



Planning, Development & Inspections

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

MINUTES OF BOARD OF ADJUSTMENT AUGUST 13, 2024

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

MEMBERS PRESENT:

1. Mr. Jeffrey Goebel (Chair)
2. Ms. Irene Butler
3. Mr. Joe Cebina
4. Mr. DeAntony Collins
5. Mr. Waheed Haq
6. Mr. Russell Stephenson
7. Mr. Will Wingfield

MEMBERS ABSENT:

1. Ms. Britany Waddell (Vice Chair)
2. Mr. Mark Spanioli

COUNTY STAFF:

1. Ms. Jenny Coats
2. Mr. Steven Finn
3. Mr. Josh McClellan
4. Mr. David Parks
5. Mr. Geoffrey Pearson
6. Ms. Beth Simmons

COUNTY ATTORNEY:

1. Mr. Kenneth Murphy, Deputy County Attorney
2. Mr. Matt Little, Teague Campbell

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1. **Meeting called to order:** Mr. Goebel called the meeting to order at 9:04 a.m.
 2. **Approval of Minutes of the July 9, 2024, Meeting:** Mr. Goebel made a motion to approve the July 9, 2024, minutes as presented. The motion was seconded by Mr. Collins and the minutes were approved unanimously.
 3. **Approval of Written Decision for PLG-A-004898-2024:** Mr. Goebel made a motion to approve the Written Decision for PLG-A-004898-2024. The motion was seconded by Mr. Cebina and was approved unanimously.
 4. **Swearing in of New Board Member Irene Butler:** Mr. Goebel introduced Ms. Butler as the new appointee to the Board of Adjustment and Mr. Murphy administered the oath of office.

5. PLG-SU-004836 (Mr. David Parks, Planner II)

The petitioner is requesting special use permit approval as required by section 4-11 of the Wake County Unified Development Ordinance (UDO) to construct a 215' freestanding telecommunications tower. Mr. Parks reminded the Board that this case had been continued from the June 2024 meeting and that staff had worked with the applicant on the possibility of co-location. The applicant, Danielle Gardner, explained that Monroe Wireless Management intended to withdraw their application from consideration at this time. She noted that Tillman and Verizon intended to pursue co-location options on the Crown Castle tower, but if that was not possible, they would pursue a special use permit request in the future. Mr. Goebel accepted their withdrawal.

6. PLG-ZV-005085-2024 (Mr. Geoffrey Pearson, Code Enforcement Program Manager)

The applicant is requesting two variances from the Wake County Unified Development Ordinance; (1) from Article 4, Section 4-46-1(C)(2), which requires that no outdoor kennel, exercise, training play area and/or run shall be located within 100 feet of any property line, and (2) A variance from the minimum parking standards of Article 15, Section 15-10-4.

The applicant is specifically requesting (1) a 95.5-foot variance to allow outdoor runs and kennels to be 4.5 feet from the southern property line, and (2) a variance of seven parking spaces to reduce the minimum parking standard from 55 spaces to 48 spaces.

Voting Members

Five voting members were identified:

1. Mr. Jeffrey Goebel
2. Mr. DeAntony Collins
3. Mr. Waheed Haq
4. Mr. Russell Stephenson
5. Mr. William Wingfield

Location

WAKE COUNTY PIN: 0891 06 7141

ZONING DISTRICT: Residential-40 Watershed (R-40W)

LAND USE CLASSIFICATION: Non-Urban Area Water Supply Watershed

WATERSHED: Falls Lake

CROSS REFERENCE FILES: N/A

APPLICANT: Molly Goldston

PROPERTY OWNER: Molly Goldston

PROPERTY SIZE: 7.88 Acres

CURRENT LAND USE: Single-Family Residential and Animal Shelter

Documentary Evidence Accepted into Record

- Staff Report
- Staff Presentation
- Applicant's Application

TESTIMONY AND EVIDENCE PRESENTED

Testimony by Geoffrey Pearson

Mr. Pearson was duly sworn in and asked that the staff report and presentation be added into

Mr. Pearson was sworn in and requested that the staff report and presentation be entered into the record. Mr. Goebel accepted this, and Mr. Pearson began his presentation, explaining that the case involved two Zoning Hardship Variance Requests: 1) a 95.5-foot variance to allow outdoor runs and kennels 4.5 feet from the southern property line, and 2) a reduction of seven parking spaces, lowering the minimum requirement from 55 to 48 spaces. The property owner, Molly Goldston, was represented by Amy Crout and Courtney Landoll.

