



**CITY OF SOUTHPORT  
BOARD OF ADJUSTMENT  
REGULAR MEETING  
113 W MOORE ST SOUTHPORT, NC 28461  
December 4, 2025, 4:30 PM  
Minutes**

**Present Members:** Chair Pete Haislip, Vice Chair Jason Robbins, Tuck Masker, Harley Lemons, Rodney Ross, John Allen, Chris Eckert

**Staff Present:** Ray DiGiuseppe, Board of Adjustment Attorney; Maureen Meehan, Planning Services Director; Wendell Biddle, City Planner; Scott Baillargeon, Deputy City Clerk

**Board Liaison:** Alderman Mark Spencer

**Absent:** None

**A. Call to Order**

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

Chair Haislip introduced the Deputy Clerk Scott Baillargeon.

**B. Pledge of Allegiance**

Chair Haislip led members in the recitation of the Pledge

**C. Explanation of Quasi-Judicial Process**

Chair Haislip shared the proceedings of the Quasi-Judicial Process.

Mr. Masker noted the addition of the wording in Motion 5, “in general compliance with the 2050 Comprehensive Plan”; and noted that he was unfamiliar with the 2050 Comprehensive Plan; and expressed concern for voting on the Special Use Case (SPU) to be considered tonight.

Chair Haislip asked City Planner Biddle if the Board could assume that the Special Use Permit meets the standard set in the Comprehensive Plan; and asked Mr. Biddle to share background on residential planning through the lens of the 2050 Comprehensive Plan regarding Accessory Dwelling Units (ADU).

City Planner Biddle spoke to the 2025 Comprehensive Plan noting that approving the Special Use Permit on the agenda would not be a factor.

Chair Haislip asked the Board if an adjustment to the motion might be necessary.

Mr. Masker noted adding “applicable sections thereof” in reference to the Comprehensive Plan.

Planning Services Director Meehan spoke to the 2025 Comprehensive Plan and shared that the City would be reviewing future land use plans and policies; and noted that it would be compatible with the comprehensive plan; and emphasized that Staff would keep the Board informed going forward.

Chair Haislip explained the process of Special Use Permit and read the Quasi-Judicial Hearing proceedings set for tonight; and asked the Board if there were any conflicts of interest.

The Board shared there were none.

#### **D. New Business**

##### **a. Special Use Permit SUP-25-05 - 729 N. Atlantic**

*Chair swears in City Planner Wendell Biddle*

City Planner Biddle spoke to the Special Use Permit, SUP-25-05, requesting a detached Accessory Dwelling Unit (ADU); and shared the application that was submitted by the property owner, Mr. William FitzGerald; and stated that the lot was subject to the standards ensuring it:

- Is zoned R-10, which allows ADU’s by way of Special Use Permit.
- Is located at the corner of N. Atlantic Avenue and E. 8<sup>th</sup> Street.
- Is approximately 6,500 square feet in area.
- This image is taken from N. Atlantic Avenue

He shared several images of the proposed building site of the prospective ADU; parcels taken from the Brunswick County GIS map; and noted that both images are of the lot prior to the development of a single-family residence; and the lot is adjacent to commercial and residential properties; and shared that the parcel is zoned R-10 and it is adjacent to O&I to the north, BD to the n. west, west, and s. west, and R-10 to the immediate south and east; and discussed the applicant’s site plan; noting the proposed 420 sq. ft. structure as detached and to the rear of the lot; and shared that the structure would meet the minimum 5’ rear and side setbacks required; and specifics about the site:

- To access the detached garage/ADU, the front entrance will be accessible from E. 8<sup>th</sup> Street

- Will require the removal of the 36" Live Oak
- Subsequent tree mitigation will be for a total of 9 inches. All trees are to be a minimum of 3" DBH and contain at least one Live Oak.
- The remaining 6" to be planted are to be canopy trees from UDO Table 3.5 or understory trees from Table 3.6.

