

Planning & Development Services

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

MINUTES OF BOARD OF ADJUSTMENT OCTOBER 14, 2025

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. Mr. Mark Spanioli
4. Mr. Russell Stephenson
5. Mr. Will Wingfield

MEMBERS ABSENT:

1. Ms. Irene Butler
2. Mr. Joe Cebina
3. Mr. DeAntony Collins
4. Mr. Waheed Haq

COUNTY STAFF:

1. Mr. Adam Cook
2. Mr. Frank Cope
3. Ms. Celena Everette
4. Mr. Steven Finn
5. Mr. Timothy Maloney
6. Mr. Josh McClellan
7. Mr. David Parks
8. Ms. Beth Simmons

COUNTY ATTORNEY:

1. Mr. Kenneth Murphy, Deputy County Attorney

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1. **Meeting called to order:** Mr. Goebel called the meeting to order at 9:02 a.m.
 2. **Approval of Minutes of the August 12, 2025, Meeting:** Mr. Goebel made a motion to approve the August 12, 2025, minutes as presented. The motion was seconded by Mr. Wingfield, and the minutes were approved unanimously.
 3. **PLG-SU-005974-2025 (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 permit to expand the lateral footprint of the existing construction & demolition (C&D) landfill.

Voting Members

Five voting members were identified:

1. Mr. Jeffrey Goebel
2. Ms. Britany Waddell
3. Mr. William Wingfield
4. Mr. Mark Spanioli
5. Mr. Russell Stephenson

Location

WAKE COUNTY PIN: 1761682890

ZONING DISTRICT: Residential-30 (R-30)

LAND USE CLASSIFICATION: Rural (Raleigh)

WATERSHED: Neuse, Marks Creek

CROSS REFERENCE FILES: BA-1757-97; BA-1768-98; BA-1818-99; BA-2059-06; PLG-SU-3754-2022

APPLICANT: Amanda Bambrick, Attorney

PROPERTY OWNER: Shotwell Landfill Inc.

PROPERTY SIZE: 135.46 acres

CURRENT LAND USE: C&D Landfill

PROPOSED USE: C&D Landfill

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 Mr. Parks 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 modification to an existing special use permit for the Shotwell landfill to expand the lateral footprint of the existing construction and demolition landfill.

The site is located at 4724 Smithfield Road, contains 135 acres, and is zoned R-30 Residential. In 1998, a special use permit was issued for the development of a land-clearing and inert debris landfill. In 1999, the special use was modified to change 17 acres of the site to a construction and demolition landfill. The landfill was granted a franchise in 2000, and in 2006, the special use was further modified for additional expansion. The Board of Commissioners allowed the increase in the tonnage limit from 91,250 tons/year to 365,000 tons/year in 2022. This also allowed the landfill to accept construction & demolition waste from Harnett, Chatham, Durham, Granville, Franklin, and Nash counties. This request also allowed for the construction of a Material Recovery Facility for processing construction & demolition recycling. Accordingly, the special use was modified in 2022 to lengthen the hours of operation during the week, along with Saturday hours of operation from 12:00pm until 4:00pm.

Mr. Parks explained that this special use permit modification is for the lateral expansion of the existing disposal footprint to include an additional 11.25 acres. The expansion will provide approximately 2.5 million cubic yards of additional airspace, extending the life of the site by approximately 4 years. The proposed expansion will not increase the amount of daily truck traffic to the site. Mr. Parks provided a proposed site plan and video of the area. A public hearing placard was placed on the site on September 26th, with notification letters to adjoining property owners mailed on September 23rd. Staff has received one phone call from an adjacent property owner.

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.

Ms. Waddell asked if the proposed areas (7A and 7B) on the site plan had already been cleared, and Mr. Parks responded that he was not certain if the aerial maps were up to date, but that they are maintaining the vegetative screening and buffer areas.

Applicant's Presentation

Testimony by:

- 1) Amanda Bambrick, Attorney, Morningstar Law Group
- 2) Mary O'Brien, Chief Marketing Officer, Meridian Waste
- 3) Michael Stubbs, Engineer, Hodges, Harbin, Newberry & Tribble, Inc.

Ms. O'Brien and Mr. Stubbs were sworn in, and Ms. Bambrick entered her presentation into the record. Ms. Bambrick began by noting that the Shotwell Environmental Park is a permitted and operating construction & demolition debris (C&D) landfill and Materials Recovery Facility (MRF) located in east Wake County near the Johnston County line.

The sole scope of the current special use modification is the lateral expansion of the existing disposal footprint to include an additional 11.25 acres within the boundary of the existing owned property. Ms. Bambrick explained that the expansion would provide 2.5 million cubic yards of additional airspace, which will extend the life of the site roughly 4 years. The overall facility boundary is unchanged; only the disposal footprint within the existing property is proposed to increase by 11.25 acres. She addressed Ms. Waddell's question by explaining that the proposed areas are already clear, and that Mr. Stubbs would be able to provide further specifics. She submitted a hard copy of the franchise application to the Board, and Mr. Goebel accepted it into evidence.

