

DRAFT

Minutes

BOARD OF ADJUSTMENT

Regular meeting

6 p.m. June 11, 2025

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



Present: Vice Chair Dave Blankfard, members: Richard Chapple, Eddie Sain, and Jenn Sykes

Absent: Chair Raul Herrera and member Sean Kehoe

Staff: Town Attorney Bob Hornik, Board of Adjustment Attorney Brian Ferrell, Engineering Services Manager Bryant Green, and Senior Planner Tom King

1. Call to order and confirmation of quorum

Vice Chair Dave Blankfard 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: 4-0. Motion passed.

3. Minutes review and approval

Minutes from the regular meeting on May 14, 2025.

Motion: Sain moved approval of the May 14, 2025, minutes as submitted. Sykes seconded.

Vote: 4-0. Motion passed.

4. Quasi-judicial evidentiary hearings

- A. Case BA-04-2025: Adron F. Thompson Addition and Renovation-Special Use Permit Modification request at 715 Dimmocks Mill Road (Orange County PIN 9864-23-7369). The applicant is Bryant Green, PE, Engineering Services Manager. The property owner is the Town of Hillsborough, North Carolina. The request is for an addition to the existing building, new accessory vehicle storage building, associated site improvements, and new driveway onto Dimmocks Mill Road.

First, Blankfard ensured there were no ex parte communications between the board members and the applicant or property owner. Sykes stated she had served on the town Water and Sewer Advisory Board and was aware of the project but had not received any information about the request. Sykes stated she can make a decision based solely on the information provided at the Board of Adjustment meeting. Board of Adjustment Attorney Brian Ferrell asked if Sykes had received information regarding the request, and Sykes said Engineering Services Bryant Green did not speak on the issue during Water and Sewer Advisory Board meetings.

Motion: Sykes moved to open the evidentiary hearing. Member Richard Chapple seconded.

Vote: 4-0. Motion passed.

Vice Chair Blankford swore in the speakers.

King, having been sworn in, 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 use-specific standards for public utility land uses as well as the four general findings specific to the issuance of a special use permit. The four findings still apply to the request even though it is a modification.

King then entered a PowerPoint presentation into the record. He proceeded with the presentation stating the subject property is 711-719 Dimmocks Mill Road. 715 Dimmocks Mill Road is the subject building. King identified it on the aerial photograph provided in the presentation. The presentation included a physical description of the site and surrounding properties including the adjacent Eno River. A large portion of the property is encumbered with flood plain area. The applicant's site plan showed a large rear addition to the existing building, additional parking, a proposed pump station, and an approximately 5,000 square foot vehicle storage accessory building in the northwest corner of the property. The site is approximately 13.5-acres in area. The rear of the new accessory building will be close to the flood plain area.

Chapple asked if the site plan showed the new entrance. King stated it was a new entrance and showed where the existing entrance is located per the site plan. King noted that the building to be added on to dates to 1936 and was the original water treatment plant.

King also showed the applicant's landscaping plan noting proposed improvements to the parking area, front of the building, landscape screening for the properties across the street, and a proposed new fence. The presentation also showed the building elevations for the proposed addition and accessory building as they would appear when viewed from Dimmocks Mill Road.

Chapple asked if it was a vehicle storage area. King thought there would be multiple uses and deferred to the applicant for clarification of the uses.

Next, King displayed the use-specific standards for public utility land uses as found in Unified Development Ordinance (UDO) Section 5.2.4.0. King stated the board must use these standards in evaluating the project. With agreement from Ferrell, King stated the applicant will discuss the standards.

Town Attorney Bob Hornik, having been sworn, addressed the board. He stated he will assist the applicant in presenting the information for the request and is not representing the board as is the usual case. Brian Ferrell represents the board for this hearing. Hornik stated that, in February (Staff Note: this is incorrect, it should be November 2024), the applicant sought a variance from the 100-foot setback requirement found in UDO Section 5.2.40 applicable to the site. Hornik stated that Bryant Green will describe the need for improvements, and the project architect Dave Daniel will speak on the features and characteristics of the project. Hornik then reviewed the four findings needed to grant the SUP modification. Regarding Finding 1, the site is an existing facility, not an introduction of a new function. For Finding 2, the staff report has concluded they satisfy this standard. Finding 3 is met in both parts since the facility houses public works and water utility, which are public necessities. Finally, Finding 4 is met by building on the portion of the property already in use and with safety improvements. Also, the site is classified as Light Industrial on the town's Future Land Use Map. Thus,

Hornik submitted, the board will be able to make each of the four findings in the affirmative and approve the request.

