



Planning & Development Services

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

MINUTES OF BOARD OF ADJUSTMENT JANUARY 13, 2026

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. Russell Stephenson
8. Mr. Will Wingfield

MEMBERS ABSENT:

1. Mr. Mark Spanioli

COUNTY STAFF:

1. Mr. Steven Finn
2. Mr. Keith Lankford
3. Mr. Timothy Maloney
4. Mr. Josh McClellan
5. Mr. David Parks
6. Mr. Geoffrey Pearson
7. Ms. Beth Simmons

COUNTY ATTORNEY:

1. Mr. Kenneth Murphy, Deputy County Attorney

-
1. **Meeting called to order:** Mr. Goebel called the meeting to order at 9:09 a.m.
 2. **Petitions and Amendments:** Mr. Goebel noted that the petitioner for PLG-ZV-006089-2025 and PLG-SU-003113-2025 requested a change in their presentation. Ashley Honeycutt Terazzas, counsel for the petitioner, requested that the Board first hear the Special Use Permit request, followed by the Zoning Variance request. With no objections from the Board, the agenda was amended.
 3. **Approval of Minutes of October 14, 2025, Meeting:** Mr. Goebel made a motion to approve the October 14, 2025, minutes as presented. The motion was seconded by Mr. Haq, and the minutes were approved unanimously.
 4. **PLG-SU-003113-2021 (Mr. Keith Lankford, Planner III, AICP, CZO)**

The petitioner is requesting Special Use Permit approval as required by section 4-11 and 4-50-2 of the Wake County Unified Development Ordinance (UDO) to construct a hardware store with associated outdoor sales and storage areas.

Voting Members

Five voting members were identified:

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

Location

WAKE COUNTY PIN / Address: 0891041720, 4925 Durham Road

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

LAND USE CLASSIFICATION: Rural, Non-Urban Watershed

WATERSHED: Falls Lake

CROSS REFERENCE FILES: PLG-ZV-006089-2025

APPLICANT: Ashley Honeycutt Terraz, Parker Poe

PROPERTY OWNER: Harold Yelle II and Robert Tolsr (Harlee LLC)

PROPERTY SIZE: 5.82 acres

CURRENT LAND USE: Wooded and vacant residential

PROPOSED USE: Hardware store with associated outdoor sales and storage

Documentary Evidence Accepted into Record

- Staff Report
- Staff Presentation
- Applicant's Application

TESTIMONY AND EVIDENCE PRESENTED

Testimony by Keith Lankford

Mr. Lankford was sworn in and presented the Staff Report, Presentation, and Applicant's Application, all of which were accepted into the record. Mr. Lankford explained that the applicant is requesting a Special Use Permit to construct a hardware store with associated outdoor sales and storage areas. There are two variances associated with this SUP request that must be decided upon prior to the Special Use Permit: the first is associated with the parking proximity to the road frontage (resulting from a stream through the middle of the property), and the second a drainage area buffer reduction (related to a conflict between an existing NCDOT drainage pipe under Old Creedmoor Road versus the NCDOT required driveway location).

The site is located at 4925 Durham Road, at the southeastern corner of the intersection of Durham Road (NC 98) and Old Creedmoor Road. The 5.82-acre site is located within the Falls Lake Water Supply Watershed and is zoned R-40W Residential (R-40W). Hardware stores are a type of Neighborhood / Convenience-Oriented Retail (N/C-OR) use (added via a 2021 ordinance amendment) and are allowed via a Special Use Permit if the subject property is located within a Mixed-Use District (MUD) as shown on the County's Comprehensive Plan map. The core area of the subject property where the hardscape improvements will be constructed is located within a MUD (consistent with previous development determinations).

There are no public water or sewer lines within 2,500 feet of the site, therefore it will be supported by a new well and septic system. The site plan proposes a right-in / right-out driveway on Durham Road and a full access driveway on Old Creedmoor Road with a left turn lane (as required by NCDOT) and a right turn lane into the site. The petitioner is also proposing a lengthy right turn lane on Old Creedmoor Road from his driveway to the intersection with NC Hwy 98. NCDOT has reviewed and conceptionally approved these road improvements. Durham Road is operating at 68% of its design capacity and Old Creedmoor Road is operating at 40% of its design capacity. The proposed hardware store is estimated to generate approximately 110 trips per day, which is well below the UDO's threshold for a formal traffic impact analysis (TIA) of 1,000 total daily trips of 100 trips at peak AM or PM hour. The proposed hardware store is required to have 34 parking spaces, and the petitioner is proposing 43 spaces, two of which are handicapped accessible. A 40-foot Type C buffer yard is required along the side and rear property lines and a 10-foot Type F streetscape buffer yard is required along the road frontages. Existing vegetation will be supplemented with new plantings to meet these requirements.

A 6-foot fence is proposed (but not required) along the abutting residential property lines, and the petitioner is not requesting a buffer reduction credit for this. The proposed development is subject to a 50-foot tree and vegetation protection zone (T&VPZ) along the road frontages and a 25-foot T&VPZ along the side and rear property lines. The T&VPZ is limited in the UDO to requiring no more than 20% of the property area (25.4% is being provided). The UDO authorizes the Planning Director to allow reasonable development to encroach within the T&VPZ (which was granted administratively stemming from the stream through the property and its associated buffers and building setbacks).

The site is limited to 24% impervious surface coverage with a stormwater management device to control the first ½ inch of rainfall, with 17.56% being proposed. The north-south stream is required to have a 50-foot buffer and 20-foot building setbacks on each side – these buffers are being provided in full. The secondary drainage feature on the western side of the property coming from the existing NCDOT pipe under Old Creedmoor Road is subject to a 30-foot buffer and 20-foot setbacks. This is the subject of the variance stemming from a conflict in the existing NCDOT pipe and the preferred driveway location.

Public hearing signs were posted and notification letters sent to adjoining property owners on January 3rd, 2026. Staff received only one phone call in response to notification efforts. The caller had questions about traffic, impervious surface, and stormwater management, but felt comfortable with staff responses.

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

Mr. Goebel asked if the additional turn lane was included in the conditions of the Special Use Permit, and Mr. Lankford responded that it was. He added that Durham Road is operating at 68% of its design capacity and Old Creedmoor Road at 40%. Accordingly, both would be equipped to handle additional traffic from the site. Ms. Waddell asked if the existing house and garage featured on the site plan were components of previous parcels, and Mr. Lankford responded that the original parcels have been recombined into the existing plan.

Applicant's Presentation

Testimony by:

- 1) Ashley Honeycutt Terrazas, Attorney, Parker Poe
- 2) Harold Yelle, Property Owner, Land Surveyor & Engineer
- 3) Tom Hankins, Residential Contractor, Marquee Homes.

Mr. Yelle and Mr. Hankins were sworn in, and Ms. Terrazas entered her presentation into the record. Ms. Terrazas introduced herself as an attorney with Parker Poe on behalf of property owner Harold Yelle, who is also the project engineer. The subject property is on the northwestern corner of Old Creedmoor Road and Durham Road and is zone R-40W in a mixed-use district. This area also includes a Harris Teeter shopping center. The proposed hardware store is a small-scale project located at the southeastern leg of the intersection. Mr. Yelle lives nearby and purchased the property with the intent of partnering with a commercial developer to build a small complimentary commercial use across from the shopping center. This development would provide a convenient service for area residents and would reduce the travel time for these products and services.

The proposed development is located on 4925 Durham Road with stormwater control, tree conservation, and septic field perimeters located outside on the perimeter of the site. To meet the five findings required to approve the Special Use Permit, Ms. Terrazas called up Mr. Yelle to provide testimony. She indicated that Mr. Yelle would testify to findings 1, 2, and 5, and Mr. Hankins would address findings 3 and 4.

Mr. Yelle introduced himself as a professional land surveyor and engineer who has lived one mile from the proposed development since 1999. As a civil engineer with over 30 years of experience, Ms. Terrazas requested that Mr. Yelle be recognized as an expert witness in the areas of civil engineering and site design, and Mr. Goebel accepted this designation. Mr. Yelle explained that during the site plan's development he addressed concerns related to the traffic on Old Creedmoor Road, necessitating the design of a 150-foot right turn movement to the existing 60-foot which would ease traffic. He enlarged the storm water control prong intake to accept 14.5 acres of off-site drainage, allowing him to reduce the existing stormwater spillage. With the size of the parcel, Mr. Yelle is also able to reduce impacts on neighbors by retaining the 40-foot buffer and adding a screen fence adjacent to the residential properties.