Mr. Stubbs introduced himself as the President of Hodges, Harbin, Newberry & Tribble, Inc., the principal engineers on the project. Meridian Waste hired Mr. Stubbs to review the engineering parameters for siting the landfill relative to the proposed expansion. He provided the Board with a slide of the 2006 site plan, explaining that the footprint remains the same, adding 11.25 acres from a proposed soil borrow area. The landfill needs soil for weekly cover, road construction, and final cap in preparation for the eventual closing of the facility. Meridian is not requesting a change to the buffer areas from 2006, and the areas planned for expansion are largely cleared.

The permitted facility is 61 acres, 49 of which have been constructed, with 12 remaining to the west side of the facility. Construction will begin on an additional 12 acres in the next three to four years, based on permitting. The 2025 proposal is a redesign of the site to change portions from soil stockpile to landfill. He noted a proposed relocation of an onsite pond, which would have no impact on the landscape buffer. The proposed expansion areas include an inert landfill, land clearing debris, and yard waste section they plan to exhume as part of their existing permit.

Ms. Bambrick provided background on the regulatory requirements of the Landfill, on a local and state level, noting that a franchise is required by statute and the elements are enumerated in the Wake County ordinances. NC General Statute Section 130A-294 governs solid waste management and is the umbrella law for the franchise ordinance. Multiple NC Department of Environmental Quality divisions monitor and are heavily involved in any approvals.

Ms. Bambrick addressed the elements necessary for the Board to reach positive conclusions, noting that the facility's property boundary remains unchanged and any impacts would be greatly diminished. Site conditions include a water supply well abandoned on the landfill property, and one to the north owned by Meridian has also been abandoned, with a new water supply well installed to

supply potable water to the scale house and materials recovery facility. No other utility lines are anticipated to be modified or added due to the proposed internal expansion. New internal access roads will be constructed as needed to access the working face of the landfill as well as the borrow pit. Access roads will be built for all-weather access to safely navigate the facility. New sediment basins or expansions of existing basins will be constructed to control stormwater run-off and provide storage requirements, as shown on the Facility Plan. Stormwater management infrastructure such as ditches and diversion berms will be installed as needed to control run-off from expansion areas.

She added that the letter from the Wake County Land Use Administrator dated March 11, 2025, admitted into evidence stated that the facility is in compliance with zoning conditions and Special Use SU-2059-06, and that the Shotwell Environmental Park will continue to comply with all zoning and the terms of its longstanding special use.

Ms. Mary O'Brien, Chief Marketing Officer for Meridian Waste, was called to the lectern to provide additional testimony regarding the public necessity of the proposed special use. She explained that the landfill facility was last expanded in 2006, reflecting a population of 750,000. Based on 2023 estimates obtained from the North Carolina Office of State Budget and Management, the population of Wake County has increased by nearly 50% and is approximately 1,194,900. Surrounding Counties have a combined population of approximately 2,233,000. By 2037, the combined population of the eight surrounding counties is expected to grow 26% to approximately 2,816,000.

The expansion will add approximately 11.25 acres of disposal footprint and 2.5 million cubic yards of airspace to extend the life of the facility until 2037. Additionally, the cost benefits of utilizing and modifying existing solid waste landfills versus permitting and constructing new sites can be drastic. With this proposed expansion, Shotwell Environmental Park will help serve the solid waste goals of Wake County in the future while mitigating impacts from developing greenfield sites. The materials recovery facility is also utilized to recycle and beneficially reuse recoverable materials, and the efficiency of the MRF continues to evolve in a positive direction. The Shotwell Environmental Park is in a predominantly rural area with a surrounding zoning of R-30, low density residential development.

Ms. Bambrick added that letters of compliance from Wake County's Solid Waste Department and Planning Department were included with the approved Solid Waste franchise amendments and state that the Shotwell Environmental Park is in compliance with zoning and waste operations. The proposed development is also in compliance with both PLANWake land use plan "Rural" designation and the "industrial" future land use designation of the Lower Neuse Area Plan. She explained that these synergies within the PLANWake documents carry over into the implementation of the Lower Neuse Area Plan, to articulate "the vision for how the greater Wake County community should account for the next wave of growth in a manner that enhances quality of life for all residents."

Ms. Bambrick added that, between the June 16th County Commissioners meeting and today's Board meeting, the Shotwell team engaged with representatives from the Triangle Land Conservancy, and the parties have agreed to additional voluntary conditions: 100 feet of undisturbed buffer from the western property line of the applicant, 100 feet of undisturbed buffer area from the northern property line in the borrow area, 50 feet of undisturbed buffer from all streams in the borrow area, and an additional 50 feet of undisturbed buffer from the western stream in the borrow area. Ms. Bambrick provided a slide to demonstrate to the Board how these proposed conditions would appear on the site plan. She requested that the site plan be added to the record, and Mr. Goebel accepted it into evidence.

