



**CITY OF SOUTHPORT
BOARD OF ADJUSTMENT
REGULAR MEETING
223 E BAY ST SOUTHPORT, NC 28461
January 27, 2026, 4:30 PM
Minutes**

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

Staff Present: Ray DiGiuseppe, Board of Adjustment Attorney; Brady Herman, City Attorney; Maureen Meehan, Planning Services Director; Wendell Biddle, City Planner; ChyAnn Ketchum, Public Information Officer; Scott Baillargeon, Deputy City Clerk

Board Liaison: Alderman Mark Spencer

Absent: Harley Lemons; Derek Mabe, City Code Enforcement

A. Call to Order

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

B. Pledge of Allegiance

Chair Haislip led members in the recitation of the Pledge

C. Approval of Agenda

A motion was made by Mr. Allen and seconded by Mr. Robbins to remove Item AP-25-05 410 E Bay St Administrative Appeal from the agenda and continue the hearing until a later date.

The motion carries unanimously

D. Approval of Minutes

1. September 8, 2025, Board of Adjustment Meeting Minutes

A motion was made by Mr. Allen and seconded by Mr. Ross to approve the September 8, 2025, Board of Adjustment Meeting Minutes.

The motion carries unanimously

2. December 4, 2025, Board of Adjustment Meeting Minutes

A motion was made by Mr. Allen and seconded by Mr. Ross to approve the September 8, 2025, Board of Adjustment Meeting Minutes.

The motion carries unanimously

E. Explanation of Quasi-Judicial Process

Chair Haislip spoke to the Rules of Procedure concerning Ex Parte communication and shared the proceedings of the Quasi-Judicial Process.

F. New Business

1. SUP-26-02 – 109 S Atlantic Ave

Chair Haislip introduced the Special Use Permit and spoke to the item and asked City Planner Biddle to present the Item.

Chair Haislip swears in City Planner Biddle

City Planner Biddle introduced Rich Bandera, representing the property owner, Mrs. Lucia Lindsey, regarding an application for a Special Use Permit (SUP) for a detached Accessory Dwelling Unit (ADU) at 109 S. Atlantic Street; City Planner Biddle reviewed the required findings and presented photographs and aerial images of the property and surrounding structures; the parcel is zoned R-10 residential and contains an existing single-family home; the proposed ADU would be located above a detached garage measuring 22' x 24', totaling 528 square feet; and the structure meets the minimum side and rear setback requirements of five feet; and noted that the ADU is under 800 square feet, and stormwater mitigation requirements are not triggered.

Chair Haislip inquired about the adjacent property and stated that it is his residence; and noted that he had not communicated with the Lindsays regarding the application; and discussed setback requirements and asked whether the existing structure complies with those regulations.

City Planner Biddle stated that although the existing structure was originally planned for demolition, the property owners have decided to retain it for storage; and shared the dimensions of that structure; and noted that its setbacks were established prior to the adoption of current setback regulations.

Mr. Allen asked about the smaller shed behind the larger shed, a lean-to, and if it was to be demolished as well.

City Planner Biddle noted that after reviewing the Staff Report, the property owner had decided to keep that structure as well; and shared details about the structure including its location and dimensions in relation to the proposed ADU.

Chair Haislip asked if the existing structure was compliant with setback rules; and noted that the original documents had shown it to be demolished.

City Planner Biddle stated that staff worked with the applicant to ensure the structure would remain; and reviewed details of the proposed ADU located above the garage, including setback compliance, and discussed site plans showing the ADU's relationship to existing structures on the property; and provided additional details regarding the structure and its intended use.

Mr. Robbins sought clarification on the placement of the garage doors.

City Planner Biddle provided the location of the garage doors; and spoke to the living space; and the ADU's orientation relative to the principal residential structure; and shared the height of the ADU at 25'.

Mr. Robbins sought clarification concerning the height of the ADU relative to the overall height of the house.

City Planner Biddle noted that the main house exceeds 25 feet in height; and reviewed the specific use standards associated with the ADU, listing them for the Board's clarification and confirming that the ADU meets all applicable standards:

1. An accessory dwelling (ADU) may be within, attached, or separate from the principal residential structure.

The proposed dwelling unit will be detached from the principal residential structure.