The proposed hardware store is 11,940 square feet, with two additional garden structures of 1,000 square feet each and a storage area of 1,000 square feet. This remains beneath the 15,000 square foot maximum required by the UDO. The proposed hardware store will not materially endanger the public health or safety relative to traffic – Mr. Yelle testified that he believed the proposed changes would improve traffic surrounding the site. While final discussions are contingent on approval of the SUP, Mr. Yelle explained that he has met with NCDOT about potential driveway locations related to the extended right turn movement and an exit opposite an existing church driveway.

Ms. Terrazas asked Mr. Yelle if the proposed hardware store would materially endanger public health or safety with respect to water and wastewater managements or fire and solid waste access, and Mr. Yelle responded it would not. The site has more than adequate area of usable septic soils and to handle the estimated hundred gallons per day of septic water. Enlarging the stormwater management pond will reduce the threat of flooding or runoff. The proposed site will meet all regulations requiring fire safety and solid waste. Mr. Yelle testified that in his professional opinion, the site will not endanger public health or safety regarding soil erosion, sedimentation, or water supplies and surface water. The site as proposed will comply with all County and State law, as well as all applicable UDO standards (with the exception of those the petitioner is requesting variance relief from). Based on his conversations with Mr. Lankford, Mr. Yelle indicated that the proposed development would be consistent with PLANWake.

Mr. Goebel asked for confirmation that the traffic was sufficiently low enough that a Traffic Impact Analysis would not be necessary, and Ms. Terrazas responded that they submitted a trip generation memo confirming that a TIA was not required for this site.

Mr. Hankins approached the Board and introduced himself as a professional real estate broker and developer with Marquee Homes. He is also a licensed residential contractor with 38 years of experience studying real estate and property values across the Triangle, specializing in the Falls Lake Watershed, where the site is located. Ms. Terrazas requested that Mr. Hankins be recognized as an expert in the value impacts of real property and harmony with surrounding properties. Mr. Goebel asked if Mr. Hankins was a licensed appraiser, and Ms. Terrazas responded he was not a certified appraiser, but that he did have expertise with values to real properties. Mr. Goebel noted that the Board would normally require an appraiser determining impact of property values, and that while the Board would accept his testimony, he was hesitant to recognize him as an expert witness.

Mr. Hankins testified that he studied the site plan and surrounding areas and that the shopping center to the north was primarily retail. To the east is Wake Minister Baptist Church, and the other corner was a vacant lot. Surrounding the site itself are two large single-family plots (one to the east and one to the south) with another family home site near the church. Accordingly, the hardware store would be in harmony with the surrounding uses. The proposed development is a one-story structure separated from the nearest residential dwelling by a maximum buffer available and would not intrude beyond the natural woods. He added that the buffer to the south side would be augmented by additional planting.

Mr. Haq asked if a Comparative Market Analysis (CMA) had been performed during the study, and Mr. Hankins noted that a CMA was completed and was used to determine the surrounding impact. Mr. Goebel asked about the electrical requirements for the proposed site, and Mr. Yelle responded that they had not yet consulted with Duke Energy, but that there were ample power supplies in the area. Ms. Terrazas clarified that discussions with Duke Energy would come during the building permit stage, subject to SUP approval. Plan approval would include construction plans, site development, and the permit application, which would be handled by the architects and contractors.

Ms. Waddell asked for clarification regarding text on the site plan, and Mr. Yelle explained that it referred to the removal of the old house and garage on the property. Mr. Yelle added that he is proposing significant landscaping to the southern portion of the property to screen the development from the property owner. Mr. Haq asked for clarification regarding the proposed road improvement plan and Mr. Lankford responded that they are considered part of the general site plan. That said, staff received an email from NCDOT indicating that they have reviewed the plan and agree conceptually with the improvements.

Mr. Goebel opened the floor for public hearing and with no respondents, closed the hearing of the Zoning Variance requests at 10:18 a.m.

5. PLG-ZV-006089-2025 (Mr. Keith Lankford, Planner III, AICP, CZO)

Two zoning variances associated with the construction of a hardware store, the first related to the parking area proximity to the road frontage (resulting from a stream through the middle of the property), and the second a drainage area buffer reduction (related to a conflict of the outlet of an existing NCDOT drainage pipe under Old Creedmoor Road versus the NCDOT driveway location).

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 / Address: 0891041720, 4925 Durham Road

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

LAND USE CLASSIFICATION: Rural, Non-Urban Watershed

WATERSHED: Falls Lake

CROSS REFERENCE FILES: PLG-ZV-006089-2025

APPLICANT: Ashley Honeycutt Terraz, Parker Poe

PROPERTY OWNER: Harold Yelle II and Robert Tolsr (Harlee LLC)

PROPERTY SIZE: 5.82 acres

CURRENT LAND USE: Wooded and vacant residential

PROPOSED USE: Hardware store with associated outdoor sales and storage

Documentary Evidence Accepted into Record

- Staff Report
- Staff Presentation
- Applicant's Application

TESTIMONY AND EVIDENCE PRESENTED**Testimony by Keith Lankford**

Mr. Lankford presented the Staff Report, Presentation, and Applicant's Application, all of which were accepted into the record. Mr. Lankford explained that the variances requested were 1) to allow parking to encroach into the required N/C-OR road setbacks stemming from a stream through the property, and 2) to reduce a section of the drainageway buffer stemming from a conflict of an existing NCDOT pipe and driveway location.

The property is located at the southeastern corner of Durham Road (NC 98) and Old Creedmoor Road at 4925 Durham Road. The 5.82-acre site lies within the Falls Lake Water Supply Watershed. The petitioner is proposing a hardware store with outdoor sales and storage. The core area of the property – where all hard improvements (i.e. – building, parking, driveways, service areas) are all located within the mixed-use district.

Mr. Lankford explained that the first variance request is related to the proposed site's location on a corner lot. It is subject to a 50-foot front setback along Old Creedmoor Road and a 30-foot corner (secondary frontage) setback along Durham Road (NC Hwy 98). There is a small stream running north-south through the property with associated 50-foot buffers and then 20-foot building setbacks on each side. The petitioner indicated that these protected areas push the proposed parking into the otherwise required 50-foot front and 30-foot corner setback areas. This restriction of parking being located within the setback area is unique to Neighborhood/Convenience-Oriented Retail Uses (UDO 4-50-2).

Mr. Lankford provided the proposed site plan, demonstrating the current proposed parking spaces relative to the existing 50-foot and 30-foot setbacks.

The second variance request pertains to a secondary drainageway entering the western side of the property from an existing NCDOT pipeline under Old Creedmoor Road. The secondary drainage way would ordinarily have 30-foot buffers with 20-foot building setbacks on each side. The location of the existing NCDOT pipe conflicts with the preferred driveway location. This necessitated extending the pipe to the interior of the property and joining with the drainage piping system from the hardscape improvements (moving the driveway further south). The combined stormwater

drainage piping system carries stormwater to a stormwater management device (i.e. stormwater pond) on the southern end of the property. The interception of the stormwater emerging from the existing NCDOT pipe and piping it to the interior of the property results in the elimination / reduction of the otherwise required buffer that would have been around that section of the un-piped (i.e. open) shallow drainageway coming out of that pipe. The 30-foot buffer and 20-foot building setback are shown around the stormwater pond and the balance of the drainageway eastward to its confluence with the north-south stream.

Mr. Lankford provided the site plan and photographs of the site to better demonstrate the proposed variance.

Public hearing signs were posted and notification letters sent to adjoining property owners on January 3rd, 2026. Staff received only one phone call in response to notification efforts. The caller had questions about traffic, impervious surface, and stormwater management, but felt comfortable with staff responses.

Staff recommends that, if the Board of Adjustment reaches positive conclusions based on all the required findings, that it approve the requested variances subject to the conditions identified in the staff report.

