



Planning, Development & Inspections

A Division of Community Services
P.O. Box 550 • Raleigh, NC 27602
www.wake.gov

MINUTES OF BOARD OF ADJUSTMENT OCTOBER 8, 2024

LOCATION: Wake County Justice Center, 301 S. Salisbury St., Room 2700, Raleigh, NC

MEMBERS PRESENT:

1. Mr. Jeffrey Goebel (Chair)
2. Ms. Britany Waddell (Vice Chair)
3. Ms. Irene Butler
4. Mr. Joe Cebina
5. Mr. DeAntony Collins
6. Mr. Waheed Haq
7. Mr. Mark Spanioli
8. Mr. Will Wingfield

MEMBERS ABSENT:

1. Mr. Russell Stephenson

COUNTY STAFF:

1. Ms. Ambryss Brown
2. Ms. Leila Coe
3. Mr. Steven Finn
4. Mr. Timothy Maloney
5. Ms. Dawn May
6. Mr. Josh McClellan
7. Ms. Liz Oliver
8. Mr. Geoffrey Pearson
9. Mr. Matthew Roylance
10. Ms. Beth Simmons

COUNTY ATTORNEY:

1. Mr. Kenneth Murphy, Deputy County Attorney

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1. **Meeting called to order:** Mr. Goebel called the meeting to order at 9:02 a.m.
 2. **Approval of Minutes of the August 13, 2024, Meeting:** Mr. Haq made a motion to approve the August 13, 2024, minutes as presented. The motion was seconded by Mr. Collins and the minutes were approved unanimously.
 3. **PLG-A-005005-2024 (Ms. Ambryss Brown, Planner I)**
The petitioner is appealing the determination of planning staff, as allowed by Article 19-41 *Appeals of Administrative Decisions* of the Unified Development Ordinance (UDO), in response to the County advising that artificial turf is an impervious surface.

Ms. Brown informed the Board that a State Senate Bill was passed in September and declared artificial turf as being a pervious surface. The Bill specified that artificial turf is “not impervious or partially impervious” if it allows water drainage and is installed per the manufacturer’s specifications. Therefore, Ms. Brown noted that the appeal was unnecessary and requested to withdraw the case.

Mr. Goebel sought clarification on the County’s initial ruling. Ms. Brown explained that the County considered any partially impervious surface, including artificial turf, to be impervious.

Mr. Goebel asked Counsel if official County action was needed. Mr. Murphy confirmed it was not, as the Bill rendered the appeal moot, allowing for administrative withdrawal. Mr. Maloney added that staff was updating the UDO to align with State Law, effective January 1, 2025. Don Hunt, attorney for the appellant, approached the Board and requested that the record show the determination would no longer apply to his clients’ property.

Mr. Goebel confirmed Mr. Hunt's withdrawal and declared the appeal moot.

4. PLG-SU-004938-2024 (Mr. Geoffrey Pearson, Code Enforcement Program Manager)

The petitioner is requesting a Special Use Permit to operate a commercial boat club.

Mr. Pearson explained that the case involved a Special Use Permit request for a boat club from property owner Dr. Marcia Lewis, who intended to request a continuance.

Applicant’s Presentation

Testimony by:

- 1) Dr. Marcia Lewis, property owner
- 2) Ms. Camille Allen

Dr. Lewis and Ms. Allen were sworn in to present testimony. Ms. Allen explained they were requesting a continuation for the Special Use Permit due to delays in obtaining expert tests and reviews. They needed feedback from civil engineers, surveyors, and the Army Corps of Engineers to ensure compliance, and felt more time was necessary before presenting to the Board.

Mr. Goebel asked the petitioner their requested continuance date. Dr. Lewis replied that engineers would meet with the Corps of Engineers and Natural Resources later that week and deferred to Mr. Pearson for guidance. Mr. Pearson noted that immediate concerns included Planning and Watershed management comments and recommended a 30-day continuance due to the history of the request; which had been extended twice since July.

Ms. Waddell inquired about which elements of the SUP request were not ready for Board consideration. Mr. Pearson identified several concerns, including setbacks, impervious surface requirements, land use buffers, and parking ambiguities. Dr. Lewis expressed uncertainty about whether 30 days would be sufficient, while Ms. Allen advocated for 60 days.

Mr. Goebel indicated he would entertain a motion for a 60-day continuance. Mr. Pearson asked if the Board wanted to hear from additional interested parties in opposition, but Mr. Goebel noted this was a procedural vote, so no public comment was needed.

Ms. Waddell stated that a stay of enforcement on the violation would extend through the 60-day continuance. Mr. Goebel informed the petitioner that this would be the final continuance issued for this case.