2. The principal use of the lot shall be a detached single-family dwelling built to the North Carolina State Building Code standards.

The principal use of the lot is for a single-family dwelling unit. The primary structure is an existing single-family residence on S. Atlantic Avenue.

3. No more than one (1) ADU shall be permitted on a single deeded lot in conjunction with the principal residential structure.

There are no other ADU's on the property.

4. The ADU shall be owned by the same person as the principal residential structure.

The ADU will be owned by the same person as the primary structure.

5. The ADU shall not be served by a driveway separate from that serving the principal residential structure.

The primary residence is served by a driveway from S. Atlantic Avenue, and so will the ADU.

6. There shall be a separate parking space for the ADU subject to the off-street parking requirements of Section 3.14.

Parking space will be available on the proposed driveway.

7. The ADU shall not exceed 800 square feet.

The proposed ADU is 528 square feet.

8. Detached garages with a second-floor accessory residential dwelling may not exceed a ground-level building footprint area of 530 square feet and shall be constructed behind the front building line, except as allowed for riverfront lots, provided they are located no closer than five (5) feet to any adjoining property line.

The ADU is detached and less than 530 square feet.

Mr. Robbins asked Mr. Biddle to return to the site plan image and walk through parking as it applies to the additional ADU; and if there was a swing arm in the lot that would need to be added to access the ADU from the road.

City Planner Biddle spoke to parking; and shared that the residence would have gravel access to the garage; and that a swing arm was not required for the driveway as it was sizable.

Mr. Masker asked to see the existing driveway and if one of the Specific Uses requires a driveway serving the principal residential structure; and if one of the eight conditions conflicts with having a driveway.

City Planner Biddle noted that there is no existing driveway on the property; and explained that the driveway would serve both the principal residence and the proposed ADU, as separate driveways for the ADU are not permitted under the rules.

Chair Haislip noted the lack of assigned parking in that area; and shared that most of the available parking areas are relegated to street parking; and that the design of the ADU and its added parking accommodations were a great solution to off-street parking.

Mr. Robbins asked about the material used for the driveway; and asked if the property was in a flood zone.

City Planner Biddle shared that 57 Stone—a type of crushed aggregate commonly used in construction and landscaping—would be the material used for the driveway; and noted that the stone provides stormwater relief; and that the property was not located in a flood zone.

Mr. Ross asked about how many residents have a driveway off S Atlantic.

City Planner Biddle shared that he did not have the exact number but spoke to what he could provide.

City Planner Biddle concluded his presentation and asked the Board for additional questions and shared that the property owner was present to address any further questions.

Chair Haislip swore in Mr. Bandera, 109 S Atlantic St.

Mr. Bandera apologized for not having the survey regarding the decision to retain the existing structures; and discussed the net increase in impervious surface, noting the ADU adds 608 square feet, which is below the 800-square-foot threshold that would trigger stormwater requirements; and also shared information about parking; and confirmed the ADU remains under the 25-foot height limit; and noted that permitting for the garage has been filed.

Chair Haislip asked the Board if there were any questions for Mr. Bandera, there being none, Chair Haislip closed the public hearing.

Mr. Masker stated that if the Board chose to accept the criteria and approve the submittal, he would like to have assurances that the Board was not endorsing the existing violations of setbacks.

City Planner Biddle shared clarification on the issue; and noted that the Board is not encroaching on legal nonconformity; and shared the approval is for a brand-new detached garage which is within the rules.

Chair Haislip asked if in the case the ADU was demolished, would the property owner need to rebuild in the footprint, and if there were time limits that would need to be followed to remain in compliance with updated setback laws.

City Planner Biddle shared that the owner would have 180 days to rebuild in the footprint to maintain the current setback or come into complete compliance within the setback requirements stipulated in the Unified Development Ordinance (UDO).

Chair Haislip asked the Board for additional questions, there being none he asked for a motion.

Mr. Allen read Motion 1:

The use **will not** materially endanger public health, safety, or general welfare if located where proposed and developed to the plan as submitted and approved.

