



**Town of Clayton  
Board of Adjustment Minutes  
Wednesday, May 18, 2022 @ 6:00 PM  
Council Chambers**

**BOARD MEMBERS PRESENT:**

Marty Bizzell – Chair  
Thomas Antoine -Vice Chair  
Bob Satterfield  
Richie Wiggins  
Jim Perricone

**STAFF PRESENT:**

Aaron Prichard – Planner II  
Bruce Venable – Planner I

**TOWN COUNCIL LIAISON**

Avery Everett

**BOARD MEMBERS ABSENT:**

John Saluppo  
Rebecca Berry

**1 CALL TO ORDER**

- a) Chair Bizzell calls the meeting to order at 6:00pm

**2 ADJUSTMENT OF THE AGENDA**

**3 APPROVAL OF MINUTES**

- a) March 16, 2022 Draft Minutes  
April 20, 2022 Draft Minutes

**ACTION:** Approved

Motion: Board Member Perricone  
Second: Board Member Perricone  
Vote: Unanimous

**4 PUBLIC HEARINGS**

- a) 2022-50-VAR Geiger Shed Variance Continuation From April 20, 2022

This portion of the Board of Adjustment meeting is a continuation of the Public Hearing of 2022-50 VAR Geiger Shed Variance held on April 20, 2022.

Aaron Prichard, Planner II, presented to the Board a brief recap of the information that was presented at the previous meeting on April 20, 2022.

Staff reminded the Board members that the Board of Adjustment shall review and make a final decision regarding Variance applications and that the Board may impose conditions regarding location, character, and other features as may be deemed by the Board to Protect property values and general welfare of the neighborhood.

The following new information was presented to the Board by staff:

There was a preliminary subdivision plat granted to the applicant in 2018, project number 2018-235-SD, later named the Bear creek subdivision, which contains 8 separate single-family lots. The applicant currently resides on lot 5 of the Bear creek subdivision.

**Questions from the Board to Staff:**

Member Perricone: Was there anything discovered that would have any would have any bearing on this Variance request?

Staff reiterates that the applicant had in the past worked within the regulations and requirements of both Town and County ordinances yet claimed during the April meeting that they were simply unaware of any specific Town requirements.

**Staff is released by the Board**

**Applicant's Counsel Whitney Hosey approaches the podium.**

Counsel informs the Board that they have brought in professional land surveyor Alsey Gilbert to provide expert testimony to answer past questions from the Board relating to the appropriateness of the location of the accessory structure due to topographical and environmental hardships.

Counsel requested that the Board continue to keep in mind that an after-the-fact variance must still be treated as a newly requested Variance.

Counsel revisits the basics of the Variance hearing heard last meeting.

**Alsey Gilbert comes to the podium and is sworn in by the Clerk to the Board.**

Counsel passes out a survey done by Mr. Gilbert to Board members

Mr. Gilbert provides his qualifications to the Board:

- 30 years' experience as a professional land surveyor.
- Education: Wake tech, Sansom Tech.

Board recognizes Mr. Gilbert as an expert witness

Mr. Gilbert provides testimony to the state of the Geiger's property and the suitability of sites for the shed in question. Mr. Gilbert states that due to the riparian features and evidence of erosion from creeks, streams and other environmental factors, that there were not many locations to the rear or sides of the principal structure that would have been an ideal site for the accessory structure.

Board member Antoine ask Mr. Gilbert to view sheet 9 "Structure Drawing SK3" and asked if he knew if the primary structure was built upon this particularly strong type of foundation? And if it was, could this type of foundation have allowed the applicant to build their accessory structure behind or to the side of their primary building?

Mr. Gilbert stated that soils and construction details are outside of his realm of expertise.

**Board dismisses Mr. Gilbert.**

**Public Hearing Closed**

**Board Discussion:**

Attorney: provides Board members counsel on the Quasi-Judicial process and the Board's responsibility to only consider evidence submitted by an expert witness and that there is little discretion afforded to the members outside of what is presented as evidence.

Motion: Board Member Perricone moved to approve the variance.

Second: Board Member Wiggins

Vote: Motion carried 4-1, with Board Member Antoine dissenting.

**5 OLD BUSINESS**

**6 NEW BUSINESS**

## **7 PLANNING DIRECTOR REPORT**

a) Staff provides Board with updates:

The Planning department expects to be fully staffed by the first week of June

- Land development specialist to start on June 6, 2022
- This new hire will be taking over duties as Clerk to the Board of Adjustment as well as to the Planning Board.

### **UDC UPDATES**

- Board members Perricone, Bizzell, Berry and Antoine will be joining the Planning Board as members of the Codify Clayton UDC Steering committee.
- The first meeting will take place on May 23rd at 6:00pm
- The first open house for Codify Clayton will be on June 28th 2022.
- Two session will be held at mid-day and in the evening. Each meeting will have a presentation by staff and consultants.
- The website is up for the code rewrite. The website is [www.Codifyclayton.com](http://www.Codifyclayton.com)

## **8 ADJOURNMENT**

Meeting adjourned at 7:10pm.

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Chair

ATTEST:

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Clerk to the Board