Motion to Continue PLG-SU-004398-2024

Mr. Goebel made a motion to continue PLG-SU-004398-2024 to the December 10, 2024 meeting.

Mr. Haq seconded the motion, and it was approved unanimously.

5. PLG-SU-005202-2024 (Ms. Leila Coe, Planner I)

The petitioner is requesting Special Use Permit Approval as required by section 4-11 of the Wake County Unified Development Ordinance (UDO) to operate a treatment facility.

Voting Members

Five voting members were identified:

1. Mr. Jeffrey Goebel
2. Ms. Britany Waddell
3. Mr. DeAntony Collins
4. Mr. Waheed Haq
5. Mr. William Wingfield

Location

WAKE COUNTY PIN: 1606-79-5171

ZONING DISTRICT: Highway District (HD)

LAND USE CLASSIFICATION: Community Reserve (Garner)

WATERSHED: Middle Creek

CROSS REFERENCE FILES: BA1369; BA1688

APPLICANT: Brian Schall, Director of Development for Nelson Construction & Development

PROPERTY OWNER: 7133 Rock Service Station Road Limited Partnership

PROPERTY SIZE: 7.37 Acres

CURRENT LAND USE: Vacant Retirement Home

Documentary Evidence Accepted into Record

- Staff Report
- Staff Presentation
- Applicant's Application

TESTIMONY AND EVIDENCE PRESENTED

Testimony by Leila Coe

Ms. Coe was sworn in and requested that the Staff Report and Presentation be accepted into the record. Mr. Goebel accepted the evidence. Ms. Coe stated that the case before the Board was a Special Use Permit request for a residential treatment center, authorized by landowner Tony Lee on behalf of Brian Schall of Nelson Construction & Development and Ascension Recovery Services. The proposed facility will be located on a 7.37-acre lot on Rock Service Station Road, currently hosting a vacant retirement home with accessory structures. The applicant seeks to operate a 24/7 facility with up to 23 on-site staff, providing care for a maximum of 50 residents undergoing inpatient addiction treatment. State approval is required before operations can begin.

Ms. Coe noted that the accessory structures operated under an existing variance and their use predated the UDO's subdivision standards. A Special Use Permit had previously been issued for an expansion of use. The proposed site meets zoning standards for land area, parking, and proximity

to similar uses, featuring 266,955 square feet of uncovered land and 22,060 square feet of heated floor area, with no other group care facilities within a ½ mile radius. It meets parking standards of one space per two beds, and utilities will include existing State-maintained septic systems and water provided by Johnston County, along with proposed onsite wastewater systems. The site will utilize existing landscaping and buffer yards, with an impervious surface coverage of 18.44%, below the 30% limit. All renovations will occur within the existing structure, requiring no changes to impervious surface area.

Ms. Coe provided a site plan, photos, and video of the site. Hearing signs were posted, and letters were mailed to adjacent property owners on September 23rd. She received six phone calls and one email, with additional inquiries directed to staff about use and treatment types, the hearing date, and procedural questions regarding continuations and minutes.

Staff recommends that if the Board of Adjustment concludes positively on all required findings, it approves the request subject to the conditions identified in the staff report.

Applicant's Presentation

Testimony by:

- 1) Amy Crout, Smith Anderson Law Firm
- 2) Brian Schall, Nelson Construction & Development
- 3) Douglas Leech, Ascension Recovery Services
- 4) Philip Porter, Cushman & Wakefield of North Carolina, Inc.
- 5) Tony Lee, Property Owner
- 6) Peggy Lee Woolard, Property Owner

Ms. Crout requested that her presentation and application materials be entered into the record, which Mr. Goebel accepted. Representing Nelson Construction & Development, Ms. Crout identified the witnesses who would testify.

She provided the Board with a Justification Statement, explaining that the property, located south of the NC 42 Highway and Rock Service Station Road intersection, was developed as a retirement home in the early 1970s, with approved uses by the Board in 1989 and 1996. The requested Special Use Permit would allow conversion into a residential treatment center for substance use disorders. Ms. Crout noted the current zoning is Highway District (HD), permitting a Group Care Facility with a Special Use Permit. Staff found the request consistent with the Comprehensive Plan and compliant with UDO Section 4-42.

Ms. Crout reviewed the site plan, stating no additional modifications or construction was planned, and that the existing 22,000-square-foot building, formerly the Hart Retirement Home, would be revitalized. Existing buffers were deemed sufficient, with plans to add vegetation along the northwestern property line. She also indicated that an existing water tower would be renovated.

When Ms. Waddell inquired about a potential access easement, Ms. Crout explained that the existing driveway belonged to Tony Lee, the current property owner, and an easement agreement would be established along with additional buffer area per the purchase agreement.

