



Planning, Development & Inspections

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

MINUTES OF BOARD OF ADJUSTMENT AUGUST 12, 2025

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

MEMBERS PRESENT:

1. Mr. Jeffrey Goebel (Chair)
2. Mr. DeAntony Collins
3. Mr. Waheed Haq
4. Mr. Mark Spanioli
5. Mr. Russell Stephenson
6. Mr. Will Wingfield

MEMBERS ABSENT:

1. Ms. Britany Waddell (Vice Chair)
2. Ms. Irene Butler
3. Mr. Joe Cebina

COUNTY STAFF:

1. Ms. Ambryst Brown
2. Mr. Steven Finn
3. Mr. Timothy Maloney
4. Mr. Josh McClellan
5. Mr. David Parks
6. Mr. Matt Roylance
7. 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 9:01 a.m.
 2. **Election of Chair and Vice Chair:** Mr. Murphy opened the floor for nominations for Chair. Mr. Collins nominated Mr. Goebel to continue serving as Chair, with a second by Mr. Wingfield. With no other nominations, Mr. Goebel was re-elected Chair unanimously.

Mr. Goebel nominated Ms. Waddell to continue as Vice Chair, and the motion was seconded by Mr. Wingfield. With no other nominations, Ms. Waddell was re-elected Vice Chair unanimously.
 3. **Approval of Minutes of the March 11, 2025, Meeting:** Mr. Goebel made a motion to approve the March 11, 2025, minutes as presented. The motion was seconded by Mr. Haq and the minutes were approved unanimously.
 4. **PLG-ZV-005867-2025 (Mr. David Parks, Planner II)**

This is a request for a variance from Article 5-11-1, *Residential Watershed Districts*, which limits the maximum impervious surface area for residential uses within the R-40W zoning district to 30%. The applicant is requesting to exceed this maximum impervious surface area up to 35% for their existing single-family home.

Voting Members

Five voting members were identified:

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

Location

WAKE COUNTY PIN: 0891 53 9589

PROPERTY ADDRESS: 1100 Weeping Glen Court

PROPERTY SIZE: 0.486 Acres

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

LAND USE CLASSIFICATION: Rural Non-Urban Growth Area

WATERSHED: Falls Lake

CROSS REFERENCE FILES: RABS-141603-2025; Request for the construction of an attached sunroom.

PROPERTY OWNER: Nathan and Clair Bair

APPLICANT: Nathan and Clair Bair

CURRENT LAND USE: Single Family Home

PROPOSED USE: Single Family Home

Documentary Evidence Accepted into Record

- Staff Report
- Staff Presentation
- Applicant's Application

TESTIMONY AND EVIDENCE PRESENTED

Testimony by David Parks

Mr. Parks and Mr. Finn were sworn in and presented the Staff Report, Presentation, and Applicant's Application, all of which were accepted into the record. Mr. Parks explained that the applicant is requesting a variance from Article 5-11-1, *Residential Watershed Districts*, to exceed the maximum impervious surface area up to 35% for their existing single-family home. The 0.49-acre subject property is located within the Falls Lake Water Supply Watershed and is zoned R-40W. The UDO allows for a maximum impervious surface area of 30% in this zoning district and the lot in question would be limited to 6,351 square feet. The proposal by the applicant is to exceed this maximum limit and increase their onsite impervious surface area up to 35%, or 7,407 square feet.

The property is located in the northwest corner of Weeping Glen Court and Sextons Creek Drive, with driveway access to both. The existing single-family home was constructed in 2002, and the applicants purchased the property in 2016. At the time, the impervious surface area was 7,118 square feet (33.63% based on the as-built site plan). In February 2025, the applicants requested a residential building permit for the construction of an attached sunroom. The permit was placed on

hold because the lot had already exceeded the maximum impervious surface area. The variance request would incorporate the additional overage, which is 7,118 square feet, and also propose to include the sunroom addition which also incorporates a reduction of existing sidewalk area for a net total of an additional 258 square feet. This would be a total of 35%, or 7,407 square feet. Mr. Parks presented the Board with a slide of the proposed site plan, noting the area of the proposed sunroom, along with a video from the site. The site plans also show that the property includes an off-site septic area located directly behind the parcel, similar to other lots on Weeping Glen Court.

