



**CITY OF SOUTHPORT
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
113 W. MOORE STREET
February 25, 2025
4:30 PM**

Members Present: Pete Haislip, Jason Robbins, Chris Eckert, John Allen, Harley Lemons, Tuck Masker, Rodney Ross, Steve Doshier (Alternate)

Staff Present: Maureen Meehan, Planning Services Director
Tori Deviney, Deputy Clerk
Ray DiGuiseppe, Board Attorney

- A. Chair Haislip called the Meeting to order at 4:30 PM.
- B. Chair Haislip led the Pledge of Allegiance.
- C. Chair Haislip provided an overview of the quasi-judicial process for the public.

When asked if there were any conflicts of interest, Mr. Lemons disclosed that he is friends with the applicant for 406 West Brunswick Street, Mr. Howard. He mentioned that they regularly have coffee together.

D. Approval of Minutes

- 1. January 28, 2025 Board of Adjustment Minutes
Mr. Robbins made a motion to postpone the January 28, 2025 minute approval to the next meeting, which was seconded by Mr. Allen. Mr. Lemons and Mr. Masker opposed. **Motion passes 4-2**

E. Closed Session NCGS 143-318.11

- 1. Motion to go into closed session pursuant to NCGS 143-318.11

(3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.

A Motion to go into Closed Session was provided by Mr. Robbins and seconded by Mr. Allen. *All in favor, motion passed.*

Closed Session Begins: 4:04 PM

2. Motion to close the Closed Session and re-enter the Regular Session.

A motion to come out of Closed Session was provided by Mr. Robbins and seconded by Mr. Allen. *All in factor, motion passed.*

End Closed Session: 5:06 PM

F. Old Business

1. 406 Brunswick St Floodplain Appeal Continuance [Maureen Meehan]

Mr. Coggins, the Lawyer representing the applicant, introduced several exhibits into evidence. These included an additional staff report, a designation letter from the State Historic Preservation Commission affirming that the addition did not alter the structure's historic status and various ordinances, reference manuals, and federal regulations regarding substantial improvements and floodplain management. He emphasized that the designation letter confirmed the property's continued historic status, thus exempting it from the 50% rule.

Mr. Coggins also addressed concerns from the prior meeting regarding potential negative impacts on the city's CRS rating and flood insurance rates, citing federal regulations that state a variance alone does not impact rates. He introduced further evidence to support this claim, highlighting federal regulations and local ordinances that provide exemptions for specific types of improvements.

He clarified that the work performed at 406 Brunswick Street did not modify the original house but only removed and replaced an existing structure in the rear. He felt this was a crucial point, as local ordinances specify that if an addition is not structurally connected to the original structure and complies with floodplain requirements, the original structure is not required to meet new construction standards.

To support this argument, he called Mr. Donnie Price, the foundation contractor, as a witness.

Mr. Donnie Price was sworn in. Donnie Price - 189 Harper Lake Dr, Southport NC 28461

Mr. Price testified that he was responsible for the foundation work of the addition and confirmed that the original structure and the new addition were not structurally connected. He stated that no modifications were made to the load-bearing walls of the original house, and the foundation was built separately from the existing structure with a minimal connection through a doorway.

Mr. Eckert asked Mr. Price about his work, inquiring whether the foundation was built

according to plan and whether any additional modifications were made. Mr. Price confirmed that while extra rebar and structural reinforcements were included beyond standard requirements per the request of the Building Inspector, these enhancements were in line with standard building practices. He also stated that the foundation did not physically connect to the original structure, with a cavity between the two.

Board members also asked whether hurricane tie-downs were part of the original design. Mr. Price affirmed that these were included in the standard construction, as anchor bolts are commonly used for stability.

The discussion concluded with further verification of Mr. Price's testimony and clarification of construction details. The Board accepted the presented evidence, with objections noted on specific documents.

Mr. Faircloth, the general contractor, was sworn in. Pat Faircloth - 222 Faircloth Dr Chadburn NC

The hearing continued with Mr. Coggins questioning Mr. Faircloth about the structural aspects of the project at 406 Brunswick Street. Mr. Coggins asked if Mr. Faircloth disagreed with anything in the previous testimony, to which he responded that he generally agreed but noted that additional footings were required beyond the original plans, per the Building Inspector. Specifically, two additional footers were added across the slab with steel reinforcement, and alterations extended through to the second floor, modifications that were not originally included in the plans.