The property is located at 13400 Old Creedmoor Road in Barton's Creek Township. Surrounding properties are residentially zoned, except for the commercial property to the south. In July 2017, the Wake County Board of Adjustment granted a special use permit (SUP) to Molly Goldston to operate an animal kennel and shelter. Mr. Pearson noted that this permit expired in March 2023 after being discovered during a life safety inspection, which was prompted by a complaint. The applicant has reapplied for a new SUP and is requesting the two variances to maintain existing facilities on-site. Variance requests must be heard before the SUP request, per UDO guidelines.

Mr. Goebel asked about the expired SUP, and Mr. Pearson confirmed it was found during an inspection following a complaint. Mr. Stephenson inquired about the missing permits, and Mr. Pearson explained that the kennel had been operating since 2004 but failed to obtain necessary building permits after the 2017 SUP was issued. The current request aims to renew the 2017 SUP. Mr. Stephenson also asked about the proposed structure; Mr. Pearson clarified that the current site plan did not include that building, although an additional building was added later, which would need a permit.

Mr. Goebel asked about the parking requirement, to which Mr. Pearson noted that the new building would be used for veterinary services. He presented a slide of the site plan, highlighting the variance requests: the kennels are currently 4.5 feet from the southern property line, with a requested 95.5' - foot variance for the 100-foot separation, and a reduction in parking spaces from 55 to 48. He showed photos and a video of the site, noting that the southern portion abuts a commercial shopping center.

Mr. Pearson mentioned that public hearing signs were posted on July 26, 2024, and notification letters sent on July 31. He recommended approval of the variance requests if the Board finds in favor of the necessary criteria and offered to answer any further questions.

Mr. Goebel inquired about the landscaping between the applicant's property and the Harris Teeter to the south. Mr. Pearson explained that the applicant's land adjoined the commercial area, and Harris Teeter's landscaping provided a natural buffer. When Mr. Goebel asked if only the loading dock was adjacent to the property, Mr. Pearson confirmed that there was no parking lot, just the loading area.

Mr. Stephenson asked if there were any objections to the variance request, and Mr. Pearson indicated that this would be addressed during the applicant's testimony and public comment. Mr. Goebel sought clarification on whether both variances needed to be approved and if they should be considered separately. Mr. Pearson stated that all development criteria, including the variances, must receive positive approval for the applicant's Special Use Permit request.

Mr. Goebel decided that the Board would handle the variances separately, starting with the outdoor kennel run setback and then addressing the parking spaces. He thanked Mr. Pearson for his presentation.

Applicant's Presentation

Testimony by:

- 1) Amy Crout, Smith Anderson Law Firm

Ms. Crout was sworn in and requested her presentation be entered into the record. Mr. Goebel accepted it, and Ms. Crout began her testimony as the representative for applicant Molly Goldston. She explained that Saving Grace Animal Care had been working with County staff to ensure compliance with the UDO and was seeking a zoning variance.

Ms. Crout outlined the four requirements for the variance: 1) unnecessary hardship from strict application of the ordinance, 2) hardship due to conditions unique to the property, 3) hardships not caused by the applicant, and 4) consistency with the spirit of the ordinance. She stated they would demonstrate all four findings.

Founded by Ms. Goldston in 2004, Saving Grace is a nonprofit focused on reducing euthanasia rates and promoting dog adoptions in North Carolina. In 2023, they adopted over 3,000 dogs with the help of 754 volunteers. Only 80 dogs are allowed on-site at a time, per Department of Agriculture rules, with many going into foster care.

Ms. Crout provided an overview of the 8-acre property near Harris Teeter at Old Creedmoor Road and NC 98. The adjacent property is undeveloped, and the site is zoned R-40 Watershed, allowing animal shelters with a Special Use Permit (SUP). Saving Grace is fully licensed and compliant with state regulations.

She detailed the site's history, noting that a 2017 SUP allowed the shelter, which has been operational for nearly two decades. The SUP inadvertently expired while Ms. Goldston considered building a larger structure. The current variance request aims to maintain existing facilities, not to build new ones.

The variances requested include: 1) reducing the outdoor shelter setback from 100 feet to 4.5 feet from the southern property line, and 2) allowing six temporary kennels to remain along that line. The second variance also seeks to reduce parking from 55 to 48 spaces, as current parking meets their needs.