Ms. Bambrick closed her testimony by explaining that environmentally safe processing and disposal of construction and demolition waste materials in an explosive population and growth area is a public

necessity. Wake County cannot grow intentionally as contemplated by PLANWake without a viable manner by which construction debris can be stored and recycled.

Mr. Stephenson asked if the proposal complies with all existing regulations and environmental vegetative buffers, and Ms. Bambrick responded that it does.

Mr. Goebel opened the floor for public hearing and with no respondents, closed for Board Discussion at 9:31 a.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. Stephenson noted that it complies with approved regulations and vegetative environmental buffers, as shown by the applicant's testimony.

- 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. Stephenson indicated that, based on testimony, it complied with all approved regulations, as well as vegetative and environmental buffers.

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

Mr. Stephenson noted that testimony regarding the buffers was sufficient, and that the lack of any public concern opposed to the proposed SUP also indicated it would not injure the value of adjoining property.

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

Mr. Stephenson noted that the expansion would take place within the existing boundaries and remains consistent with all existing buffer regulations.

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

Mr. Stephenson noted staff's testimony that it was consistent with the Land Use Plan.

Motion on PLG-SU-005974-2025

Mr. Stephenson made a motion in the matter of PLG-SU-005974-2025 that the Board find and conclude that the petition does meet the requirements of Article 4 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.

4. PLG-SU-005931-2025 (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 construct an electrical substation.

Voting Members

Five voting members were identified:

1. Mr. Jeffrey Goebel
2. Ms. Britany Waddell
3. Mr. William Wingfield
4. Mr. Mark Spanioli
5. Mr. Russell Stephenson

Location

WAKE COUNTY PIN: 1756785742
ZONING DISTRICT: Residential-30 (R-30)
LAND USE CLASSIFICATION: Rural (Raleigh)
WATERSHED: Neuse
CROSS REFERENCE FILES: None
APPLICANT: David Bergmark, McAdams
PROPERTY OWNER: James Watkins
PROPERTY SIZE: 113 acres
CURRENT LAND USE: Residential
PROPOSED USE: Electrical Substation

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 the applicant is requesting a Special Use Permit for the construction of an electrical substation. The site is located on the northern side of Old Milburnie Road, and the parcel is zoned R-30, Residential district.

Duke Energy Progress is requesting to construct a new electrical substation within a portion of the 113-acre parcel. The proposed substation will be contained on a 20-acre lot which will be subdivided out of the larger parcel. The site will have access through a 20' wide driveway off Old Milburnie Road and will consist of a fenced gravel yard with a turnaround area. The facility will be unmanned. Mr. Parks provided a site plan for the proposed electrical substation, and a video from the area.

Mr. Goebel asked where the proposed substation would be located on the map, and Mr. Parks explained that the parcel they intended to subdivide would have frontage on Old Milburnie Road for access to the substation near the back. Mr. Goebel inquired as to the adjoining tracts, and Mr. Parks explained the overall tract is owned by the Watkins Family Trust. The adjoining tract is owned by the Brantley family who met with Mr. Parks to discuss the substation. There will be vegetative buffers along the perimeter of the substation and new planting to accommodate areas requiring buffers.

Ms. Waddell asked for clarification regarding the wooded area behind the proposed substation and whether Duke Energy Progress intended to remove it for access, and Mr. Parks indicated that he did not believe their access drive would be in that area, but the applicant could provide a better answer. He did note that according to the site plan, it did appear to leave most of the vegetation in place.

A public hearing placard was placed on-site on September 24th, with notification letters mailed to adjoining property owners on the 23rd. Staff have received four or five phone calls from adjacent property owners, with the majority inquiring which side of the road the proposed substation would be located. One adjoining owner wanted to know if Duke Energy Progress would be utilizing his existing ingress easement to the west of the site, and Staff assured him that Duke Energy Progress would be constructing their own access road.

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

Mr. Goebel asked about the statement of justification, which included items that appeared to be pending: a routing study for the transmission line did not appear to be scheduled until after zoning approval is obtained. There also appeared to be an alternative landscaping plan contingent on approval of the special use, which he found to be unusual. Mr. Parks explained that when staff receives a site plan for special use permit approval, they review it to ensure it meets UDO requirements related to parking standards, landscape standards, site layout, and permissible uses. The special use permit allows them to conduct use on the property, at which time they return for site plan review and commercial permitting. Staff allows changes that are within the scope of the special use permit approval.

