



CITY OF SOUTHPORT
ZONING BOARD OF ADJUSTMENT REGULAR MEETING
113 W. MOORE STREET
April 22, 2025
4:30 PM
Minutes

Members Present:

Chair Pete Haislip
Vice Chair Jason Robbins
Tuck Masker
Harley Lemons
Rodney Ross
John Allen
Steve Doshier-Alternate Member

Members Absent:

Chris Eckert

Staff Present:

Maureen Meehan, Planning Services Director
Wendell Biddle, City Planner
Tori Deviney, Deputy City Clerk

A. Call to Order

Chair Haislip called the meeting to order at 4:30 PM.

B. Pledge of Allegiance

Chair Haislip led everyone in the Pledge of Allegiance.

C. Approval of Agenda

Chair Haislip asked for a motion to approve the agenda, which was given by Mr. Allen and seconded by Mr. Robbins. Unanimous vote, motion carried.

D. Approval of Minutes

1. March 25, 2025 Board of Adjustment Meeting Minutes

Chair Haislip asked for a motion to approve the March 25, 2025 Board of Adjustment meeting minutes, which was given by Mr. Allen and seconded by Mr. Robbins. Unanimous vote, motion carried.

E. Explanation of Quasi-Judicial Process

Chair Haislip explained the quasi-judicial process.

No members had any conflicts with the cases being presented.

F. New Business

1. **SUP-25-02: Special Use Permit Application for 204 North Rhett Street – Wendell**

Biddle

Mr. Biddle introduced the case as a request by applicant Eric Gibbel on behalf of property owner August Adams for a special use permit to construct an accessory dwelling unit (ADU) above a detached garage at 204 N. Rhett Street. The parcel is zoned R-10 and measures 0.27 acres. Adjacent properties are also zoned R-10 and contain single-family residences.

Mr. Biddle provided an overview of the site and proposed improvements. The project includes a detached garage with a 464 sq. ft. ADU on the second level and a carport adjacent to the structure. He confirmed the proposed layout meets side and rear setback requirements and complies with the specific use standards outlined in Section 3.6.C of the Unified Development Ordinance (UDO). These include provisions for owner-occupancy, shared driveway access, off-street parking, and size limitations (ADUs must not exceed 800 sq. ft.). The proposed ADU would share the existing driveway, meet parking requirements via the driveway and carport, and comply with the 800 sq. ft. maximum.

Mr. Biddle clarified that the ADU would face Rhett Street and provided elevation drawings and the site plan for reference. He stated that the application was complete and met all applicable standards.

Mr. Masker asked for clarification on a dashed line visible on the site plan. Mr. Biddle explained it reflected a prior lot configuration from an old survey and no longer existed. Mr. Masker also asked whether the exterior stairs infringed on setback requirements; Mr. Biddle confirmed they did not.

Mr. Barry Almon, of 212 North Rhett Street, was sworn in and addressed the Board. Chair Haislip initially believed Mr. Almon to be the applicant, but upon clarification, learned he was a neighboring property owner with a general question. Mr. Almon inquired whether the proposed accessory dwelling unit (ADU) could be taller than the principal residence on the property.

Mr. Biddle initially responded "no," but then clarified after further discussion with Mr. Allen that an ADU could in fact be taller than the principal structure, provided it did not exceed the maximum allowable height of 30 feet. Mr. Allen explained that a one-story home could be, for example, 20 feet tall, while an ADU on the same lot could be built up to 30 feet in height, resulting in the ADU being taller than the main house.

Mr. Biddle confirmed this was correct and explained that his initial response had been based on requirements from a prior jurisdiction and not Southport's code. He then addressed questions about the footprint of the proposed ADU, noting that the plans appeared to show dimensions of approximately 32.4 feet in length and 14 feet in width, meeting the minimum square footage requirements. Mr. Allen calculated the proposed footprint at approximately 464 square feet.

The applicant was not present to speak, and no formal opposition testimony was presented.