Mr. Goebel asked about the setback, and Ms. Crout clarified that the UDO typically requires a 100-foot setback unless there's additional screening. The requested 4.5-foot setback would accommodate the six temporary kennels. Mr. Pearson confirmed that variances reflect the UDO's strictest guidelines.

Ms. Crout explained that the request for a 4.5-foot setback focuses on the existing outdoor shelter area and the temporary kennels, which are not used permanently. She emphasized that the site layout is designed to limit impact on neighboring properties, noting the existing vegetative buffer from Harris Teeter.

Mr. Goebel inquired if the Board could approve the variance with conditions limiting it to existing kennels. Mr. Murphy confirmed they could if supported by evidence.

Ms. Crout reiterated that the variance pertains specifically to the outdoor shelter area and six temporary kennels, with a layout designed to minimize disturbance to neighbors. The temporary kennels facilitate safe pick-ups and drop-offs, allowing dogs to decompress before joining the general population. They are located close to the gravel parking lot with a vegetative buffer adjacent to Harris Teeter's property.

Ms. Crout explained that the temporary kennels are used for dog pick-ups and drop-offs before and after hours, ensuring volunteer safety by limiting access to the main shelter. This placement also minimizes noise disruptions. The kennels allow new arrivals to decompress before joining the general population and are not used long-term. They are situated next to the gravel parking lot, with a vegetative buffer along the Harris Teeter property line.

Mr. Goebel asked about two structures near the kennels, and Ms. Crout clarified they were gazebos and storage areas, not used for dogs or office space. They do not fall under the setback requirement, which applies only to the temporary kennels and outdoor dog run. Mr. Stephenson confirmed that the Board could limit the variance request to these specific areas, which Mr. Murphy agreed with.

Ms. Crout then addressed the parking variance, showing its location on the site plan. The parking lot predates Ms. Goldston's ownership, but improvements were made after the 2017 SUP approval, including adding wheel stops. They plan to add tree islands if the zoning variance and subsequent SUP are granted. Ms. Crout emphasized that 55 parking spaces are unnecessary due to the appointment-only nature of their operations, which minimizes traffic.

Mr. Goebel asked if the 55-space requirement was based on building square footage, and Ms. Crout confirmed it was calculated from the outdoor shelter use area and office space. She explained that if Saving Grace had to adhere to the 100-foot setback, they would face hardships, such as reducing the number of dogs or increasing noise levels, as well as challenges with maintaining compliant exercise areas. Relocating the temporary kennels would disturb operations, so keeping the current layout is essential.

She emphasized that the hardships were due to the unique characteristics of the property, including existing features and their impact on neighbors. The layout helps insulate residential areas from noise and utilizes landscaping to obscure operations. The requested parking variance aligns with the rural character intended by the UDO, ensuring public safety while allowing Saving Grace to operate effectively without increasing traffic.

Mr. Cebina asked about the original SUP and its parking provisions. Ms. Crout explained that the initial SUP was tied to a proposed new building, which would have altered parking and fencing layouts. The current request reflects the existing conditions on the property. Mr. Cebina noted that the nonprofit has operated since 2004, and the fencing was in place prior to the shelter's establishment.

Mr. Haq asked about the impact of a 10-foot setback versus the requested 4.5 feet. Ms. Crout indicated that moving the structures would be necessary, which could affect operations. The current kennel location facilitates smooth pick-ups and drop-offs while minimizing stress for the dogs. She reassured that the request aims to maintain compliance with County regulations.

Mr. Goebel inquired about additional fencing and vegetation. Ms. Crout confirmed that there is both a chain-link fence and an 8-foot wood privacy fence, along with a tree line separating the property from Harris Teeter. The area is also far enough from the loading zone that customer traffic is not a concern.

With no further questions, Mr. Goebel opened the public hearing at 10:00 a.m.

Sworn Witnesses in Opposition to the Petition

- 1) Wayne Kidd, adjoining owner
- 2) John Weekes, adjoining owner

Members of the public raised concerns about noise from the dogs, the size of the variance request, and the history of the parking lot. Mr. Pearson noted that comments should focus on the variance, with public input for the Special Use Permit during its hearing if the variance is granted. Ms. Crout clarified that concerns about boundaries only related to the southern side and that the gravel parking lot existed prior to the expansion. She mentioned that Ms. Goldston could testify if needed.