Applicant's Presentation

Testimony by:

- 1) Amy Crout, AIA, Smith Anderson
- 2) Chris Morris, Appraiser, Integra Realty Resources
- 3) Derrick Remer, District Manager, Duke Energy Progress
- 4) Wayne Nicholas, Senior Siting Manager, Duke Energy Progress
- 5) Brandi Reeves, Public Engagement, Duke Energy Progress
- 6) Elizabeth Steffens, Substation Engineer, Duke Energy Progress
- 7) Nick Parks, Civil Engineer, McAdams
- 8) David Bergmark, Senior Planner, McAdams
- 9) Gail Tyner, Project Manager, Duke Energy Progress

Ms. Crout, attorney for the applicant, introduced her witnesses, who were sworn in, and she began by entering application materials, presentation, and impact study into the record. Mr. Goebel accepted the materials, and Ms. Crout began her presentation. The proposed site is located off Old Milburnie Road in the eastern part of the county, north of Knightdale. Duke Energy Progress is acquiring 20.5 acres out of a larger 114-acre parcel from the Watkins Trust. The property is zoned R-30, which allows for static transformer stations such as a substation with a special use permit.

Duke Energy Progress is cautious when selecting its sites for substations and the proposed location has low impact with the least number of adjoining neighbors, primarily low density residential and agricultural uses. The facility will be unmanned and remotely monitored, limiting traffic impact. Routine maintenance will take place once a month. In order to account for growth in Wake County, Duke Energy Progress is continuously evaluating their infrastructure to determine the best locations for new substations to meet the needs of the public. Ms. Crout noted that the proposed substation would help create a stable power grid, which is a public necessity due to the rapid growth in the area. Electricity and public services enhance the public health and safety as all forms of land use rely on electric power to support their daily needs. She presented the site plan to the Board, noting that the engineers would also provide further clarification if needed.

Ms. Crout responded to Mr. Goebel's question about outstanding items by explaining that the location of transmission and distribution lines are not in the jurisdiction of local government entities. Duke Energy Progress acquires a special permit for their site and conducts their own line siting studies. Once that is in place, they will approach the County with alternative plans, but this is typical in their process for the development of substations. The unmanned station will require no heated square footage or public utility needs. It will be accessed by a 20-foot-wide gravel driveway off Old Milburnie Road, leading vehicles to an 80-foot turnaround area, which accommodates the two required parking spaces under code. The substation is set back 1,000 feet from the road and meets all buffering requirements. A 40-foot Type C perimeter buffer is required and, where possible, Duke Energy Process will be using existing vegetation to satisfy this requirement with additional planting as needed. She noted that some variation to the plan may exist based on transmission or distribution lines, but that Duke Energy Progress would comply with ordinance requirements.

The substation will be surrounded by a fence, and all electrical equipment will be secured behind a locked gate. As required by specific use standards, there is no service or storage yard proposed for the site. Out of the 20-acres, the 1.99 proposed is well below the 30% maximum allowed for this area. Duke Energy Progress will provide the requisite stormwater control measures and will comply with all stormwater management regulations for the site. The design of the proposed site considers the topography of the area and the impact of surrounding properties to maximize separation and ensure it is in harmony with the area.

Ms. Waddell asked what the Type C perimeter buffer requirements entailed, and Mr. Bergmark responded that the UDO offers four options with a 40-foot-wide buffer based on the plan or alternative plan proposed. The options vary between the types of vegetation and distance from the site. Duke Energy Progress plans to customize it once the exact location of the distribution lines and easement has been determined.

Mr. Stephenson asked about best practices to avoid vandalism on the site, and Mr. Remer explained that all substations are remotely monitored from their operations center and that Duke Energy Progress works closely with law enforcement to make sure they are secured and protected. Ms. Steffens added that a 24-foot-wide vehicle gate would also be located toward the front of the property, set back 75-100 feet to allow larger trucks to pull safely off the road.

Ms. Crout introduced Mr. Morris to share his findings as the Senior Managing Director of Integra Realty Resources. Mr. Morris explained that he was hired by Duke Energy Progress to appraise the site for potential impact on adjoining property values. Ms. Crout asked that he be recognized as an expert witness, and Mr. Goebel accepted his report into the record. Mr. Morris noted that he inspected the property and surrounding areas for this impact study – it is currently zoned R-30, in a lightly developed part of the County. The land use plan for the area is for low density residential use, and the closest residential property to the proposed substation is approximately 950 feet to the west. Two additional properties are located on the north side of Old Milburnie Road and are 1,100 to 1,600

feet south of the proposed substation. All three properties are predominantly buffered by existing vegetation. As a part of his impact study, Mr. Morris considered other residential developments in Wake County near substation facilities. He conducted a paired sales comparison using homes that were closer (100-150 feet) and further removed (950-1,600 feet) from the substation within a subdivision. The analysis suggests that there is no material impact based on the substation's proximity when heavy vegetation separated the residences. Based on the report submitted to the Board, Mr. Morris indicated that he found no material negative impact to the adjacent properties.