Chair Haislip closed the hearing.

Board Deliberation and Motions:

The Board proceeded to review the findings of fact and voted as follows:

1. **Motion 1:** Mr. Lemons moved that The use **will not** materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved.
Finding of Fact: That it meets the UDO and all material presented meets requirements. The motion was seconded by Mr. Robbins and the motion passed unanimously.
2. **Motion 2:** Mr. Allen moved that the use **meets** all required conditions and specifications, specifically all 8 UDO standard. The motion was seconded by Mr. Lemons and the motion passed unanimously.
Finding of fact: It complies with all 8 UDO standards, meaning all requirements are met.
3. **Motion 3:** Mr. Robbins moved that the use **will not** adversely affect the use or any physical attribute of adjoining or abutting property or that the use is a public necessity. The motion was seconded by Mr. Masker and passed unanimously.
Finding of Fact: The proposed use meets the standards of the UDO and we have heard no evidence indicating it would cause harmful adjacent consequences, or no objections or disputes
4. **Motion 4:** Mr. Masker moved that the location and character of the use, if developed according to the plan as submitted and approved, **will be** in harmony with the area in which it is to be located and in general conformity with the City of Southport Comprehensive Plan. The motion was seconded by Mr. Ross and passed unanimously.
Finding of Fact: Assuming that the UDO and the city of Southport's comprehensive plan are aligned, I think we've established the fact that meets all UDO requirements applicable.
5. **Motion 5 :** Mr. Masker made a motion to recommend **approval** of the special use application with conditions, including the following:

Conditions:

- The ADU may not be rented separately from the primary residence.
- Construction must be in substantial compliance with the submitted plans and design intent shown in the exhibits.

The motion was seconded by Mr. Robbins and passed unanimously.

Discussion turned to the fact that the applicant was not present for the hearing. Director Meehan noted that although the applicant was not present, they were not required to attend the hearing. Mr. Biddle confirmed that the applicant had been properly notified.

2. SUP-25-03: Special Use Permit Application for 217 Stuart Avenue - Wendell Biddle

Mr. Biddle presented the staff report for the second of two special use permit applications. He explained that the request was to construct a 524-square-foot detached accessory dwelling unit at 217 Stewart Avenue. The lot, zoned R-10, is 0.39 acres and surrounded by similar residential zoning. The UDO requires a special use permit for detached ADUs,

and Mr. Biddle confirmed that the proposal met the specific use standards in Table 3.1 of the UDO.

He displayed an aerial view and Google Street View of the property, noting the existing circular driveway and primary single-family residence. The ADU would be sited on an existing concrete pad, with ingress and egress through the existing driveway. He clarified that while the UDO typically limits lots to a single driveway, the circular driveway on this property was legally nonconforming (“grandfathered”) and not subject to modification unless reconstructed.

Mr. Robbins inquired whether revisiting the driveway access as part of this application would require bringing it up to current code, similar to floodplain redevelopment requirements. Director Meehan responded that the prior floodplain compliance situation was different and unrelated; driveway standards were only triggered by new construction or changes to the driveway itself. Chair Haislip added that the City had grandfathered existing driveways when the new policy was adopted.

Mr. Biddle outlined the proposal’s compliance with the eight specific ADU standards:

- Only one detached ADU on site
- Subordinate to the principal single-family structure
- Owned by the same property owner
- Served by the existing driveway
- Parking available on the existing driveway
- Detached structure under the 530-square-foot limit

Mr. Biddle stated the structure was intended as a single-story building.

Board members discussed the absence of an elevation drawing. Mr. Biddle confirmed the applicant had submitted a footprint plan but not a formal elevation.

Applicant’s representative, Steven Carr, was sworn in.

Steve Carr – 1155 Green Lewis Rd SE, Bolivia, NC.

Mr. Carr stated the ADU would be approximately 21 feet at its tallest point. The structure would feature a screened front porch, a 10-foot-tall rear wall, and an enclosed living space. It was intended as an auxiliary space for the property owners, who live out of town, to use when visiting their family in the primary residence.