Mr. Stephenson questioned why the variance area didn't include the temporary kennels. Ms. Crout explained that they were included but visually distinguished on the site plan for clarity, primarily for their evidentiary presentation.

With no further public comments, Mr. Goebel closed the hearing at 10:16 a.m. Mr. Murphy reminded the Board that a 4/5 supermajority is required to approve a variance. Mr. Goebel thanked Mr. Murphy and moved to Board discussion.

Board Discussion on the First Variance

Mr. Goebel reiterated that the Board was considering two variances in one case but preferred to discuss them separately. He noted that the setback variance only concerned the southern portion of the property and did not include requests for new construction. He emphasized that the variance could be limited to specific conditions. Given the existing landscaping on the Harris Teeter property and the loading dock's presence, he felt these factors justified approving the setback variance solely for the current structures, prohibiting any new fixed structures elsewhere on the lot. Mr. Collins agreed with this approach.

Mr. Stephenson expressed his support for granting the variance for the existing kennel structures, based on the site plan and Board conditions. He disclosed that he had adopted several rescue dogs from Saving Grace, but after consulting Counsel, he confirmed this did not create a conflict of interest. Mr. Goebel acknowledged this clarification, and Mr. Stephenson assured that his experience with Saving Grace would not affect his impartiality in the case.

Mr. Goebel also mentioned that Counsel had provided a statement of justification addressing each required element, which had been discussed during the presentation.

Mr. Goebel turned to the four requirements the Board must come to positive conclusions on:

- 1) **Unnecessary Hardship would result from the strict application of the ordinance:**
He noted that the existing structures, including a dog run, meant compressing operations would cause significant disruption for the animals. The Board agreed this constituted an unnecessary hardship.
- 2) **The hardship results from conditions that are peculiar to the property, such as location, size, or topography:**
Mr. Goebel pointed out that shifting operations north would disrupt neighboring properties, while maintaining them to the south would only impact Harris Teeter, which had not voiced any objections. Mr. Stephenson concurred.

- 3) **The hardship did not result from actions taken by the applicant or the property owner:** While the property owner placed the dog run and kennels, they did so to minimize impact on residential areas. Mr. Stephenson emphasized that this was a deliberate attempt to reduce hardship, noting that Harris Teeter had not expressed concerns about their loading area.
- 4) **The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that the public safety is secured, and substantial justice is achieved:** Mr. Goebel believed the applicant had made every effort to comply with the ordinance. He highlighted that a 100-foot setback was significant, especially given the lot's unique shape, and acknowledged the applicant's efforts to avoid disruption.

Mr. Goebel reminded the Board that they discussed limiting the setback to the southern portion of the property. He inquired whether they needed to vote on the two variances separately. Mr. Murphy suggested it would be better to keep the votes separate.

Mr. Haq sought clarification on which Special Use Permit the variances related to. Mr. Goebel explained that they couldn't hear the SUP request without first voting on the variance, as the existing use must comply with regulations.

Mr. Goebel entertained a motion on PLG-ZV-005085-2024.

Motion on PLG-ZV-005085-2024, First Variance

Mr. Goebel made a motion in the matter of PLG-ZV-005085-2024, as it pertains to the variance request, as far as the 100' setback, which is found in Article 4,4-46-1(C)(2) which requires no outdoor kennel, exercise, training, play area or run be located within 100' of the property line, that the Board find and conclude that the petition does meet the requirements of Article 19-26 of the Wake County Unified Development Ordinance and General Statute 160D-705D and that the requested variance be granted to reduce the required 100' separation for outdoor kennels and runs to 4.5' from the southern property line. No other structures other than those existing right now are allowed within that area. The motion to approve is based on the following findings:

- 1) Unnecessary hardship would result from the strict application of the ordinance.
- 2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography.
- 3) The hardship did not result from actions taken by the applicant and the property owner.
- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such as public safety is secured, and substantial justice is achieved.

Mr. Stephenson asked Counsel for clarification regarding differences within the site plans, and variance areas, and Mr. Murphy responded that the Board's decision will be based on evidence presented and whatever conditions the Board votes to impose on the decisions it makes. Mr. Goebel stated, for the record, that the motion was to allow the existing structures along the southern boundary to remain.

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

Board Discussion on the Second Variance

Mr. Goebel then addressed the variance request to reduce the required parking spaces from 55 to 48. He explained that for Saving Grace, only customers dropping off or picking up dogs would need parking, and their visits were typically staggered.

