodge Loop, Madison, stated that the applicant's property has rear easements that preclude installation of the pool behind the principal dwelling, and the proposed location in the courtyard will prevent the pool from being visible from Ravenstone Drive due to the wall.

Chair Necas asked to confirm the wall was pre-existing, and Mr. Milks stated that was correct.

Mr. Randolph asked if the applicant had discussed the request with neighbors.

Maureen Grimaldi, 4300 Ravenstone Drive, stated that she has heard no opposition to the request.

Seeing no opposition, Chair Necas closed the public hearing.

BOARD DISCUSSION

Vice Chair Randolph stated this was a clear cut request and the design presented is appropriate for the property and character of the neighborhood.

MOTION

Mr. Truby moved that in BOA-24-40, 4300 Ravenstone 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 build a pool on their 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 lot is extremely irregular in shape, making the courtyard the only logical location for a pool; (3) The hardship is not the result of the applicant's own actions because the house was built in 2003 and the applicant purchased the property in June of 2024; (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 pool will be hidden within the courtyard and landscaping and the wall will screen the pool from the street, the pool will be fenced and will not cause any harm to the public. Ms. Rudd seconded the motion.

The Board voted 7-0 in favor of the motion, (Ayes: Truby, Oliver, Rudd, Wofford, Barkdull, Vice Chair Randolph, Chair Necas; Nays: None). Chair Necas advised the motion passed unanimously.

c. BOA-24-42: 6028 Lucye Lane (DENIED)

Ms. Thiel stated in BOA-24-42, David and Shannon LeFever request a variance to allow a short term rental to be separated 364 feet from a short term rental at 303 College Road when a minimum of 750 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 reference was Section 30-8-10.4(U): A short term rental must be separated from any other short term rental by a minimum of 750 feet, as measured from property lines.

Background and Site Information: The subject lot is located on the north side of Lucye Lane, east of Lindley 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 1941. The applicants propose to operate a whole house short term rental in their existing house on the subject property. A whole house short term rental is defined as the rental of all available bedrooms of an entire residence (at any time) to persons for a fee. The Land Development Ordinance states that a short term rental must be separated from any other short term rental by a minimum of 750 feet. After applying for a required zoning permit, City staff advised the applicants that another short term rental was already permitted at 303 College Road, which is within 750 feet of the applicants' property. The applicants are seeking a variance to allow their short term rental to be separated less than 750 feet from the other short term rental. If the variance is granted, the applicants will proceed with the short term rental zoning 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 Necas asked the applicants to provide their name/address for the record and swore in David LeFever for his testimony.

David LeFever, 4107 Stonemill Drive, High Point, stated that this is his second property, and they bought the property to generate income in retirement. They hired an short term rental consultant but rushed to buy the property, were not aware of the existing short term rental, and that they were not sure how to see if there were any existing short term rentals. He stated that they have made improvements that they would not have done if they knew it was not allowed for short term rental use. Mr. LeFever stated that he feels it would not be economically viable for him to rent it long term. The subject property has commercial properties directly behind it, and there is potential future multi-family residential development to the south, along with the school. He stated that he does not feel it will be detrimental to the neighborhood, and that the property was previously poorly maintained before their purchase and renovation. He communicated with the neighbors regarding his request. Mr. LeFever stated that there are noise detection devices on the property, and there will be active professional management of the property. He stated that he met with neighbors and did not hear opposition to the request and has letters from neighbors in support.

Ms. Guarascio stated that the Board could choose to review the letters if it wishes but it may be hearsay.

Chair Necas stated she felt it was inappropriate without the neighbors present to testify.

Vice Chair Randolph asked to confirm the nature of his contact with the neighbors, and Mr. LeFever stated it was positive and he has given tours of the property to his neighbors. He stated that he currently operates the property as a mid term rental, for longer than 30 days.

Ms. Rudd asked about development near the subject property. Mr. Kirkman stated that the property across the street was rezoned to CD-RM-18 (Conditional District-Residential Multifamily) in September

2021, which would permit multi-family development. Ms. Rudd asked if the applicant had considered long term rental, and Mr. LeFever stated that they would likely sell the property if they cannot operate it as a short term rental because it is not economically viable as a long term rental. Ms. Rudd asked how long the other short term rental in proximity had been in operation, and Ms. Thiel stated that the short term rental at 303 College Road applied for its zoning permit on April 12th.