Ms. Crout concluded her presentation by indicating that testimony provided met the five standards required by the UDO for approval of the special use permit. She noted that staff found the proposed use is consistent with the rural designation of the property and that the substation supports all activities that rely on electric power.

Mr. Goebel noted a pond to the north of the site plan and asked if any buffers from the pond or nearby stream would impact the site, and Mr. Bergmark noted that there was no riparian buffer on the adjoining property that would overlap onto the proposed property.

Mr. Goebel opened the floor for public hearing and with no respondents, closed for Board Discussion at 10:08 a.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.*

Ms. Waddell noted that testimony provided indicated that once the substation is in place, it would be remotely monitored, and traffic would be minimal for monthly routine maintenance.

- 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.*

Ms. Waddell noted that testimony presented indicated that the site would provide utilities to the area and is consistent within the zoning district.

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

Ms. Waddell identified testimony by appraiser that similar residentially zoned areas had been analyzed, and no adverse impacts were found to adjoining properties.

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

Ms. Waddell explained that based on the site plan, the proposed site would be well within vegetative buffers and that it would maintain the character of the area.

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

Ms. Waddell noted that testimony from staff stated that the proposed site would be consistent with PLANWake.

Motion on PLG-SU-005931-2025

Ms. Waddell made a motion in the matter of PLG-SU-005931-2025 that the Board find and conclude that the petition does meet the requirements of Article 4 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 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 Mr. Spanioli and was approved unanimously.

5. PLG-SU-005981-2025 (Mr. Adam Cook, Planner II)

The petitioner is requesting Special Use Permit approval as required by section 7-12 of the Wake County Unified Development Ordinance (UDO) for an expansion of a non-conforming gas station use to add a food truck.

Voting Members

Five voting members were identified:

1. Mr. Jeffrey Goebel
2. Ms. Britany Waddell
3. Mr. William Wingfield
4. Mr. Mark Spanioli
5. Mr. Russell Stephenson

Location

WAKE COUNTY PIN: 0781538173

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

LAND USE CLASSIFICATION: Non-urban area (Swift Creek)

WATERSHED: Swift Creek

CROSS REFERENCE FILES: BA-1277

APPLICANT: Stewart-Proctor Engineering & Surveying, Mike Stewart / Emily Williamson

PROPERTY OWNER: Harikrishna & Deepa Akkireddy

PROPERTY SIZE: 1.45 acres

CURRENT LAND USE: Gas Station

PROPOSED USE: Gas Station with food truck

Documentary Evidence Accepted into Record

- Staff Report
- Staff Presentation
- Applicant's Application

TESTIMONY AND EVIDENCE PRESENTED

Testimony by Adam Cook

Mr. Cook was sworn in and presented the Staff Report, Presentation, and Applicant's Application, all of which were accepted into the record. Mr. Cook explained that the applicant is requesting an expansion of a non-conforming gas station to add a food truck. The site is located at the northwest intersection of Olde South Road and Penny Road. It contains a gas station that was established in 1965. A special use permit (BA-1277) was issued in May of 1988 to allow for the expansion of a nonconforming use to construct a 24-foot x 30-foot canopy over the existing gas pumps. The applicant is proposing to expand the non-conforming use to add a food truck.

The food truck is proposed to be located at the front of the gas station near the existing driveway. Mr. Cook highlighted the proposed location on the site plan. The site will continue to be served by individual well and septic systems, and has frontage along Olde South Road and Penny Road. The site plan shows 20 parking spaces, which meets the UDO parking requirements. The existing impervious area for the site is 17,317 square feet (27.45%). Mr. Cook noted that the site plan proposes removal of existing concrete pads totaling 487 square feet and the addition of a food truck parking area of 160 square feet, resulting in a total reduction of 327 square feet impervious area: 16,990 total square feet (26.94%). An as-built survey will be required at the time of permitting to confirm the reduction in impervious surface.

Mr. Cook provided video from the site at the intersection of Olde South and Penny roads. A public hearing sign was posted on the property on September 19th, and adjacent property owners were notified by mail on the same day. Staff received one call for additional information but received no expressed opposition to the proposed addition.

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. Cook offered to answer any questions from the Board.

Mr. Goebel asked if the mobile truck would park in the same location each day, and Mr. Cook responded that from a land-use standpoint, the approval would be treated like a permanent location for the truck on-site. Mr. Stephenson asked for clarification regarding the position of the food truck and any possible visibility issues, and Mr. Cook noted that, per the site plan, the proposed pad would meet the 30-foot setback requirement for the zoning district. If the Special Use Permit is granted, the applicants would be required to obtain a Land Use Permit for the construction of the truck pad. The option to use concrete or crushed gravel was their decision, so long as it met impervious surface requirements.