Next, Green, having been sworn, addressed the board and explained he is the project manager. He provided background for the project stating town assets need enclosed storage to increase longevity of use; the project provides more space for existing staff; and existing structures in the flood plain will be demolished. The Public Works Department will be relocated to the future Highway 86 North facility. Thus, there will be a reduction in staff using the Dimmocks Mill Road facility. The project meets all UDO requirements with an aggressive landscape buffer along Dimmocks Mill Road for screening and security.

David Daniel with R and D Architects, having been sworn, then addressed the board. He provided for the record a PowerPoint presentation. He began by stating he has been working with the utilities department on this project since 2019. He then showed an aerial Google Maps image of the site, focusing on the western portion with the existing Adron F. Thompson building, vehicular entrance and staff parking. Parking will be moved away from the road yet located out of the 100-year flood plain. The vehicle storage building will be located within the granted variance for the 100-foot setback. Building in the setback allows for greater visibility and security.

Daniel described the building at 715 Dimmocks Mill Road as a 1936 structure needing upgrading with durable and sustainable materials. He detailed how the proposed project meets the four findings discussed by Hornik. For Finding 1, the project will be improving an existing use and benefit the town. There will be less large vehicle traffic, and a new driveway located away from the curve. Increasing sight lines will contribute to safety. The project meets all regulations and standards needed for Finding 2, as reported by the town staff. Since the site provides town drinking water it is a public necessity, and upgrading the site, as opposed to relocating the facilities, enhances the adjacent properties. Thus, it meets both clauses of Finding 3. He showed renderings of the Type B buffer, which would increase the aesthetics of the Dimmocks Mill Road frontage. Finally, he referred to the town staff report to support the project's compliance with Finding 4.

Chapple asked if any adjacent residential properties gave input on the project. King replied two property owners had emailed the town. One, Steve Addy of 712 Dimmocks Mill Road, inquired about plantings along Dimmocks Mill Road, lighting, and confirmed the town's emergency generator will continue to be diesel. However, the board cannot base their decision on his email since Addy is not present for questioning. The second, Kathleen Aurora of 745 Rex Drive, also not present, believes the renovations will decrease property values and stated that her neighborhood needs a sewer line extension.

Chapple asked if the site would be gravel, alluding to the dust created by trucks entering and exiting the facility. Daniel stated there would be asphalt and gravel, but gravel already exists there. Also, less large trucks will be using the facility. Green added that heavy trucks will not line Dimmocks Mill Road waiting to enter the facility, increasing safety. Also, Daniel stated, the buffer will filter any dust created by the gravel in the site before it reaches the road. Daniel stated the board can determine the type of fence used as the buffer.

Member Eddie Sain asked where the new entranceway will be located and how many trees will be removed. Daniel stated a few canopy trees will be removed and replaced with trees in the buffer. Daniel stated he had consulted with the town and the town's Tree Board and found removing larger trees with more maintenance better than moving the driveway to another location. Sykes cited page 53 of the online packet, "two elms, two beeches, a red maple and a red oak will be removed, but numerous larger trees will remain."

Blankfard asked if the generator would be replaced with a larger unit. Green stated it would not be a larger generator. Also, the town would have preferred a natural gas generator, but the location prevented installation of an appropriately sized gas line. Blankfard followed, asking how frequently the generator would operate.

Green answered by saying it would run once a week. Daniel said it would be visibly screened behind existing landscaping.

Blankfard asked for the lighting to be described. Daniel stated the new building would have building-mounted, wall pack, downward spread lighting with a few additional pole lights in the parking area to comply with the UDO. Overall, the majority are wall mounted. King added, they would be either timed or motion-censored lights. Green added, the lights would meet intensity requirements in the UDO, and Daniel confirmed it met the 0.2 maximum light intensity allowed at the property lines.

Sykes stated the current building's lighting has not been updated to the current, more conservative light standards. New requirements should be closer to dark skies for new development. Daniel stated the lights would have a minimal amount of light for security but will brighten with movement.

Next, Blankfard introduced the opposition's presentation.

Ferrell asked speakers to state whether they have standing or relevant evidence to consider.

