



**Town of Clayton
Board of Adjustment Minutes
Wednesday, March 16, 2022 @ 6:00 PM
Council Chambers**

BOARD PRESENT:

Marty Bizzell
Thomas Antoine
Jim Perricone
Rebecca Berry
Bob Satterfield
John Saluppo
Richie Wiggins

STAFF PRESENT:

Planning Director Ben Howell
Planner II Aaron Prichard
Planner I Bruce Venable
Deputy Town Clerk Heidi Holland

TOWN COUNCIL LIASION:

Avery Everett

BOARD MEMBERS ABSENT:

1 CALL TO ORDER

- a) Board Chair Bizzell called the meeting to order at 6:03pm

2 ADJUSTMENT OF THE AGENDA

3 APPROVAL OF MINUTES

- a) February 16, 2022 DRAFT Minutes

ACTION: APPROVED

Motion: Board Member Jim Perricone
Second: Board Member Thomas Antoine
Vote: Unanimous

4 PUBLIC HEARINGS

5 OLD BUSINESS

- a) Findings and Conclusion
- 2021-113-VAR - Buckskin Garage

Director Howell provided the findings and conclusion for 2021-113-VAR to Board in their staff packets.

No comments from Board

ACTION: Approval of Findings & Conclusions

Motion: Board Member Bob Satterfield

Second: Board Member Jim Perricone

Vote: Unanimous

- b) Findings and Conclusions
- 2021-152-VAR - Med Spring Drive Shell

Director Howell provided the findings and conclusion for 2021-152-VAR Med Spring Drive Shell.

ACTION: Approval of Findings & Conclusions

Motion: Board Member Thomas Antoine

Second: Board Member Rebecca Berry

Vote: Unanimous

6 TRAINING

- a) Town Attorney Will Provide Training

Town Attorney Frances Rasberry Jr. provided training to the Board on Evidentiary Hearing (Quasi-Judicial Process)

Quasi-Judicial VS Legislative VS Administrative

"Quasi-Judicial = Court-like, weighing facts, applying judgment; board acts as the judge and jury; an evidentiary hearing; no EX PARTE Contact or evidence is allowed; review is on "On the record" by the superior court"

Legislative = Broad decisions on policy, practice, and rules; decisions may be legally challenged but deferred to the courts; off-the record lobbying is okay.

Administrative = Little or no discretion; typically staff-level; applying straightforward ordinance requirements to facts on the ground."

Should remember Basic Legal Principles.

Applicants are afforded "Due Process" the right to a fair and impartial hearing.

This includes:

1. Right of Counsel
2. Must have sworn (or affirmed) testimony
3. Notice of Hearing Requirements
4. Must be some rules of Procedure
5. No Conflicts of Interest or Ex Parte Contacts
6. (Some) Evidentiary Limits
7. Record of Proceedings Required
8. Right of Appeal (to superior court)

Questions from during training:

Jim Perricone asked question relating to "Burden of Persuasion" that exist during an Evidentiary Hearing.

Question: If opposition presented their own expert witnesses does that carry the same weight as the applicant's expert witness?

Attorney Response: If there is opposition that provides it's own expert testimony it gives more discretion to the Board to weigh each of the testimonies against one another in order to make the best possible decision in line with the presented evidence.

7 NEW BUSINESS

8 ADJOURNMENT

a)

Adjourn the Meeting

With there being nothing further, the meeting was adjourned at 7:39 p.m.

Motion: Board Member Bob Satterfield
Second: Board Member Jim Perricone
Vote: Unanimous

Chair

ATTEST:

Clerk to the Board