The original parking calculation was based on the total square footage of the facility, much of which is dedicated to housing for the dogs rather than customer areas. Mr. Cebina further emphasized that increasing the number of parking spaces would lead to more impervious surfaces, which would not be conducive to the intended use of the property.

Motion on PLG-ZV-005085-2024, Second Variance

Mr. Goebel made a motion in the matter of PLG-ZV-005085-2024, that the Board find and conclude that the petition does meet the requirements of Article 19-26 of the Wake County Unified Development Ordinance and General Statute 160D-705D and that the requested variance be granted to reduce the minimum parking standard from 55 spaces to 48, and that the motion to approve is based on the following findings:

- 1) Unnecessary hardship would result from the strict application of the ordinance.
- 2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography.
- 3) The hardship did not result from actions taken by the applicant and the property owner.
- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such as public safety is secured, and substantial justice is achieved.

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

Mr. Goebel reiterated that both variances requested via PLG-ZV-0050866-2024 were granted with conditions, as stated.

7. **PLG-SU-005077-2024** (Mr. Geoffrey Pearson, Code Enforcement Program Manager)
The petitioner is requesting a special use permit to operate an animal kennel and shelter.

Voting Members

Five voting members were identified:

1. Mr. Jeffrey Goebel
2. Ms. Irene Butler
3. Mr. Waheed Haq
4. Mr. Russell Stephenson
5. Mr. William Wingfield

Location

WAKE COUNTY PIN: 0891-06-7141

ZONING DISTRICT: Residential-40 Watershed (R-40W)

LAND USE CLASSIFICATION: Non-Urban Area Water Supply Watershed

WATERSHED: Falls Lake

CROSS REFERENCE FILES: N/A

APPLICANT: Molly Goldston
(Represented by Amy Crout, Smith Anderson Law Firm & Courtney Landoll of Withers Ravenel)
PROPERTY OWNER: Molly Goldston
PROPERTY SIZE: 7.9 Acres
CURRENT LAND USE: Single Family Residential and Animal Kennel & Shelter
PROPOSED LAND USE: Single Family Residential and Animal Kennel & Shelter

Documentary Evidence Accepted into Record

- Staff Report
- Staff Presentation
- Applicant's Application

TESTIMONY AND EVIDENCE PRESENTED

Testimony by Geoffrey Pearson

Mr. Pearson was sworn in and requested that the Staff Report and Presentation be entered into the record, which Mr. Goebel accepted. Mr. Pearson explained that the request was for a Special Use Permit to operate an animal kennel and shelter at 13400 Old Creedmoor Road, a residential property owned by Molly Goldston, represented by Amy Crout and Courtney Landoll. The property is in Barton's Creek Township and was granted a similar permit in 2017, which expired. The applicant is now reapplying.

Mr. Pearson reviewed the site plan, which includes a residence, farm outbuildings, 9 detached kennel buildings, 9 outdoor runs, and a parking area. The plan also proposes a 414-square foot mobile unit for veterinary services. The property uses well and septic systems, meets setback requirements, and has an 11.2% impervious surface, just below the 12% maximum. No stormwater mitigation is required, and the use is consistent with the Wake County Land Use Plan. Animal shelters are typically permitted outside activity centers if they meet county standards. Public notifications were sent, and signs were posted on the property.

Staff recommended approving the permit if the Board makes the necessary findings. Mr. Pearson addressed questions about setbacks, septic capacity, NCDOT permits, and buffers, and clarified that the northern structure would be subject to further review for fire safety and building code compliance.

Mr. Goebel thanked Mr. Pearson for the presentation.

Applicant's Presentation

Testimony by:

- 1) Amy Crout, Smith Anderson Law Firm
- 2) Molly Goldston, Property Owner
- 3) Dr. Kelly Ferris, Professor Emeritus, NC State College of Veterinary Medicine
- 4) Courtney Landoll, Landscape Architect, Withers Ravenel

Ms. Crout requested that her presentation and application materials be entered into the record, which Mr. Goebel accepted. She reiterated that she was representing applicant Molly Goldston, who was seeking a Special Use Permit to operate Saving Grace Animal Care's kennel. Ms. Crout outlined the five criteria for the permit: public safety, compliance with zoning regulations, no harm to adjoining property values, harmony with the area, and consistency with the Wake County Land Use Plan.