Finding of Fact: Increased safety to provide off-street parking and meets the requirements of the UDO.

A motion was made by Mr. Allen and seconded by Mr. Ross to approve the findings of fact and evidence presented for the Accessory Dwelling Unit for SUP-26-02.

The motion carries unanimously

Mr. Robbins read Motion 2:

The use **meets** all required conditions and specifications.

Finding of Fact: No outstanding points unfulfilled in the UDO.

A motion was made by Mr. Robbins and seconded by Mr. Eckert to approve the findings of facts and evidence presented for the Accessory Dwelling Unit for SUP-26-02.

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The motion carries

Mr. Allen read Motion 3:

The motion for the use **will not** adversely affect the use of physical attributes of joining or abutting properties or finding of fact the additional square footage is only on the second level and entrance and is located on the side of the structure towards the existing property.

Finding of Fact: The new accessory structure has 5' setbacks and the height is below the maximum limit permitted by the UDO.

A motion was made by Mr. Allen and seconded by Mr. Eckert to approve the findings of facts and evidence presented for the Accessory Dwelling Unit for SUP-26-02.

The motion carries unanimously.

Mr. Allen read Motion 4:

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.

Finding of Fact: Meets all UDO requirements relative to the footprint.

A motion was made by Mr. Allen and seconded by Mr. Robbins to approve the findings of facts and evidence presented for the Accessory Dwelling Unit for SUP-26-02.

The motion carries unanimously.

Mr. read Motion 5:

Based on the findings of fact and the evidence presented, the Board of Adjustment recommends approval of the special use application with conditions including the dwelling cannot be rented separately from the main structure.

A motion was made by Mr. Ross and seconded by Mr. Allen to approve the findings of facts and evidence presented for the Accessory Dwelling Unit for SUP-26-02.

The motion carries unanimously.

Mr. Masker noted that City Planner Biddle would need to revise the plans to show the existing structures will not be demolished, and the ADU is in addition to those existing structures.

City Planner Biddle shared that he would make the necessary corrections.

Chair Haislip asked if a motion was required to address the rental of the ADU.

A motion was made by Mr. Robbins and seconded by Mr. Allen on a second condition that the Accessory Dwelling Unit cannot be rented separately from the remainder of the property.

The motion carries unanimously

Chair Haislip noted that Staff would have the approval letter out to the property owner and asked if anyone else would like a copy.

2. AP-25-05 – 410 E Bay St Administrative Appeal

Continued

3. AP-25-04 – S Caswell and W Bay Street

Chair Haislip introduced next item of an appeal of an administrative decision; and introduced Jennifer Carpenter, Appellant Attorney, who represents the owners, the Chiricos; and noted that he would have Planning Services Director Meehan speak first to introduce the item before the Board.

Chair Haislip swore in Planning Services Director Maureen Meehan

Planning Services Director Meehan outlined the appeal concerning an administrative decision by Code Enforcement Officer Harlan Pyles; and shared the issue involved the use of an R10 residentially zoned parcel for commercial parking, which is not permitted; and stated that a Notice of Violation was issued on April 9, 2025, under Section 3.5.1, Table 3.1 of the UDO, with remedies requiring the cessation of parking on the lot; and provided context on the history of parking in the Yacht Basin area, noting that events such as the Wooden Boat Show have increased parking demand; and shared aerial photographs of the area.

Mr. Masker asked Ms. Meehan to return to a zoning map and asked about zoning in the parcels adjacent to the lots in question.

Planning Services Director Meehan provided additional background on the subject lots, noting she would address them later in her presentation; and discussed parking changes in the area over the past five years, showing a 2025 photograph of the lots that had become parking areas; and explained that the Yacht Basin Overlay and Committee were formed to allow parking on residentially zoned properties, but the initiative did not succeed; and referenced the 2022 Yacht Basin Mobility Study, 2023 Downtown Parking Study, and other studies aimed at increasing parking; and noted that after the adoption of the comprehensive plan, the Planning Board formed a committee in 2024 to address parking, working with property owners to establish commercial parking and shared that Mr. Chirico declined to participate; and introduced Exhibit 3 in the Agenda Packet, including adopted UDO text amendments, zoning map overlay properties, and minutes from the Board of Aldermen's public hearing on the Yacht Basin Overlay UDO text amendment.

