

Minutes

BOARD OF ADJUSTMENT

Regular meeting

6 p.m. September 9, 2025

Board Meeting Room of Town Hall Annex, 105 E. Corbin St.



Present: Chair Raul Herrera, members: Rob Iglesias, Eddie Sain, Garrett Sparks and Jenn Sykes

Absent: Vice Chair Dave Blankfard and member Richard Chapple

Staff: Town Attorney Bob Hornik and Senior Planner Tom King

1. Call to order and confirmation of quorum

Chair Raul Herrera called the meeting to order. Senior Planner Tom King confirmed the presence of a quorum.

2. Agenda changes and approval

There were no changes to the agenda.

Motion: Member Jenn Sykes moved to approve the agenda as presented. Member Eddie Sain seconded.

Vote: 5-0. Motion passed.

3. Minutes review and approval

Minutes from the regular meeting on June 11, 2025.

Motion: Sain moved approval of the minutes as submitted. Sykes seconded.

Vote: 5-0. Motion passed.

4. Quasi-judicial evidentiary hearings

- A. Case BA-05-2025: Board of Elections Facility Expansion – Variance from Flood Damage Prevention Ordinance at 208 South Cameron Street (Orange County PIN 9874-15-3612). The applicant is Drew Wilgus, AIA. The property owner is Orange County. The request is to allow construction of a concrete loading ramp and associated site work within the 1% Annual Chance of Flooding area located on the property.

Chair Herrera ensured there were no ex parte communications between the board members and the applicant or property owner. He then called for a motion to open the evidentiary hearing on Case #BA-05-2025.

Motion: Sykes moved to open the evidentiary hearing. Chair Herrera seconded.

Vote: 5-0. Motion passed.

Chair Herrera swore in the variance applicant, Drew Wilgus and King.

King began by entering the staff report from the agenda packet, given to the board members electronically, into the record. The staff report presented an outline of the case and an analysis of the findings required for granting a floodplain variance.

King then entered a Microsoft PowerPoint presentation into the record. He proceeded with the presentation stating the subject property is located at 208 South Cameron Street. King displayed an aerial photograph of the property and identified the existing buildings located on the property. The presentation included:

1. A copy of a map showing the property with the building identified in relation to mapped floodplain areas in the vicinity. The map was taken from portions of FEMA (Federal Emergency Management Agency) FIRM (Flood Insurance Rate Map) Panels 9864 and 9874 having an effective date of November 17, 2017, obtained from the North Carolina Department of Emergency Management.

King noted the 1% Annual Chance of Flooding (100-year floodplain) and 0.2% Annual Chance of Flooding (500-year floodplain) areas affecting the property; the latter being an area not regulated under the FDPO (Flood Damage Prevention Ordinance). King clarified the floodplain areas are south and west of the building.

2. A portion of the applicant's site plan showing the proposed ramp location; the ramp and associated site work being the subject of the variance request. A cross-section of the proposed ramp was also shown.

King explained that the ramp is part of a building expansion project involving redeveloping walkways that are currently within the floodplain. Because they already exist and are simply being reconfigured, a variance is not necessary. The new ramp will serve a roll up door to be installed on the south-southeast side of the building. The ramp is to provide access into the area of the building where voting machines are stored.

3. The definition of "Development" taken from the FDPO. The definition being "Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials."

King clarified that the FEMA model flood damage prevention ordinance allows development within floodplains provided they meet technical standards for flood hazard reduction. Permits and inspections are required. In February 2007, the Town Board of Commissioners adopted an ordinance that, with a few exceptions, prohibits development within floodplains. This project will be subject to issuance of a Floodplain Development Permit and must meet the technical ordinance standards if the variance is granted

4. The required findings the Board must make in granting a variance from the FDPO.

King went through the required findings for the Board explaining that some of the findings may not be applicable to this case or may be determined as not applicable as the case is heard.

King asked the Board if they had any questions at this point. There were none.

Chair Herrera asked the applicant to approach the Board. Drew Wilgus of Smith Sinnett Architecture spoke and stated Jay Watson, a civil engineer with Finch and Associates who is working on the project, was also present to speak to the request.

Chair Herrera swore Watson in as a party to the request.

Wilgus explained the ramp is about 35 feet wide and 12 feet long. It will be constructed of structurally reinforced concrete so it shouldn't go anywhere in a flood so there should be no safety concerns. The ramp is being installed so staff can safely load and unload equipment. Currently, staff must bring equipment down a sidewalk from street level and through the front of the building, then navigate it through the building to the storage room. Wilgus then began to address the required findings, reading mostly from King's staff report:

- (a) The danger that materials may be swept onto other lands to the injury of others.