First, Gretchen Cobb, a licensed architect in North Carolina, having been sworn, addressed the board. She stated she works on commercial projects and historical preservation projects for the state and federal government. She stated she is representing the Dimmocks Mill neighborhood and lives in the neighborhood. Hornik objected on the record that Cobb is not an attorney at law and does not have the authority to represent anyone but herself. Cobb affirmed it was her own statement. Ferrell clarified the state bar has an ethics opinion, and the appearance at a quasi-judicial hearing is the practice of law. It is not a risk to the board to hear the presenter, only a risk to the presenter. He asked if Cobb had relevant evidence. Cobb stated her family owns property that will be affected by the development. She stated she is presenting relevant evidence. She is not a party to the case but is presenting evidence. Chapple inquired how many people she is speaking for. Cobb stated she is speaking for two neighbors present at the meeting.

Cobb then gave context that the neighborhood is one of the oldest in Hillsborough dating from 1756. She presented a map showing land points for dating the neighborhood. She was notified ten days prior and had little time to review the documents, which were misleading. Chapple asked if the property had a variance, and whether property owners were notified then. King clarified, a variance requires notifying only adjacent property owners, where a Special Use Permit requires notifying all property owners within 500 feet of the property. Cobb stated her family owns property at 752 Rex Drive which is undergoing historical restoration. She intends to build another home on the property in the future. Ferrell clarified again, Cobb was presenting information her neighbors agree with and not claiming that she was a party to the case or representing clients who are a party to the case.

Cobb again spoke of the neighborhood, a historically economically disadvantaged neighborhood, where enslaved people lived. It is part of the town's Extraterritorial Jurisdiction (ETJ), and is a high-density area on septic tanks, but using town water. Conditions in the neighborhood are degrading because of erosion, traffic and old septic systems. The neighborhood has had few improvements and has had correspondence with town utilities staff regarding their concerns.

Cobb stated the neighborhood is located between two curves. Traffic stems from US 70, Gold Park and Nash Street. She stated Dimmocks Mill Road is currently listed as a segment of the state's Mountains to Sea Trail. She provided an image showing vegetation along Dimmocks Mill Road.

Then, she spoke about safety regarding neighbors' ingress and egress from Dimmocks Mill Road to Rex Drive, stating the following: Topography and vegetation create poor visibility. Neighbors have seen bicycles and vehicles use the existing gravel parking lot along the road at 715 Dimmocks Mill Road as a respite during heavy traffic, and decreasing the setback increases safety risks. Dimmocks Mill Road is narrow, the speed limit is 40 miles per hour, and there is only 15 feet between the road and the proposed fence. The neighbors are concerned an existing berm and increased vegetation along the road will decrease visibility. Also, when gates are closed, a parked truck would partially obstruct the roadway.

Cobb then stated the plans indicate trees will be planted inside the fence leaving an eight-foot fence along the road frontage. Since the neighborhood is economically disadvantaged and historically non-white, the institutional aesthetic would be callous. Cobb suggested instead planting outside the fence. She presented a rendering to counter the project documents provided by the applicant, describing it as a better representation of the compacting of space and undesirable aesthetic.

Based on her above statements, she stated the proposed SUP does not satisfy Findings 1 and 3. Cobb also stated concerns regarding the public utilities standards of evaluation as follows:

- There would be a negative impact on the adjacent property values.
- The proposed vegetation does not visually buffer.
- The construction does not maintain the neighborhood aesthetic.
- Because septic improvements are included in the proposal, the adjacent neighborhood should be connected to town utilities.

Sykes clarified the neighborhood is on city water, not on city sewer, not in the city tax base, and has not pursued annexation. Cobb stated the neighborhood was trying to pursue other options to annexation. Sykes then stated utilities connection was unrelated to the SUP.

Hornik objected, stating the discussion on utilities and water is not within the board's jurisdiction. Cobb responded that there is language in one of the public utility use-specific standards implying that where it's reasonable and anticipated, there could be utility service at some point. Sykes replied, the neighborhood would need to pursue annexation and Hornik said it was the town board's jurisdiction and not the board of adjustment's.

Sykes then asked Cobb to clarify which properties she represented, and if Cobb had spoken directly with properties highlighted on the provided map. Cobb said properties highlighted were affected by the SUP, especially the western side of the neighborhood. Sykes then stated, she knew one of the residents of a highlighted property and that person does not want annexation. Cobb said the conversation is not about annexation, and Sykes said she wanted to know who Cobb represented.

Chapple inquired how Cobb knew the proposed new entrance would be unsafe. King interjected and stated, the plans were reviewed by the North Carolian Department of Transportation District Engineers office staff in Graham since Dimmocks Mill Road is a state-maintained road. Safety was not raised as a concern during their review. The town will need to apply for and obtain a driveway permit from the North Carolina Department of Transportation (NCDOT).

