



TOWN *of* WAKE FOREST

Board of Adjustment Meeting Agenda November 16, 2023 at 6:00 PM

Notice

In accordance with the requirements of Title II of the Americans with Disability Act of 1990 (ADA), the Town of Wake Forest will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. For individuals with impaired hearing, special equipment is available for use during meetings in the Town Hall Board Chambers. Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of the Town of Wake Forest should contact the office of ADA Coordinator [Mickey Rochelle](#) at 919-435-9455 or Town Clerk [Terry Savary](#) at 919-435-9432 as soon as possible, but no later than 48 hours before the scheduled event.

Public Hearing

Those wishing to speak must first register to speak no later than 3pm the day of the meeting at <https://www.wakeforestnc.gov/public-meetings-portal>.

At the appropriate time, the Board of Adjustment Chair will acknowledge those persons who have registered to speak. They will be called upon in the order registered. Speakers will address the Board as a whole, from the podium at the front of the room, and begin their remarks by stating their name and address. While not required, the Chair may ask staff or the applicant to respond. Speakers needing additional information or questions answered will be contacted by the Deputy Town Clerk and provided contact information for the appropriate staff person.

Unless otherwise indicated by the Chair, individual comments shall be limited to three minutes. Groups are encouraged to designate a lead speaker on their behalf, and when addressing the Board, the speaker must first identify the group they are representing and will be given no more than ten minutes to give comments. Once comments have been made, speakers cannot speak again, unless specifically called upon by the Chair. The Chair may, at his/her discretion, interrupt public comment and elect to continue it to another meeting due to, among other reasons, the lateness of the hour or to allow consideration of other items on the agenda.

When public hearings are continued from previous meetings, previous individuals that have spoken, either representing themselves or a group, cannot speak at a continued public hearing, unless specifically called upon by the Chair. Additionally, speakers cannot both represent themselves individually and speak on behalf of a group throughout public hearings, even if held over multiple sessions.

1.Call to Order

2.Adoption of Agenda

3.Approval of Minutes

- 3.A. September 21, 2023 Minutes
[BOA minutes 9-21-2023.pdf](#)

4.Old Business

5.New Business

- 5.A. 2024 Board of Adjustment Meeting Schedule
[2024 BOA MeetingSchedule.pdf](#)
- 5.B. Vote on Chair and Vice-Chair

6.Staff Comments

7.Board of Adjustment Comments

8.Adjournment



Board of Adjustment Agenda Item Report

Agenda Item No.: 2023-319-

Submitted by: Ella Dowtin

Submitting Department: Planning

Meeting Date: November 16, 2023

SUBJECT

September 21, 2023 Minutes

Recommendation:

Item Summary:

ATTACHMENTS

- [BOA minutes 9-21-2023.pdf](#)



Wake Forest Board of Adjustment Minutes

The Wake Forest Board of Adjustments met on **Thursday, September 21, 2023**, at **6:00 p.m.** in the Board Room at Wake Forest Town Hall, 301 S Brooks Street.

Board of Adjustments Members present: Jonathan Bivens, William Hedrick, Ken Christie, Rick Porter, and Mark Williams

Board of Adjustments Members absent: Bryan Lange

Staff Members present: Planning Director Courtney Tanner, Assistant Planning Director Jennifer Currin, Attorney Hassan Kingsberry, and Deputy Town Clerk Ella Downtin

1. Call to Order

Chair Hedrick called the meeting to order at 6:00 p.m.
A quorum was established.

2. Adoption of Agenda

ACTION:

Mover: Ken Christie moved to adopt the agenda as presented.

Second: Jonathan Bivens.

Vote: Motion carried 5-0.

3. Approval of Minutes

ACTION:

Mover: Jonathan Bivens moved to approve the July 20, 2023; minutes as presented.

Second: Rick Porter.

Vote: Motion carried 5-0.

4. Old Business

4.A. Consideration of an Appeal of an Administrative Decision related to the issuance of two

Notices of Violation (V-23-91 and V-23-240) at 1149 N Main St

Planning Director Courtney Tanner provided the staff report for case BOA-23-02, an appeal of two violations that were issued by the Planning Board for the non-permitted use at a site and a non-permitted accessory structure. The Planning Director received an email from the applicant's daughter who is the owner of the beekeeping business; they would like to table this item until February 2024 as they get their site into compliance. They have applied with the Wake County tax office to get the tax exemption and they are only processed annually. There are two options the board can grant the request and continue tabling the items; the landowners are aware if the County does not approve the request and the BOA denies the appeal that they will be fined \$100 per day and it would be retroactive or they could remove the bee activity and the non-permitted storage shed until they receive the exemption from County and that time they could reinstall the bees.