Mr. Goebel asked for clarification regarding the number of parking spaces on-site, and Mr. Cook responded that in the application materials, they provided an older site plan for the approved gas station. At the time, parking space requirements differed from today, but the applicants have provided more realistic parking based on the current standards for their new site plan. Ms. Waddell asked if the truck were to be relocated somewhere other than the designated pad, would the site be in violation of the special use permit, and Mr. Cook responded that it would. Any additional food trucks on-site would also be considered a violation. Mr. Spanioli asked if a site visibility triangle would be reviewed for the ingress and egress points, and Mr. Cook responded that this is typically not included in the site plan review stage.

Applicant's Presentation

Testimony by:

- 1) Emily Williamson, Stewart Proctor Engineering

Ms. Williamson was sworn in and introduced herself as an engineer with Stewart Proctor Civil Engineering and Surveying. She noted that the gas station has been an existing non-conforming use, located in the Swift Creek Watershed district. The station itself predates the Swift Creek Land Use agreement and is grandfathered in under impervious standards. The applicant plans to reduce impervious area by removing an existing concrete pad that previously housed a trailer. The pad will be replaced by an environmentally friendly crushed gravel parking area. The proposed site is currently placed outside of sight distance triangles and is slightly elevated. She noted that the existing intersection is a four-way stop, and Ms. Williamson did not anticipate any traffic impacts based on site distances and placement.

Mr. Goebel asked if they conducted a traffic study for the basis of her testimony, and Ms. Williamson clarified that NCDOT converted the intersection to a four-way-stop based on their independent site study. The gas station is located outside of a residential area and serves the community but sees little outside traffic. Mr. Goebel noted that, based on her testimony, it appeared that the proposed development would not materially endanger the public's health or safety, but he had some concerns related to parking spaces during busier times of day.

Ms. Williamson explained that there is a comparable food truck located at a gas station near Penny Road and Kildaire Farm Road that does not exceed its parking capacity. Mr. Goebel asked if any new utilities would be required, and Ms. Williamson responded that existing utilities would be sufficient. Additionally, the site has ingress and egress points on both road frontages. Mr. Goebel indicated that staff's testimony spoke to compliance with regulations and asked if the proposed site would not substantially injure the adjoining property or was a public necessity. Ms. Williamson responded that an appraiser had not conducted a current study, but that their existing use already served the neighborhood with food and beverage, and this would be an extension of the nonconforming use.

Ms. Waddell asked about a discrepancy between the site plan and the aerial map – it appeared that there were trees located on or near the proposed pad site. Ms. Williamson explained that the trees in the median area are south of where the gravel pad would be placed. The canopy trees appear to cover more ground than they do, but the applicant did not plan to remove any from the site.

Mr. Goebel opened the floor for public hearing at 10:31 a.m.

Testimony in Opposition to the Petition

1) Scott Meharg, Landscape Architect, adjoining property owner at 5717 Olde South Road

Mr. Meharg was sworn in and Mr. Goebel noted that the Board typically only accepts material evidence related to the testimony and findings of fact. Mr. Meharg explained that he understood, but as a landscape contractor and arborist, he had concerns about placing a crushed gravel pad over the root system of 200-year-old trees. Mr. Goebel thanked him for his comments, noting that the impact on the tree system was something they would take into consideration in their findings of fact.

With no further respondents, Mr. Goebel closed the floor for Board Discussion at 10:35 a.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 based on testimony regarding the site plan and the four-way stop intersection, he was satisfied that the development would not pose a public safety issue. He noted Mr. Meharg's comments and there may be some potential questions about soil erosion or sedimentation, but water quality should not be impacted. Ms. Waddell added that testimony was provided that impervious surface area would be reduced on the site.

- 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 indicated that he had serious concerns regarding the lack of testimony in relation to this criterion. Mr. Stephenson noted that the gas station is a pre-existing use and that the addition of a food truck would not impact the existing neighborhood.

Mr. Spanioli asked if the Board was required to hear testimony from a professional or if they were permitted to rely on their own knowledge and experience, and Mr. Murphy responded that the Board had received no testimony that this proposed development would meet finding #3, but that they had also received no expert testimony to the contrary. Mr. Murphy quoted the relevant statute, noting that the language indicates that competent evidence "shall not be deemed to include the opinion testimony of lay witnesses as to any of the following: the use of property in a particular way affects the value of other property."

Mr. Murphy noted that the Board heard lay testimony from an engineer that the use of the property by adding a food truck to an existing non-conforming gas station would not affect the value of other properties. He noted that the Board's duty is to determine whether the lack of testimony to the contrary is sufficient to meet the required conclusion.

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

Mr. Goebel explained that the existing gas station has been located on site since 1965 and served a residential area, and that this would remain consistent even with the proposed addition.

- 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 closed the floor again at 10:48 a.m. and entertained a motion on PLG-SU-005981-2025.

Motion on PLG-SU-005981-2025

Mr. Stephenson made a motion in the matter of PLG-SU-005981-2025 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. Spanioli and approved unanimously.

