



Planning, Development & Inspections

TEL (PLANNING) 919 856 6310
TEL (INSPECTIONS) 919 856 6222

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

MINUTES OF REGULAR MEETING

Wake County Board of Adjustment

Tuesday, November 13, 2018 (9:00 a.m.)
Wake County Justice Center
300 S. Salisbury St., Room 2700
Raleigh, North Carolina

Members Present: (5) Mr. Brenton McConkey (Chair), Mr. Don Mial (Vice-Chair), Mr. Waheed Haq, Ms. Lisa Humphreys, Ms. Sheree Vodicka

Members Absent: (4) Mr. Brian Foxx, Mr. Will Barker, Mr. DeAntony Collins, Mr. John Barker

County Staff Present: (6) Mr. Steven Finn (Land Development Administrator), Ms. Jenny Coats (Community Services Manager), Ms. Loretta Alston (Clerk to the Board), Mr. David Parks (Planner II), Ms. Celena Everette (Planner II)

Guests: (5) Mack Paul, Morningstar Law Group, Donald L. Curry, PE, The Curry Engineering Group, PLLC, Pastor Paul L. Anderson, Registered Agent, The Fountain of Raleigh, Inc., Mr. Thomas Wells

County Attorney's Present : (1) Mr. Ken Murphy (Senior Assistant County Attorney)

1. **Meeting called to order:** Mr. McConkey called the meeting to order at 9:05 a.m.
2. **Oath of Office for Ms. Lisa Humphreys:** Mr. Murphy administered the oath of office and officially welcomed Ms. Humphreys as a new Board of Adjustment member.
3. **Approval of Minutes of the October 9, 2018 Meeting:** Mr. McConkey made a motion to approve the October 9, 2018 meeting minutes as drafted. The motion was seconded by Mr. Haq and the minutes were approved unanimously.
4. **Approval of Minutes Written Decisions:** Mr. McConkey noted these written decisions were voted on at the last meeting, October 9, 2018, with the following voting members present: Mr. Brenton McConkey, Mr. Don Mial, Mr. Waheed Haq, Mr. DeAntony Collins, Mr. John Barker.
 - a. Mr. McConkey made a motion to approve the written decision granting the special use in the matter of PLG-SU-000844-2018, and Mr. Mial seconded. The motion carried unanimously.
 - b. Mr. McConkey made a motion to approve the written decision granting the special use in the matter of PLG-ZV-000926-2018, and Mr. Haq seconded. The motion carried unanimously.

5. PLG-SU-000929-2018 - Fountain of Raleigh Church Expansion

Before the cases were heard, Wake County staff members Mr. David Parks, Ms. Celena Everette, and Steven Finn were duly sworn. The voting members were identified as: Mr. Brenton McConkey (Chair), Mr. Don Mial (Vice-Chair), Mr. Waheed Haq, Ms. Lisa Humphreys, Ms. Sheree Vodicka

Mr. Haq disclosed that he and Mr. Anderson had previously served on the Raleigh Planning Commission and confirmed his disclosure would not impact his ability to be an impartial decision maker. Mr. McConkey thanked Mr. Haq for his disclosure and gave his approval to proceed.

The petitioner is requesting Special Use Permit approval as required by section 4-11 of the Wake County Unified Development Ordinance (UDO) to expand an existing church within the R- 40W zoning district by providing a new fellowship hall, offices, restroom facilities, and a new foyer/entryway.

WAKE COUNTY PIN: 1708-27-0538

ZONING DISTRICT: Residential-40 Watershed (R-40W) and Special Highway Overlay District (SHOD)

LAND USE CLASSIFICATION: Non-urban Water Supply Watershed Area

WATERSHED: Falls Lake

CROSS REFERENCE FILES: 1996-03

APPLICANT: Don Curry, Curry Engineering

PROPERTY OWNER: Fountain of Raleigh, Inc.

PROPERTY SIZE: 16.64 acres

CURRENT LAND USE: Religious Assembly

PROPOSED LAND USE: Expansion of the Religious Assembly Use.

LOCATION: The site is located at 9621 Six Forks Road, Raleigh, along the western side directly north of 540 and contains approximately 16 acres

Testimony and Evidence Presented

Documentary Evidence Accepted into Record

Staff report, PowerPoint presentation, Site Plan map, Ortho Map, Zoning Map, video, and relevant sections of the Unified Development Ordinance were shown and/or available.

Testimony

Mr. Parks stated the petitioner's name, zoning classification, background and history of the petition. He provided a PowerPoint presentation along with the following details concerning zoning requirements pertaining to the property.

Background

The site is the current location of the Fountain of Raleigh Church. The use was established through the Special Use Permit process which was granted in December 2003. The church was constructed in 2005 and consisted of a 15,500 square foot structure. The applicant is now proposing to expand the church by providing a new fellowship hall, office spaces, restrooms, and a new entryway/foyer. These improvements will total in expansion of the facility of 7,693 square feet.

Notification letters to adjoining property owners were mailed on October 31, 2018. A public hearing placard was placed on the site on November 1, 2018.

Mr. McConkey confirmed with Mr. Parks that this was a use that was established with a special use permit December 2003, constructed in 2005 and now we are just talking about the expansion of which requires a special use permit.