She explained that the 7.9-acre property, zoned R-40 Watershed, was located near Old Creedmoor Road and NC-98. Saving Grace has operated since 2004, and the Board granted a Special Use Permit in 2017, which has since expired. The current request is similar to the 2017 permit, with no expansion of outdoor use or new construction, allowing Saving Grace to continue operations as it has since 2004.

Ms. Crout called Ms. Goldston to testify as an expert in animal shelter operations, a role she was recognized for in 2017. Ms. Goldston explained that she founded Saving Grace after working with county shelters and seeing the need for better care and adoption options for overpopulated dogs. Over 50,000 dogs have been saved since its founding. Due to resource limitations during the pandemic, a proposed building included in the 2017 plan was abandoned. The new request removes this building but includes a mobile trailer used for veterinary services, necessary to continue operations after losing in-house care in 2020.

Ms. Crout clarified that the 2024 proposal includes landscaping and parking improvements begun in 2019 but does not involve any new structures beyond the mobile veterinary unit. She concluded by emphasizing the ongoing need for Saving Grace's services in the community.

Ms. Crout asked if it was true that 3.2 million dogs entered shelters in 2023, with North Carolina having the second-highest euthanasia rate. Ms. Goldston confirmed this and stated that in 2023, Saving Grace had 1,400 dogs in foster care and adopted over 3,000 to help reduce euthanasia. She clarified that only 80 dogs were at the property at one time, with others in foster care, following Department of Agriculture regulations. Ms. Goldston emphasized that there were no planned expansions, and their operations, including the kennel layout, were designed to prioritize public safety and the well-being of both volunteers and dogs.

When asked about noise impact on neighbors, Ms. Goldston explained that the southernmost location of the kennels minimized disruption, and the large outdoor space allowed dogs to exercise and reduce frustration. She stressed that Saving Grace's work, including their partnership with other shelters, constituted a public necessity.

Ms. Butler inquired about the maximum number of dogs allowed outside at one time, to which Ms. Goldston replied about 30, monitored by volunteers. Mr. Haq asked how volunteers managed the paperwork and logistics, and Ms. Goldston noted their helpfulness in day-to-day tasks.

Continuing her presentation, Ms. Crout noted that Saving Grace was licensed by the Department of Agriculture, with no complaints, and had a structured operation to ensure compliance and public safety. The dogs were screened for health issues, spayed or neutered, and grouped according to size and temperament. As an appointment-only facility, they managed traffic effectively to avoid disturbances.

Ms. Crout highlighted the partnership with NC State's Veterinary School and the establishment of the Saving Grace Vet Clinic. This fully licensed clinic focused on intake evaluations, preventative care, and providing veterinary services during natural disasters. Dr. Kelly Ferris, professor emeritus from NC State's College of Veterinary Medicine, was called as an expert witness to testify to the

public necessity of Saving Grace, particularly in supporting shelters during disasters and preventing unnecessary euthanasia.

Dr. Ferris testified about the importance of the veterinary clinic, describing it as a modular hospital where veterinary students gained surgical experience under supervision. She also noted that on-site veterinary services helped reduce early morning noise disruptions, mitigating neighborhood concerns.

Next, Courtney Landoll, a landscape architect with Withers Ravenel, testified regarding site plan compliance. She confirmed that the property met UDO requirements, including buffers, landscaping, and impervious surface limits. Ms. Landoll described the parking lot screening and vegetation buffers that helped shield the property from nearby neighbors.

Ms. Crout concluded by introducing an affidavit from real estate appraiser Neil Gustafson, who affirmed that the proposed development would not harm adjoining property values, largely due to Saving Grace's consistent operations since 2004. She reiterated that the development complied with zoning regulations and was in harmony with the surrounding area, making it a public necessity.

Mr. Goebel asked about the escape rate of dogs, to which Ms. Crout responded that the property was fully fenced, monitored by volunteers, and secured with double gates, making escapes rare.

With no further questions, Mr. Goebel opened the floor for public hearing at 11:53 p.m.

Sworn Witnesses in Opposition to the Petition

- 1) Wayne Kidd, adjoining owner
- 2) Margie Goldston-Kidd, adjoining owner
- 3) Katie Holloway, adjoining owner's relative

Mr. Goebel began by stating that comments regarding the Special Use Permit needed to directly address the matters before the Board, with testimony subject to responses from the applicant's counsel.