Chair Haislip acknowledged that engineers had addressed these structural changes. Mr. Faircloth confirmed that these additions were mandated by the Building Inspector and were necessary for the project to pass inspections.

Mr. Coggins clarified that there were no alterations to the load-bearing structure of the front building. Mr. Faircloth explained that the roof system was a truss structure that butted up against the flat back wall of the original house but did not place any load on the original structure. The load-bearing components were on the exterior walls of the addition, and the only connection between the original house and the addition was the existing doorway.

Mr. Robbins asked about the scope of Mr. Faircloth's work, which he confirmed included framing and trim work, as well as overseeing construction from the foundation up. When asked if he had taken pictures, Mr. Faircloth admitted he had not, as it was not common practice for him.

Mr. Ross inquired about the roof connection, to which Mr. Faircloth responded that the roof was a separate metal structure that butted against the original house with a piece of flashing. He explained that the existing roof sloped in one direction, while the new roof butted up against a taller wall of the original structure. The two roofs were not structurally connected but were sealed with galvanized flashing.

Chair Haislip clarified that while the new structure was attached at the doorway, the trusses merely butted against the existing house, potentially being nailed in place. Mr.

Eckert asked about the foundation modifications and the building permit process. Mr. Faircloth explained that while the project was built according to the engineering plan, the Building Inspector required additional footings and reinforcements, particularly a 24-inch-wide, 10-inch-deep depression with rebar for added support.

When asked if such additional requirements were common, Mr. Faircloth stated that in his decades of experience, this was the first time an inspector had made such modifications despite an engineered and stamped set of plans. He found it unusual that the approved plans did not pass the initial inspection.

Mr. Coggins stated that he had photographs taken by Mr. Howard and asked if Mr. Faircloth could remain available to discuss them. Mr. Faircloth agreed to stay for further review. The discussion ended with confirmation that Mr. Faircloth's testimony was complete for the moment.

Mr. Robert Howard is sworn in.

Mr. Coggins called Mr. Howard to testify and confirm whether he agreed with the testimony of Mr. Faircloth. Mr. Howard affirmed that he had no disagreements. Mr. Coggins then asked if Mr. Howard had found any photographs taken during the construction process. Mr. Howard confirmed that he had taken photographs while the project was underway. These photographs included images of the portion of the structure that was torn down and images showing the original house after that portion had been removed.

The photographs were passed around for review. They depicted the back original wall of the house still intact while showing the foundation work of the new addition. Additional photographs illustrated the construction of the addition, highlighting that it was structurally independent from the original residence. Some images also depicted the plumbing and concrete foundation work.

Mr. Coggins referenced prior testimony regarding additional work required for the concrete foundation. Mr. Howard confirmed that the photographs accurately represented the foundation as it was being built, showing the independent framing of the addition and its separation from the original house. He also confirmed that the addition was built to comply with the three-foot freeboard requirement.

Mr. Ross inquired about whether the addition was structurally connected to the original building. Mr. Howard affirmed that the two structures were not structurally connected and that no new structural elements were placed on the common wall. Mr. Coggins asked if the addition complied with the required floodplain elevation, to which Mr. Howard responded that it did. He also confirmed that the addition was built on a part of the property that sloped uphill, which had implications for floodplain compliance.

Ms. Meehan was then questioned about the interpretation of city regulations. A Board member asked for clarification regarding ordinance section 5.20(E)(2), which dictates that if there was no modification to the existing structure, then the new addition was compliant. Ms. Meehan agreed, confirming that the addition, in itself, met compliance requirements. She added that the project was originally planned to remain under the

substantial improvement threshold, meaning it did not have to meet new construction standards. However, she clarified that the applicants chose to proceed under the substantial improvement pathway rather than seek exemption as a Historic Structure.

Mr. Robbins asked if a determination had been made regarding the common door exemption. Ms. Meehan responded that the former floodplain administrator had consulted with the state's NFIP planner, Eryn Futral, and the Building Inspector, who agreed that there had been modifications beyond a standard door on the common wall.