Notification letters to adjoining property owners were mailed on July 21, 2025, and a public hearing placard was placed on site on July 24, 2025. To date, Mr. Parks noted he had received no calls or email inquiries from adjoining property owners.

Staff recommend that, if the Board reaches positive conclusions on all the required findings, that it approve the request subject to the conditions identified in the staff report.

Mr. Goebel asked if the property was, in fact, over 30% impervious surface area prior to the proposed sunroom submission, and Mr. Parks responded that the applicant would present further information during their testimony. He indicated the applicant had documentation from the tax office that reflected an impervious surface area above 30%, and that was reflected in the permit request. Mr. Goebel asked if the Residential Watershed area would create further limitations in the variance request, and Mr. Parks clarified that it would not be comparable to the Swift Creek Watershed (which is subject to restrictions from the Swift Creek Land Management Plan).

Mr. Stephenson asked why no mitigation took place if the property was over the impervious surface area at the time of sale, and Mr. Parks noted that staff would not have been aware of it at that time. During the permit application period, staff reviewed the property and noticed that it exceeded the impervious limit. Mr. Spanioli asked if the UDO allowed for an administrative variance from the impervious rule, and Mr. Parks responded it did not.

Mr. Spanioli inquired if the Board had granted a type of variance similar to this request, and Mr. Finn responded that the most recent variance case involved the deck and spa in March of 2025. He added that administrative variances have a mechanism known as “not net gain” policy, and over the past two months, staff worked with the applicant to find an alternative option. Staff met with stormwater management to attempt to mitigate the issue, but based on the shared septic easement behind the property, it was determined that the variance request was the best course of action.

Applicant's Presentation

Testimony by:

- 1) Nathan Bair, property owner, 1100 Weeping Glen Court, Raleigh, NC 27614

Mr. Bair was sworn in and entered his presentation into the record. He explained that the property was purchased in August of 2016, and at the time no issues were disclosed. No construction or additions to the house or its impervious surface footprint have been made since the purchase. In 2022 he initiated a home improvement project to renovate the kitchen / laundry areas and to convert the screened porch into a larger, four-season sunroom. Building Permit Application RABS-103306-2023 with approved site plan was active until February 2025, when it expired. Mr. Bair reapplied for Building Permit RABS-1416603-2025 and was informed that the property was over the impervious surface area limit.

The property at 1100 Weeping Glen Court is located on an anomalous lot: it is a small, corner lot with no Maximum Impervious Surface Area (MISA) percentage or perpetuity statement recorded on the plat. Additionally, a sewer and encroachment easement are recorded with the HOA. In 2023, an ordered septic inspection for the original Building Permit found significant issues, so Mr. Bair invested in a redesign / rebuild in August of 2023. Wake County approved the revised permit along with original proposed permit RABS-103306-2023. Plans were further revised and resubmitted in October of 2024. In 2025, Mr. Bair was informed that the As-Built layout and Proposed Site Plan exceeded the MISA. Mr. Bair reiterated that none of the issues raised above were disclosed at the time of purchase.

Mr. Bair explained that he worked in close collaboration with Permitting, Wastewater, and Planning staff to explore all potential options to resolve the impervious surface issue. Stormwater mitigation is not an option, and recombination is not permitted by the HOA and adjacent property owners. Existing areas with additional stone columns are within the encroachment easement, and no changes can be made within the septic easement. The only available option, Mr. Bair explained, was the hardship variance before the Board of Adjustment.

Mr. Bair provided slides with the Tax Administration listing for the property at the time of the home purchase agreement, indicating no outstanding issues with permits, septic design offsets, or records of impervious surface overages. He also provided documentation of the property changes made since the purchase, limited to a septic project designed to increase wastewater flow and bring the lot up to code, undertaken in 2022-2023. Wake County also permitted changes to electrical work on the spa area and EV charger, and replacement of Mr. Bair's heat pump.

