

MEMORANDUM

TO: Chapel Hill Board of Adjustment

FROM: Colleen Willger, Planning Director
Tas Lagoo, Staff Liaison

SUBJECT: 612 Hillsborough Street
(PIN 9789-41-7342, Project #BOA-22-3)

DATE: October 6, 2022

APPEAL SUMMARY

Appellant, ECP Hillsborough, LLC, represented by counsel, Jeffery Roether, is appealing a Town Staff decision to issue a Notice of Violation (“NOV”) on June 14, 2022, which stated that the renting/leasing/lending of a parking space to someone who does not reside onsite is not considered a permissible “accessory use” to the primary use at a multifamily development. The Appellant also argues that the NOV is barred by a state-imposed statute of limitations.

EXISTING CONDITIONS

The 5.74 acres subject lot is in the Residential-4 Zoning District (R-4). “Parking, off street” is allowed as an accessory use to the existing primary use (residential multi-family). Per the Appellant, the property “has been developed for many years with multi-family apartment units that are available for rent on a long-term basis [and] with paved parking lots in which parking spaces are made available for use by tenants and other users.”

BACKGROUND

February 10, 2015:	Subject property was acquired by ECP Hillsborough, LLC.
October 9, 2020:	Town Staff issued a “Courtesy Notice of Potential Zoning Violation” at the subject property.
June 6, 2022:	Town Staff observed a sign on Hillsborough St. advertising “Off Campus Parking” at the subject property.
June 13, 2022:	Town Staff made an inquiry with the leasing consultant of the subject property and learned that excess parking spaces are rented to non-residents.
June 14, 2022:	Town Staff issued a “First and Final Written Notice of Zoning Code Violation” for off-street parking at the subject property.
July 13, 2022:	Application submitted appealing the Town Staff’s decision to issue the Notice of Violation.

DISCUSSION

Subsection 4.10.3 of the Land Use Management Ordinance defines procedures for appeals of staff decisions and provides that: *“In the case of applications for appeal, the Applicant shall bear the burden of presenting evidence sufficient to establish conclusively that there is an error in the determination of the town manager.”*

Attached materials include three resolutions:

- Resolution A will overturn the Town Staff’s decision to issue a Notice of Violation on substantive grounds.
- Resolution B will overturn the Town Staff’s decision to issue a Notice of Violation on procedural grounds.
- Resolution C will uphold the Town Staff’s decision to issue a Notice of Violation.

The Board may also consider taking another course of action not represented by the attached resolutions.

ATTACHMENTS

1. Resolution A (overruling the Town Staff’s decision)
2. Resolution B (finding that the Town Staff’s decision is barred by the statute of limitations)
3. Resolution C (upholding the Town Staff’s decision)
4. Procedure for Appeals of Town Staff Decisions
5. Application Materials
6. Record of Town Staff Decision