Mr. Eckert asked whether the Yacht Basin Overlay was still in effect and if any other property owners had opted out of the Overlay.

Chair Haislip asked, prior to the adoption of the Overlay, whether parking was still legal in the Yacht Basin.

Planning Services Director Meehan confirmed that the Yacht Basin Overlay is still in effect and that no other property owners had exited; and noted that parking in the Yacht Basin is legal only within the Business District; referring to Exhibit 3, she stated that Staff issued a Notice of Violation on April 9, 2025, citing a violation of Section 3.5 for allowing commercial parking on residential parcels; and discussed abatement options, including waiving application fees for a zoning change from residential to commercial; and concluded that the

applicant permitted public parking on their property, constituting a UDO violation, and requested that the Board reaffirm the April 9, 2025, Notice of Violation, ordering the applicants to cease commercial parking on parcels 237LF001 & 237LF002, which are zoned residential.

Mr. Eckert asked if it was the City's position to have the parcels used for parking.

Planning Services Director Meehan shared that the City does not have an issue with the parcels being used for public parking; however, noted that the UDO requires it to be legally established under the stipulation of the ordinance.

Mr. Ross sought clarification about the zoning map presented and some of its features; and if the properties that were shown with cross-hatching, situated on the corner of W Moore St and S Caswell Ave of the map, still existed as R10 residential; and asked for the date the Overlay was adopted; and if prior to the amendment was parking allowed in the area.

Planning Services Director Meehan spoke to the properties still zoned R10 residential; and to what was allowed under an R10 zoning; and noted that the Overlay was adopted in February 2025, and that one of the parcels was being used as a parking area, and the other would like to be used for parking; and clarified that the parking lot used for the Fishy Fishy restaurant was zoned commercial for parking.

Mr. Eckert asked that when the property owners received the Notice of Violation, was signage posted at the location that indicated public parking.

Planning Services Director Meehan shared that signage was not posted but noted that it was being used for parking.

Mr. Ross asked whether the area under discussion was related to questions raised by the owner of the Frying Pan restaurant.

Planning Services Director Meehan shared that it was the same case; and noted that wooden borders and 57 stone were to be laid per the guidelines of the Overlay.

Chair Haislip asked what would prevent parking on the R10 zoned property, and if there was a gate or signage in place.

Planning Services Director Meehan shared that chains to bar entrance were erected in addition to private parking signs; and noted that the City had asked the owners to prohibit parking on the parcel.

Mr. Eckert expressed concern about the process to allow parking on R10 zoned property; and sought clarification for what was being asked of the Board and if they were being asked to rezone the property.

Chair Haislip shared that the Board must call a motion and vote on whether to affirm or not affirm the Administrative Appeal.

Mr. Robbins stated that it would be in the Board's best interest to review both sides' arguments for additional context; and clarified the legal basis regarding commercial parking on R10 residential property; and noted that while the Board could amend the zoning or enforce the rules, failing to do either could create further substantive issues.

Mr. Eckert agreed that the Board should hear from both sides to obtain a clear understanding of the issues; and noted that the first appeal was considered circumstantial.

Planning Services Director Meehan concluded her presentation.

Chair Haislip asked if there were any further questions for staff.

City Attorney Herman noted that the City was not at this point ready to call for direct testimony.

Appellant Attorney Carpenter objected to the additional documentation that was provided by Ms. Meehan concerning Exhibit 3.

City Attorney Herman stated that all materials had been provided to opposing counsel prior to the hearing; and clarified that the PowerPoint presentation, staff reports, and all City exhibits, including Exhibit 3, were to be entered into the record; and also noted that Ms. Carpenter was being given the opportunity to present an opening statement to the Board.

