



Town of Clayton
Board of Adjustment Minutes
Wednesday, March 20, 2024 at 6:00 PM
Council Chambers
111 E. Second Street

Board Members Present:

Richie Wiggins
Joseph Warta
Thomas Antoine
Rebecca Berry
Jim Perricone
Marty Bizzell

Staff Present:

Ruth Anderson, Council Member
Conrad Olmedo, Planning Director
Heidi Holland, Town Clerk
Attorney Francis Rasberry

Board Members Absent:

None

1 CALL TO ORDER

- a) Conduct a Role Call to Establish Attendance and a Quorum
Presenter: Staff

Chair Bizzell called the meeting to order at 6:02 p.m. Mr. Olmedo conducted role call.

2 ELECTION FOR CHAIR AND VICE CHAIR

- a) Elect New Chair and Vice Chair for the Board of Adjustment.
Presenter: Conrad Olmedo, Planning Director

Nominations were made for chair and vice-chair. Board Member Berry motioned for Marty Bizzell to remain Chair, seconded by Board Member Antoine. Board Member Perricone motioned for Thomas Antoine to remain Vice-Chair, seconded by Board Member Wiggins.

Nominate Board Chair, Marty Bizzell was Nominated

RESULT:	CARRIED 6-0
MOVER:	Rebecca Berry
SECONDER:	Thomas Antoine
YES:	Richie Wiggins, Joseph Warta, Thomas Antoine, Rebecca Berry, Jim Perricone, and Marty Bizzell
NO:	None

Nominate Vice-Chair, Thomas Antoine was Nominated

RESULT:	CARRIED 6-0
MOVER:	Jim Perricone
SECONDER:	Richie Wiggins
YES:	Richie Wiggins, Joseph Warta, Thomas Antoine, Rebecca Berry, Jim Perricone, and Marty Bizzell
NO:	None

3 ADJUSTMENT OF THE AGENDA

- a) There were no adjustments of the agenda.

4 APPROVAL OF MINUTES

- a) February 21, 2024 Board of Adjustment Minutes
Presenter: N/A

Approve, Amend, or Deny

RESULT:	CARRIED 6-0
MOVER:	Thomas Antoine
SECONDER:	Joseph Warta
YES:	Richie Wiggins, Joseph Warta, Thomas Antoine, Rebecca Berry, Jim Perricone, and Marty Bizzell
NO:	None

5 OLD BUSINESS

- a) 2023-162-VAR Aldi Setback Variance - Findings of Fact and Conclusions
Presenter: Board Attorney

Attorney Rasberry discussed the approval of the final order in the most recent decision which included findings and conclusions on this item. This item was discussed at the February meeting. Board Member Perricone recused himself from voting on this item at the February meeting.

Motion to Approve Findings of Fact and Conclusions

RESULT:	CARRIED 5-0
MOVER:	Rebecca Berry
SECONDER:	Joseph Warta
YES:	Richie Wiggins, Joseph Warta, Thomas Antoine, Rebecca Berry, and Marty Bizzell
NO:	None
ABSTAINED:	Jim Perricone

6 EVIDENTIARY HEARINGS

- a) 2023-102-VAR 103 Quail Ct. Carport Variance
Presenter: Bruce Venable, Planner I

Attorney Raspberry provided details on an evidentiary hearing and the Town Clerk swore those in that wished to offer testimony. Mr. Olmedo provided a summary of this item. This is a variance requested to allow a carport to remain in front of the front line of a principal structure. Location is 103 Quail Court, Clayton; property size is approximately 1.19 acres, zoning is RLL. This application was submitted before the UDO was adopted, the UDC criteria is being applied. Shared were the findings of fact, which are included in the agenda packet.

Applicant is seeking variance from code section 155.308.B.2.b. This property is not in the B-1 zoning district. The applicant asserts that due to the location of their septic tank and field, relocating the accessory structure is not feasible. Shared was a rough schematic site plan, provided by the applicant, that shows the property and approximate location of the septic tank. Shared was an aerial view and street view of the property.

