



# BOARD OF ADJUSTMENT *MINUTES*

**Thursday, February 27<sup>th</sup>, 2025 at 7 PM**  
Town Council Chambers  
900 7th Avenue · Garner, North Carolina 27529

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## **I. CALL TO ORDER**

Vice Chair Richard Squires called the meeting to order at 7:00 p.m. on Thursday, February 27<sup>th</sup>, in the Town Council Chambers.

Mr. Squires then asked that the Secretary call roll.

## **II. ROLL CALL**

The Secretary, Joseph Linsky, conducted a roll call.

The following members were present: Joseph Gupton, Richard Squires, Wayne Brewer, and Ellis Williams.

The Board Secretary informed all present that there were four members present which is sufficient for a quorum.

Randall Hogg, Planning Tech; Joseph Linsky, Planner II; Cassidy Charles, Planner I; and Nick Tafelsky, Development Review Manager were present representing the Planning Department. Terri Jones; Town Attorney was present. David Gadd, Attorney to the Board, was also present.

## **III. MINUTES**

**January 25<sup>th</sup>, 2024 Minutes** - Mr. Squires asked if anyone had any corrections to recommend. Hearing none, Mr. Squires asked for a motion to approve. Mr. Brewer motioned to approve the minutes from the January 25<sup>th</sup>, 2024 meeting. Mr. Williams seconded the motion. Mr. Squires called for a vote. The vote was unanimous.

## **IV. INTRODUCTION**

Mr. Squires covered the background description and authority of the Board of Adjustment.

Mr. Squires informed everyone that the Board of Adjustment was a quasi-judicial board that acted as a court. Its members were appointed by the Town Council to serve three-year terms. All testimony received was sworn testimony.

Mr. Squires outlined the process of the meeting by saying that the Secretary will read the request as written on the agenda then planning staff would explain how the request does or does not meet the requirements of code.

The applicant, after being sworn in, testifies and presents information regarding the case. He said then the proponents or opponents would have the opportunity, after being sworn in, to speak and that the applicant could rebut any testimony given.

Mr. Squires asked for questions. There were none.

## **V. VARIANCE**

Mr. Linsky calls for the first case VAR-24-001 North Garner Middle School.

Mr. Squires asks board members if there has been any ex parte communication. He then swears in Mr. Linsky.

Mr. Gadd informs the applicant that a 4/5 majority vote is required to approve a variance and that the vote must be unanimous due to only 4 members being present.

Mr. Gadd asked for any objections.

Mr. Kenneth Haywood, an attorney from Howard Stallings representing the Wake County Board of Education, acknowledged and accepted the unanimous vote requirement.

### **VAR-24-001 North Garner Middle School**

Mr. Linsky presents the staff report detailing the proposed development. The applicant is Rachel Watson with CLH designs and the owner of the site is the Wake County Board of Education. The 17.70-acre site is located 720 Powell Drive and can be further identified by Wake County PIN 1711552890. The property is zoned Residential 4 (R4).

Mr. Linsky presents background information on the site and the surrounding zoning. The site is north of Garner rd. And surrounded by R4 zoning districts and multifamily zoning districts. The site has street buffers along all four road frontages, Powell, Curtiss, Johnson, and Bryan.

Mr. Linsky presents the applicant's request for a variance to architectural design standards put forth in the UDO. Most of these architectural standards were introduced with the adoption of the new UDO on July 5<sup>th</sup>, 2022. The request is variance for building height, facade requirements, transparency, roof articulation, and materials. Mr. Linsky adds that the currently in-review site plan for the school will require a special use permit after preliminary staff approval.

After meeting with CLH Designs, staff identified limitations in the UDO as it pertains to institutional buildings in residential districts. The applicant is proposing a compact site to accommodate parking, a track, and phased construction. Mr. Linsky explains that the school buildings were originally constructed in the 1960s and the most recent addition was constructed in 2004. The applicant's goal is to consolidate the many buildings on the site into two. Mr. Linsky shows the proposed site plan to demonstrate the consolidation plan.

Mr. Linsky proceeds through each UDO section that the applicant is requesting a variance from.

The first is Section 5.9.1 which puts forth the maximum building height in an R4 zoning district. The applicant is proposing a height of 49' 4," amounting in a variance of just less than 42% increase in height.

The second is Section 9.2.3, which dictates building transparency. The applicant is specifically seeking a variance from the upper floor transparency requirement of 20% with a transparency of 19% on the fourth floor of the building.

The third is Section 9.2.4, which puts forth standards to avoid large continuous building mass of uniform height by requiring a break every 100 feet. The gymnasium at 123 ft and other buildings exceed this maximum.

The fourth is Section 9.2.5 which limits the amount of metal materials used on the exterior of a structure to 10%. The applicant seeks an increase to 20% metal materials used.

The final section is 9.2.6 which requires structures with four units or greater with facades longer than 50 feet to contain articulation listed within section. The applicant seeks to construct structural bays up to 59' 4" with no articulation.