Mr. Stephenson asked if the stormwater would be piped to the retention pond and Mr. Lankford responded that it would be carried via an extension pipe from under Old Creedmoor Road to a junction box into the stormwater pond. Mr. Stephenson asked about NCDOT's feedback regarding the proposed reduction in the buffer along Old Creedmoor Road, and Mr. Lankford explained that the proximity to the road and the right-of-way of the parking lot was not an issue for them. The proposed reduction would still have the standard 10ft x 70ft site triangles at the driveway intersection with clear lines of sight.

Mr. Cebina asked for clarification regarding the 50-foot and 30-foot setbacks, and Mr. Lankford explained that the secondary road frontage on Old Creedmoor Road is the corner side of the property. According to the UDO, most zoning districts (including residential) have a primary entrance for the driveway with a larger setback. A corner lot includes secondary frontage with a smaller setback requirement, which is consistent with UDO requirements.

Applicant's Presentation

Testimony by:

- 1) Ashley Terrazas, Attorney, Parker Poe
- 2) Harold Yelle, Property Owner, Licensed Surveyor and Engineer

Ms. Terrazas approached the Board and noted that she and Mr. Yelle would provide testimony to meet the findings required for the variance requests. The first request is to allow parking to encroach into the street setbacks on Old Creedmoor Road and Durham Road, and the second is a request for relief from a buffering and setback requirement of an existing drainage ditch on the property so that the drainage from an existing pipe that outlets the right-of-way can be controlled and diverted into the on-site stormwater control pond. The driveway can only be placed at the location on Old Creedmoor Road approved by NCDOT (lining up with the church driveway across the street).

Ms. Terrazas presented the site plan, identifying the stormwater-controlled tree conservation septic field perimeter buffers. She noted that the site has several features that contribute to the hardships for meeting several UDO provisions they are seeking relief from. The jurisdictional stream runs along

the southeastern property line, which has a buffering requirement under the UDO and State law. There are also two small drainageways that the UDO requires to be buffered, which extend beyond State requirements. Certain improvements are allowed in these areas under Section 11-22, such as stormwater ponds or access paths that cross at a 90-degree angle. Most buildings and improvements are not permitted in these areas, which dictates where the development must be located, which they have discussed with Stormwater Management staff.

There is also an existing driveway for the church across Old Creedmoor Road that NCDOT requires the hardware store driveway line up with. She also noted the existing drainage pipe that outlets the right-of-way not on the proposed development, along with buffered drainageways. Ms. Terrazas asked if Mr. Yelle needed to be recognized as an expert witness again, and Mr. Goebel indicated he was still under oath, so his expertise continued to be recognized.

Mr. Yelle confirmed that he was the lead civil engineer for the project and provided an overview of the site plan during the SUP hearing. He reiterated that the variance requests were for a parking area to encroach into the corner and front setbacks and a request for complete relief from the buffering and setback requirement for a portion of the existing drainage edge on the western portion of the site. Due to environmental features on the eastern and southern portions of the property and the topography that dictates the stormwater placement, the developable area for the hardware store is pushed to the street frontage. Other properties across the street are permitted to have parking in the setbacks. The proposed hardware store, which is a neighborhood convenience-oriented retail use, is not. Parking cannot be placed in the environmental area buffers, and strict application dictates that parking cannot be located in the setback, resulting in a loss of approximately 60% of the planned parking. Accordingly, it would not meet the UDO minimum requirement for parking spaces, and it would mean the business could not provide the necessary parking spaces for employees and customers.

Mr. Yelle presented an exhibit demonstrating where the 50-foot setback and the 30-foot corner setback would apply, including where the proposed parking areas would encroach. They could not remove parking from this area without losing a significant portion of available spaces.

Ms. Terrazas asked Mr. Yelle to describe the unnecessary hardship from the 7,300 square foot portion of the water course buffer, and Mr. Yelle explained that an approximately 1-foot-deep water course running through the western side to the eastern side from a large stormwater pipe running under Old Creedmoor Road. Due to the topography, the water from the drainage pipe runs onto the property into the stream. State regulations would not require this drainageway to be buffered but Wake County UDO Section 11-21-7 requires a 30-foot buffer on each side of the stream and a 20-foot building setback on each side. From discussions with staff, the buffering is still required even if the drainageway was diverted or moved. Mr. Yelle proposed moving the drainageway, but the required buffering would still be impossible due to a limited number of allowable activities near Oak Creek.

Mr. Yelle testified that a dumpster needed to be in this location because it provides adequate access for trash collection into and out of the site without disrupting operations. The driveway location used for access was mandated by NCDOT to line up with the existing church driveway across Old Creedmoor Road. Mr. Yelle provided images of the drainage pipe and explained that he discussed various options with Wake County staff Barney Blackburn and Sean Springer. Mr. Yelle submitted an email from Mr. Blackburn indicating the support from staff for the stormwater design option selected as the best option.

Ms. Waddell asked for clarification regarding the number of spaces – the site plan shows 44, but testimony indicated 43. Mr. Lankford clarified that it is 43 – the extra space listed on the site plan is

a reduction covered by shade trees. Ms. Waddell asked why they selected 43 when 34 is the UDO requirement, and Mr. Yelle explained that the eventual owner of the property requested as many spaces as possible. He added that, without the variances, the minimum of 34 would not be achievable.

Ms. Terrazas stated that Mr. Yelle testified that the shape and environmental features of the front and corner setbacks require the elements of the development to be located at the corner of the property. To provide the parking required by the UDO and to support business, some of the parking areas must be provided in the setbacks to Old Creedmoor Road and Durham Road, creating a substantial hardship. Additionally, the strict application of the UDO would effectively prohibit the hardware store from having an access point on Old Creedmoor Road. This is the only available full access point for the project, and the dumpster location must be located in the buffer areas. Mr. Yelle testified that these hardships are all particular to the property based on its shape, the presence of an offsite drainage pipe, and NCDOT restrictions on driveway location. Evidence presented demonstrates that the hardships are related to existing environmental features and were not created by the applicant, including the placement of the driveway. Allowing parking in the setback encroachment and street buffers will not negatively impact public safety and will in fact allow the business to provide adequate parking for employees and customers. The water course buffer diversion will redirect the drainage from the existing ditch and will not negatively impact public safety. It will instead allow needed access and solid waste collection where the buffer is currently located, achieving substantial justice and is consistent with the spirit and intent of the ordinance.

Ms. Waddell asked if it would be possible to shift the building forward and reevaluate the parking areas, and Mr. Yelle responded that the ability to divert stormwater to the retention pond would prevent them from moving the location of the building.

Mr. Goebel opened the floor for public hearing and with no respondents, closed for Board Discussion at 10:18 a.m.

Board Discussion on Variance One

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 topography of the site would make it difficult to adhere to the UDO.

- 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 explained that the corner lot and shape of the setbacks contributed to the peculiar problems developing the site.

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

Mr. Goebel noted that testimony from Mr. Yelle and counsel made it clear that the topography of the site and requirements from NCDOT were not caused by the owner.

- 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 he was satisfied that the variance was consistent with the ordinance and that public safety would not be harmed.

Mr. Goebel entertained a motion on PLG-ZV-005902-2025.

Motion on Variance One, PLG-ZV-006089-2025

Mr. Goebel made a motion in the matter of PLG-ZV-006089-2025 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 allow the required parking to encroach into the required 50-foot and 30-foot setback areas stemming from the existing stream and associated 50-foot buffers and additional 20-foot building setbacks on either side of the stream that run through the middle of the subject property. 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 public safety is secured, and substantial justice is achieved.

The motion was seconded by Mr. Collins and was approved unanimously.

Board Discussion on Variance Two

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 drainage pipe's location obstructs the placement for parking and the dumpster.

- 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 explained that the drainage running from the pipe was a unique problem to the site and the proposed solution was reasonable.

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

Mr. Goebel noted that the drainage pipe predated the owner's purchase and plans to develop the property.

- 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 he was satisfied that the variance was consistent with the ordinance and that the proposed solution would improve operations and the site overall.

Mr. Goebel entertained a motion on PLG-ZV-005902-2025.