Mr. Kidd expressed concern that the site was too small for operations and that complaints about parking and other issues were directed to family members instead of the County. He argued that the use was not in harmony with the surrounding area and testified about dogs frequently barking along the northern border. He also mentioned a mix of an 8' fence and wire mesh surrounding the property and contested the land appraisal, stating his property value had decreased. Customers mistakenly arrived at his property, disrupting the area's peace.

Ms. Crout objected, noting that many of his complaints related to farm use, not the animal shelter. In response to Ms. Crout's question, Mr. Kidd confirmed that a new home had been built on his property.

Ms. Goldston-Kidd, sworn in next, read a prepared statement opposing the permit, echoing concerns about the shelter's impact on the area's harmony. She acknowledged the shelter's valuable service but found it disruptive. Despite objections from Ms. Crout about the focus on farm use, Ms. Goldston-Kidd continued, offering to share photos and videos of the noise but was informed by the Chair that electronic evidence could not be submitted.

Mr. Goebel requested clarification on the fence mentioned in testimony. Ms. Landoll confirmed that an 8' fence ran along most of the northern property line. She confirmed that the fence could be supplemented with a 30' vegetative Type C buffer to comply with the Unified Development Ordinance (UDO), covering the area identified as "outdoor shelter use" on the site plan.

Ms. Crout rebutted, emphasizing that animal shelters were allowed in an R-40 zoning district with a Special Use Permit. She stated that the shelter operations had been moved to minimize impact on neighbors and offered to extend the 8' opaque fence along the entire northern property line as a condition of the permit. She pointed out that the parking concerns were addressed with staggered drop-off/pick-up times and signage. She reiterated that the property did not materially harm public health or safety and complied with the UDO. She referenced testimony and affidavits affirming the shelter's alignment with land use plans, adding that no expert testimony had been presented to counter this.

Discussion followed about noise ordinances, with Mr. Pearson explaining that noise complaints could be addressed by the Sheriff's office, and Mr. Finn clarified the County's noise restrictions from 11 p.m. to 7 a.m. Ms. Crout noted that no noise violations had been reported against Saving Grace.

Concerns were raised about the lack of documentation supporting decreased property values, to which Ms. Crout responded that no written evidence had been provided by the opposition.

Mr. Stephenson expressed concern over noise mitigation but acknowledged that steps, like increased buffering, were being taken. Ms. Crout reiterated that the shelter complied with the noise ordinance and proposed additional steps like the opaque fence.

Further discussion touched on the site's buffering plans and compliance with the County's landscaping requirements. Ms. Landoll detailed the approved vegetative buffer, which included various trees and shrubs. Ms. Goldston added that dogs were not left outside overnight, except under controlled conditions.

When asked about potential collaboration between the parties, Ms. Crout expressed willingness to work with the Kidds to mitigate future conflicts. Following a brief recess, Ms. Crout confirmed that both parties were committed to better communication and reducing disruptions. However, Ms. Goldston-Kidd expressed doubt about the efficacy of the proposed fence.

Mr. Goebel closed the public hearing and opened the floor for Board discussion. Mr. Murphy clarified that the Special Use Permit required only a simple majority to pass.

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 indicated that they heard testimony from Dr. Ferris about the layout of the property to minimize impact and not endanger the public health or safety with respect to extra strain on utilities. He noted there was no testimony regarding erosion, sedimentation, or water supplies. Some testimony was provided regarding traffic, but no information from traffic studies were submitted to indicate a negative impact.

- 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 remarked that the purpose of the variances approved earlier was to ensure the facility's compliance. He further stated that testimony had been presented indicating the site was in compliance with the UDO, and no testimony had been submitted to dispute this.

- 3) **The proposed development will not substantially injure the value of the adjoining property or is a public necessity.**

Mr. Goebel noted that only one of the two components needed to be met. He referenced testimony, including Mr. Gustafson's letter, which stated that property values would not be substantially injured. Additionally, Dr. Ferris had testified that the work done in conjunction with NC State met the needs of the County and satisfied the public necessity requirement. Mr. Stephenson, however, pointed out that Mr. Goebel had said "public benefit" and questioned whether Dr. Ferris had used the term "public necessity." Mr. Haq said he recalled Dr. Ferris using the term "necessity," and Mr. Goebel added that he did not hear any testimony to the contrary.

Mr. Stephenson maintained that he did not recall anyone specifically stating, "public necessity." Mr. Murphy then indicated that in his notes for the written decision, he had written "necessity" during her testimony. Mr. Stephenson disputed as he recalled that her testimony related more to the existence of the facility with or without mitigation to surrounding properties.