Wilgus stated the design of the ramp is such that it will not be subject to movement and verified staff did not disagree.

- (b) The danger to life and property due to flooding or erosion damage.

Wilgus stated the ramp is not an occupied structure and poses no risk to occupants. Wilgus quoted the staff comments that construction of the ramp and associated site work will not create a greater threat to life or property due to flooding or erosion damage than already exists. Impervious surface area in the form of existing parking is being removed to allow construction of the ramp. Wilgus said that statement is correct. There will be a tradeoff in impervious surface with no additional impervious surface being created.

- (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

Wilgus stated there is no perceived damage to the ramp because it will be constructed of concrete. At last week's meeting with the HDC (Historic District Commission) the question was asked if the ramp would have brick sides and the answer was it would not; just on the chance it becomes damaged, if not by flooding, but by vehicular traffic or trucks hitting it. There's no perceived chance of flood damage. Any required maintenance would consist of cosmetic cleaning.

- (d) The importance of the services provided by the proposed facility to the community.

Wilgus stated it's a matter of providing staff with the ability to mobilize and take care of equipment involving taxpayer money.

- (e) The necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependent facility, where applicable.

Wilgus stated this was not applicable because the building is not water dependent.

- (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

Wilgus stated the storage room extends along the entire south side of the building and has an L-shape and referred to the building floor plan provided with the application materials found in the staff report.

Wilgus stated a building addition is proposed in the existing western plaza area and will contain an expansion of the storage room. An option discussed during design was to provide a lift on the western façade of the proposed building expansion and outside the 100-year floodplain. The only issue other than maintenance and getting trucks back into the area, which is tight due to maneuverability under this scenario is that, in the event of a 100-year flood event, flood waters will likely not stop at the mapped floodplain boundary and may cause potential damage to the lift; resulting in a greater burden on the property owner. Providing a “dumb” ramp was determined the better option. There is a length requirement for adequate operation and the 90° turn into the western parking area would be difficult for trucks to maneuver considering the parking spaces. Wilgus clarified neither the subject ramp or lift discussed are ADA (Americans with Disabilities) ramps.

Member Rob Iglesias clarified that other locations were explored, and this location is the only suitable location. Wilgus stated Iglesias was correct. Sykes stated this testimony could help establish an unnecessary hardship. It would be more expensive. Wilgus agreed.

Wilgus stated another option discussed during design was placing the ramp at the southeast corner of the building, but it would still partially impact the 100-year floodplain, require a variance and require relocation of handicap accessible parking.

(g) The compatibility of the proposed use with existing and anticipated development.

Wilgus stated the ramp poses no compatibility issues with neighboring properties or potential future development. He then read staff’s commentary from the staff report: “Staff see no reason why the ramp would be incompatible with existing or anticipated development. Smaller loading docks and associated ramps are sometimes required for offices providing specialized services.”

(h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.

Wilgus stated the proposed ramp will have no negative impact on the floodplain management plan. A ramp will allow the owner to more effectively evacuate the building’s valuable equipment if flooding is expected. He then read staff’s commentary from the staff report: “The location of the proposed ramp within the SFHA (Special Flood Hazard Area) runs counter to the Environment and Natural Systems element of the Town’s Comprehensive Sustainability Plan (2030). The Goals of this element are:

1. Employ an integrated ecosystem approach and stewardship mentality to protect, conserve, and restore critical environmental areas and natural systems.
2. Maintain the environment and natural systems for future generations in a sustainable manner.

One of the stated strategies to accomplish these goals is to ‘Adopt regulations that contribute to sustained ecological health of the environment and natural systems.’ ‘Continue to restrict development in floodplains’ is listed as an action item in support of this strategy.”

Sykes asked the Board to think about this way: having electrical equipment sitting in a floodplain would likely be a greater risk than having a ramp in the floodplain.

Iglesias asked Wilgus about a statement Wilgus made earlier in the hearing that there would be no new impervious surface area being added with construction of the ramp.

Jay Watson stated they were not increasing impervious surface on the site and were removing two existing parking spaces to accommodate the ramp. Any remaining impervious area removed would be planted in grass, so there will be a net-zero increase in impervious surface area.

Iglesias responded that it would seem from the Board's perspective there seems to be a net-zero impact. Sykes agreed.