The original proposed Permit (RABS-103305-2023) was submitted in October 2024 and was approved by Ivey Shields on 10/7/2024. The permit expired on 2/19/2025, although Mr. Bair testified that he was not notified of an expiration date by Ms. Shields. The current proposed permit was submitted on February 23rd, 2025, with review scheduled on 5/12/2025. There are no changes to the project scope between proposed permits. Upon recommendation of Mr. Randy Bennett, Mr. Bair attempted to locate an "As-Built" survey for the original home at the time of purchase. Mr. Bennett believed this might identify any pre-existing lot issues. Mr. Bair testified that no "As-Built" survey could be located, with the most recent plot plan survey dating back to 2001. He provided a copy of the survey, noting that it showed a planned house footprint and driveway permit consistent with the property as it exists today.

Mr. Bair explained that conservative, baseline calculations of estimated impervious surface at the time of building exceeded 30.00%, even when only considering the house and driveway. Given the legacy lot's anomalous features, Mr. Bair testified that the property was never under the 30.00% impervious surface area limit. The total lot area includes 21,183 square feet for the Lot, and 10,752 square feet for the sewer easement, for a total of ~32,000 square feet. He provided photos of the as-built physical footprint from 2002, 2013, and today. Based on the current survey conducted by Mr. Bair, the house and driveway would likely exceed 30.00% MISA. Without the septic easement, the 2002 calculations for impervious surface area were 31.31%, and limiting it only to the house and driveway (which Mr. Bair indicated was not feasible), it would reach 30.60%. Additions to the property in 2013 raise the MISA to 33.63%.

Mr. Bair noted that his request for a hardship variance came after exploring all other potential options to resolve the impervious surface challenges. These issues have existed on the property since 2002, well before he purchased the property in 2016. Recombination is not permitted, and stormwater mitigation is not available. He explained that he is seeking a hardship variance to realize the full benefits of his property, due to anomalous lot and impervious challenges assumed

at purchase, as well as attached easement square footage (which is undevelopable), and other investments in previous lot improvements.

He explained that the variance request met the following required findings accordingly:

Unnecessary hardship would result from strict application of the ordinance – all other options had been explored, including recombination and stormwater mitigation, and removing enough pre-existing impervious surface to meet the ordinance would render functional portions of the driveway unusable, while also requiring significant expense.

The hardship results from conditions that are peculiar to the property, such as location, size, or topography – the legacy corner lot is anomalous and likely was not build to code per current County standards. The Sewer Easement permanently attaches an additional 10k square foot of undeveloped land to the lot. Additional encroachment and HOA easement agreements provide permanent, recorded open space attached to the property that cannot be further built upon.

The hardship did not result from actions taken by the applicant or the property owner – the lot was likely never under 30% impervious surface based on the house / driveway layout from 2002. The previous owners also added further impervious surfaces prior to applicant's purchase of the property, and did not keep the septic layout up to code. As a result, the applicant has invested significant time and expense in updating the septic system. Neither issue was disclosed prior to purchase.

The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved – County stormwater control measures are designed to remove pollutants from urban runoff, improve water quality, and control quantity before the water reaches our streams and drinking supply reservoirs. The building permit is designed to use the lot with minimal impact to the current impervious surface. No other options are available to the applicant, and there is a reasonable expectation of no detrimental impact on water infiltration.

Mr. Spanioli asked for clarification about how the septic easement was disclosed at the time of purchase, and Mr. Bair responded that he closed remotely from Florida. At the time, he was not provided with a clear explanation of how it affected the property, or that it was considered attached to the lot until they began the permitting process in 2023. Mr. Spanioli asked if a survey was carried out at the time of purchase, and Mr. Bair explained that he requested one, but during the research process he had been unable to locate it – the original surveyor is retired, and the real estate agent is no longer communicative.