Motion on Variance Two, PLG-ZV-006089-2025

Mr. Goebel made a motion in the matter of PLG-ZV-005902-2025 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 allow the reduction/elimination of the otherwise required 30-foot drainageway buffer and associated 20-foot building setback on either side of the secondary drainage feature entering the property from the west that would have been around the initial (existing) section of the unpiped (i.e. – open) shallow stream (less than a foot deep) coming out of that existing pipe under Old Creedmoor Road had it not been necessary to pipe it directly to the stormwater pond. 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 public safety is secured, and substantial justice is achieved.

The motion was seconded by Mr. Wingfield and was approved unanimously.

Ms. Terrazas summarized the evidence for the Special Use Permit, explaining that the proposed development complies with all provisions in the UDO now that both variances have been approved. Mr. Yelle provided testimony that the traffic, stormwater, and sight triangles will not materially endanger the public in any way. The proposed site will meet all applicable regulations, including the approved variance requests. She noted that Mr. Hankins provided testimony that the planned hardware store will not substantially injure the value of surrounding properties, and will be a benefit to the area for residents. The hardware store will fit into an area primarily consisting of commercial uses and the proposed plan will provide sufficient and appropriate buffering with adjacent residential properties. The property and proposed development is in a section of the Development Framework map that is designated and appropriate for commercial developments which serve the needs of surrounding neighborhoods. She asked that the Board approve the request for their Special Use Permit.

Mr. Goebel opened the floor for public hearing and with no respondents, closed for Board Discussion at 10:28 a.m.

Board Discussion on Special Use Permit

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 would not materially endanger public health or safety.*

Mr. Goebel noted that a traffic impact analysis was not required, but lay testimony indicated it would not be a concern. Water and sewer quality is served by a private well and additional utilities will be forthcoming during later stages. The stormwater drainage is being addressed through the previously discussed variance request.

- 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 explained that the approval of the variance requests ensured that the second finding has now been met.

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

Mr. Goebel noted that lay testimony was provided, but that no testimony to the contrary was provided.

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

Mr. Goebel identified the surrounding area as primarily commercial, and the presence of a hardware store would be consistent with the current uses.

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

Mr. Goebel noted staff testimony indicated that this finding was met.

Motion on PLG-SU-003113-2021

Mr. Goebel made a motion in the matter of PLG-SU-003113-2021 that the Board find and concludes that the petition does meet the requirements of Article 19-23 of the Wake County Unified Development Ordinance and the 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 Land Use Plan.

The motion was seconded by Ms. Waddell and was approved unanimously.

Mr. Goebel called for a recess at 10:33 a.m. and resumed the meeting at 10:46 a.m.

6. PLG-A-005942-2025 (Mr. Geoffrey Pearson, Code Enforcement Program Manager)

The purpose of this petition is to appeal the staff determination that an opossum rehabilitation operation would be considered an animal shelter under the Wake County UDO.

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: 07888 97 7973

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

LAND USE CLASSIFICATION: Residential Less Than 10 Acres

WATERSHED: Falls Lake Watershed

CROSS REFERENCE FILES: N/A

APPLICANT: Sandra Durso represented by Calley Gerber (Gerber Animal Law Center)

PROPERTY OWNER: Sandra and Paul Durso

PROPERTY SIZE: 0.28 acres

CURRENT LAND USE: Residential

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 presented the Staff Report, Presentation, and Applicant's Application, all of which were accepted into the record. Mr. Pearson explained that the petitioners are appealing Wake County staff's determination that the keeping of opossums on residential property is considered an Animal Shelter under the Wake County Unified Development Ordinance and requires a Special Use Permit. The appellant, Sandra Durso, is represented by Calley Gerber of Gerber Animal Law Center. The property, 10005 Kilnstone Lane, is located within the Residential-40 Watershed (R-40W) zoning district.

In May of 2025, Staff received a formal complaint via email detailing opossums being rehabilitated in enclosures on the subject property. Wake County staff discussed the use and held a pre-submittal meeting with Ms. Durso explaining the paths forward, which could include a Special Use Permit, Text Amendment, or an Appeal. In June 2025, staff sent a formal use determination letter to Ms. Durso to explain that the use of wildlife rehabilitation / release of opossums as described in the pre-submittal meeting did not match any definitions in the Wake County Unified Development Ordinance. Therefore, the closest match was determined to be "Animal Shelter" under the Public / Civic Use group. It is defined as a facility that provides a temporary home for dogs, cats, and other animals that are offered for adoption and would require a Special Use Permit at the subject property. Ms. Durso completed an appeal application on November 19, 2025. Notices for the public hearing were sent on November 25, 2025.

The appellants are appealing Staff's decision that an opossum operation would be considered an animal shelter under the UDO, requiring a Special Use Permit. Ms. Durso has confirmed she is a licensed wildlife rehabber working with the North Carolina Wildlife Resource Commission. Article 4, Section 4-11 of the UDO (Use Regulations) most closely identifies this type of land use activity as Animal Shelter. Mr. Pearson added that more specifically, Section 4-22-1 of the UDO characterizes Animal Shelter by their provision of adoption services and animal rescue, generally as a public, semi-public, or non-profit enterprise. Furthermore, examples of this land use include public, semi-public and non-profit animal shelters. Section 4-11 of the UDO requires Special Use Permit for this land use within the Residential-40 Watershed District.

Mr. Pearson noted that in Ms. Durso's Appeal Justification, she believes that staff made an error in the use of the determination that this use meets the definition of Animal Shelter. The primary use of the property is as a residence and her hobby is volunteering for a wildlife non-profit, rehabilitating a limited number of animals for a brief amount of time. Release does not occur on or near the subject property. The appellant believes that regulating this use is beyond the scope of the UDO.

Mr. Pearson provided a slide of Section 4-11 (Land Use Regulations) to demonstrate that Animal Shelter use is permitted within the R-40W zoning district with a Special Use Permit. He added that the North Carolina General Statutes Section 160D-201 (Grant of Power) gives the County the authority to determine land use per Section 1-13 (Authority) and 1-14 (Applicability). Section 21-11 of the UDO (Definitions) identifies Animal Shelter as "a facility that provides a temporary home for dogs, cats, and other animals that are offered for adoption." Section 4-20-1 (F) (Similar Use Interpretation Criteria) states that "(w)hen a specific use type cannot be classified into a use category or appears to fit into two or more use categories, the Planning Director is authorized to determine the most appropriate Use Category. Section 1-19-1 (Conflicting Provisions) states "(i)f the provisions of this ordinance are inconsistent with those of the state and federal government, the more restrictive provision governs, to the extent permitted by law. The more restrictive provision is the one that imposes greater restrictions or more stringent controls." Mr. Pearson provided photos of the site, including the enclosures located in the back of the property.

Based on evidence presented, it is staff's conclusion that the use determination was not issued in error, and the subject use is an Animal Shelter, as categorized in the Wake County UDO, requiring a Special Use Permit in R-40W Zoning.

Mr. Goebel asked if the complaint was based on physical enclosures in the back, or the presence of the animals, and Mr. Pearson explained that whenever there is a zoning determination based on a use, staff reviews the overall use of the property. The property did not meet the definition of a kennel, which keeps dogs and cats, and the closest definition they could find was that of an animal shelter, which includes all other animals. Based on this, they reviewed its potential impact on adjoining properties. Mr. Goebel asked if the enclosure existed for a pet that was not rescued, would the use be considered the same, and Mr. Pearson responded that domesticated animals are permitted, but staff had not considered wildlife before, and they approached the case with the closest definition that was consistent with the UDO.

Mr. Goebel asked if other animal rescues like this existed in Wake County, and Mr. Pearson responded that it was likely. Ms. Waddell noted that the staff report references Section 40-2-1 (F) for similar use interpretation. She asked for clarification regarding the provision that permitted the Planning Director to make an interpretation regarding use, and Mr. Pearson explained that based on the UDO (which is not all-inclusive), that staff will try to fit unique uses and scenarios to the most closely resembled use, provided it is not exempted. For example, farm animals are exempt from the UDO. Based on receiving the complaint, staff was required to make a determination whether this was an existing use or exempt, and based on the available options in the UDO, the closest was Animal Shelter.

Mr. Stephenson asked if the applicant would be able to pursue a Special Use Permit in the event that the Board upheld staff's decision, and Mr. Pearson confirmed that the residential zoning district would permit an Animal Shelter with a Special Use Permit. Mr. Cebina asked what use would be accurate if the Board reversed staff's decision, and Mr. Murphy stated that one option the Board would have since there would not be a designation for the use, is to designate it as an incidental use to a residential property.