Member Eddie Sain asked about the HDC's review of the project. Wilgus, Town Attorney Bob Hornik and King all spoke to clarify that the HDC had not yet rendered a decision on the project. Wilgus clarified the HDC tabled the hearing on the request to their October meeting and barely spoke to this portion of the building.

Sain questioned the effect of a variance, if granted, on the HDC's ultimate decision. King replied there would be no effect. Even if the Board grants the variance, the HDC may still approve or deny the COA (Certificate of Appropriateness) application. King went on to state the HDC was more concerned with the proposed western building addition than the ramp.

Sykes revisited the question of whether the ramp would have brick applied to the sides. She said she thinks that would be a bad idea because bricks would have a higher risk of breaking apart in a flood with the likelihood of causing damage to neighboring properties. She asked if the Board should place a condition on the variance that brick not be used on the ramp. King said he did not believe this would be within the Board's purview.

King explained the floodplain is comprised of two areas: the floodway and the floodplain, with the former being the area of the SFHA adjacent to the river where water velocity is highest. The 1% Annual Chance of Flooding areas function as a storage area for floodwater outside of the floodway and where water velocity is lower. While objects can float within the floodplain area and make it into the floodway, it is highly unlikely the ramp would do that.

Sykes stated she was more concerned with safety and wanted the discussion reflected in the minutes. King followed up saying that, in his experience, the HDC would likely require the ramp be screened from the street by vegetation. Hornik said there was considerable discussion at the HDC meeting that the ramp be screened from South Cameron Street.

- (i) The safety of access to the property in times of flood for ordinary and emergency vehicles.

Wilgus stated the proposed construction will not obstruct emergency access and staff agreed with that statement.

- (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.

Wilgus stated the effects of flooding are not anticipated to make an impact on the new construction encroachment. Staff had said no technical information was submitted with the application to support this statement.

Sykes asked King if that was what he was referring to when discussing velocity vs. storage area. King responded this is one finding where one would expect more technical data be provided in support of the applicant's statement and how it was derived.

Watson referred to the FRIS (Flood Risk Information System) map identified as Attachment #2 in the staff report showing the floodplain areas on-site. Watson stated the area is located at the confluence of a small tributary with the Eno River. The property is located within an area of "ineffective flow." In hydraulics and riverine analysis, there is "effective flow" and "ineffective flow." Effective flow is where high velocities are experienced with majority of flows heading downstream. Ineffective flows are areas where there is no flow parallel to a stream. These are areas where eddies or stagnant water with little to no velocity are found. There will be little to no flow velocity in the area where the ramp is to be constructed. Additionally, this area is a dead end as far as the Eno River SFHA is concerned because it does not cross Cameron Street until the 500-year flood level is reached.

Iglesias said, to clarify, the additional statements provided are to support the statement made regarding this finding. Watson agreed.

- (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

Wilgus stated the proposed ramp will not have a negative effect cost implication on government operations or require services apart from cosmetic cleaning.

King asked the Board if they had any questions for the applicant or staff. There were none. King advised the Board of the options to leave the hearing open during their deliberations or close it; suggesting they leave the hearing open in case there are additional questions for the applicant. The hearing was left open.

The Board then began discussion of the required variance findings.

Finding 1: The danger that materials may be swept onto other lands to the injury of others.

Motion: Iglesias moved the Board agrees, based on the testimony provided, the design of the ramp is such that it will not move during a flood and be swept onto other lands to the injury of others. Chair Herrera seconded.

Vote: 5-0.

Finding 2: The danger to life and property due to flooding or erosion damage.

Motion: Sykes moved the concrete construction of the ramp ensures it will not be a danger to life or property during flooding and there will be no increase in impervious area. Iglesias seconded.

Vote: 5-0.

Finding 3: The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

Motion: Sykes moved this finding is not relevant because the ramp is not a facility but an accessory or appurtenant structure to an existing facility. Iglesias seconded.

Vote: 5-0.

Finding 4: The importance of the services provided by the proposed facility to the community.

Motion: Sykes moved the ramp allows for easier administration of fair elections. Iglesias seconded.

Vote: 5-0.

Finding 5: The necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependent facility, where applicable.

Motion: Sykes moved this finding is irrelevant given the proposal is refurbishment of an existing building that is not water dependent. Chair Herrera seconded.

Vote: 5-0.

