



BOARD OF ADJUSTMENT *MINUTES*

Thursday, December 4th, 2025 at 7 PM
Town Council Chambers
900 7th Avenue · Garner, North Carolina 27529

I. CALL TO ORDER

Ed Salter calls the meeting to order at 7:00 p.m. on Thursday, December 4th, in the Town Council Chambers.

Mr. Salter then asks that the Secretary call roll.

II. ROLL CALL

The Secretary, Randall Hogg, conducts a roll call.

The following members are present: Roger Thomas, Tiffany Gidley, Ed Salter, Richard Squires, Kate Davison.

Randall Hogg, Planning Tech; Nick Tafelsky, Development Review Manager; Joseph Linsky, Planner II; and Jeff Triezenberg, Planning Director, are present representing the Planning Department. Morgan Pierce, the attorney representing the Town, is present. David Gadd, Attorney to the Board, is also present. A representative for the applicant of VAR-25-002 is present. The appellant and the attorney representing the appellant for AA-25-003 are present.

III. MINUTES

October 23rd, 2025 Minutes - Mr. Salter asks if anyone has any corrections or adjustments. Hearing none, Mr. Salter asks for a motion to approve the minutes. Ms. Gidley motions to approve the minutes for the October 23rd meeting. Mr. Thomas seconds. The minutes are approved unanimously.

IV. INTRODUCTION

Mr. Salter elaborates on the functions and powers of the Board of Adjustment.

Mr. Salter calls for the first case to be presented. It is a continuation request for VAR-25-002 520 Powell Drive

V. VAR-25-002 520 Powell Drive

Mr. Squires acknowledges the comments made by two residents during the previous BOA hearing on 520 Powell Drive after the applicant had left and asks that it be added to the record.

The applicant for VAR-25-002 approaches the podium and asks that the case be continued to the January 22nd, 2026 meeting. Mr. Salter asks if there are any objections to the continuation of the case. There are none.

The board secretary asks for a motion to approve the continuance.

Ms. Davison motions to approve. Ms. Gidley seconds. The continuance is approved unanimously.

Mr. Salter calls for the second case to be presented. It is administrative appeal AA-25-003.

VI. AA-25-003 1506 US Hwy 70 W Electronic Gaming Center

The board secretary swears in the witnesses who are prepared to speak on the case before the Board.

Mr. Jerry Eatman, an attorney from Lynch & Eatman in Raleigh, approaches the podium to present evidence on behalf of the appellant, Rowell Ordanes.

Mr. Eatman explains that staff review found the Electronic Gaming Center proposed for operation at 1506 US Hwy 70 W did not meet the separation requirements found in Section 6.6.4.F of the Garner UDO due to its proximity to a pre-existing Electronic Gaming Center in Raleigh's jurisdiction.

Following a written interpretation from staff upholding the separation requirement between the proposed and pre-existing center in Raleigh, Mr. Ordanes filed the appeal.

Mr. Eatman proceeds to present background information on the ordinance in question and its authority. He highlights Section 1.3 of the Garner UDO that puts forth the bounds of the town's jurisdiction and its authority therein. He highlights Section 6.6.2.F, which puts forth the separation requirement that no EGC shall be located within one quarter mile of another.

Mr. Eatman proceeds with his presentation by highlighting pre-existing case law on ambiguous zoning ordinance and the rulings that favored a non-restrictive interpretation of the ordinance.

Mr. Eatman argues that Section 6.6.4.F is not specific enough to restrict the operation of the EGC at 1506 US Hwy 70 W based on the establishment not meeting the separation requirement.

Mr. Eatman asks the Board if they have any questions for him or the appellant. There are none.

Morgan Pierce, attorney for the Town, calls a single witness, Planning Director Jeff Triezenberg.

Ms. Pierce proceeds by questioning Mr. Triezenberg on his role and the role of the Planning Department in relation to the interpretation of zoning ordinance. Mr. Triezenberg explains how he was presented with the request for an interpretation on the separation requirement. He explains that the applicable UDO sections in relation to the applicant's request were reviewed in preparation of the interpretation.

Ms. Pierce proceeds with questions that highlight Mr. Triezenberg's qualifications to make zoning interpretations and his familiarity with separation requirements in other jurisdictions.

Ms. Pierce expresses the Town's tendering of Mr. Triezenberg as an expert in municipal planning, zoning administration, and UDO interpretation.

Mr. Salter asks for a motion to recognize Mr. Triezenberg as an expert in these areas. Ms. Davison motions. Ms. Gidley seconds. All are in favor.

Mr. Eatman approaches the podium and expresses that there is no objection to Mr. Triezenberg being recognized as an expert in Planning, but that the opposition reserves the right to object to Mr. Triezenberg providing a legal opinion.

Ms. Pierce continues questioning Mr. Triezenberg on the definitions and ordinances relating to electronic gaming centers and the intent behind them.

Evidence presented in support of upholding staff's opinion on the separation requirement includes crime statistics for electronic gaming centers in the area and a map depicting the proximity of the proposed EGC and the pre-existing one in Raleigh.

Staff determined that the proposed EGC would not be exempt from the separation requirement based on the precedent that establishments such as group care homes with similar separation rules were not offered exemption from those rules based on their proximity to other jurisdictions.

Ms. Pierce requests that all documents used during the testimony be admitted. Mr. Salter asks for a motion. Ms. Gidley motions. Mr. Squires seconds. All are in favor.

Mr. Salter asks why there are two pre-existing EGC locations in an overlapping separation radius. Mr. Triezenberg explains that the two locations are legal non-conforming as they were established before the adoption of the ordinance.

Ms. Davison asks Mr. Triezenberg to expand on the potential of a non-conforming EGC being created by an EGC being established in a neighboring jurisdiction that does not conform to Garner's separation rule. Mr. Triezenberg explains that the pre-existing EGC would become a legal non-conformity that is allowed to continue.

Ms. Pierce concludes her line of questioning.

Mr. Eatman approaches the podium.

Mr. Eatman asks Mr. Triezenberg to explain the reasoning for including vegetative buffers as an example for upholding the interpretation. Mr. Triezenberg explains that properties are not exempt from these buffers based on the properties' proximity to jurisdictional boundaries.

Ms. Pierce approaches the podium to highlight similar separation requirements imposed in neighboring municipalities. She argues that the separation requirement in the ordinance is not ambiguous.

Mr. Salter asks if Mr. Eatman has any further argument. Mr. Eatman reiterates that his argument is that the town is extending its authority past jurisdictional lines.

Mr. Salter asks for discussion of the case. The Board deliberates.

Mr. Salter asks for a motion to affirm Planning staff's written interpretation that the proposed establishment is not exempt from the separation requirement of 6.6.4.F.

Ms. Davison motions. Ms. Gidley seconds.

Vote: Aye – Mr. Thomas, Ms. Gidley, Mr. Salter, Ms. Davison

Vote: Nay – Mr. Squires

The motion passes.

Mr. Salter makes a motion to adjourn. Ms. Gidley seconds. The meeting is adjourned at 7:56pm.

Minutes submitted by Randall Hogg.