Motions and Findings

1. **Public Health, Safety, and Welfare** – A motion was made by Mr. Ross and seconded by Mr. Robbins that the use **will not** materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved. Motion carried unanimously
Finding of fact: It meets the UDO and City requirements.
2. **Required Conditions and Specifications** – A motion made by Mr. Allen and seconded by Mr. Robbins that the use **meets** all required conditions and specifications. Motion carried unanimously.
Finding of fact: It meets all 8 UDO standards.

3. **No Adverse Impact to Adjacent Property** – A motion was made by Mr. Robbins and seconded by Mr. Masker that the use **will not** adversely affect the use or any physical attribute of adjoining or abutting property or that the use is a public necessity. Motion carried unanimously.

Finding of fact: There have been no reports that it would and no objections from public and no objections presented today.

4. **Harmony with Area and Comprehensive Plan** – A motion was made by Mr. Allen and seconded by Mr. Ross that the location and character of the use, if developed according to the plan as submitted and approved, **will be** in harmony with the area in which it is to be located and in general conformity with the City of Southport Comprehensive Plan. Motion carried unanimously.

Finding of fact: It meets all applicable design standards.

5. With a motion was made by Mr. Allen and seconded by Mr. Robbins, that **the Board recommends approval** of the special use application with conditions. Motion carried unanimously.

Conditions:

- The ADU shall not be rented separately from the principal residence.
- Construction shall be in accordance with the plans and images submitted to staff, with the representative's depiction included in the file.
- The existing accessory structure on site shall be demolished prior to completion of the new ADU.

Chair Haislip stated the applicant would receive formal communication of the decision within a few weeks and confirmed that the special use permit was approved.

G. Other Business

1. Board of Adjustment Quasi-Judicial Training - Brady Herman

Discussion on ADUs and Pending Legislation

After the vote, the Board briefly discussed accessory dwelling units more broadly. Mr. Allen raised questions about whether an ADU could be approved alongside another accessory structure, such as a shed. Planning Director Meehan explained that while multiple accessory structures are allowed, only one accessory dwelling unit may be permitted per lot, and a dwelling is defined by the presence of kitchen, bathroom, and sleeping facilities.

Mr. Allen asked about pending legislation in the General Assembly that could make ADU approvals administrative at the staff level and prevent local governments from imposing certain conditions, such as prohibiting rentals. Ms. Meehan confirmed that bills are under consideration at the state level that could require by-right approval of ADUs, limit local discretion, and mandate that ADUs be allowed for rental use, though short-term rentals could still be restricted under Southport's existing ordinance.

Chair Haislip noted that municipalities only exercise authority delegated by the state and would be required to comply with any new statute. Mr. Allen and Mr. Robbins expressed concern that the state could remove the City's ability to enforce conditions such as

prohibiting separate rental of ADUs.

A broader policy discussion followed, with Board members expressing mixed opinions. Some voiced opposition to prohibiting ADU rentals, noting that such units could provide affordable housing for younger residents and employees. Mr. Biddle emphasized that the purpose of ADUs from a planning perspective is to diversify housing options.

Board of Adjustment – Quasi-Judicial Training Session

Presentation by Brady Herman

Mr. Herman opened his presentation by thanking the Board for allowing him to join remotely. He explained that the training was intended as a refresher for returning members and an introduction for new ones, emphasizing that many of the Board's recent experiences provided a practical backdrop. He noted that the most important aspect of quasi-judicial decision-making is not always *what* decision is reached, but *how* it is made, as procedural missteps are often the basis for appeals.

Questions from the Board

Mr. Masker asked how to handle individuals who appear, are sworn in, and begin speaking without establishing standing. Mr. Herman responded that it is appropriate for the Chair to clarify at the outset whether the person is participating as a party or simply testifying as a witness. To participate as a party, an individual must demonstrate standing, which under state law requires showing "special damages" specific to their property. He advised allowing witness testimony when appropriate, but limiting repetitiveness, always erring on the side of caution to avoid due process violations.