Appellant Attorney Carpenter provided an opening statement on behalf of Yacht Basins Holdings LLC; and stated that the appeal did not concern overlay zoning or rezoning issues but rather challenged the Notices of Violation issued to the Chirico's on April 9, 2025, regarding alleged commercial parking lot use; and noted that the Notices were included in the agenda packets; and argued they should be dismissed for failure to comply with the UDO and City ordinances; and questioned whether the Notices constituted a final determination; and further asserted that the Staff determination was vague and lacked required specificity; and noted that the Staff presentation did not

include photographs from the date the violations were issued and stated that evidence would show no vehicles were parked on her client's lot at that time.

City Attorney Herman stated that the Notices of Violation are part of the official record and should not be excluded from the evidence; and noted that the Notices were issued and distributed approximately nine months prior to the hearing; and asserted that any legal deficiencies should have been raised earlier; and concluded that the Notices should remain part of the record and not be dismissed.

Chair Haislip sought advice from Board Attorney DiGiuseppe.

Board Attorney DiGiuseppe suggested going forward with the hearing and accepting the testimony to allow both sides to speak on the matter.

Chair Haislip asked the Board for additional questions.

Mr. Robbins sought clarification concerning the final Notice of Violation and when and how it was issued; and if a Staff decision can be made regarding them.

Planning Services Director Meehan stated that no final Notice of Violation has been issued since the initial appeal; and noted that any Staff decision is subject to appeal.

Mr. Robbins asked Mr. Herman if the decision had been transmitted.

City Attorney Herman shared that it had been transmitted, but expressed concern about discussing the matter.

Mr. Robbins stated that the purpose of reviewing the process was to determine whether a violation occurred and whether action was necessary; and emphasized the importance of ensuring that standards were applied correctly; and noted that the process was already underway, and questioned how the Board could make a determination without formal findings; and also sought clarification on whether the appeal pertained to the initial Notice of Violation rather than a final notice.

City Attorney Herman shared that he did not review the letter and cannot speak to a first and last letter issued.

Board Attorney DiGiuseppe stated his objectivity regarding the matter and explained that the letter was treated as an administrative action that could impose an adverse consequence on the property owners if challenged; and

emphasized that his role was to provide a recommendation to the Board on how to proceed—or not proceed—given the procedural question raised by the Appellant.

Appellant Attorney Carpenter addressed two points raised by opposing counsel and clarified that under NC GS 160D, only final Staff determinations may be appealed, and that the appeal was filed to preserve the property owners' rights, not to contest how the Notice was treated or whether it was a final determination; and asked the Board to review the City Ordinance regarding the specific information required in a Notice of Violation; and emphasized that the Appellant's right to appeal is clearly established; and also cited a recent court decision stating that violation language must be specific and include remedies; and asserted that Staff's presentation provided no evidence that a violation occurred on April 8, 2025, the date of the alleged violation.

City Attorney Herman read the ordinance UDO 2.1.5 Subsection 2:

“The final written notice and the initial written notice may be the final notice and shall state what action the administration needs to take if the violation is not corrected and shall advise that the administrative decision or order may be appealed as the Board of Adjustment.”

and noted that the Appellant was issued the Notice approximately nine and a half months ago and that any due process concerns should have been raised at the first hearing; and further stated that the Notice language was clear, outlining that the Appellant was using R-10 residential property for commercial purposes, which is prohibited in that zoning district.

Board Attorney DiGiuseppe addressed Mr. Herman's point regarding the waiver of arguments; and referenced the email on page 123 of the agenda packet, noting its content and language; and clarified that the issue before the Board was whether to dismiss the Notices of Violation; and emphasized that arguments previously dismissed cannot be reconsidered; and affirmed Herman's point that if a dismissed argument had merit, it would not serve as a basis to continue pursuing the position.

Appellant Attorney Carpenter noted that the case could be brought before the Court of Appeals.

Chair Haislip stated that the Board's decision is whether to proceed based on the information presented by City Attorney Herman and Appellant Attorney Carpenter, emphasizing that the Board considers the entirety of the case.

Mr. Robbins agreed, noting that hearing the full case is necessary to make an informed decision and to clarify whether the Notice of Violation constituted a final notice.

Mr. Allen added that the UDO allows the first notice to serve as the final notice at the administrator's discretion.

City Attorney Herman restated the UDO language for clarification.