Further discussion focused on whether the structure qualified for exemption under the common door provision. Mr. Robbins questioned what aspect of the door made it non-standard. Ms. Meehan acknowledged uncertainty regarding whether the issue was related to size or material, noting that the definition of a "standard door" was unclear.

Mr. Coggins asked Ms. Meehan if she objected to or disagreed with the State Historic Preservation Office's designation that 406 West Brunswick remained a historic and contributing structure. She confirmed that she did not object. He then asked if any part of her previous testimony needed to be amended or clarified, to which she responded no.

Mr. Coggins inquired whether the addition complied with City Planning Board requirements. Ms. Meehan confirmed that as built to plan, the addition met compliance. She was unsure if it met floodplain requirements but stated that it was not required to because the project aimed to remain under the 50% substantial improvement threshold. Mr. Coggins pressed further, and Ms. Meehan acknowledged that the addition was, in fact, above the 14-foot elevation requirement, meeting and exceeding freeboard prerequisites.

Mr. Coggins asked if Ms. Meehan was aware of any work done on the original structure. She responded that she was not aware of any modifications. He then confirmed with her that the original structure was a pre-firm structure, meaning it existed before current floodplain regulations, and that no modifications were made to it.

The discussion then shifted to foundation changes. Mr. Coggins asked Ms. Meehan if she was aware of the rebar additions required by the City. She stated that she did not know why those changes were mandated. She found it difficult to believe that a Building Inspector would impose additional requirements without justification. While she acknowledged that there was likely a reason for the additional structural reinforcement, she could not confirm its necessity.

Mr. Coggins presented a document concerning historic building exemptions under pre-board prerequisites. He directed Ms. Meehan to a section stating that historic structures allowed by exemption for substantial improvement may be exempt from pre-board prerequisites. She confirmed that the statement was accurate and that the City's ordinance requires a variance to be considered for such an exemption.

Ms. Meehan confirmed that Southport received its current CRS rating in 2023 and that the city currently holds a Class 7 rating. The rating was determined by community grading system coordinators who reviewed the 2017 CRS manual and its 2021 supplemental update. She estimated that more than ten but fewer than one hundred floodplain

development permits had been issued since the last CRS review and confirmed that all required compliance with freeboard regulations.

Mr. Herman revisited prior communications with the state's NFIP representative regarding the common door exemption. He asked Ms. Meehan to read an email exchange from April 2023 in which the City of Southport Floodplain Administrator, Travis Henley, sought clarification from the state DEQ. In the email, Mr. Henley noted that the project involved demolishing an entire wing of the building and questioned whether the common door exemption applied. The DEQ representative, Eryn Futral, in response, stated that because the project involved substantial changes, the exemption did not apply and that a variance would be the appropriate pathway.

Mr. Herman highlighted that city staff had taken extensive measures to explore every possible resolution for the property owner. He also confirmed that, per city regulations, the authority to grant a variance belonged to the Board, not the Floodplain Administrator. He pointed out that city ordinances require a properly noticed hearing before a variance could be granted.

Mr. Herman then addressed the argument about excluding certain costs from the substantial improvement calculation. He asked Ms. Meehan if the additional \$8,000 in electrical work would have changed her determination. She responded that it would not have, noting that budget overruns are common and that the City was not responsible for the increased cost. She confirmed that even if the extra costs had been excluded, the project still would have exceeded the 50% threshold.

At this point, Mr. Haislip called for a five-minute break.

When testimony resumed, Mr. Faircloth was called back to confirm whether the original doorway had been changed. He stated that the doorway had not been altered, and the same 30" x 68" solid wood door remained in place. When asked about the email suggesting that the door had been modified, he expressed confusion, affirming that the door and jamb were identical to their original state.

Mr. Howard was then asked to confirm the same information. He reiterated that the same door, same wall, and same structure were in place as they were before construction began. He stated that he did not understand the claim that modifications had been made to the common wall.

Mr. Robbins asked Mr. Faircloth and Mr. Howard if the roof tied into the original structure, even if only by flashing. They confirmed that it did.

Mr. Robbins then asked if the DEQ's determination was possibly based on the fact that a significant portion of the original structure had been removed. Mr. Faircloth clarified that while the demolished section had been connected to the original house, it was essentially a separate structure. Mr. Robbins responded that, functionally, it was considered part of the dwelling.