Frank and Kennedy Boman landowners were sworn in by Attorney Kingsberry and presented the appeal to the Board.

Frank Boman gave an overview of why they would like to table the appeal case BOA-23-02.

Planning Director Courtney Tanner was sworn in by Attorney Hassan Kingsberry.

Planning Director Tanner explained what a farm is, and the landowners have not met the law of a farm and are not in accordance with state statute; they are trying to fix the issue.

William Hedrick asked if the Town has any objection to continuing the case.

Ms. Tanner responded that the Town has no objection to the case being tabled if the landowners comply within the stop-work order that is in place and do not produce honey on the site.

Ken Christie asked if the applicant had abided by the stop-work order.

Ms. Tanner responded that they had not abided by the first stop-work order; the applicant continued to work on the site; a second stop-work order was posted, and no additional work was done on the site.

Mr. Christie asked if the applicant was abiding by the stop-work orders. Mr. Boman responded that they did work in September 2022 and then they stopped.

Mr. Hedrick asked if it the applicant intent to stop working on the farm. Mr. Boman responded yes, but it was necessary to feed the bees over the winter.

Ken Christie asked if the second stop-work order was up and if the applicant was abiding by the order. Mr. Boman responded yes, it is up and no additional work has been done.

ACTION:

Mover: Mark Williams moved that Notices of Violation (V-23-91 and V-23-240) be tabled until February 2024.

Seconded: Rick Porter.

Vote: Motion carried 4-0.

Aye

Mark Williams

Rick Porter

William Hedrick

Jonathan Bivens

Nay

Ken Christie

5. New Business

5.A. Consideration of an Appeal of an Administrative Decision related to the issuance of the Planning Director's June 30, 2023 wall sign interpretation for the property located at 1839 S Main St., being Wake County PIN 1840012345.

Assistant Planning Director Jennifer Currin was sworn in by Attorney Hassan Kingsberry.

Assistant Planning Director Currin provided the staff report for case BOA-23-03, Consideration of an Appeal of an Administrative Decision Planning Director's wall sign interpretation. Ms. Currin provided the UDO definitions and intents.

UDO Chapter 17 provides the following definitions: Awning/Canopy Sign - Signs integrated into traditional storefront awnings that project over a sidewalk from the building façade. Wall Sign - Flat signs or lettering which are painted or attached to the wall of a building or structure.

Ken Christie asked if the application to challenge the decision the sign is not a wall sign by the UDO's definition. Ms. Currin responded correct.

Mark Williams asked if it that mainly because that type of sign cannot have an awning or canopy. Ms. Currin responded that the definitions in chapter 17 specify that awning canopy signs are integrated into the storefront which the building currently has, and wall signs are attached to the building wall or a structured wall. The proposed sign is attached projecting a traditional storefront awning or canopy and not the wall and therefore it's an awning canopy and not a wall sign.

Jonathan Bivens asked if it was because of the size of the signs one being allowed to be larger than the other. Ms. Currin responded yes that is correct according to the ordinance.

Mr. Christie asked if the applicant did not accept the options presented by the Planning Department. Ms. Currin responded yes that is correct they chose not to pursue any permit for the main entrance wall however, they could have pursued a wall sign permit.

Mr. Bivens asked if it is just for a single sign or the main entrance. Ms. Currin responded that it is just for a single sign.

Samuel Morris of Longleaf Law Partners was sworn in by Attorney Kingsberry.

Samuel Morris presented on behalf of the property owner The Macsydney Company II, LLC and Physlether II, LLC with the appeal that the sign is an awning/canopy sign instead of a wall sign.

Nick Mayo ASI Signage was sworn in by Attorney Kingsberry.

Nick Mayo ASI Signage gave an overview of his knowledge as a sign expert.

Ken Christie asked if the sign that they would like to put up had been evaluated it in case of high wind conditions given the height and mounting of the sign. Mr. Mayo

responded yes. If there are any questions Mr. Mayo will have the structure engineer to sign off on any structural drawing for approval.

Mark Williams asked if there were any alternatives on the columns or another structural element to add between the columns. Mr. Mayo responded that it was looked at and proposed that the age of the brick and mortar was looked at and determined that the integrity of the brick was unsafe. The above sign was safer for the sign than the brick.