Mr. Linsky concludes by presenting the staff findings, dates of legal notices, and the board ruling protocol.

Mr. Linsky asks for questions. Mr. Williams asks if there is another zoning district besides R4 used for schools. Mr. Linsky answers that all other residential districts allow for the school use. Most are in RA, R2, or R4. They are also permitted in NMX and CMX districts. The applicant could not determine an alternative zoning that addressed the architectural issues.

Mr. Haywood approaches the board and thanks them for their contribution on behalf of the Wake County Board of Education.

Mr. Squires asks if any information will be presented from any source other than the Board of Education. Mr. Haywood answers that several attendees may be testifying on behalf of the School Board and CLH designs.

These attendees are sworn in. They include Alicia Kirwan and Elizabeth Caliendo on behalf of Kirwan Architecture, and David Burnett, Shane Webster, and Elizabeth Sharpe on behalf of Facilities, Design, and Construction for Wake County Public Schools.

Mr. Haywood continues to present a background on the school and the conditions that led to the renovation and the need for the variance request. The determination was made to demolish the pre-existing school buildings and construct new ones. The student body will be housed within the pre-existing building while the new ones are constructed. Improvements and amenities such as a new track and field will be added. The school will be brought up to modern standards and compliance with regulations such as ADA.

Mr. Haywood concludes by asking the board for any questions. Mr. Squires asks if there is any county or state code that could address the architectural issues. Mr. Haywood replies that the issues arise from strict adherence to the Garner UDO, making the issue a municipal one.

Mr. Squires calls for the next speaker.

Alicia Kerwan approaches to board to present on behalf of Kerwan Architecture firm. Ms. Kerwan presents a PowerPoint going into further detail on the proposed project and the need for the variance. She notes the need for the structure to be built upward due to the limited acreage of the site at 17.79 acres being less than the required 32 acres for a school of this size. Ms. Kerwan notes other unique qualities of the site including the slope and the need for measures to keep traffic on surrounding streets flowing. Ms. Kerwan restates the requested variances and explains each aspect of the school that differs from the architectural standards of the UDO.

Ms. Kerwan concludes her presentation and asks the board for questions.

Mr. Williams asks how similar this proposed building is to other middle school buildings. Ms. Kerwan answers that due to the site, accommodations have been made that differentiate this school from a typical middle school in Wake County. Much of the interior including bays and classrooms still retain similar layouts to other schools in Wake County. Mr. Williams asks why some of the classrooms were not sized to meet UDO architectural standards during the design phase. Ms. Kerwan replies that the classrooms he is referencing are science classrooms and are build larger than typical classrooms.

Mr. Squires asks if the new design will increase the student capacity. Ms. Kerwan replies that the capacity will not be increased by the new design.

There were no further questions.

Mr. Haywood approaches the board and states that all evidence in support of the variance has been presented and asks if the board has any questions. There were none. Mr. Haywood reiterates the need for certain accommodations to be met for a functioning school and how the variance will allow those to be met. Mr. Haywood asks the acting chair if all materials heard tonight including the application and testimonials are accepted into the record.

Mr. Haywood states the criteria for variance application and explains how each have been met with sufficient evidence.

Mr. Squires asks if there are any questions from the board members or any other witnesses who wish to speak on behalf of the applicant.

Mr. Squires closes the public hearing.

Mr. Williams makes a motion to approve that the application is complete. Mr. Gupton seconds the motion.

**Vote: Aye- Mr. Squires, Mr. Williams, Mr. Gupton, Mr. Brewer.**

Mr. Squires opens up the variance discussion. He goes point by point through the requested variances and asks for questions. There were none.

Mr. Squires asks the board to complete the variance deliberation worksheet.

Mr. Gupton motions to approve the first variance request. Mr. Brewer seconds.

**Vote: Aye- Mr. Squires, Mr. Williams, Mr. Gupton, Mr. Brewer.**

Mr. Gupton motions to approve the second variance request. Mr. Brewer seconds.

**Vote: Aye- Mr. Squires, Mr. Williams, Mr. Gupton, Mr. Brewer.**

Mr. Brewer motions to approve the third variance request. Mr. Gupton seconds.

**Vote: Aye- Mr. Squires, Mr. Williams, Mr. Gupton, Mr. Brewer.**

Mr. Brewer motions to approve the fourth variance request. Mr. Gupton seconds.

**Vote: Aye- Mr. Squires, Mr. Williams, Mr. Gupton, Mr. Brewer.**

Mr. Brewer motions to approve the fifth variance request. Mr. Gupton seconds.

**Vote: Aye- Mr. Squires, Mr. Williams, Mr. Gupton, Mr. Brewer.**

All Variance requests pass and the request is granted.

Town of Garner attorney Terri Jones presents a PowerPoint on the Code Revisions Project.

Meeting adjourned at 8:10 PM

Minutes submitted by Randall Hogg