Ms. Vodicka asked for more details regarding bio retention pond. Mr. Parks referenced the proposed bio retention on the proposed site plan explaining it is required because of the proposed impervious area. He explained this will require the applicant to submit a commercial site plan which will be reviewed by Planning and Environmental Services. There being no further questions, Mr. McConkey opened the floor for the Board to hear from the petitioner.

Sworn Witnesses in Favor of the Petition –

1. Mr. Thomas Wells, Architect
2. Pastor Paul L. Anderson, Registered Agent, The Fountain of Raleigh, Inc.
3. Mr. Ed Loeffler, The Curry Engineering Group
4. Mr. Neil Gustafson, Appraiser, Worthy & Wachtel, Inc
5. Mack Paul, Attorney, Morningstar Law Group

Mr. Paul spoke on behalf of the petitioner about the special circumstances surrounding the proposed expansion and renovations that are needed due to growth.

Mr. Tom Wells explained the proposed modifications on the existing worship area. He stated that there would be an increase in the number of parking spaces from 142 to 197 that would be harmonious with the area and not injurious to the neighbors or public safety.

Mr. Loeffler spoke in support of the parking area. He stated the plan is to design parking that has good traffic flow. The plan will also deal with the site drainage that will go into the bio retention to meet all the state and county requirements. Mr. Loeffler confirmed they normally do install fences around the bio retention area to ensure safety.

Mr. Gustafson commented that the development would have no negative impact on adjoining properties. The Board accepted a written report from Mr. Gustafson dated November 12, 2018 into the record as evidence.

There was no one else who wished to speak in favor of or in opposition to the request. Mr. McConkey closed the evidentiary/public hearing.

FINDINGS OF FACT

1. The proposed development will not materially endanger the public health or safety.

Considerations:

- Traffic conditions in the vicinity, including the effect of additional traffic on streets, street intersections, and sight lines at street intersection and curb cuts.
- Provision of services and utilities, including sewer, water, electrical, garbage collections, fire protection.
- Soil erosion and sedimentation.
- Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

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.

Considerations:

- The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.
- Whether the proposed development is necessary to the public health, safety, and general welfare of the community or County as a whole as to justify it regardless of its impact on the value of adjoining property.

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

Considerations:

- The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

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

Considerations:

- Consistency with the Plan's objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its locational standards.
- Consistency with the municipal and joint land use plans incorporated in the Plan.

Mr. McConkey suggested that the members address each of the five findings of fact.

Mr. Mial stated it is clear that it would increase and support public health safety by it being a church of worship. Regarding the considerations, it would be a great improvement and benefit to the community. Ms. Vodicka also stated her only concern was related to the bio retention which was answered satisfactorily.

Mr. McConkey stated from the staff report and supporting documentation, it appears all the requirements were met.

Mr. Mial agreed and further stated due to the length of the church at that location it would only be an improvement to the community. Mr. McConkey stated based on the expert testimony of Mr. Gustafson, including his letter which was accepted into evidence, makes that conclusion as well based on his analysis.

Mr. McConkey stated based on the expert testimony of Mr. Gustafson and Mr. Well's testimony makes that same conclusion.

Ms. Vodicka commented that based on the staff report, the use is consistent with the Wake County Land Use Plan and UDO.

There being no further discussions on the finding of facts, Mr. McConkey asked for a motion.

Mr. Mial made a motion to grant: In the matter of PLG- SU-000929-2018, I move 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 the special use permit be granted with the recommended staff conditions as follows:

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,

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

Staff Conditions:

- The petitioner must record the notarized form pertaining to the Order of the Board in the Wake County Register of Deeds and return a copy to the Current Planning Section of Wake County Planning;
- The petitioner must obtain and complete appropriate building permits from the Wake County Inspections Development/Plans/Permits Division;
- The petitioner must obtain Stormwater Management approval from Wake County Environmental Services;
- An as-built survey is required prior to the certificate of completion by the Wake County Planning, Development, and Inspections Division of Community Services;
- A final zoning inspection to verify site plan compliance must be performed by the Wake County Zoning Administrator prior to the issuance of a certificate of completion by the Wake County Planning, Development, and Inspections Division of Community Services;
- The landowner must maintain compliance with the special use approval and Wake County Unified Development Ordinance.

The motion was seconded by Ms. Vodicka. The special use permit was granted with a unanimous vote (5-0).

6. Planning, Development & Inspections Report

Mr. Finn welcomed Ms. Humphries and stated that the application and site plans reviewed today represents a milestone for processing applications online as they were the first to be received and go through the new permitting system. Additionally, given Board interest with bio-retention facilities, he shared an overview of the construction plan review process and how the staff works with Environmental Services. It was noted that process concludes with a professional engineer review and sign off.

7. Other Business - None

Mr. McConkey adjourned the meeting at 9:42 a.m.

=====

REGULAR MEETING
WAKE COUNTY BOARD OF ADJUSTMENT
November 13, 2018

All petitions complete, Brenton McConkey declared the regular meeting
of the Wake County Board of Adjustment for
Tuesday, November 13, 2018 adjourned at 9:42 a.m.

Respectfully Submitted:

A handwritten signature in black ink, appearing to read 'Brenton McConkey', with a long horizontal flourish extending to the right.

Brenton McConkey
Wake County Board of Adjustment

=====