Ms. Crout called her witnesses, starting with Mr. Brian Schall, Director of Development for Nelson Construction & Development. His affidavit was entered into the record and accepted. Mr. Schall explained that Nelson Construction began working in the addiction treatment field in 2023, partnering with Ascension Recovery Services. The proposed facility would employ doctors, nurses, counselors,

and case managers, with no outside additions to the existing building—only interior renovations. The center would operate as a 50-bed inpatient facility, staffing 23 full-time employees at full capacity.

Mr. Schall noted that none of the residents would have vehicles; the facility would be drop-off and pick-up only, making the existing 43 parking spaces sufficient. The facility will be licensed by the State and accredited by the Joint Commission. He asserted that the site would harmonize with the area and meet UDO and State requirements.

Mr. Douglas Leech, Founder and CEO of Ascension Recovery Services, was called to testify, and Ms. Crout requested his affidavit be entered into the record. Mr. Leech shared his background in addiction recovery and described Ascension's expansion since 2016, now operating approximately 70 programs across the country. He clarified that Ascension manages the facilities, with Nelson owning the legal entity, and emphasized their commitment to transparency and community engagement. Ascension facilities are voluntary and require rigorous patient screening.

Mr. Leech confirmed that all facilities must be accredited by The Joint Commission and noted that the proposed site would provide detox and residential treatment (ASAM 3.7 Level Care) and that regular community meetings and open houses would be held to inform residents about the facility's goals.

Ms. Crout called Mr. Philip Porter, a licensed appraiser with Cushman & Wakefield, to present his impact study. He explained that his study assessed whether the proposed conversion would substantially injure the value of adjacent properties. He reviewed academic literature and comparable facilities, finding no substantial negative impact on property values. He noted that the existing vacant building would likely harm property values more than the proposed treatment center, which would enhance the area's upkeep.

Ms. Crout called property owners Tony Lee and Peggy Lee Woolard, who shared their family history on the site and expressed support for the facility, highlighting its potential to address local drug overdose concerns.

Mr. Goebel inquired about communication with neighbors post-opening. Mr. Leech assured that contact information would be provided, including the program director's details, to establish trust and facilitate communication. Community open houses and patient involvement in service projects were also planned.

Ms. Crout summarized the application, emphasizing compliance with Special Use Standards, public necessity, and consistency with the Wake County Land Use Plan.

Mr. Goebel called the meeting to recess at 10:19 a.m.

Mr. Goebel called the meeting to order at 10:27 a.m. Hearing no questions for the Petitioner, Mr. Goebel opened the floor for public hearing at 10:27 a.m.

Sworn Witnesses in Opposition to the Petition

- 1) Christopher James Cline, nearby property owner
- 2) Sean Bjornstad, nearby property owner

Mr. Goebel explained that the scope of this hearing was narrow, but if the Board or Counsel could answer questions from opposing witnesses, they would do so to a limited degree.

Mr. Cline expressed concerns about safety and a researched 8% loss of value of his property adjacent to the proposed facility. Mr. Leech explained that the nature of the program was that it was voluntary, but that care, and discharge planning was a component if someone chose to leave. He added that, as a State licensed facility, negative events were reported, and too many would lead to closure, which Mr. Leech testified had never happened at Ascension. He answered questions about staffing and security monitoring onsite. Mr. Leech reiterated that the goal of Ascension was to work with the community and provide a direct line of communication.

Mr. Porter explained that the 8% quote was correct – it was included in the 2014 study, which found an average 8% decline. However, a 2019 study revised the findings and determined there was no impact. The differentiation between studies resulted in Mr. Porter conducting his own analysis, as provided in testimony before the Board.

Mr. Bjornstad explained he lived in a neighborhood that was not adjacent, but was nearby, and expressed concerns about notification, safety, and the nature of the facility. He represented himself as speaking for additional neighbors that were not present. Ms. Coe informed the Board that signage posted on September 23rd indicated that the use was for a “Group Care Facility,” which was the use type it met in the UDO. Mailings were sent to adjacent property owners – properties that touched the line of the care facility. She added that for callers, she explained what “Group Care Facility” meant in reference to public hearings. All notifications were sent per UDO requirements, and Ms. Coe indicated that the half-mile radius was in reference to State requirements prohibiting similar care facilities in the area.

Mr. Haq asked if a public meeting (i.e. community meeting) requirement was necessary, and Ms. Coe responded that the applicant held a public meeting on October 1, 2024. Mr. Leech and Mr. Schall provided contact information for Mr. Bjornstad, and he thanked them and explained that the neighbors would appreciate the ability to reach out.