Chair Haislip added that many people mistakenly view Board of Adjustment proceedings as legislative public hearings, when in fact they are quasi-judicial processes with stricter requirements. Mr. Herman confirmed this distinction, noting that unlike legislative hearings where any person may speak freely, quasi-judicial decisions are bound by standing, evidence rules, and due process.

The discussion then turned to *ex parte* communications. Mr. Herman cautioned Board members against discussing cases outside of hearings but explained that if such conversations occur inadvertently, disclosure at the start of the meeting is sufficient. Similarly, site visits are permissible, provided members do not trespass and disclose their observations during the hearing. Director Meehan asked whether *ex parte* rules applied to conversations with anyone, not just applicants. Mr. Herman affirmed, explaining that any substantive discussion about a pending case should occur during the hearing so both sides have equal opportunity to hear and respond.

Mr. Robbins noted that members often do not realize a matter is coming before the Board until the agenda is released, and casual conversations with neighbors can unintentionally cross into case discussions. He cautioned members to be mindful of this and disengage once they recognize the matter relates to a pending case.

Discussion on Variances

The Board asked several questions about variance standards. Mr. Masker expressed concern about applicants purchasing property knowing they may need a variance and then claiming hardship. He questioned whether this should be considered "self-created."

Mr. Herman acknowledged that this is a frequent gray area, but clarified that case law incorporated into Chapter 160D allows applicants to seek variances even if they purchased property with knowledge of restrictions. He emphasized that hardships must be peculiar to the property itself and not self-imposed.

Mr. Robbins provided a local example involving combined lots with multiple homes, noting that re-dividing them would create substandard lots. He asked whether this would be a self-created hardship. Mr. Herman agreed that it likely would be. Chair Haislip and Mr. Robbins discussed further that while knowledge of conditions does not automatically disqualify an applicant, boards must still evaluate each standard carefully.

Mr. Herman reiterated that the four standards for variances—practical difficulties or hardships, peculiar conditions, not self-created, and consistency with the spirit and intent of the ordinance—should be addressed individually in motions, which Southport’s Board already does. He praised the Board for its practice of asking detailed questions and tying findings directly to the evidence, stating that this approach strengthens decisions against appeal.

Special Use Permits and Conditions

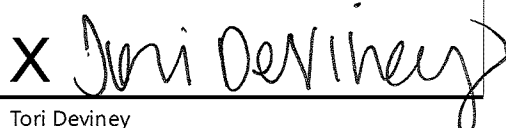
Mr. Herman also reviewed special use permits, noting that while conditions may be added, they must relate to the property and be consented to in writing by the applicant. Mr. Biddle asked whether conditions beyond those in the UDO are permitted. Mr. Herman confirmed they are, as long as they are property-related and agreed upon, giving examples such as prohibiting ADUs from being rented separately. However, he cautioned that purely aesthetic conditions, such as paint color, are prohibited by statute.

Board members discussed whether frequently applied conditions should instead be codified as UDO standards. Mr. Robbins commented that while this could provide clarity, the current approach has worked without challenge. Chair Haislip noted that conditions could be litigated in the future, but until then the Board’s practice stands.

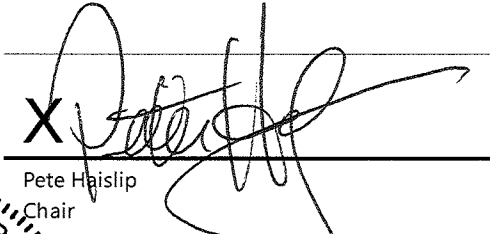
H. Adjourn

A motion to adjourn was made by Mr. Allen and seconded by Mr. Masker. Motion passed unanimously.

Adjourned at 6:30 PM.

X 

Tori Deviney
Deputy City Clerk

X 
Pete Haislip
Chair