Mr. Spanioli asked staff who the owner of the sewer easement lot (identified on the "as-built" plan) was, and Mr. Maloney approached the lectern. He was sworn in and explained that, per iMAPS, that the lot is owned by the Weeping Glen HOA, and that the easement has been granted to adjacent properties for off-site septic systems. Mr. Maloney and Mr. Finn indicated that it was likely an open space requirement, based on its development as a Cluster Unit Subdivision. They must meet a minimum requirement of open space dedicated to the HOA.

Mr. Haq asked if the HOA would be willing to give access or deed rights to the easement area on a limited basis, and Mr. Bair explained that their bylaws prevent the sale of land. Mr. Stephenson asked about the possibility of other mitigation options, including the removal of impervious surfaces, or replacing portions of the driveway for engineered pervious paving. Mr. Bair responded that he had explored this possibility, but that it would be prohibitively expensive between removing the existing impervious surface and hiring an engineer to install pervious paving. Additionally, the

installation of this surface would require annual inspection, which created an undue burden for a situation the applicants did not create.

Mr. Goebel asked for clarification regarding the sidewalk surrounding the existing enclosed area, and Mr. Bair explained that the proposed sunroom would expand into that area, resulting in a net 53 square foot removal of impervious surface area.

Mr. Goebel opened the floor for public hearing and with no respondents, closed for Board Discussion at 10:03 a.m.

Board Discussion

Mr. Murphy reminded the Board that a Variance Request required a 4/5ths super majority to be approved.

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

1) *Unnecessary hardship would result from the strict application of the ordinance.*

Mr. Goebel noted that the definition of “unnecessary hardship” was variable, but in this case, it would center on the applicant being unable to use the property as they see due. He added that the property’s status as a corner lot removed chunks of land from use, and from his perspective, the lot’s existing non-conforming impervious surface added to his opinion that strict application of the ordinance would result in unnecessary hardship.

Mr. Stephenson indicated that he disagreed that “no reasonable use can be made” of the property, and Mr. Goebel clarified that the findings stated that “it shall not be necessary that no reasonable use can be made.” Mr. Murphy added that this language comes directly from the North Carolina General Statutes and that it is meant to distinguish reasonable use from the presence of a hardship.

2) *The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.*

Mr. Goebel added to his comment in Finding 1 that the corner lot and the layout of the property on the site plan contribute to meeting the second finding. Mr. Spanioli added that the peculiar nature of the sewer easement is also a factor, as without it the property would not function. He speculated that the reason it initially exceeded the impervious surface area was likely a reaction to the restrictions imposed by the sewer easement. Mr. Goebel indicated that it was fair to presume, but that it should not impact their decision-making process.

3) *The hardship did not result from actions taken by the applicant or property owner.*

Mr. Goebel indicated that the property was already non-conforming at the time it was built, which predated the purchase by applicants. The hardship rested in the hands of the initial developer, who may have been operating under different standards.

4) *The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.*

Mr. Goebel explained that Mr. Bair made the case that the ordinance is to make sure that stormwater is flowing correctly and not impacting adjoining lots. Mr. Stephenson disagreed, stating that the watershed protection rules were the issue at hand, not stormwater mitigation. The 30% impervious surface standard is in place to protect water supply watersheds, and in his opinion, without mitigation, the requested variance did not protect the spirit, purpose, and intent of the watershed protection ordinance.

Mr. Haq noted that Mr. Bair had presented as an appendix a letter from the HOA president giving their approval for the variance, and by extension their concurrence that it was in harmony with the area. He added that the affected area would be limited to less than 300 square feet, which had already been in place for nearly 20 years. It would minimally impact, if at all, the quality of water in the area.

Mr. Goebel clarified that the finding also stated that the full finding is that “such that public safety is secured, and substantial justice is achieved.” Mr. Stephenson reiterated his concerns that mitigation is possible, but that the applicant had chosen not to pursue those avenues. Mr. Collins pointed out that the applicant had made efforts to mitigate, to the point that it became an undue burden to continue. Despite his best due diligence, the solution extended beyond his means and Mr. Collins believed that the unnecessary hardship outweighed the mitigation, and that he felt substantial justice would be achieved by the variance. Mr. Wingfield agreed with Mr. Haq’s assertion that the existing impervious overage’s presence, coupled with the minimal changes proposed by the applicant, led him to support the request.