And provided a rendering of the proposed structure's front elevation in relation to space; and shared that the structure's overall dimensions noting the ground level will serve as a 420 sq. ft. garage while the upper floor will serve as a 333 sq. ft. living space; and Table 3.1 of the Unified Development Ordinance (UDO) requirements of the Special Use Permit; and stated that the Special Use Permit seeks approval for an ADU that is 420 sq. ft. on the upper level of a detached garage and that Staff find the application to be complete and the applicant meets all the residential accessory dwelling unit standards established under the UDO; and discussed the issues regarding stormwater; and noted that the Board could add a condition on approval to install a rain garden to offset stormwater.

Mr. Ross asked about the standards concerning impervious drainage and asked that they be shared.

City Planner Biddle shared that the ADU falls short of the standard.

Mr. Masker asked if the fence was set on the property line.

City Planner Biddle confirmed that it did.

Mr. Ross asked if the alleyway was on the other side.

City Planner Biddle confirmed that it was.

Mr. Masker shared concerns about access to the rear side of the property.

City Planner Biddle provided the Board with an image of the property and noted that it would not require access.

Chair Haislip noted that tree mitigation will be managed by the building inspector.

City Planner Biddle confirmed that Chair Haislip was correct; and provided additional information about the landscaping plan.

City Planner Biddle shared additional slides and spoke to each; and again noted the dimensions of the overall structure, but was unable to provide the height of the structure itself; and showed the proposed layout of the ADU; and shared the Section standards of 3.6.C of the UDO; and the motions it meets in satisfactory conditions but noted motion 5:

- “Although the primary residence is served by a driveway from N. Atlantic Avenue, there is a roundabout driveway on E. 8<sup>th</sup> Street serves as parking for the vehicles associated with the property,”

was addressed by the City Engineer and suggested creating a condition regarding motion 5.

## **PROPONENTS**

*Chair Haislip swore in Mr. William FitzGerald*

Mr. FitzGerald emphasized what City Planner Biddle shared and asked if there were any other questions.

Mr. Allen asked if the live oak could be saved or relocate the ADU to avoid removal of the tree.

Mr. FitzGerald shared that it was not possible.

Mr. Allen noted that Mr. FitzGerald is required to replace the trees removed.

City Planner Biddle shared the rules for tree removal and the plants that need to be replanted; and shared the trees that could be selected for replanting; and noted that caution is followed following the mitigation of trees.

Chair Haislip asked if the grade would be raised to accommodate the ADU.

Mr. FitzGerald shared that it would be built on the current grade.

Mr. Eckert asked if the applicant anticipated any mitigation for stormwater.

Mr. FitzGerald shared that the soil is porous and there has not been any runoff from the Tiki Bar; and noted that the Tiki Bar stands at a higher elevation than the proposed ADU location and assured the Board that the ground stays dry.

Chair Haislip asked if there were any more questions.

Mr. Masker noted the driveways on N. Atlantic Ave and E. 8<sup>th</sup> St.; and that the ADU does not support a garage; and asked where the driveway to the ADU was going to be placed.

Mr. FitzGerald shared that he did not need a garage.

City Planner Biddle noted there would not be room for another entrance/garage; and Staff would not permit another driveway due to its location to the roundabout.

Chair Haislip asked if there were any more questions; there being none, he asked if there were any opponents that wished to speak.

## **OPPONENTS**

*Chair Haislip swore in Sheila Swain, the daughter of the residents, of 717 N Atlantic Avenue.*

Ms. Swain spoke on behalf of her parents as power of attorney and noted that she opposed the ADU.

Mr. Allen asked where the house was in relation to the lot and the proposed ADU.

Ms. Swain shared a photo of the home in relation to the applicant's home; and read a prepared statement; and noted the burden on her parents by the neighbors and stated a financial loss.

Chair Haislip stopped Ms. Swain and shared that she would need to provide evidence to show financial loss.

Ms. Swain noted that she could provide evidence of financial loss; and spoke about her family's history on the lot; and noted they had not experienced flooding until the construction of the three homes adjacent to their property; and that they have pictures to prove the flooding.

Chair Haislip stopped Ms. Swain again and inquired if she could provide evidence of flooding.

Ms. Swain shared that she did have photos that showed evidence of flooding and disseminated them among the Board for review.