Mr. Howard maintained that the original 1893 structure had not changed at all. Mr. Robbins acknowledged this point but expressed interest in understanding the DEQ's

rationale for rejecting the common door exemption. He noted that, without the DEQ official present, it was difficult to cross-examine their reasoning.

Mr. Herman mentioned that the information should be available. Mr. Coggins stated that the letter and email from DEQ were assumed to be from a relevant source related to the state. Ms. Meehan confirmed having the document, but it was issued from The Department of Public Safety (DPS). Mr. Robbins requested feedback on the matter. Mr. Faircloth described the structural aspects, particularly a wall with German siding, a doorway, and the load-bearing points of the structure.

Mr. Robbins asked about the siding and how the structural void was closed. Mr. Faircloth explained that OSB sheathing, 5B metal, and a plastic seal were used, emphasizing that no gasket was necessary. Mr. Robbins inquired about potential structural changes, leading to a debate on whether the modification should be considered pre-firm or post-firm. The City's stance was that guidance was sought from Department of Safety (DPS), which determined the addition should not be considered. The Appellant argued that the addition should be recognized.

Mr. Allen referenced section 5.20(E)(2) in the UDO, discussing substantial improvements without modifications. Mr. Haislip confirmed that the property previously consisted of two connected structures. Mr. Howard clarified that the older house was demolished, impacting modification considerations. Mr. Robbins reiterated that the teardown was classified as a modification, influencing the interpretation of the addition. Mr. Coggins asserted that any ambiguity should be interpreted in favor of the property owner.

Mr. Allen referenced the State Historic Preservation Office's (SHPO) letter, stating that the modified structure remained a contributing historic building. Ms. Meehan explained that SHPO provides state-level guidance but does not issue individual reclassifications unless the entire district is reviewed. Mr. Eckert questioned about the State, to which Ms. Meehan responded that the state provides The City with guidance if a structure meets National Register qualifications. Mr. Robbins asked if the structure was still considered historic, to which Ms. Meehan confirmed that it was. Chair Haislip clarified that local procedures rely on state determinations. Mr. Robbins asked if any information indicated the structure no longer met historic criteria, but Ms. Meehan deferred to the state's evaluation.

Mr. Coggins cited federal regulations that delegate preservation responsibilities to State Historic offices. A discussion ensued over whether the state had the authority to determine National Register status. The group debated the limits of federal delegation and whether the state could make final designations.

A legal question was raised regarding whether a variance for floodplain issues must be issued before a building permit is granted. Chair Haislip clarified that this case was an administrative appeal, not a variance request. Mr. Herman acknowledged the variance wording but emphasized that the appeal concerns an administrative decision. Mr. Coggins argued that the floodplain administrator has the authority to determine substantial improvements and exemptions. The discussion included whether floodplain improvement costs should be computed under the 50% threshold. Mr. Robbins questioned whether retrospective variances were permissible. Mr. Herman noted that he had encountered de

facto variances before but not in this context.

Chair Haislip prepared to close the discussion, inviting final questions or comments.

Mr. Masker made a small point, emphasizing that throughout the discussion, many had expressed differing views on the existing structure and whether any modifications had been made. From his perspective, as someone who looks at drawings and construction plans, he noted that the drawings clearly indicated that the doorway was to remain unchanged, as there was a label instructing to "preserve existing opening." However, he pointed out that a separate instruction on the same drawings stated, "remove window and close opening," which applied to the old structure. This indicated that a modification had indeed been made to the original building. While it was not visible from the street, a change had still occurred. His clarification was meant to establish that, contrary to some claims, there had been an alteration to the original structure.

Mr. Coggins responded by stating that even if that modification had been made, it did not physically connect the original structure to anything else. Mr. Masker reiterated that his point was simply to clarify that a modification had occurred. Chair Haislip opened the floor for questions and comments, and Mr. Faircloth explained that the only work done involved closing off the opening on the new addition, rather than changing the old part of the house itself. There was further discussion about whether the window removal constituted a true modification to the original structure. Mr. Faircloth stated that on the new side of the construction, they had built a wall that effectively covered the opening, but no changes had been made to the original house. A bookcase had been placed where the window once was, but he was uncertain whether any glass had actually been removed.