Appellant Attorney Carpenter argued that the full text of the UDO had not been considered; and requested that the Board invalidate the Notices of Violation and read the complete UDO passage, noting that it was not included in the notice; and further stated that Ms. Meehan did not clarify that the notice constituted a final notice.

Mr. Robbins restated Ms. Carpenter's point for clarification; and asked for confirmation that he understood the Appellant's request correctly.

Appellant Attorney Carpenter affirmed that Mr. Robbins correctly understood the request; and referenced the first paragraph of the Notice of Violation, noting that the language did not state that a violation had been committed and did not meet the requirements set forth in the UDO; and emphasized that the basis of her argument is that the Notice of Violation is insufficient.

Mr. Allen spoke to the UDO requirement; and noted that the code enforcement officer need only have a "reason to believe" that a property is in violation.

Mr. Robbins sought clarification, noting that the Appellant's request appeared to be for the Notices of Violation to be rescinded; and further stated that the City could still investigate the matter by following UDO procedures and asked Ms. Carpenter to confirm whether his understanding was accurate.

Appellant Attorney Carpenter confirmed that Mr. Robbins' understanding was correct and reflected the Appellant's request; and clarified that she would not direct Staff in their processes but noted there was little reason to hear the full case, as any Board decision could be appealed; and stated that the Court of Appeals would review the Notices of Violation to ensure compliance with City ordinance; and expressed concern that an adverse decision could be appealed.

Mr. Allen expressed concern and asked Ms. Carpenter to refrain from using language he perceived as threatening toward the Board of Adjustment.

Mr. Robbins asked if the Board found the Notices of Violation needed to be withdrawn, would the Appellants find the decision satisfactory.

Appellant Attorney Carpenter shared that her clients would find no contention with that decision; and asked the Board to consider a motion to dismiss both Notices of Violation; and shared that the goal was to find a way forward without pursuing litigation; and asked Mr. Herman to share his perspective on the situation to avoid further litigation on the matter.

Mr. Allen asked to have the Appellant's claim restated for clarification; noting that the claim, as it is understood, is that the lot is not being used as a commercial parking lot.

Appellant Attorney Carpenter shared that the Appellant's are not testifying; and noted that the issue is more to do with the way Staff have defined a commercial parking lot; and stated that the property has not been used as a commercial parking lot.

Mr. Robbins asked whether commercial parking was being provided in the lot.

Appellant Attorney Carpenter confirmed that the Appellant is not in violation of the commercial parking lot ordinance.

Mr. Robbins shared that he understood the claim; and noted that parking only appears to be occurring on the lot; and noted that the City does not particularly object to parking on the lot, but the need to satisfy the City ordinance is to have the property rezoned from residential to commercial to ensure the rule in the UDO is followed.

Appellant Attorney Carpenter noted that, according to the Staff presentation, parking had been allowed by the City on all four residentially zoned lots for years; and stated that making such parking legally acceptable would need to be addressed separately and emphasized that the matter before the Board tonight was limited to the Notices of Violation.

Mr. Robbins noted that the hearing is not a workshop for resolving arguments; and added that if the Notices of Violation were withdrawn, City Staff and the Appellants could meet separately to discuss a way forward.

Appellant Attorney Carpenter expressed hope that Staff and the Appellants could work together; and noted that to proceed, the Board needs to address the Notices of Violation outstanding at this time.

Mr. Robbins asked the City Attorney if he would like to add anything further.

City Attorney Herman agreed with Appellant Attorney Carpenter and noted that further unpacking testimony would unnecessarily consume time; and asked the Board to make a ruling to either withdraw or uphold the Notices of Violation; and referenced the UDO, noting that its procedures are consistent with other municipalities and include all required elements; and emphasized that the violation was issued because the residential lot was being used for commercial parking.

Board Attorney DiGiuseppe clarified that he was not advocating for a particular outcome but providing a recommendation on how the Board could proceed; and addressed whether the Notices of Violation constituted a final notice, explaining the process for a Code Enforcement Officer to certify delivery to the City Clerk, with the certificate deemed conclusive in the absence of fraud; and noted that if these steps are followed, the Notices can be considered final; and also confirmed that the Appellant's appeal rights and timeframes were provided, as evidenced by their attendance at the hearing; and acknowledged that the technical elements of the Notices of Violation were present, noting a technical defect in the language, and emphasized that the decision ultimately rests with the Board.