Ferrell acknowledged potential objections to the safety risk component of Cobb's presentation and asked if she was a traffic engineer. Cobb stated she is not. Ferrell followed that the North Carolina General Assembly, by statute, decided that lay testimony is not competent evidence. Thus, the board cannot make their decision based on Cobb's testimony.

Sykes said the removal of public works staff from the site would decrease use and increase safety. Blankford referred to the presentation, the level of traffic would maintain current usage so, Sykes stated, it was a moot point. Cobb stated the use would be consolidated to two entrances. She also reiterated the fence would not enhance the neighborhood. Board members stated the fence was required for security reasons.

Then, Daniel asked to return to Cobb's image depicting the fence and objected, stating it was misleading because it shows a picture of a type of fence the applicant does not intend to install.

Hornik asked Cobb to show the aerial image and identify her parent's property and the facility in question. She did, and Hornik inquired if she lived adjacent or contiguous to any portion of the site. Cobb stated the property is on a road adjacent to the site. Sykes asked Cobb to clarify the historical restoration aspect of Cobb's property. Cobb stated the property was undergoing research to determine if a structure was an 1731 original stone building that was part of the Brown's Mill Complex. Then Sykes asked about Cobb's intention with the property, and Cobb responded she intended to live there as part of the community.

Ferrell asked if the applicant wanted an opportunity for rebuttal. Hornik stated he will wait until hearing the other speakers for a rebuttal.

The next speaker, Cindy Shook-Till of 807 Dimmocks Mill Road, was sworn in. She stated Dimmocks Mill Road is extremely dangerous and the proposed new entrance will increase the risk.

Next, Dennis McGrath of 746 Dimmocks Mill Road, which has access on Rex Drive and Dimmocks Mill Road, was sworn in. He stated turning onto Dimmocks Mill Road is dangerous and the proposed driveway closer to the curve is a concern. Hornik asked McGrath to point out his property on a provided map. He did. Hornik noted his property was almost directly across from Cobb's property on Rex Drive.

Then, Green spoke on the issues raised by the previous speakers. First, the plan meets the NCDOT's mandatory sight distance standards. Second, the proposed fence closer to the road is intended to discourage roadside parking and vehicles backing into Dimmocks Mill Road. Third, the Mountains to Sea Trail will not definitely follow Dimmocks Mill Road, but most likely be routed on the opposite side of the Eno River. Cobb interjected. She was told by the Mountains to Sea Trail director that Dimmocks Mill Road is its current location and will be moved in the future. Ferrell stated Cobb must identify herself for the record.

Next, Daniel offered his rebuttal to safety as the main concern. He submitted that NCDOT has reviewed the drawings and found no safety concerns. He acknowledged outlying factors, but reiterated the NCDOT has reviewed the project.

Hornik stated the town's witnesses gave competent testimony telling of the proposed SUP's compliance with the town's UDO, allowing the board to make the four findings needed for the SUP modification approval. Finally, he stated the improvements were needed to maintain the town's water supply. He stated the plan would improve safety, the Department of Homeland Security requires fencing, and the proposed fence follows UDO requirements. He stated neighbor concerns are relevant to another board, but not the board of adjustment. Thus, he asked the board to vote affirmatively on the SUP.

Ferrell suggested keeping the evidentiary hearing open until deliberations were finished.

Blankfard inquired about the 10-day notice to specified properties. King replied, state law requires notice be mailed no more than 25 days and no less than 10 days before the hearing, and the property was posted on May 30, 2025. Notices were mailed that day as well.

Blankfard asked if the variance was granted in November 2024, or February 2025. King said, November 2024. Sykes added there are different notification protocols for variances and SUP notifications.

Ferrell then described the protocols. The applicant must show they have met the standards applicable to the case and are entitled to the permit. Blankfard asked if special requirements or conditions can be placed on the approval of the permit. Ferrell replied they can.

Blankfard opened discussion on the fence. Chapple said the fence aesthetic can be improved. Blankfard referenced a fence around the Durham water supply. Ferrell instructed staff to read the ordinance standard, 5.2.40.1.e. Green clarified the Department of Homeland Security requires barbed wire be included at the top of the fence.

Sain asked about the fencing color. Green replied it would be galvanized steel. Sain suggested a green fence to blend with vegetative screening behind it. Green suggested a green or brown chain-link with a plastic coating.