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

Mr. Goebel highlighted the diverse land uses in the area, including farmland, but emphasized that the primary topic of discussion was the dogs. He acknowledged existing conflicts and recommended that the parties involved discuss their differences. While open to feedback from the Board, he noted that the length of time the operation had been in place could be considered favorably.

Mr. Stephenson expressed concern about the reported disharmony between neighboring properties and doubted that a vegetative buffer would resolve the conflicts. Mr. Goebel clarified that the harmony he referred to was about land use, but Mr. Stephenson disagreed, asserting that it disrupted the neighboring property's use. Mr. Goebel then outlined several steps to be followed, including potential additional conditions.

Mr. Stephenson suggested that the Board should not proceed with the case and instead allow more time for the parties to resolve their differences. Mr. Goebel asked if he was proposing a motion to continue the case until the October 8th meeting. Mr. Murphy, after reviewing procedural rules, advised that it would be preferable to hear from the petitioner first.

When Mr. Goebel asked for Ms. Crout's opinion, she expressed a preference not to continue the case. She stated that sufficient testimony had been presented, conditions had been offered, and strong evidence had been provided to resolve the conflicts.

Mr. Stephenson moved to continue the meeting until October 8th, but the motion failed due to lack of a second.

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

Mr. Goebel indicated that testimony had been presented that the use was permitted in R-40W with a Special Use Permit, and that testimony from the applicant was presented that it was consistent with the Land Use Plan.

Prior to ruling on the case, Mr. Goebel identified several recommendations or conditions: the petitioner must record a notarization of the order, which must be filed with the Register of

Deeds. They must also obtain and complete the appropriate building permits and must obtain a driveway permit from NCDOT. Final zoning inspection for compliance would be required and must be maintained with Special Use Approval in the UDO. Additionally, the Board was adding the offers to build an 8' opaque fence along the entire northern property line, along with extending the buffer depth to 40'.

Mr. Goebel entertained a motion on PLG-SU-005077-2024.

Motion on PLG-SU-005077-2024

Mr. Goebel made a motion in the matter of PLG-SU-005077-2024, 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 and two additional conditions that an 8' opaque fence be constructed along the entire northern boundary of the property, and that the planned landscape buffer be 40' in depth.

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

Mr. Murphy asked for clarification regarding finding #3, and Mr. Goebel indicated that it met both the "not substantially injure the value of the adjoining property" and "is a public necessity" based on the letter provided by Mr. Gustafson's affidavit and Dr. Ferris' testimony.

Mr. Goebel thanked the petitioner for their time.

7) Planning, Development & Inspections Report

Mr. Finn informed the Board that a September meeting was scheduled. He noted that the current case marked only the third time in six years that he recalled a Special Use Permit expiring and requiring resubmission. He explained that the two-year standard was common practice across the State and County, serving as an effective way to account for any changes since the initial entitlement was granted.

Additionally, Mr. Finn pointed out that this case was also the third instance where a variance request was submitted alongside a Special Use Permit request. He clarified that these joint submissions were partly necessary because staff needed to approve a site plan, and a variance ensured compliance with the ordinance.

Mr. Finn then highlighted that in 2014, substantial changes were made to the use standards regarding kennels, prompted by five cases in the previous calendar year. He emphasized the importance of the Board's quasi-judicial role in these proceedings, explaining that staff carefully considered the dynamics observed during Board of Adjustment meetings. This information was then shared with colleagues in the office, playing a crucial part in the implementation and administration of standards.

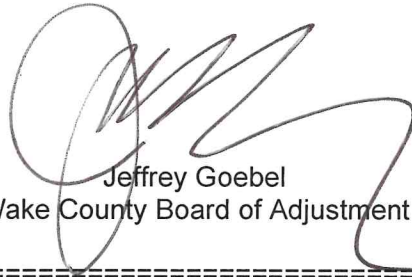
8) Adjournment

Mr. Goebel adjourned the meeting at 1:27 p.m.

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REGULAR MEETING
WAKE COUNTY
BOARD OF ADJUSTMENT
August 13, 2024

All petitions complete, Jeffrey Goebel declared the regular meeting of the Wake County Board of Adjustment for Tuesday, August 13, 2024, adjourned at 1:27 p.m.
Respectfully Submitted:



Jeffrey Goebel
Wake County Board of Adjustment

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