Mr. Haq asked if the wildlife rehabilitation component extended only to opossums or if more dangerous animals (e.g. bobcats) would be permitted, and Mr. Pearson responded that under the UDO, staff would still consider it under the current operational definition.

Applicant's Presentation

Testimony by:

- 1) Calley Gerber, Gerber Animal Law Center
- 2) Sandy Durso, Homeowner
- 3) Jennifer Karastojanovski, Neighbor
- 4) Aaron Bone, Neighbor
- 5) Dr. Jennifer Federico, Wake County Animal Shelter / Animal Services Director

Ms. Gerber's witnesses were sworn in, and she introduced herself as an attorney with the Gerber Animal Law Center. Ms. Gerber explained that she has practiced law for thirty years, focusing on animal law for the past eighteen. She was not involved in the case during staff's initial determination, but Ms. Gerber indicated that she intended to present the Board with a differing perspective on their initial classification of an Animal Shelter.

Ms. Gerber explained that Ms. Durso's property should be categorized as Household Living. Per section 4-21-1 of the UDO, her activities related to wildlife rehabilitation (among others) constitute a recreational activity, or a hobby which is permitted as an accessory use commonly associated with household living. Ms. Durso has lived in this home since 1994 and is a connected member of the community who works to spread knowledge about the natural world to her neighbors. Her yard is a certified wildlife habitat due to her work and commitment to transforming the property into a natural backyard by providing native plants, food, water, shelter, and a safe habitat for local wildlife to raise their young. Among her other hobbies are yoga, sewing, reading, and rehabilitating injured possums. The limited amount of time required to rehabilitate them fits into her schedule, and Ms. Durso is licensed as an apprentice with the North Carolina Wildlife Resources Commission. Due to her apprentice status, she is not listed for public contact, but works with her mentor to provide assistance when she has the time or space. Ms. Gerber explained that the rehabilitation occupies less than 1% of her lot.

The UDO contains five major groupings for Land Uses, further subdivided into more specific use categories. These classify Land Use as an activity based on common functional product or physical characteristics, including the type and amount of activity, and the type of customer or residents. These use categories are intended to provide a systemic basis for assigning present and future land uses into appropriate zoning districts. Principal Uses are assigned based on categories that most closely describe the nature of the use. When the specific type of use cannot be classified into a use category, the Planning Director is authorized to determine the most appropriate category. Section 4-20-1 (F) provides 11 different categories based on actual or projected characteristics of the activity in relation to the stated characteristics of each category.

Ms. Gerber explained that Ms. Durso's rehabilitation of opossums relates to a hobby, not a business. The rehabilitation space occupies less than 1% of the property, and there are no sales, no customers, and no employees. Ms. Durso works alone with the opossums, and holds no hours of operations. The building site arrangement is a primary residence with a yard. Ms. Gerber provided photos of the enclosures within the yard, which are permitted under the UDO. The issue at stake is what she is permitted to place inside these enclosures, which could hold up to five dogs. Opossums are limited by the number she can care for. Because this is a residence, and not an Animal Shelter like the County's, this is not a commercial enterprise, there is only one vehicle on the premises. The manner in which the uses are classified by commonly used business classification is private use. The standards by which relative trips generated by use is inconsequential. Ms. Durso does not advertise her services – this is a strictly volunteer operation. Her volunteer effort to rehabilitate opossums is a hobby and not a significant use of her property.

The North Carolina Wildlife Resources Commissions estimates approximately 50 facilities across the state, but many more individuals offer rehabilitation services in their homes under a license. Larger facilities require multiple buildings and are staffed by licensed rehabbers and veterinarians.

They are subject to setbacks and more rigid requirements that Ms. Gerber indicated Ms. Durso would not be able to meet. The Animal Shelter use category falls under Public and Civil Use group that provides public or semi-public services. Ms. Durso provides neither public nor semi-public services – her interaction is limited to her mentor and is entirely private. UDO Section 21-11, the definition of an Animal Shelter, defines the use as a “facility that provides temporary home for dogs, cats, and other animals that are offered for adoption.” Wildlife is never offered for adoption – under the terms of Ms. Durso’s license. If wildlife is not eligible for release, they must be euthanized. Volunteers do not interact with the animals while they are in their care to ensure they will be successfully released into the wild. Section 4-22-1 indicates that the uses characterized by Animal Shelter include the provision of adoption services and animal rescue generally as a public, semi-public, or non-profit enterprise. Ms. Gerber noted that Ms. Durso is not operating a nonprofit. She is a volunteer and does not meet the requirements outlined in the UDO.

The typical accessory uses of an animal shelter include the provision of veterinary services, spaying and neutering, euthanasia, offices, indoor storage, and parking, none of which are provided by Ms. Durso. Ms. Gerber indicated that she appreciated staff’s efforts to find an appropriate use category for Ms. Durso’s residence, but that not permitting this use and requiring a Special Use Permit would be a ban on wildlife rehabilitation. She would not be able to meet the setback requirements or other qualifications for an Animal Shelter based on Special Use Permit regulations. Her property is best categorized as household living, with wildlife rehabilitation activity as a permitted hobby or recreational activity.

Ms. Gerber added that she would be happy to volunteer her services to the County to help make a new use category more applicable to home-based rehabbers.

Ms. Gerber called Ms. Durso to testify before the Board, who confirmed she lived at the residence and has been since 1994. In addition to daily household activities and hobbies, Ms. Durso has been rehabilitating opossums since 2020. To take care of wildlife, a resident must be licensed and trained with the North Carolina Wildlife Resources Commission, and Ms. Durso volunteers with a non-profit. Her particular license is with small mammals, specifically opossums, squirrels, and rabbits. Licenses are renewed yearly and volunteers must abide by rules and training to maintain licensure. Her mentor specializes in opossums, and when one is found, it is delivered to a 24-hour animal clinic near Crabtree Valley Mall. Her mentor is notified, and if it is appropriate for her abilities and space, Ms. Durso will arrange to house the animal. She does not advertise her services, but the North Carolina Wildlife Resources Commission does list rehabbers by zip code on their website.

Ms. Durso does not provide veterinary care to the opossums and does not adopt them to the public. They are assessed by the clinic and will sometimes provide antibiotics with instructions for the rehabber, but the primary goal is to keep them safe and warm. Once the opossums have recuperated, rehabbers release them into the wild. Ms. Durso testified that they are not treated as pets and they are not released from her home. They stay with her at most for a few months and are kept inside a bonus room in her house. Ms. Gerber provided photos of the home to better demonstrate where the opossums stay, based on age range. Prior to the point that they are released, opossums move to the enclosures in the back yard to acclimate to the outdoors. All of the enclosure sizes are subject to regulations regarding the safe number of opossums allowed together.

Ms. Gerber presented slides of Ms. Durso’s yard altered with AI to demonstrate alternative, approved uses under the UDO. Mr. Goebel asked the Board to take note that these were not accurate depictions of on-site conditions. Ms. Durso also provided a graph paper map of her yard as it is currently laid out, with percentages relative to the rehabilitation areas. Based on her estimates, Ms. Durso testified that of the quarter-acre lot, half of one percent is occupied by the enclosures. Inside the house, it is 0.41% of the overall area.

Mr. Goebel asked to confirm that the opossums are not up for adoption, and Ms. Durso confirmed that they are rehabbed for release as part of her license. He asked if neighbors come to visit the opossums, and she responded that a neighbor might come to the backyard, but it is not open to the general public. Ms. Waddell asked if she considers the rehabilitation to be similar to a foster system, and Ms. Durso responded that there is no element of socialization (as there would be with cats or dogs). Ms. Durso provided a timeline of when the opossums are developmentally able to move from one stage of rehabilitation to the next, noting that age and size is not always a guarantee they are ready to move to the garage or outside. Mr. Collins asked what the overall number of opossums would be in care at a time, and Ms. Durso explained that while the enclosures outside can hold eight, it is rare to also have more inside. It's frequently a rotation rather than using all available space.