Mr. Stephenson argued that the applicant provided no factual showing with respect to the expense to comply with the ordinance. Without more specific information regarding mitigation beyond “it is too expensive,” he remained skeptical that finding 4 could be met.

Mr. Goebel reopened the floor for Mr. Bair to address Mr. Stephenson’s concerns at 10:18 a.m.

Mr. Bair explained that he appreciated Mr. Stephenson’s comments and would be willing to add a condition to his request to remove 205 square feet of the sidewalk area surrounding the proposed sunroom. Additionally, he would add two rain barrels to the property. Mr. Stephenson questioned whether this was an effective mitigation technique, proposing that the applicant remove impervious surface area equal to the amount over 30%. Mr. Bair reiterated that rendering his driveway inoperable would be an undue burden, and that this issue had not been raised during the initial site plan and permit request in 2023.

Mr. Goebel closed the floor again at 10:22 a.m. and entertained a motion on PLG-ZV-005867-2025.

Motion on PLG-ZV-005867-2025

Mr. Goebel made a motion in the matter of PLG-ZV-005867-2025 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 North Carolina General Statute Section 160D-705(d), and that the requested variance be granted to exceed the maximum impervious surface area of 30% within the Residential-40 Watershed Zoning District, with the recommended conditions:

- 1) The Petitioner / Landowner must record the notarized form pertaining to the order of the Board with the Wake County Register of Deeds and return a copy to the Planning, Development & Inspections Department.

- 2) The Petitioner must obtain and complete appropriate building permits from the Wake County Inspections Plans Permit Division.
- 3) The Petitioner must demolish 205 square feet of impervious surface from the sidewalk and install two rain barrels.

The motion to approve is based on the following findings of fact:

- 1) Unnecessary hardship would result from the strict application of the ordinance.
- 2) The hardship results from conditions that are particular to the property, such as location, size, or topography.
- 3) The hardship did not result from actions taken by the applicant or the property owner;
- 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.

The motion was approved with a 4-1 vote, with Mr. Stephenson voting in opposition.

5. Planning, Development & Inspections Report

Mr. Finn informed the Board that code enforcement had increased 24% over the previous Fiscal Year. Over a two-year period, staff brought 44 cases before the Board of Adjustment, including a high number of appeals, which was atypical. Staff continues to see a high volume of information requests, including a number regarding countywide unincorporated areas, which amount to 40-42% of Wake's jurisdiction. Subdivision applications are roughly 50/50 split between Cluster subdivision and Open Space options. Ministerial applications have tapered off since the spring, and Mr. Finn indicated his previous estimations had lowered accordingly. By comparison, information requests remain high, and code enforcement is up 24%.

Mr. Finn thanked the Board for their discussion during today's case, and noted that Staff takes note of their decision and incorporates it moving forward. He introduced Ambryss Brown, explaining that as a Planner, she was cross-training and would likely present cases before the Board in the future.

6. Adjournment

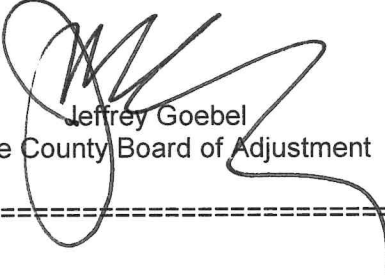
Mr. Goebel adjourned the meeting at 10:28 a.m.

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REGULAR MEETING
WAKE COUNTY
BOARD OF ADJUSTMENT
August 12, 2025

All petitions complete, Jeffrey Goebel declared the regular meeting of the Wake County Board of Adjustment for Tuesday, August 12, 2025, adjourned at 10:28 a.m.

Respectfully Submitted:


Jeffrey Goebel
Wake County Board of Adjustment

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