City Attorney Herman addressed a paragraph previously read by Mr. DiGiuseppe, highlighting the last sentence of the UDO (2.1.5, Subsection C.1): "Additional written notices may be sent at the UDO Administrator's discretion." And noted that, regardless of the title of the letter, the Notices of Violation can serve as the final notice.

Chair Haislip asked if there were any more questions.

Mr. Robbins expressed concern that the matter should have been resolved without a hearing; and proposed motion language to void the two Notices of Violation under appeal, with the stipulation that future notices comply more thoroughly with procedural requirements.

Mr. Eckert sought clarification that the proposed motion was intended to reverse the Notices of Violation.

Mr. Robbins noted that if the Board votes to void the Notices of Violation, the related appeal would also be nullified; and sought clarification on the UDO Administrator's role in determining whether the Notices of Violation constitute a final notice.

Chair Haislip asked Mr. DiGiuseppe to explain the impact on the case if the Board voted to void the Notices of Violation.

Mr. Allen asked what the legal implications would be moving forward.

Board Attorney DiGiuseppe explained that a pending appeal was being treated as an adverse administrative action; and stated that the Board must take one of three actions: affirm, reverse, or modify; and discussed the merits and potential outcomes of each option; and noted that reversing the Notices of Violation would effectively end the appeal.

Mr. Robbins sought clarification, that if no finding exists, that the parking does not exist, how might the Board move forward.

Mr. DiGiuseppe noted that since there is a determination that the UDO was not complied with among the Code Enforcement Officer, UDO Administrator, and City Staff, the steps that were taken were not in compliance with the UDO and delivered an invalid process; and expressed concern that the Board could vacate the entire proceedings alone.

Mr. Robbins asked if the proceedings could be continued for additional resolution to take place.

Appellant Attorney Carpenter shared that she could clarify what her clients were asking for; and noted that if a motion is passed then the appeal becomes moot.

Mr. Robbins asked if the City could withdraw the Notices of Violation based on insufficiency.

Board Attorney DiGiuseppe stated that if the Board finds the City Code Enforcement Officer's findings ineffective or that no findings were made, the Board could deem the Notices of Violation inoperative; and noted that the Board of Adjustment has the authority to act in the role of the Code Enforcement Officer to vacate the prior action.

Mr. Robbins asked how that might be worded in a motion.

Board Attorney DiGiuseppe shared that to render the Notices of Violation as inoperative and ineffective along with the actions of the Code Enforcement Officer would render the Notices of Violation and the appeal moot.

Mr. Robbins asked whether the Board's action could be considered prejudiced or an implied finding regarding the facts in issue.

Board Attorney DiGiuseppe responded that the Board could clarify in its findings that no determinations were being made on the merits of any future Notices of Violation.

Chair Haislip sought clarification for future violations, and whether it prevented the City from pursuing future violations on the same property; and inquired if notice could be provided again after appropriate notifications.

Board Attorney DiGiuseppe shared that it should be specified in the Board action; and noted that the Board should act to render the Notices of Violation inoperative and ineffective for the dates they were issued as they were constituted without prejudice to the City and the Code Enforcement Officer to take any future action; and asked City Attorney Herman for additional comments.

City Attorney Herman stated that he did not want to strengthen opposing counsel's argument if an appeal were filed and the Board deemed the action timely; and provided an analogy to clarify the situation and emphasized that reversing the Notices of Violation would overlook the substantive issue; and cautioned the Board against creating a situation requiring them to revisit the same case within ninety days.

Board Attorney DiGiuseppe spoke to the Board's decision in the case of choosing not to dismiss the Notices of Violation based on procedural grounds; the impact the time periods have on the substantive findings as the notices refer to specific dates; and spoke about the processes included in City policy that would allow the City to issue a future violation.

Chair Haislip sought clarification that reversing the Notices of Violation would not prevent the City from pursuing future violations on the property.

Board Attorney DiGiuseppe stated that that assertion was correct.