Mr. Goebel closed the public hearing at 11:06 a.m. and opened the floor for Board Discussion.

Board Discussion

Mr. Goebel indicated that there were five elements the Board would need to make positive findings based on competent, substantial, and material evidence:

- 1) *The proposed development will not materially endanger the public health or safety.*
Mr. Goebel noted that traffic conditions would not be impacted, and that services would remain the same. With no construction onsite, soil and erosion should remain unchanged. He added that water was supplied by Johnston County. Mr. Goebel explained that Ascension’s testimony was that the facility was voluntary and that he was convinced that the facility would not endanger the public health or safety. Mr. Collins agreed with his characterization.
- 2) *The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use or class of special uses.*
Mr. Goebel indicated that the zoning district was Highway Dsistrict, and that a treatment center was allowable within the district with a Special Use Permit. Ms. Waddell added that there were no other group facilities within the half-mile radius, per requirements. Mr. Goebel added that the square footage and parking spaces met the minimum requirements.
- 3) *The proposed development will not substantially injure the value of the adjoining property, or is a public necessity.*

Mr. Goebel identified testimony from Mr. Porter regarding the adjoining property values, including academic and field studies. According to his testimony, it would not substantially injure surrounding property values. Ms. Waddell added that the current property was vacant, and reactivating the use would also improve the surrounding property values.

Mr. Goebel also noted that testimony to the public necessity was provided, and he agreed that it met the needs of an underserved group in the community. He also noted that open lines of communication between the facility and the residents would meet concerns about conflict resolution. Ms. Waddell noted that the residents onsite would be monitored all day, so staff would be available to address concerns.

- 4) *The proposed development will be in harmony with the area in which it is located.*

Ms. Waddell noted that this was a facility already designed to operate as a group care facility, so reactivating the use would be in harmony with the community. Mr. Goebel added that the population of the facility might change, but that the facility itself would not.

- 5) *The proposed development will be consistent with the Wake County Land Use Plan.*

Mr. Goebel indicated that testimony from staff had been provided and that this criterion would be met.

Mr. Goebel entertained a motion on PLG-SU-005202-2024.

Motion on PLG-SU-005202-2024

Ms. Waddell made a motion in the matter of PLG-SU-005202-2024, that the Board find and conclude that the petition does meet the requirements of Article 19-23 of the Wake County Unified Development Ordinance and General Statute 160D-705D and that the requested Special Use Permit be granted with the recommended staff conditions. The motion to approve is based on the following findings of fact:

- 1) The proposed development will not materially endanger the public health or safety;
- 2) The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use or class of special uses;
- 3) The proposed development will not substantially injure the value of adjoining property, or is a public necessity;
- 4) The proposed development will be in harmony with the area in which it is located and
- 5) The proposed development will be consistent with the Wake County Comprehensive Plan.

Mr. Wingfield seconded the motion, and it was approved unanimously.

6. Planning, Development & Inspections Report

Mr. Finn informed the Board that a November meeting was scheduled, and staff was working with applicants on a variance. This fiscal year, the Board has reviewed 12 Special Use Permit cases, 2 variances, and 5 appeals, primarily related to code enforcement. He noted that code enforcement and administrative application reviews remain active. Notably, there have been eight inquiries and pre-submittal meetings regarding schools or private schools within residences, with up to 35 students in converted homes—not daycares. Mr. Finn thanked Ms. Brown and Ms. Coe for their assistance with Board cases.

Mr. Goebel clarified that the case withdrawn today was due to a new law from the General Assembly, which now defines artificial turf as not impervious. Mr. Finn added that the UDO's definition would need updating, and staff discussions are ongoing to prepare for the statute's January implementation.

Mr. Murphy updated the Board on the Umstead Coalition's appeal of the July 9th decision regarding County zoning over Airport Authority-owned land. Matt Little, who represented the Board during the July meeting, will represent the County in the appeal to NC Superior Court. Staff will file the record from that meeting, and oral arguments will be presented to a Superior Court judge, though the timeline is currently uncertain.

Mr. Goebel noted that he would not be present at the November 12th meeting, but that he had spoken to Ms. Waddell, and she would be present to chair the meeting in his absence.

7. Adjournment

Mr. Goebel adjourned the meeting at 11:32 p.m.

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REGULAR MEETING
WAKE COUNTY
BOARD OF ADJUSTMENT
October 8, 2024

All petitions complete, Jeffrey Goebel declared the regular meeting of the Wake County Board of Adjustment for Tuesday, October 8, 2024, adjourned at 11:32 p.m.

Respectfully Submitted:



Brittany Waddell
~~Jeffrey Goebel~~
Wake County Board of Adjustment

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