Mr. Goebel called for a brief recess at 10:53 a.m. and the meeting resumed at 11:04 a.m.

6. PLG-ZV-005902-2025 (Ms. Celena Everett, Planner III)

This is a variance request from Article 16-12-2, Tree and Vegetation Protection, which requires a 50-foot tree and vegetation protection zone along public rights-of-way. The applicant is requesting that the 50-foot tree and vegetation zone be reduced to 29.5-feet along Norwood Road, a public right-of-way.

Voting Members

Five voting members were identified:

1. Mr. Jeffrey Goebel
2. Ms. Britany Waddell
3. Mr. William Wingfield
4. Mr. Mark Spanioli
5. Mr. Russell Stephenson

Location

WAKE COUNTY PIN: 1709-28-2260

ZONING DISTRICT: Residential-80 Watershed (R-80W)

LAND USE CLASSIFICATION: Rural Non-Urban Area Water Supply Watershed

WATERSHED: Falls Lake

CROSS REFERENCE FILES: N/A

APPLICANT: Hunter Winstead

PROPERTY OWNER: Blue Heron Signature Homes LLC

PROPERTY SIZE: .92 acres

CURRENT LAND USE: Single-Family Residential

Documentary Evidence Accepted into Record

- Staff Report
- Staff Presentation
- Applicant's Application

TESTIMONY AND EVIDENCE PRESENTED

Testimony by Celena Everett

Ms. Everett was sworn in and presented the Staff Report, Presentation, and Applicant's Application, all of which were accepted into the record. Mr. Everett explained that the applicant is requesting a variance to reduce the required 50-foot tree and vegetation protection zone to 29.5-feet along Norwood Road, a public right-of-way. The petitioner is Hunter Winstead, and the

landowner is Blue Heron Signature Homes, LLC. The property is located at 5836 Norwood Ridge Drive in the northern portion of the County, Residential-80 Watershed (R-80W).

The .923-acre lot was created as part of the final lot of a 19-lot cluster subdivision in 2022. A 30-foot water supply watershed buffer and 20-foot building setback is located along the southern property line. As per Article 16-12-2, the Tree and Vegetation Protection Zone is intended to preserve trees and vegetation along the outer perimeter of a site being subdivided. A 50-foot tree and vegetation protection zone was recorded along Norwood Road, and a 25-foot tree and vegetation zone was recorded along the eastern property line. At the southern end of the property is a water supply watershed buffer related to a drainage feature that drains over five acres. Accordingly, the site requires a water supply watershed buffer with an associated 20-foot building setback. The tree and vegetation protection zone allows for some encroachment, such as septic fields, driveways and sidewalks, however buildings are not an allowed encroachment.

The applicant's site plan submitted with the petition shows a proposed dwelling encroaching into the 50-foot tree and vegetation protection zone along Norwood Road. The applicant is requesting a zone reduction to 29.5 feet. If the variance is approved, the applicant would need to apply for all applicable permits for any structure on the property.

Ms. Everette presented the Board with the existing site plan, along with a proposed site plan, as well as a current video of the site. A public hearing sign was posted on September 19th, and adjacent owners were mailed notification on the same day. Staff received an inquiry from a property owner to the east, who stated they had no objection to the proposed variance.

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.

Ms. Waddell asked if the landscaping featured in the video was included in this lot, and Ms. Everette indicated that it was just outside of the right-of-way and was the beginning of the exterior tree vegetation protection zone. Ms. Waddell asked for clarification regarding the shrubbery and to what degree this was a wooded lot, and Ms. Everette responded it was initially heavily wooded but had been cleared. She indicated the applicant could better address what portions of the encroachment they intended on removing.

Applicant's Presentation

Testimony by:

- 1) Hunter Winstead, Attorney, Morningstar Law Group
- 2) Mark McDonald, CEO, Blue Heron Signature Homes
- 3) Jason Mathena, Vice President of Construction, Blue Heron Signature Homes

Mr. Winstead's witnesses were sworn in, and he entered his presentation into the record. Mr. Winstead explained that this variance request was to ensure that the flagship lot at the entrance of the Norwood Ridge neighborhood is representative of the homes in the subdivision and the homes that make up northern Wake County. He explained the four findings needed to approve the variance request, and addressed each of them. Lot 19 is located on the corner of Norwood Road and Norwood Ridge Road, and Mr. Winstead provided a slide of the site plan to better explain the unnecessary hardship created by the conditions on the site.

Mr. Winstead identified two features of the property that contribute to the unnecessary hardship. The first is a stream running east to west across the southern portion of the site, which includes a 30-foot water supply watershed buffer, along with a 20-foot setback. The stream location hinders their

ability to build the proposed house by essentially omitting half of the site from any development. He noted, however, that the purpose of the variance request focuses on the remaining area that can be developed to the north of the property. The required 50-foot vegetation protection buffer on the northern portion inhibits the available area onsite.