Mr. Robbins shared that he wished to rescind any motion that he had previously suggested.

Mr. Masker presented language to draft a motion.

Board Attorney DiGiuseppe elaborated on specific language in the record that the Board should consider when making its decision.

Mr. Ross asked why the Board seemed to be delaying a decision.

Chair Haislip clarified that no vote had been taken and that the Board was only discussing the matter before them.

Board Attorney DiGuiseppe noted that pursuing the issue without resolution could become cyclical and emphasized that it was ultimately the Board's decision to consider.

Mr. Robbins shared that the matter before the Board was to determine to withdraw the Notices of Violation.

Mr. Allen asked if it was possible to table a decision for thirty days, so the City could issue a final notice.

Board Attorney DiGuiseppe shared that he did not believe the Board could table it properly; and emphasized caution and to avoid attempting to perfect the Notices of Violation into a final notice; and that the language outlined in the UDO provides sufficiently for the Notices of Violation that were issued as a final notice.

Chair Haislip noted that if the Board feels proper procedure was not followed, that the Board should make a motion and act at this time.

Mr. Ross asked what the owner's plan for the lot might be.

Appellant Attorney Carpenter shared that that was not being considered today.

Chair Haislip noted that Mr. Masker had proposed motion language that aligned with Board Attorney DiGiuseppe's recommendations and asked the Board to give it careful consideration.

City Attorney Herman noted that if the Board is leaning to withdraw the Notices of Violations that it considers including specific language so that when the appeal is brought back before the Board it will be understood what should be expected; and spoke to Board Attorney DiGuiseppe's point that the first notice can be the final notice per the language outlined in the UDO.

Mr. Masker expressed agreement with what was stated by Mr. Herman; and noted the need to focus on the Notices of Violations as the only point to act on.

Board Attorney DiGuiseppe emphasized that the motion include specific stipulations that illustrate that no determination was being made on the merits of the Notice of Violation, but the procedural issue; and shared that any

finding of inoperability does not prejudice the City, or the code enforcement officer, from pursuing another Notice of Violation for the same or related basis.

A motion was made by Mr. Robbins seconded by Mr. Ross to render the two Notices of Violation inoperative dated April 9, 2025, one regarding Case Number 202540010 applicable to Parcel ID 237LF001, and the other related to Parcel ID 202540011 applicable to property 237LF002 and that by rendering those notices inoperable, this Board in no way makes a finding related to the actual matters raised in the Notices of Violation, and is limited to the procedural deficiencies the Board finds in the Notices of Violation specifically that they do not meet the requirements for such notices outlined in the Unified Development Ordinance.

YAY 5

NAY 1 Mr. Allen

The motion carries

Board Attorney DiGiuseppe stated that the motion renders the appeal moot; and noted that the record should reflect that the Board does not need to take further action on the appeal.

A motion was made by Mr. Allen seconded by Mr. Robbins stating that the Board does not need to take further action on this appeal because of the previous motion and it would be a moot point to do so.

The motion carries unanimously

Discussion ensued concerning the motion and its determinations; and the possibility of the case being returned for a future appeal.

Chair Haislip asks if there were any more questions or concerns that need address, there being none, the Chair closed hearing.

G. Other Business

1. 2026 Board of Adjustment Annual Regular Meeting Schedule

A motion was made by Mr. Allen and seconded by Mr. Ross to approve the Annual Meeting Schedule with revisions.

The motion carries unanimously

2. Discussion Concerning Rules of Procedure on Agenda Prep Time and Dispersal

Planning Services Director Maureen Meehan spoke to the item and shared that the Planning Department would accommodate the Board's needs for receiving the agenda packet earlier.

The Board agreed to have the agenda packet delivered one week before the meeting.

H. Adjourn

Chair Haislip asked for a motion to adjourn.

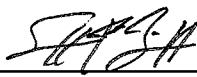
A motion was made by Mr. Robbins and seconded by Mr. Eckert to adjourn.

The motion carries unanimously

The meeting adjourned at 6:45 p.m.

X 

Pete Haislip
Chair

X 

Scott Baillargeon
Deputy Clerk