Mr. Collins asked what other training is covered for the rehabilitation process, and Ms. Durso explained that in addition to a binder of material, there are also meetings and training, such as a wildlife symposium at NC State. Depending on the types of animals being rehabilitated, there are other courses and special training available. Mr. Collins asked about the security measures on the outdoor enclosures, and Ms. Durso responded that they are padlocked to prevent any neighborhood children from attempting to open them, and that the garage doors are only open if she is outside doing yard work. Mr. Collins asked if there had been an increase in coyotes or other predators with the enclosures in the backyard, and Ms. Durso responded that there has been no increase over the animals normally travelling through her yard.

Mr. Stephenson asked for clarification about the nature of the original complaint, and Mr. Pearson responded that it was a call about the proximity of the enclosures to their property. Ms. Durso clarified that she removed dead trees from her yard and the neighbor saw the enclosures and raised a complaint with staff. Ms. Waddell asked if there was a zoning issue with the placement of the enclosures and Mr. Pearson responded it would be in compliance as is.

The Board discussed with Mr. Pearson and Mr. Murphy the scope of their options in ruling on this appeal relative to whether they were required to determine the exact accessory use. Mr. Murphy indicated that they could make a determination, but it was their discretion. Mr. Cebina asked if the neighborhood had HOA governance over the issue, and Ms. Durso responded the Covenants for the neighborhood were over 37 years, but they currently prohibited this activity and would be subject to the Board's determination. Mr. Collins asked if she is currently rehabilitating opossums, and Ms. Durso responded that her last batch were released in July of 2025.

Mr. Goebel called a brief recess.

After recess ended, Ms. Gerber called Ms. Karastojanovski to the lectern to testify that she is a neighbor of Ms. Durso and has not had any issues with the opossum rehabilitation. She stated that Ms. Durso was a good neighbor and contributes to the neighborhood. Mr. Bone testified that he lived in Ms. Karastojanovski's home previously and also had no issues with her during his time as a neighbor. He spoke highly of her knowledge and advocacy.

Dr. Federico, Wake County Animal Services Director, noted that she was testifying based on her knowledge of Animal Shelters and was not speaking on behalf of staff's determination or on behalf of the County.

Dr. Federico explained that when she received information about this rehab facility being considered an Animal Shelter, her concern was tied to the status of all other homes providing foster/rehab services. Foster animals will eventually be adopted, but the majority of rescues in Wake County are foster based. The North Carolina Department of Agriculture's Animal Welfare Division inspects and regulates Wake County's facilities, as they do the SPCA of Wake County and Saving Grace facility.

Individual homes are not inspected unless they contain more than nine fosters in care. That is limited to dogs and cats in the state, and only those available for adoption. Based on her experience, Dr. Federico testified that she would not consider Ms. Durso's residence an Animal Shelter, as she does not adopt out the opossums. Rehabbers play a significant role in Animal Control, and while there are similarities to the foster services, ultimately what Ms. Durso does will not involve the adoption of healthy animals – they are released into the wild.

Ms. Gerber closed her presentation by noting that the definition of "facility" in the UDO when describing an Animal Shelter Facility is unclear. The UDO does not define it, and when an ordinance allows ambiguity, it should be resolved in the favor of the landowner. She provided definitions of 'facility' from Miriam Webster, Cambridge, and Dictionary.com, explaining that all of them identify facilities as buildings used for a particular purpose. These definitions do not meet the description of Ms. Durso's residence, which is used primarily as a residence.

Ms. Waddell asked counsel where a reversal of the determination would leave County staff, and he responded that they would continue to work with the applicant to find a resolution to the issue. Mr. Haq inquired if staff could insert language to provide restrictions that would allow the use to continue, and Mr. Pearson explained that they cannot create conditions for a situation not in the UDO. Staff does not have the authority to do so.

Mr. Goebel opened the floor for public hearing and, hearing none, closed for Board Discussion at 12:53 p.m.

Board Discussion

Mr. Goebel indicated that, in his opinion, he did not consider this to be an animal shelter. He explained that he could not definitively say what it was, but that it was not an animal shelter based on the definition in the UDO. Ms. Waddell indicated that she took any consideration of reversing a decision by staff seriously, but she concurred with the Chair that it did not meet the criteria of the category of animal shelter. She appreciated staff's effort to find an interpretation that fit, but that this particular decision added an undue burden to Ms. Durso. Mr. Goebel explained that the definition of animal shelter specifically states, "with these animals being subject or open for adoption," which is not the case in this operation. Ms. Waddell added that this use is not one envisioned in the UDO, and that she would be interested in a future amendment from staff to bring this use in line with standards.

Mr. Collins agreed that it is not an animal shelter by the definition in the UDO and encouraged staff to work with Ms. Durso to find a resolution other than strict enforcement of an undefined use.

Mr. Goebel considered a motion on PLG-A-005942-2025

Motion on PLG-A-005942-2025

Mr. Goebel made a motion that, based on the applicable Wake County Unified Development Ordinance Provisions, and on the evidence submitted in the matter of PLG-A-005942-2025 that the Board find and conclude that the Planning staff's determination should be reversed based on the arguments presented and evidence submitted. The motion to reverse is based on the following findings of fact and conclusions of law related to:

- 1) Evidence that the use determination was issued in error, and the subject use is not an Animal Shelter as categorized in the Wake County UDO, requiring a Special Use Permit in R-40W Zoning.

The motion was seconded by Ms. Waddell and approved unanimously.

Mr. Goebel called for a brief lunch at 1:00 p.m. and the meeting resumed at 1:18 p.m.

7. PLG-SU-006049-2025 (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 modify an existing Special Use Permit for the Redeemer Presbyterian Church to expand the Church Building and associated parking.

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: 0798246162

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

LAND USE CLASSIFICATION: Rural Non-Urban Growth Area

WATERSHED: Falls Lake

CROSS REFERENCE FILES: BA-2012-04; BA-2187-13, BA-SU-2260-18

APPLICANT: Jon Frazier, FLM Engineering, Inc.

PROPERTY OWNER: Redeemer Presbyterian Church in America Raleigh, Inc.

PROPERTY SIZE: 7.40 acres

CURRENT LAND USE: Religious Assembly

PROPOSED LAND USE: Religious Assembly

Documentary Evidence Accepted into Record

- Staff Report
- Staff Presentation
- Applicant's Application

TESTIMONY AND EVIDENCE PRESENTED

Testimony by David Parks

Mr. Parks was sworn in and presented the Staff Report, Presentation, and Applicant's Application, all of which were accepted into the record. Mr. Parks explained that this item is a request to modify the existing Special Use Permit for the Redeemer Presbyterian Church to expand the church building and associated parking on site. The petitioner is Jon Frazier of FLM Engineering, Inc. The site is located at 11412 Strickland Road and contains 7.40 acres. The parcel is zoned R-40W, Residential Watershed District.

In 2004, an initial SUP was granted for a 11,342-square-foot church with 55 parking spaces. In 2018, the SUP was modified to allow for a 22,154-square-foot classroom and sanctuary addition, a picnic shelter and associated parking. The sanctuary increased from 400 to 520 seats and parking increased to 135 parking spaces.

Mr. Parks explained that the current Special Use Permit modification is for a 7,600-square-foot expansion of the existing church building, and to increase the parking from 135 to 221 spaces. The new seating capacity in the sanctuary will be 575 seats, which pursuant to Article 15 of the UDO, will require a minimum of 144 parking spaces. The R-40W zoning district allows for nonresidential uses a maximum impervious allocation of 12%, with the ability to increase to 24% if onsite stormwater is provided for rainfall runoff. This site has existing stormwater facilities to allow for the expanded impervious area. The current impervious area is 23.9%, and with proposed building expansion and parking expansion, the new impervious area will be reduced to 23.8%. This will be accomplished by the majority of the parking area being converted into permeable pavement parking. All permeable pavement will go through Wake County Watershed Management review.

Mr. Parks provided the proposed site plan, identifying the building expansion for additional parking spaces, as well as the areas proposed for conversion to permeable pavement. He also provided photos and video from the site. A public hearing placard was placed on site on December 29th, and notification letters were mailed on December 11th. Staff has not received any phone calls from adjacent property owners.