Chair Haislip noted that evidence backed by professional review would be required to prove the claim that the property has had standing water since the construction of the three homes adjacent; and noted that for the consideration of the proposed ADU, the Board needs to address only the facts of the case before them; and proof from Ms. Swain will need to be collected to show the ADU will flood the property.

Board Attorney DiGiuseppe emphasized the need to speak to the facts; and outlined the documents necessary that would need to be presented to the Board as facts to attest her claims; and spoke to having a professional brought in to make those factual determinations relating to the flooding on her parent's property who could prove that the addition of an ADU would exacerbate the flooding already occurring; and emphasized that the Board cannot accept the words of a layperson as it accounts to hearsay rather than factual evidence determined by a professional.

Ms. Swain shared that she had tried to obtain the records from the City of Southport but did not receive assistance; and inquired if she would need to acquire an engineer to facilitate a study of the flood water occurring on her parent's property.

Board Attorney DiGiuseppe affirmed an engineer would need to be obtained to provide factual evidence.

Chair Haislip noted that the City of Southport did its due diligence in approving the developments of the three homes adjacent to her parent's property.

Board Attorney DiGiuseppe spoke about the rules and the need to obtain professionals to conduct a study; and noted that claims presented to the Board of Adjustment cannot be based on conjecture; and emphasized that the Board's focus is to consider only the addition of an ADU.

Ms. Swain asked about what she could talk about, noting the five motions the Board would need to approve to approve before the addition of an ADU could be constructed; and inquired if the Board would permit her to share anecdotal rebuttals with each motion showing the issues that occur on her parent's property.

City Planner Biddle shared that the lot being considered for an additional ADU was non-conforming and the provisions allow for lots to be developed and was able to sustain an ADU.

Ms. Swain spoke again to the issues of parking along the right-of-way; and noted the UDO that requires separate driveways for units; and asked how parking would be allowed for the ADU.

City Planner Biddle shared that the lot over meets the standards for a driveway; and emphasized that parking would not be a problem; but shared that it would be the determination of the Board to decide.

Ms. Swain noted that it was located beside the Tiki Bar and spoke to the number of people who attended events at the Tiki Bar throughout the year that places parking in her parents' yard.

Chair Haislip shared that parking was not under consideration as it was beyond the scope of the Board's purview of approving an ADU on the adjacent property.

Ms. Swain spoke to the language of the UDO and noted that the placement of a 25-foot ADU would impact the rear-side view of her parents' yard; and noted that if it was a duplex, it should not be permitted.

City Planner Biddle noted that the ADU would not be a duplex; and shared the differences between them.

Ms. Swain spoke about the loss of impervious area coverage and emphasized concerns for stormwater runoff as being a contributor to potential flooding.

Board Attorney DiGiuseppe noted the need to present causal connections and that a professional would need to determine and provide testimony of the fact;

noting that anecdotal testimony would be irrelevant to Board of Adjustment hearing proceedings and therefore inadmissible.

City Planner Biddle noted that the ADU, if approved by the Board of Adjustment, would then need to be reviewed by further proceedings.

Chair Haislip shared that the Board appreciates her efforts but noted that City Staff had reviewed the request and studied the findings conducted by the City Engineer; and shared that the Board's responsibility was to judge the project on its merit.

Board Attorney DiGiuseppe addressed that her concerns were relevant factors to consider if there were causal conditions but emphasized that without professional testimony to present the types of evidence needed for those subjects of concern, the scope of the Board is limited.

Ms. Swain shared that it was her first meeting; and inquired about a less formal meeting that could have been held to address her concerns.

Board Attorney DiGiuseppe noted that her concerns are broader than just the ADU; and addressed the difficulty of dealing with stormwater issues.

Ms. Swain shared that she had previously asked the property owner to add gutters to the three homes adjacent to her parents' property and shared that Mr. FitzGerald had refused due to the costs associated.

Mr. Lemons spoke to the process of UDO hearings and inquired about non-conforming and conforming structures.

City Planner Biddle noted that the structure is conforming but the lot itself is non-conforming; and spoke to the process of the UDO to determine non-conforming and conforming structures; land use laws and setbacks.