Mr. Robbins acknowledged that the project may have qualified for a historic structure variance under the UDO and suggested that the Board should further consider this possibility. He stated that if such a variance application were properly submitted and approved, it would render the administrative decision moot, thereby resolving the appeal in favor of the applicant. A discussion followed about the appropriate process for pursuing such a variance. Mr. Robbins proposed keeping the current appeal hearing in abeyance to allow the applicant to submit the necessary variance request.

Mr. Coggins referred to a previous discussion about whether a variance could be applied retroactively and reiterated that there had been no conclusive argument against doing so. Mr. DiGuseppe expressed his opinion that the Board of Adjustment would need to grant a variance under section 5.18(c)(1) in the UDO, as he believed a variance was necessary to address the substantial improvement issue. He acknowledged that, while he had not personally encountered a case where a variance was granted after the fact, he noted that the applicant had initially submitted a variance application but later withdrew it, believing another path would resolve their compliance issues. Now that new information had surfaced, a variance application might be the appropriate course of action. If the historic designation remained valid, then a variance would allow them to bypass the substantial improvement issue altogether.

Mr. Coggins questioned whether a variance was truly necessary, pointing out that the appeal also raised concerns about the calculation of the 50% rule and whether the two structures were actually connected. He argued that if the Board ruled in favor of the

Appellant on those two issues, the variance would not be necessary. Mr. DiGuiseppe acknowledged that these were separate and independent grounds for the appeal. If the Board determined that the improvement costs did not exceed 50% or that the structures were not connected, then the appeal could be resolved without a variance. Mr. Coggins insisted that their position on these points had been substantiated and should be considered independently of the variance question.

A debate followed regarding the factual basis for determining compliance with the 50% rule. Mr. Robbins pointed out that the Board currently had no independent verification of expenses aside from a spreadsheet prepared by the Appellant. While he did not question the Appellant's honesty, he felt that additional documentation, such as receipts or bank statements, would provide greater clarity. Mr. Eckert questioned whether any ordinance required such documentation and suggested that the Board could not impose new requirements retroactively. Mr. Robbins responded that, while there was no explicit requirement, additional verification would strengthen the case.

The discussion turned to whether the Board could move forward with a motion on the financial aspects of the appeal. Chair Haislip asked if any motions were being made.

Mr. Eckert made a motion that they didn't make/go beyond the 50% rule given that there were other expenses that were unanticipated and unexpected that were forced on their hand. Chair Haislip asked for a second, which was provided by Mr. Lemons.

The motion was put to a vote.

Yay - Mr. Eckert
Yay - Mr. Lemons
Nay - Mr. Robbins
Nay - Mr. Allen
Nay - Mr. Masker
Nay - Mr. Ross

Motion Failed 4-2.

A second motion was again provided by Mr. Eckert, To reverse the staff's decision of the going over the 50% threshold due on the basis of the evidence shown that cost that shouldn't be included and costs that weren't approved with the building permit, which was again seconded by Mr. Lemons.

The motion was put to a vote.

Yay - Mr. Eckert
Yay - Mr. Lemons
Yay - Mr. Masker
Nay - Mr. Robbins
Nay - Mr. Allen
Nay - Mr. Ross

With the vote tied, Chair Haislip cast the deciding "Yay" vote. **Motion passes 4-3.**

G. Other Business

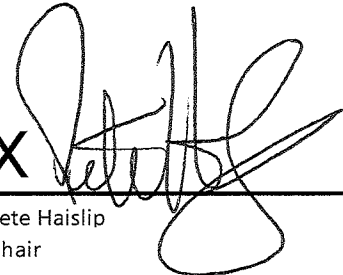
1. Training Procedures and Policies

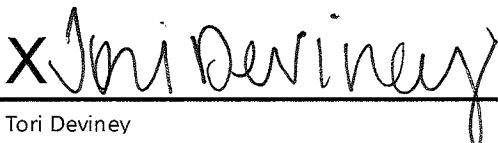
A motion to postpone the Training Procedures and Policies was made by Mr. Robbins and Seconded by Mr. Allen. *All in favor, motion passed.*

H. Adjourn

A motion to adjourn the meeting was made by Mr. Robbins and seconded by Mr. Allen. All in favor, motion passed.

Meeting adjourned at 6:45 PM

X 
Pete Haislip
Chair

X 
Tori Deviney
Deputy City Clerk