Finding 6: The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

Motion: Sykes moved this finding is met based on testimony provided about the cost of installing a lift at an alternative location, other alternatives still being within the floodplain, the difficulty of truck maneuverability within the parking lot, and the fact that no new impervious areas are being created. Even though there are alternative locations available, they are not suitable and will add additional cost to taxpayers. Sain seconded.

Vote: 5-0.

Finding 7: The compatibility of the proposed use with existing and anticipated development.

Motion: Sykes moved to accept staff's analysis for this finding. The ramp would be compatible with existing or anticipated development because smaller loading docks and associated ramps are sometimes required for offices providing specialized services. Iglesias seconded.

Vote: 5-0.

Finding 8: The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.

Motion: Sykes moved this finding is met because the proposed work involves a modification to an existing building that does not increase impervious surface; a goal of the floodplain ordinance. There is net-zero impact so it complies with what would be grandfathered naturally.

Sykes stated she was having trouble putting this into words. King said he would wordsmith the finding.

Iglesias seconded the motion.

Vote: 5-0.

Finding 9: The safety of access to the property in times of flood for ordinary and emergency vehicles.

Discussion: Sain brought up safety of access to the building. Town Attorney Hornik advised access to the building is already there and the addition of the ramp doesn't block any of those access points.

Motion: Sykes said the finding doesn't seem relevant. Chair Herrera asked if that was a motion. Sykes said it was. Member Garrett Sparks seconded.

Vote: 5-0.

Finding 10: The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.

Motion: Sykes moved the finding was met based on Watson's testimony. Chair Herrera seconded.

Vote: 5-0.

Finding 11: The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

Motion: Sykes moved the ramp would not cause problems and referred to staff's comments in the staff report that the proposed ramp and associated site work should not have a negative effect on the provision of governmental services during and after flood conditions. Sain seconded.

Vote: 5-0.

King stated the Board must make several additional findings in deciding the variance.

Finding 12: Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.

Discussion: Iglesias asked King about the HDC meeting and clarified they had not yet issued their approval of the ramp. King referred to upcoming Finding #15 and stated a COA is a development permit approval, a floodplain development permit is a development permit approval, and a zoning permit is a development permit approval. The question is, has anything been provided in the record to make the Board believe there would be any violation of other laws. King said he can't think of any. All local regulations will have to be met through additional permitting.

Motion: Sykes moved the finding is met because nothing in the application indicates a violation of any other regulations. Sain seconded.

Vote: 5-0.

Finding 13: Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

Discussion: King identified the floodway and floodplain areas located on the property to assist the Board with the finding, stating the area was not within a non-encroachment area.

Motion: Sykes moved this finding was irrelevant because the ramp will not be located in a floodway or non-encroachment area. Iglesias seconded.

Vote: 5-0.

Finding 14: Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Motion: Sykes moved, based on information provided in the staff report and testimony heard regarding other possible alternatives, the proposed ramp location is the minimum variance necessary. Sparks seconded.

Vote: 5-0.

Finding 15: Variances shall only be issued prior to development permit approval.

Motion: Sykes moved the variance is being requested prior to any other development permit approvals. Iglesias seconded.

Vote: 5-0.

Finding 16: Variances shall only be issued upon:

- (i) A showing of good and sufficient cause;
- (ii) A determination that failure to grant the variance would result in exceptional hardship; and
- (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

Motion: Sykes moved, based on the prior findings, the staff report and testimony provided, the proposed ramp will not increase flood levels or create additional hardships. It will also be the least expensive option for the county. Iglesias seconded.

Vote: 5-0.

At King's suggestion, Chair Herrera asked for a motion to close the evidentiary hearing.

Motion: Sykes moved to close the evidentiary hearing. Sain seconded.
Vote: 5-0. Motion passed.

Decision:

Motion: Sykes moved to approve the request variance. Chair Herrera seconded.
Vote: 5-0. Motion passed.

King provided subsequent actions upon the approval of the variance approval, including notice of decision and timing for appeals.

5. Committee and staff reports

King reported that Mr. Sankalp Rangi, present at tonight's meeting, had been appointed to fill Sykes' expired term. Rangi's term begins October 1, 2025. King also welcomed Garrett Sparks to the Board for his first meeting. King informed the Board that the consultant for the UDO rewrite project had completed all initial outreach meetings for the project and would begin drafting the document for town review.

6. Adjournment

Motion: Sykes moved to adjourn the meeting at 7:12 p.m. Iglesias seconded.
Vote: 5-0. Motion passed.

Respectfully submitted,



Tom King, AICP, CZO
Senior Planner
Staff support to the Board of Adjustment

Approved: Month X, 202X