King stated the green or brown chain link fence could be a condition placed on the approval.

Close the evidentiary hearing.

Motion: Sain motioned to close the hearing. Sykes seconded.

Vote: 4-0. Motion passed.

Ferrell suggested discussing sections of the standards that were contested at the meeting.

King stated the board would begin motions with the general standards first and read the first one.

Finding 1: That the use or development is located, designed, and proposed to be operated so as to maintain the public health, safety, and general welfare.

Motion: Sykes motioned to approve the finding, citing factual basis since it is a public utility.

Finding: The applicant demonstrated the proposed development will function in support of a public utility, specifically the town's water treatment plant. Chapple seconded.

Vote: 4-0. Motion passed.

Finding 2: That the use or development complies with all required regulations and standards of this Ordinance, including all applicable provisions of Articles 4, 5, and 6 and all applicable regulations.

Ferrell said the board should motion on specific standards, like section 5.2.40, citing information from the meeting by town staff and opposing evidence. The board should begin with 5.2.40.1.e. However, it does not need a motion since the board addressed the fence.

Ferrell stated there was no discussion about 5.2.40.1.f, elevations; g, setbacks; h, power distribution; and i, electrical power.

Cobb stated she had contested standard 5.2.40.1.f. Ferrell asked the board to cite evidence presented at the meeting for their recommendation on f.

Motion: Sykes stated with regards to standard 5.2.40.1.f, town staff provided information in the agenda packet that the addition will be consistent with UDO standards, preserve architectural integrity consistent with town utility structures and the historic existing structure. Sain seconded. The layout is consistent with UDO. Chapple seconded.

Vote: 4-0.

Ferrell stated standards 5.2.40.1.g,h, and I, were not contested. However, the board heard information regarding standard j from the applicant stating 5.2.40.1.j is not relevant.

Motion: Sykes stated the applicant has met their burdens because the standard is not relevant for the applicant. Ferrell clarified Syke's comment stating, the applicant has met their need because facilities will not be extended. Chapple seconded.

Vote: 4-0. Motion passed.

Ferrell stated there were no comments regarding 5.2.40.1.k and guided the board to the four main findings. King stated standards 5.2.40.1.a and b were contested. King clarified that the standard does not require a Type B buffer be provided, but that only landscaping meeting the Type B buffer standards be provided. The applicant testified they provided a Type B buffer. Ferrell stated the board should cite findings regarding their decision on 5.2.40.1.b.

Motion: Sykes cited moving staff parking from the frontage, tarmac at the entrance, gravel to the rear of the building, rerouting traffic through the facility to avoid vehicles backing onto Dimmocks Mill Road, and site triangles as reasons to meet Finding 5.2.40.1.b. Chapple seconded.

Vote: 4-0. Motion passed.

Motion: Sykes motioned to approve Finding 2.

Finding: All discussion regarding the contested standards of evaluation and the information provided in the staff report support the finding that the use complies with all applicable town regulations and ordinances. Sain second.

Vote: 4-0. Motion passed.

Finding 3: That the use or development is located, designed, and proposed to be operated so as to maintain or enhance the value of contiguous property, or that the use or development is a public necessity.

Motion: Sykes motioned to approve the finding.

Finding: The use is a public necessity. The proposed landscaping along Dimmocks Mill Road will enhance the value of contiguous property. Chapple seconded.

Vote: 4-0. Motion passed.

Finding 4: That the use or development conforms with the general plans for the physical development of the town and is consistent with the town's Comprehensive Plan.

Motion: Sykes motioned to approve the finding.

Finding: The town's Future Land Use Map classifies the property as "Light Industrial." The use of the property has and will continue to function as the town water treatment plant. Chapple seconded.

Vote: 4-0. Motion passed.

Decision:

Motion: Sykes motioned to approve subject to one condition. Chapple seconded.

Vote: 4-0. Motion passed.

Approval condition: The new sections of security fencing shall be coated green or brown.

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

5. Committee and staff reports

King reported Garrett Sparks was appointed to the Board of Adjustment with a term beginning July 1, 2025. The town has begun the UDO rewrite process.

6. Adjournment

Motion: Sykes motioned to adjourn the meeting at 8:13 p.m. Chapple seconded.

Vote: 4-0. Motion passed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tom King", with a stylized flourish at the end.

Tom King, AICP, CZO

Senior Planner

Staff support to the Board of Adjustment

Approved: Month X, 202X