Staff recommends that, if the Board of Adjustment 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 what materials were proposed for the permeable parking, and Mr. Parks responded that the petitioner would be better suited to answer. Mr. Haq asked about the procedure for approval of permeable parking and Mr. Parks responded that if they receive a Special Use Permit modification, they will return for a development review of their site plan, and at that time Watershed Management will consult with them about specifications regarding permeable pavements. Ms. Waddell asked for clarification regarding the buildings on the site plan, and Mr. Parks explained that the proposed expansion would take place on the second building.

Applicant's Presentation

Testimony by:

- 1) Sidney Wiswell, Smith Anderson
- 2) Neil Gustafson, Appraiser
- 3) John Frazier, Site Engineer

Ms. Wiswell's witnesses were sworn in, and she entered her presentation into the record. Ms. Wiswell asked Mr. Gustafson to approach the Board, and he testified that he is a real estate appraiser, and Ms. Wiswell asked that he be tendered as an expert witness. Mr. Goebel asked if he was a licensed appraiser, and Mr. Gustafson clarified that he was no longer licensed. Mr. Goebel indicated that the Board would accept his testimony, but that he was hesitant to label him as an expert without licensure. Ms. Wiswell submitted a copy of Mr. Gustafson's report to the Board as he began his testimony. He noted that he previously worked with the applicant on their existing Special Use Permit and that, per his report, the increase in this development would not adversely impact any adjoining or abutting properties.

Ms. Wiswell explained that Redeemer Presbyterian Church is seeking to modify its existing Special Use Permit in order to expand the footprint of the church and to increase parking. This modification will enable the church to better serve the needs of the community while also complying with impervious surface requirements as set forth in the UDO. Currently, there are 135 spaces, and the church has been experiencing problems with a lack of parking. The modification is broken into two pieces: the first is expanding the church building itself, and the second is expanding associated

parking. The church is requesting permission to expand the parking spaces to 221 spaces. They are currently using overflow lots with a shuttle program, and an expansion of spaces will be an improvement for everyone. UDO Section 15-10 requires one parking space per four seats in the principal assembly room. With a proposed expansion of the church to 575 sets, the minimum parking spots is 144. The requested 221 spaces should easily meet the needs of the church. Ms. Wiswell noted that the modification will include partial resurfacing to permeable materials, resulting in an overall reduction in impervious surface, even with an expansion of the building's footprint.

Ms. Wiswell explained that the proposed development would involve minimal impact to traffic conditions, as most of the church's traffic occurs on Sunday during off-peak times. There is no change in use, and the church already is in compliance with soil erosion, sedimentation, and stormwater requirements. The proposed development will comply with all applicable UDO provisions consistent with its initial SUP. Based on testimony and the report submitted to the Board, the proposed modification will not impact real estate values of adjoining properties. The use will not be changing, only an expansion of the use, remaining in harmony with the area. The modification will also remain consistent with the Comprehensive Plan.

Mr. Goebel asked for clarification regarding the parking – Redeemer Presbyterian Church is only requesting an expansion of the parking, not of the physical amount of people attending at any given time, and Ms. Wiswell responded that the proposed expansion is to increase capacity on site for parking. Currently people are parking at a nearby elementary school and using a shuttle service, so it would not change the number of visitors.

Ms. Waddell asked about expanding the intensity to the perimeter of the site with respect to the buffer yard, and Ms. Wiswell responded that they will remain compliant with the 40' minimum. Based on conversations with staff, they are comfortable with the retaining wall being part of the buffer yard, as long as adequate plantings are in place.

Mr. Haq asked about the engineer's report regarding traffic control, and Mr. John Frazier, the project engineer, approached the lectern. He explained that the 30 trips mentioned in the statement of justification were based on the increase of seats in the facility from 520 to 575. The additional 30 trips during an off-peak time would not materially impact the road capacity.

Mr. Goebel opened the floor for public hearing and with no respondents, closed for Board Discussion at 1:37 p.m.

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 would not materially endanger public health or safety.

Mr. Collins noted that this is a development the Board has already ruled in favor of in the past, and that the changes proposed are to accommodate existing members. Mr. Haq added that they are also reducing the square footage and enhancing the environment by reducing the impervious area.

Mr. Goebel noted that expanding parking to prevent crossing Strickland road is an enhancement, and the addition of permeable pavement also improves conditions.

- 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 development would continue to meet the standards already approved by the Board and are not making any material changes that would change that.

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

Mr. Goebel noted that Mr. Gustafson's testimony indicated that it would not adversely impact adjoining properties.

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

Mr. Goebel reiterated that the church has been in place with this use and the modifications proposed would not alter its relationship to the area.

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

Mr. Goebel noted that material from staff and testimony indicate that this criterion is met.

Mr. Goebel entertained a motion on PLG-SU-00006049-2025.

Motion on PLG-SU-006049-2025

Mr. Goebel made a motion in the matter of PLG-SU-006049-2025 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 that the 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 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 Land Use Plan.

The motion was seconded by Ms. Waddell and approved unanimously.

8. PLG-SU-005896-2025 (Keith Lankford, Planner III, AICP, CZO)

The petitioner is requesting Special Use Permit for an off-premise billboard advertising sign.

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 / ADDRESS: 1739404872, 12030 Stickman Street
ZONING DISTRICT: Highway District (HD) with WSO-4P-1 watershed overlay district
LAND USE CLASSIFICATION: Rural/Wake Forest growth area
WATERSHED: N/A
CROSS REFERENCE FILES: N/A
APPLICANT: Warren Stancil, InterState Outdoor, Inc.
PROPERTY OWNER: PS NC I LP LTD PTNRP
PROPERTY SIZE: .911 acres
CURRENT LAND USE: Self-service storage facility (to remain)
PROPOSED LAND USE: Off-premise (i.e. – Billboard) sign

Documentary Evidence Accepted into Record

- Staff Report
- Staff Presentation
- Applicant's Application

TESTIMONY AND EVIDENCE PRESENTED

Testimony by Keith Lankford

Mr. Lankford was sworn in and presented the Staff Report, Presentation, and Applicant's Application, all of which were accepted into the record. Mr. Lankford explained that the petitioner is requesting Special Use Permit approval as required by Section 18-11 of the Wake County Unified Development Ordinance (UDO) to construct an off-premise sign (i.e. – billboard) in the southern corner of an existing self-service storage facility along Capital Boulevard (US Hwy 1) road frontage. The 9.11-acre site is located at the southwestern corner of the intersection of Stickman Street and Capital Boulevard (US Hwy 1). This area is heavily developed along the major thoroughfare Capital Boulevard with more intensive uses on each side. The site is zoned Highway District (HD) and is not located within a mixed-use district as shown on the Comprehensive Plan.

Warren Stancil of InterState Outdoor, Inc. is proposing to construct a V-shaped off-premise sign (i.e. – billboard) in the front southern corner of an existing self-service storage facility along the Capital Boulevard Road frontage. This type of use is permissible with a Special Use Permit as per section 18-11 Permitted Signs in the UDO. Please note that Off-Premise signs are listed as a separate use classification in the Permissible Use Table of Section 4-11 of the UDO, however they are shown there as not being allowable in any zoning district. Mr. Lankford noted that this represents a conflict between different provisions within the UDO and generally subsection 1-19-2 would dictate that the more restrictive standard would govern. However, it was determined that the conflict arose from an editorial error in Section 4-11 that omitted the designation of which districts that off-premise signs were allowed (and by what type of permit), so a determination was made that the more specific provisions of 18-11 would prevail in this situation. The planning staff will be generating an ordinance amendment for review by the Planning Board and Board of Commissioners to address this conflict.

Generally, Special Use Permits are required to be consistent with the Comprehensive Plan, which for most commercial uses requires that the subject property be located within a multi-use district as designated on the Wake County Comprehensive Plan map. The subject property is not located within any designated Multi-Use District as shown on the site plan. This has apparently been the situation since the storage facility was built in the year 2000 after securing a Special Use Permit (SU-1836), approved by the Board of Adjustment in 1999. This is an unusual situation whereby a second principal use (i.e. – the billboard sign) is being added to the site of an existing principal use (i.e. – the self-service storage facility). The request was not reviewed by staff as a modification of that SUP as the proposed changes were unrelated to any aspect of the original facility. Rather this

case was viewed as an independent second principal use on the same property. In consultation with the County code enforcement officer, there is no history of violations or noncompliance issues with the existing storage facility. In reviewing the SUP petition for the billboard sign, the staff review as limited to the location and applicable standards for the proposed billboard sign itself and staff did not initiate a re-review of the 25-year-old storage facility's site plan.