Mr. Williams asked for the argument that it is a wall sign versus it being an awning/canopy. Mr. Morris responded that it comes from the definition of the last part that states whether it is attached to the wall of a building or structure above a flat awning; the interpretation of the last portion where it is stated above an awning. The understanding was that the UDO made those types by including that language. The attorney argued that the final clause thinks that North Carolina has two reasonable arguments or interpretations to err on the side of a less restrictive provision if it is reasonable.

Mr. Christie asked if this is an appeal and not a variance. Ms. Currin responded if the Board was to find that Mr. Morris' interpretation was correct, which means staff was incorrect, this type of signs would be classified as a wall signs. She further stated the definition of a wall sign in Chapter 17 does not talk about placing a sign on a canopy or awning, and the intention of the wall sign description in Chapter 11 was to allow for a sign placed on an awning as well as a wall. But if the Board determines that staff interpreted incorrectly this would apply Townwide.

Public Comment Open.

Robert Pettyjohn was sworn in by Attorney Kingsberry.

Robert Pettyjohn - 3816 Rogers Rd, Wake Forest, NC 27587, spoke on behalf of The Factory appeal.

Public Comments Closed.

Attorney Kingsberry called for Pettyjohn's comment to be disregarded since it was not factual to the case.

ACTION:

Mover: Jonathan Bivens moved that the staff's interpretation was not correct.

Seconder: Mark Williams.

Vote: Motion carried 4-1.

Aye

Nay

Mark Williams

Ken Christie

Rick Porter

William Hedrick

Jonathan Bivens

5.B. Consideration of a Variance submitted by Samuel Morris, Longleaf Law Partners on behalf of The Macsydney Company II, LLC and Physlether II, LLC, for several sections in UDO Chapter 11-Signs for the property located at 1839 S Main St., being Wake County PIN 1840012345.

Assistant Planning Director Jennifer Currin was sworn in by Attorney Hassan Kingsberry.

Assistant Planning Director Currin presented Consideration of a Variance submitted by Samuel Morris, Longleaf Law Partners on behalf of The Macsydney Company II, LLC and Physlether II, LLC, for several sections in UDO Chapter 11-Signs for the property.

Ms. Currin presented variance request #2 requesting that the directional signs be permitted four feet in height according to the UDO section 11.8 *notes that directional signs are limited at three feet in height*. The August 2022 sign permit application did not move forward but was provided for reference.

VARIANCE REQUEST The applicant is requesting relief from Section 11.8, Permanent Signage Standards, of the Wake Forest Unified Development Ordinance (UDO).

Variance Request #1 *Section 11.8 of the UDO specifies that the maximum sign area for Awning/Canopy Signs is 50% of the awning area. The applicant is requesting a variance to allow for an awning/canopy sign to exceed 50% of the awning area, see Exhibit C. The sign would not exceed 37.77 square feet in size. (Note this variance did not move forward due to the vote on item 5A.*

Variance Request #2 *Section 11.8 of the UDO limits the maximum height of Directional Signs to 3 feet. The applicant is requesting a variance to allow for the maximum height of Directional Signs to be 4 feet.*

Variance Request #3 *Section 11.8 of the UDO regulates that the maximum number of Monument Signs (Multiple Non-Residential Building Site) to 1 per street frontage for Option 1.*

Option 1 allows for a monument sign up to 70 square feet in sign area and 12 feet in height.

Option 2 permits 1 monument sign per street frontage and 1 per outparcel. Option 2's Monument Sign could be up to 32 square feet in area and 6 feet in height. The applicant is requesting one primary monument sign and two secondary monument signs. See page 8

"Primary Entrance Monument" and page 9 "Secondary Entry Monument" of Exhibit A.

FINDINGS REQUIRED TO GRANT VARIANCE In granting any variance, the Board of Adjustment must have a concurring vote of four-fifths of its members in accordance with Section 15.13.3 of the Wake Forest Unified Development Ordinance and N.C.G.S. § 160D-406. The Board shall not grant a variance unless and until written findings are made based on all the following conclusions and findings of fact in Section 15.13.3.B of the UDO.

The first finding of fact Carrying out the strict letter of the ordinance would result in an unnecessary hardship. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

The finding of fact #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.

The finding of fact #3 The hardship did not result from actions taken by the applicant of the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

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

Ken Christe asked for the location of the directional signs. Ms. Currin responded that the location is not in question tonight, just the height of the signs that are being requested for the variance.