Vice Chair Randolph asked about the school in proximity, and Mr. Kirkman confirmed it was Western Guilford Middle School.

Chair Necas asked if there was any opposition to the request and swore in Kevin Drake and Dana Spyridakos for their testimony.

Dana Spyridakos, 6100 Lindley Woods Drive, stated that the vacant land adjacent to the subject property is not yet under construction. She stated that there are issues with traffic on Lindley Woods Drive, with a large volume of student pedestrian traffic. She is concerned about having short term rental guests in proximity to the school given that there are no sidewalks, and that the intersection on Lucye Lane to Lindley Road is a very sharp, high traffic flow intersection as it is the only way to turn left onto College Road. Ms. Spyridakos stated that she is worried about on-street parking causing an increase in traffic accidents.

Ms. Guarascio stated that the Board must choose how to weigh generalized concerns expressed without expert testimony to support specific claims about traffic flow.

Ms. Rudd asked if the speakers in opposition had communicated with the applicant.

Kevin Drake, 6100 Lindley Woods Drive, stated he had not met the applicant.

Chair Necas advised that the applicant had five minutes to speak in rebuttal.

Mr. LeFever stated that there are a maximum of three cars permissible per the short term rental regulations and the subject property has a garage behind the principal dwelling which can accommodate more than three cars, which would preclude the need for any on-street parking.

Ms. Rudd asked if the applicant would provide guests with information about the neighborhood regarding the concerns presented, and Mr. LeFever stated that they would.

Mr. Oliver asked if the present mid term rental operating at the property was meeting the applicant's economic needs, and Mr. LeFever stated that it was not, and that the current use does not meet their income targets. Mr. Oliver asked if the applicant would lose money continuing with a mid term rental, and Mr. LeFever stated that he would be more likely to sell the subject property than to try to continue operating it as a mid term rental.

Ms. Guarascio stated that any variance granted by the Board would run with the land and must be justified by hardship imposed on the property, and that the personal circumstances of the current owner are not under consideration.

Vice Chair Randolph asked the applicant what peculiar conditions on the subject property create a hardship. Mr. LeFever stated that they have improved the property to the benefit of the neighborhood, in harmony with it.

Mr. Barkdull asked if the applicant's consultant would deal with the concerns, and Mr. LeFever stated that if they can operate a short term rental, they would ensure that the operator informs guests of the special conditions of the neighborhood.

Chair Necas closed the public hearing.

BOARD DISCUSSION

Chair Necas stated that the subject property is deep within a residential neighborhood and that this is what the Ordinance was intended to protect against.

Mr. Oliver stated that the area of this subject property does not lack short term accommodations.

Vice Chair Randolph stated that the request does not meet hardship requirements

Mr. Wofford stated that Council's intention in passing the regulations was to account for situations such as this.

Ms. Rudd stated that concerns expressed by the neighbors prevent her from being able to support the request.

MOTION

Mr. Oliver moved that in BOA-24-42, 6028 Lucye Lane, 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 Greensboro needs more long term rental housing, there does not appear to be a big need for short term rental housing, there are other options available for income from this property; (2) The hardship of which the applicant complains does not result from conditions that are peculiar to the property and unique circumstances related to the applicant's property because information related to the rules related to the distance required from another short term rental was broadly disseminated and easily found on the City's website or by calling City staff; (3) The hardship is the result of the applicant's own actions because the required distance was very well-known and/or easily acquired, the applicant did not do adequate research prior to purchase; (4) The variance is not in harmony with the general purpose and intent of this ordinance and does not preserve its spirit and does not assure public safety, welfare and substantial justice because the property will be 364 feet away from another short term rental, this is only about one-half the required distance, there are many hotel rooms available a few miles away, the City does not appear to need more short term rentals. Ms. Rudd seconded the motion.

The Board voted 7-0 in support of the motion, (Ayes: Truby, Oliver, Rudd, Wofford, Barkdull, Vice Chair Randolph, Chair Necas; Nays: None). Chair Necas advised the motion passed unanimously.

ACKNOWLEDGEMENT OF ABSENCES

Chair Necas acknowledged the absence of Mr. Ramsey.

OTHER BUSINESS

Chair Necas recognized Mr. Truby for his service on the Board to the residents of the City of Greensboro

ADJOURNMENT

The meeting was adjourned at 7:05 p.m.

Respectfully submitted,

Leah Necas, Chair
Greensboro Board of Adjustment
LN/arn