Mr. Lankford presented the Board with the proposed site plan. The billboard sign will not require any well or septic facilities, and electricity is available to the site. The proposed billboard sign is 10-foot x 30-foot for a sign area of 300 square feet and a height of 30-foot (in accordance with the UDO). The sign will have bored footing of 4.5-foot in diameter and 10-foot deep of concrete (negligible impervious surface area of 16 square feet). The storage facility (built in 2000) is accessed via Stickman Street (private), but the billboard service vehicle will need to mount the curb and pull up under the sign. The 9.11-acre site is located on the western side of Capital Boulevard (US Hwy 1) at the southwestern corner of its intersection with Stickman Street. Stickman Street is a private road that serves the storage facility and the adjacent Paws at Play property. There is no new driveway permit or encroachment agreement needed from NCDOT. The traffic impact of the billboard sign will be negligible as a service vehicle is expected to visit the site for routine maintenance or to change out the signage on an infrequent (i.e. – less than one a month) basis.

The UDO prohibits a new billboard sign if there is an existing one within 2,500-feet of the proposed site (there are none) and within 750-feet of a residence (measured structure to structure). The nearest house is 900 feet from the proposed sign. Petitioner is proposing to plant 75 wavy leaf privets in 3-gallon containers (minimum of 17in tall) and 3-feet on center. The sign section of the UDO states that billboards must comply with the setbacks of the zoning district in which it is located. Section 3-23-4 (Lot and Building Standards) indicate 50-foot front setbacks and 50-foot side setbacks (with an aggregate of 80-feet for the two side setbacks and minimum of 30-feet for one side setback). Use-specific standards of the sign regulation reference the setback provisions for the Highway District per Section 5-11-2, which are 30-foot front and 10-foot side based upon "district". After reviewing the conflicting wording within the different UDO sections, it is the staff's interpretation that the applicable setbacks should be those of the district which are 30-foot from the front and 10-feet on the side. It should be noted that if the Board of Adjustment disagrees with this staff interpretation, that sections 3-23-4 (C) (4) and (3) authorize the Board to reduce the building setbacks upon making a finding that the proposed reduction would meet several criteria as outlined in those sections. If the Board chooses to authorize such a setback reduction via this provision, then it appears a separate finding would be required.

A public hearing sign was posted on January 3rd, 2026, and adjacent owners were mailed notification on the same day. Staff has not received any calls or emails in response to the notification efforts.

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

Applicant's Presentation

Testimony by:

- 1) Craig Justus, Attorney, Wilkerson Justus Law Firm
- 2) Warren Stancil, InterState Outdoor, Inc.
- 3) Nick Kirkland, Kirkland Appraisals

Mr. Stancil and Mr. Kirkland were sworn in, and Mr. Justus entered his presentation, along with written affidavit from Mr. Stancil, the petitioner. Mr. Stancil testified that his written affidavit states that their proposed sign meets all of the requirements of the ordinance. Mr. Justus added that there

are standards for off-premises billboards as Mr. Lankford noted in his presentation. This is not a variance request, and the billboard is a self-sustaining use. It will not generate traffic or noise. Mr. Goebel asked if it was a digital billboard and Mr. Justus responded that it would not. He indicated that Mr. Lankford had recommended that they add language to the site plan to that effect.

Mr. Justus requested that Mr. Kirkland, state certified general appraiser with Kirkland Appraisals, be tendered as an expert witness in property value impact analysis, which Mr. Goebel accepted. Mr. Kirkland presented his report to the Board and submitted it as evidence which was accepted into the record. He explained that the value impact analysis was approached in three different ways: the first is the adjoining uses, which in this case is commercial, industrial, and other high intensity uses, which is consistent with billboard placement. He noted other examples along Capital Boulevard of existing billboards included in his report. The second factor is to review other studies regarding similar billboards and their impact on adjoining or nearby property values. The first study reviewed showed a negative impact for houses closer than 500 feet, but nothing beyond 500 feet. At the proposed site, there are no houses within 900 feet.

The second study found no impact to houses after adjusting for the fact that the property was already in proximity of a highway or interstate, which indicated that the presence of a billboard did not impact the value at all. They chose to focus on residential property values over commercial or industrial impacts due to the fact that residential uses are most highly impacted. Commercial and industrial values are measured by the rent generated by their use, which is not impacted by the presence of a billboard.

The final component Mr. Kirkland reviewed was a match pair analysis, reviewing a commercial property that sold directly next to another commercial property with a billboard compared to commercial properties near a billboard. They found the difference to be within +/- 5%, which in the appraising business is indicative of no impact. Mr. Kirkland explained that, in his professional opinion, the proposed use would not have a negative impact on adjoining or nearby property values.

Mr. Justus noted that the staff report supports their assertion that the proposed development meets all the standards of the UDO. He added that there was no testimony to the contrary presented to their evidence.

Mr. Goebel opened the floor for public hearing and with no respondents, closed for Board Discussion at 2:07 p.m.

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 would not materially endanger public health or safety.*

Mr. Goebel noted that while there was no traffic study undertaken, it is likely not applicable because the sign will not generate traffic. The sign will have zero impact on surface and groundwater, and the only utilities will be electrical power to the lights. Accordingly, it will not endanger the public's 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.*

Mr. Goebel indicated that this criterion would be met with a special use permit per staff testimony.

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

Mr. Goebel referred to Mr. Kirkland's testimony as an expert witness that it would not impact adjoining properties.

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

Mr. Goebel noted that the proposed site is located in a Highway District and that it is not unusual to see a billboard or sign along a highway.

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

Mr. Goebel identified that, with a Special Use Permit, the use is permitted in the Highway District.

Mr. Stephenson issued he had some concerns with the conflicting ordinances, and if he were a voting member on this case, he would be inclined not to vote in favor of approval. Mr. Justus approached the Board and noted that there were two rules of construction applicable to this ambiguity: all premise signs are allowed in multiple districts with specific rules for billboards, and State law that indicates when ambiguities exists, they are construed in the favor of the property owner.

Mr. Goebel entertained a motion on PLG-SU-005896-2025.

Motion on PLG-SU-005896-2025

Ms. Waddell made a motion in the matter of PLG-SU-005896-2025 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 that the 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 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 Land Use Plan.

The motion was seconded by Mr. Goebel and approved unanimously.

9. Planning, Development & Inspections Report

Mr. Finn provided context on Mr. Haq's question regarding pervious paving, explaining that the General Statutes and UDO changes in 2025 gave staff the ability to review certain materials, particularly in the watershed areas. These include geotextiles and certain levels of gravel (57 stone), and these are now included in relevant applications during the review sessions. Stormwater review can be added as an item reviewed during submissions, in large part because permeable pavement is treated as a stormwater device. Mr. Finn noted that, relative to the County's reorganization, that

Environmental Services is now under the Planning and Development Services division, which includes stormwater management, erosion control, and water supply management. He closed his update by noting that the February meeting was uncertain at present time.

Mr. Haq and Mr. Collins inquired about the status of their reappointment, and staff indicated they would reach out to the Board of Commissioners for further information.

10. Adjournment

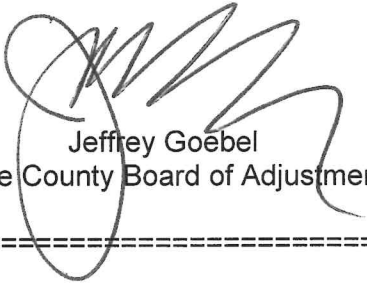
Mr. Goebel adjourned the meeting at 2:21 p.m.

=====

REGULAR MEETING
WAKE COUNTY
BOARD OF ADJUSTMENT
January 13, 2026

All petitions complete, Jeffrey Goebel declared the regular meeting of the Wake County Board of Adjustment for Tuesday, January 13, 2026, adjourned at 2:21 p.m.

Respectfully Submitted:


Jeffrey Goebel
Wake County Board of Adjustment

=====