Jonathan Bivens asked where they are requesting to place the monument sign. Ms. Currin responded that they did not include the location with the application, however they would like to put it at the corner of South Main Street.

Samuel Morris of Longleaf Law Partners was sworn in by Attorney Kingsberry.

Samuel Morris of Longleaf Law Partners present on behalf of property owners The Macsydney Company II, LLC and Physlether II, LLC.

Nick Mayo ASI Signage was sworn in by Attorney Kingsberry.

Nick Mayo ASI Signage professional gave an overview of directional signs, monuments, and their safety.

Public Comment Open.

Public Comment

Antione Bryant – Factory Tenant was sworn in by Attorney Kingsberry.

Antione Bryant – Factory Tenant - 1839 S Main St, Wake Forest, NC 27587 – for the new signage.

Emma Bennett – Factory Tenant was sworn in by Attorney Kingsberry.

Emma Bennett – Factory Manager - 1839 S Main St, Wake Forest, NC 27587 – for the new signage.

Planning Board Called for a five-minute recess at 8:10 p.m.
Meeting reconvened at 8:15 p.m.

Jack Drahus – Factory Tenant was sworn in by Attorney Kingsberry.

Jack Drahus – Factory Tenant - 1839 S Main St, Wake Forest, NC 27587 – for the new signage.

Robert Pettyjohn – Citizen was sworn in by Attorney Kingsberry.

Robert Pettyjohn – Citizen – 3816 Rogers Rd, Wake Forest, NC 27587 – for the new signage.

Public Comments Closed.

Discussion

The Board had an open discussion in reference to the Finding of Facts one, two, three, and four along with the variances, safety, and height of the signs, and hardships of the property.

ACTION:

Mover: Rick Porter moved to deny Variance #2, Specifically, the Board found the applicant did not demonstrate:

Finding #1: An unnecessary hardship.

Finding #2: A hardship would result due to conditions that are peculiar to the property.

Finding #3: A hardship under finding #1; therefore, an additional height requested would be as a result of action taken by the property owner.

Finding #4: A hardship therefore it is not possible for the request to be consistent with the spirit, purpose, and intent of this ordinance.

Second: Jonathan Bivens.

Vote: Motion carried 4-1.

Aye

Nay

Rick Porter

Mark Williams

Ken Christie

William Hedrick

Jonathan Bivens

Mover: Jonathan Bivens moved to approve Variance #3 for the monument sign of the sign type B based upon the four Findings of Fact.

Second: Mark Williams.

Vote: Motion carried 4-1.

Aye

Nay

Rick Porter

William Hedrick

Ken Christie

Mark Williams

Jonathan Bivens

6. Staff Comments

6. A. No staff comments.

7. Board of Adjustments Comments

No board comments.

8. Adjournment

ACTION:

Chair Hedrick moved to adjourn at 9:15 p.m.

Duly approved in open session this 16th day of November 2023.

Ella F. Dowtin
Deputy Town Clerk

William Hedrick
Board of Adjustments Chair



Board of Adjustment Agenda Item Report

Agenda Item No.: 2023-311-

Submitted by: Ella Dowtin

Submitting Department: Administration

Meeting Date: November 16, 2023

SUBJECT

2024 Board of Adjustment Meeting Schedule

Recommendation:

2024 Board of Adjustment Meeting Schedule

Item Summary:

ATTACHMENTS

- [2024 BOA MeetingSchedule.pdf](#)

**TOWN OF WAKE FOREST
BOARD OF ADJUSTMENT
2024 MEETING SCHEDULE**

Meetings are held on the 3rd Thursday of the month “as needed” at 6:00 p.m. in the Wake Forest Town Hall Board Room, 301 S. Brooks St., unless otherwise noted.

Held meetings to be published as a “Special Called Meeting”.

MONTH	MEETING DATE
January	January 18, 2024
February	February 15, 2024
March	March 21, 2024
April	April 18, 2024
May	May 16, 2024
June	June 20, 2024
July	July 18, 2024
August	August 15, 2024
September	September 19, 2024
October	October 17, 2024
November	November 21, 2024
December	December 19, 2024

Adopted by the Board of Adjustment on November 16, 2023, while in session.



Board of Adjustment Agenda Item Report

Agenda Item No.: 2023-312-

Submitted by: Ella Dowtin

Submitting Department: Administration

Meeting Date: November 16, 2023

SUBJECT

Vote on Chair and Vice-Chair

Recommendation:

Item Summary:

ATTACHMENTS

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