Mr. Eckert asked about Line 5 concerning driveways and asked how the structure could be made usable for a garage with the existing driveway:

- UDO Section 3.6.C., Line 5. The accessory dwelling shall not be served by a driveway separated from that serving the principal residential structure.

City Planner Biddle spoke to the UDO and shared his view of the proposal.

Mr. Lemons stated that he believed City Planner Biddle response was opinion and not factual.

City Planner Biddle noted a tertiary driveway would not be approved.

Discussion among the Board ensued concerning the UDO Section 3.6.C., Line 5, as written in relation to the proposed ADU; the future addition of a driveway; and addressed additional details concerning stormwater runoff.

Chair Haislip expressed concern that a gravel driveway could be created after the approval of the ADU; and asked Mr. Biddle about how the addition of the gravel driveway could be approved.

City Planner Biddle shared that he was unable to speak to that but noted that the addition of a gravel driveway would be in violation of the ordinance.

Mr. Robbins shared that there had been several cases over the years and expert testimony was required; and the Board does not have an adequate way of advising those in opposition; and noted concerns raised regarding stormwater and rainwater runoff; and that he was not prepared to act on this case.

Chair Haislip shared that Mr. Biddle had suggested adding a condition concerning stormwater at the beginning of his presentation; and asked Mr. Biddle to present his condition to the Board for review.

City Planner Biddle spoke to the condition mentioned earlier and noted City Engineer Zilinek recommended approving the ADU with the condition that the applicant adds rainwater gutters on the ADU (not the residence); and the Board could add additional conditions to approve the structure.

Mr. Lemons noted that it would be appropriate to have City Engineer Zilinek present to speak in depth on these recommended conditions; and that the Board was not called to discuss stormwater; and emphasized the need to focus on just the proposal.

Mr. Robbins expressed agreement with Mr. Lemons; and shared a need to develop processes for cross examination to hear opposition.

Chair Haislip emphasized the project for the addition of an ADU was the focus and not stormwater; and asked Board Attorney DiGiuseppe for additional thoughts.

Board Attorney DiGiuseppe expressed the same concerns presented by Chair Haislip; and noted that with the Board's lack of expertise to speak conclusively to stormwater issues, the Board cannot predict the actual impacts of these issues; and noted that the proposal should include a statement from an engineer showing that surface waters, stormwaters, and the impacts of those issues were reviewed conclusively.

City Planner Biddle shared that the City Engineer is guided by the UDO and regulations and was unclear to the efficacy of the City Engineer to speak on behalf of these concerns.

Mr. Robbins shared that they had seen a counterpoint opinion that calls into question whether it is the right action to take.

Discussion ensued concerning tabling the decision until the City Engineer can be present to speak about the conditions suggested by City Planner Biddle; and the process for those in opposition going forward; and the conditions that stand before the Board as it results in a decision.

Chair Haislip noted that it was the City's job to either approve or deny the ADU, and asked Mr. FitzGerald back to the podium.

Mr. FitzGerald noted he did not own the house next door, but noted that he had built them; and that the Swains are four doors away from the proposed ADU; and that the ABC Store had been flooding for many years before the building of the three homes (as it sits behind the Swain's residence); and the land had not been elevated; and shared that what he is proposing is not near the Swains' residence.

Mr. Ross asked why there was a problem with stormwater runoff now that Mr. FitzGerald has proposed adding an ADU to the property.

Mr. FitzGerald emphasized that there is not a problem with water; and noted that it was from the ABC Store; and that his garage was at the back of the property; and that he would park cars in the driveway until further review with City Planner Biddle to discuss a potential driveway added.

Mr. Eckert noted that Mr. FitzGerald did then plan to seek a permit to add a driveway to the ADU.

City Planner Biddle spoke to the addition of the driveway and what would need to occur to allow a permit for the driveway.

Chair Haislip asked if there were any other questions from the Board.

Mr. Ross asked about the ABC Store and its distance from the Swain lot.

Discussion ensued regarding the proximity of the ABC Store to each property.