Shared was project history of this case. Provided to the board and applicant this evening is a copy of the notice of violation letter showing the sections in violation as well as a copy of the lien. Chair Bizzell asked if the property is in the city limits or ETJ; Mr. Olmedo stated he would confirm this. Board Member Warta stated on the notice of violation it was highlighted up to two accessory structures may be permitted, he asked if there was a second structure. Mr. Olmedo stated it was highlighted to inform the applicant in case they were exceeding that number. Board Member Berry asked if a deck is considered an accessory structure; Mr. Olmedo stated in his opinion an attached deck would not be. Board Member Perricone asked if we know if the applicant was advised at the time their permit was denied that there was an option to file a variance? Mr. Olmedo stated he did not have the answer to that question; the applicant could be able to provide that information.

Chair Bizzell asked if the carport is within the setbacks? Mr. Olmedo stated the front setback would not be applicable to this structure. Asked was if there was a better representation of the septic tank and carport size; Mr. Olmedo stated the site plan was a good faith effort from the applicant to demonstrate the property.

Applicant Lakesha Terrell, owner of the property, was present. She discussed the locations of the septic tank, drainage field, carport, creek and natural spring on the property. She stated the contractor who built the carport said she did not need a permit; she stated she is unfamiliar with the permit process. Discussed was the communication for receiving the notifications for the violations and the lien on the property. She stated she paid her fines over the phone on June 29, 2023. She stated she received an email stating everything was fine. She was told she would receive a call setting up a meeting; she did not hear anything else from anyone. The next communication heard was a lien was put on her house.

Board Member Perricone asked the applicant if there are any other structures on the property. She stated when they moved to the property, there was a greenhouse in the backyard but that has been removed. It was stated the carport was built in 2020. She discussed the carport was built because of her migraines.

Discussed were the setbacks. Mr. Olmedo stated for the principal structure there is a 35' front yard setback, 15' side yard setback and 30' rear yard setback. Regarding

accessory structures, the UDC states not to be within 10' of a property line but not in front of a principal home. He stated based on the aerial map, it would be approximately 20' from the top left corner of the carport to the property line, the top north of the property line is approximately 65' and the carport is approximately 620 sq. ft. in size.

Clayton resident Katie Regal, neighbor of the applicant, was present in support of Ms. Terrell. Kevin Terrell, husband of Ms. Terrell was present and spoke. He stated he hired a surveyor to identify where the septic tank is located.

Mr. Olmedo distributed to the Board information on the property in question shown that it is located in the ETJ, sheet on the accessory structure and use code sections from the UDC, information on the RE district dimensional standards, and an aerial image which shows the setback of the existing carport. Board Member Berry asked if the lack of a carport is a hardship? Attorney Rasberry stated he did not think it's a presumption of a hardship, but this would be up to the board.

Each findings of fact were read and there was further discussion on these.

Motion To Approve 2023-102-VAR

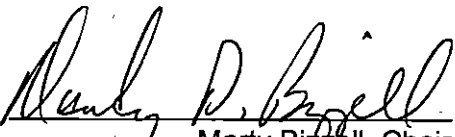
RESULT:	CARRIED 5-1
MOVER:	Jim Perricone
SECONDER:	Joseph Warta
YES:	Richie Wiggins, Joseph Warta, Thomas Antoine, Jim Perricone, and Marty Bizzell
NO:	Rebecca Berry

7 ADJOURNMENT

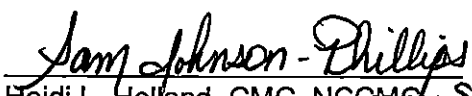
- a) With nothing further, the meeting was adjourned at 7:20 p.m.

RESULT:	CARRIED 6-0
MOVER:	Jim Perricone
SECONDER:	Thomas Antoine
YES:	Richie Wiggins, Joseph Warta, Thomas Antoine, Rebecca Berry, Jim Perricone, and Marty Bizzell
NO:	None

Duly adopted this the 17th day of April, 2024


Marty Bizzell, Chair

ATTEST:


~~Holdi L. Holland, CMC, NCCMC~~ **SAM JOHNSON - PHILLIPS**
DEPUTY Town Clerk