Mr. Goebel asked for more clarification regarding the hardship, noting that the property was purchased in 2023 with the knowledge of the stream setback and vegetative buffer area. Mr. Winstead responded that the 50-foot tree and vegetation protection zone along Norwood Road on the northern portion of the Subject Property, combined with the 30-foot water supply watershed buffer and 20-foot building setback on the southern portion of the Subject Property, significantly limits the Subject Property's buildable area and leaves an extremely narrow corridor of developable land in which to build a home that is representative of the Norwood Ridge subdivision. The hardship in question was not self-created insofar as Mr. Winstead's client was not responsible for the placement of Norwood Road or the stream to the south, conditions which predated the purchase of the property and the creation of the subdivision.

Ms. Waddell asked what the requirement for home sizes was based on the subdivision covenants, and Mr. McDonald responded that the minimum size was 4,000 square feet. Mr. Winstead noted that the location of the house, not the size of the impervious surface, was the reason for the variance request.

Mr. Winstead provided a slide of the proposed variance, reducing the existing tree & vegetation protection zone from 50 feet to 29.5 feet, which would remain consistent with Section 16-12 to preserve trees and enhance the visual character of the County. The variance maintains sufficient environmental protection by leaving the open space areas untouched. The northern portion will retain a 29.5-foot vegetative buffer with the proposed development along Norwood Road. The stream to the south will remain untouched.

Ms. Waddell asked about the existing plantings between the landscaped berm area along Norwood Ridge Road and the beginning of the vegetative buffer, and Mr. McDonald clarified that the area in question was roughly five feet past the lot and would not be impacted. Mr. Goebel asked where the septic field would be located, and Mr. McDonald explained it was off-site, across the road and to the south.

Mr. Goebel noted that, given the existing area, any house would be narrow at best, and somewhat resembling a barn, which Mr. Winstead noted would not be in harmony with the other houses in the subdivision. Ms. Waddell recommended that they file notice in the land records of the restrictions imposed upon this site, and Mr. Goebel indicated that the variance should be recorded with the land records.

Mr. Goebel opened the floor for public hearing and with no respondents, closed for Board Discussion at 11:35 a.m.

Board Discussion

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 lot, as designed, provided limited use without a variance and testimony from Mr. Winstead explained that due to the stream that runs east to west across the

southern portion of the Subject Property, the associated 30-foot water supply watershed buffer from the stream, and the additional 20-foot building setback, the Applicant cannot shift the proposed home any further south on the Subject Property.

- 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 features related to the public right-of-way on Norwood Road, the stream running east to west, and the buffers and setback from the stream leave an extremely narrow corridor of developable land for a home.

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

Mr. Goebel reiterated that the applicant was not responsible for the placement of the stream on the southern portion of the property nor the placement of Norwood Ridge Drive to the north.

- 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 the applicant testimony indicates that they do not intend to clear or make any significant changes to the existing vegetation to the north, which preserves the current vegetation, protects water quality, and provides visual buffers.

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

Motion on PLG-ZV-005902-2025

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 50-foot tree and vegetation zone to be reduced to 29.5-feet along the public right-of-way on the northern property line. 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. Stephenson and was approved unanimously.

7. Planning, Development & Inspections Report

Mr. Finn noted that information requests continue to be active, particularly regarding buffer requirements and home occupations. He added that this does not always result in actionable items, but it was a trend worth reporting. Additionally, 80% of subdivisions under review are open space design (rather than traditional lot-by-lot) submittals. Typically, this is closer to 50%, and attributes it to the locations of developments within water supply watersheds, which would allow developers to create more lots without affecting the density. Code enforcement remains active, with a 24% increase over the past year.

Mr. Maloney informed the Board that the November meeting is regularly scheduled to occur on the Veteran's Day holiday. The meeting will either be rescheduled or cancelled, and they will update the Board accordingly.

8. Adjournment

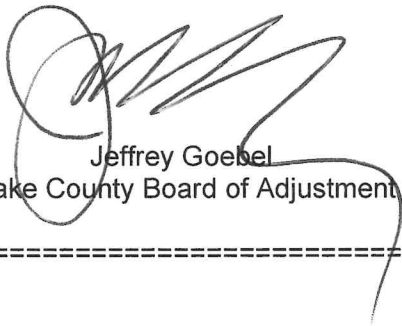
Mr. Goebel adjourned the meeting at 11:46 a.m.

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REGULAR MEETING
WAKE COUNTY
BOARD OF ADJUSTMENT
October 14, 2025

All petitions complete, Jeffrey Goebel declared the regular meeting of the Wake County Board of Adjustment for Tuesday, October 14, 2025, adjourned at 11:46 a.m.

Respectfully Submitted:


Jeffrey Goebel
Wake County Board of Adjustment

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