Chair Haislip recognized Ms. Swain to speak on the proximity of the ABC Store to her parents' lot.

Ms. Swain shared the history of the lot; the building of three homes on the adjacent lot; and the rainwater that accumulates on the lot due to the neighbor not installing rain gutters; and shared further concerns regarding water runoff.

Mr. Lemons noted a law that prohibits the dumping of water from one lot to another.

City Planner Biddle shared a map of the lots for orientation purposes.

*Chair Haislip swore in Randle Fullwood, who owns the building across the street from the proposed ADU.*

Mr. Fullwood shared concerns about parking as it continues to be a problem; and noted that the ADU will provide further parking issues.

Chair Haislip thanked Mr. Fullwood for his comments.

**A motion was made by Mr. Robbins and seconded by Mr. Allen to table the hearing to allow time for all parties to prepare with expert testimony.**

City Planner Biddle noted the questions concerning parking and item number five of the UDO; and asked the Board to address the ADU today to avoid the applicant incurring additional costs.

Mr. Lemons noted that the City Engineer should be present to facilitate questions.

City Planner Biddle noted that the proposal does not meet the threshold of stormwater mitigation.

Mr. Robbins noted that an expert needs to weigh in.

Mr. Masker asked if there was a section in the UDO that defines standing water; and noted it would be beneficial for the Board to understand it in its entirety for clarity.

Mr. FitzGerald shared that the proposal of the ADU is not related to stormwater.

Chair Haislip reiterated the motion on the floor and asked Mr. Robbins to restate the motion for clarity.

**Mr. Robbins reiterated his previous motion, and it was seconded by Mr. Allen to table the hearing until the next meeting to allow time for all parties to prepare with expert testimony.**

**The motion carries unanimously**

Chair Haislip asked for the date of the next Board of Adjustment meeting.

Planning Services Director Meehan shared that the next meeting was scheduled for January 27, 2026.

## **E. Approval of Minutes**

1. September 8, 2025, Board of Adjustment Regular Meeting Minutes
2. September 23, 2025, Board of Adjustment Regular Meeting Minutes

Chair Haislip asked for a motion to approve the meeting minutes.

Mr. Masker expressed concerns with September 8, 2025, Board of Adjustment Regular Meeting Minutes; and noted that he would email the Deputy City Clerk to discuss edits.

The Board agreed to the request for Mr. Masker to work with the Deputy Clerk regarding the minutes.

**A motion was made by Mr. Robbins and seconded by Mr. Allen to approve September 23, 2025, Board of Adjustment Regular Meeting Minutes.**

**The motion carries unanimously**

#### **F. Other Business**

Planning Services Director Meehan spoke about the SUP 416 Bay St.; and asked Board Attorney DiGiuseppe to share an update.

Board Attorney DiGiuseppe spoke to the constitutional arguments and noted the Board of Adjustment cannot adjudicate on these matters; and shared that a motion to dismiss was pending, and the court date for that motion was set for January, and shared that if the court grants a dismissal then it will be reverted back to the Board of Adjustment's decision as binding; and shared the process for going forward.

Mr. Allen asked if they could appeal beyond the superior courts.

Board Attorney DiGiuseppe said they could if the motion to dismiss is granted, and the applicant wanted to challenge they could; but the case would need to be evaluated.

Discussion ensued among the Board concerning the SUP case; and discussed the difficulties that were experienced with the case presented tonight.

Mr. Robbins shared that some of the material in the packet is unreadable and needs to be clearer for review; and asked that City Staff work to ensure and provide legible documents for the Board to read and review.

Mr. Lemons requested that a copy of the Board of Adjustment roster be provided with the packet.

Planning Services Director Meehan stated that she would provide a copy of the roster in the packet for future meetings.

#### **G. Adjourn**

Chair Haislip asked for a motion to adjourn.

**A motion was made by Mr. Allen and seconded by Mr. Robbins to adjourn.**

**The motion carries unanimously**

The meeting adjourned at 6:10 p.m.

X   
Pete Haislip  
Chair

X   
Scott Baillargeon  
Deputy Clerk

