



**Town of Clayton  
Board of Adjustment Minutes  
Wednesday, April 15, 2026 at 6:00 PM  
Council Chambers, Town Hall  
111 E. Second Street**

Pursuant to N.C. General Statute § 143-318.10(e), these minutes provide a general summary of the Board of Adjustment meeting and do not represent a verbatim transcript. A complete video recording of this meeting is available for public access on the Town of Clayton’s official YouTube channel: <https://www.youtube.com/user/TownofClaytonNC>.

**Present:**

Marty Bizzell, Chair  
Rebecca Berry, Vice-Chair  
Joseph Warta  
Jim Perricone  
Karen Spicer  
Robin Jarvi

**Staff Present:**

Francis Rasberry, Town Attorney  
Conrad Olmedo, Planning Director  
Susan Long, Zoning and Code Enforcement Officer  
Heidi Holland, Town Clerk

**Absent:**

Richie Wiggins

**1. CALL TO ORDER**

- a. Call To Order

Chair Bizzell called the meeting to order at 6:00 p.m. It was noted Town Clerk Heidi Holland would administer oaths to new member Robin Jarvi and re-appointed members Rebecca Berry and Marty Bizzell.

- b. Roll Call of the Board of Adjustment

Mr. Olmedo provided the roll call. A quorum was present. With Board Member Wiggins absent, Board Member Spicer was able to vote.

**2. BOARD OF ADJUSTMENT ELECTIONS**

Election of the Board of Adjustment Chair and Vice Chair

- a. Accept nominations for the Board of Adjustment Chair and entertain a motion to vote.

Board Member Perricone nominated Chair Bizzell for Chair and Vice-Chair Berry for Vice-Chair for this year, seconded by Board Member Spicer. Mr. Olmedo asked Board Member Perricone to make those separate motions. Board Member Perricone amended his motion to nominate Chair Bizzell for Chair, seconded by Vice-Chair Berry.

**Nominate Chair Bizzell to Continue to Serve as Chair for 2026**

<b>Result:</b>	<b>Passed 5-0</b>
<b>Mover:</b>	Jim Perricone

<b>Seconded:</b>	Rebecca Berry
<b>Yes:</b>	Joseph Warta, Rebecca Berry, Jim Perricone, Marty Bizzell, Karen Spicer
<b>No:</b>	None
<b>Absent:</b>	Richie Wiggins

- b. Accept nominations for the Board of Adjustment Vice Chair and entertain a motion to vote.

Board Member Perricone nominated Vice-Chair Berry for Vice-Chair for this year, seconded by Board Member Spicer.

**Nominate Vice-Chair Berry to Continue to Serve as Vice-Chair for 2026**

<b>Result:</b>	<b>Passed 5-0</b>
<b>Mover:</b>	Jim Perricone
<b>Seconded:</b>	Karen Spicer
<b>Yes:</b>	Joseph Warta, Rebecca Berry, Jim Perricone, Marty Bizzell, Karen Spicer
<b>No:</b>	None
<b>Absent:</b>	Richie Wiggins

**3. ADJUSTMENT OF THE AGENDA**

- a. No adjustments were made to the agenda.

**Adoption of the Agenda as Presented**

<b>Result:</b>	<b>Passed 5-0</b>
<b>Mover:</b>	Rebecca Berry
<b>Seconded:</b>	Joseph Warta
<b>Yes:</b>	Joseph Warta, Rebecca Berry, Jim Perricone, Marty Bizzell, Karen Spicer
<b>No:</b>	None
<b>Absent:</b>	Richie Wiggins

**4. APPROVAL OF MINUTES**

- a. October 7, 2025 Meeting Minutes of the Board of Adjustment

**Adoption of Minutes**

<b>Result:</b>	<b>Passed 5-0</b>
<b>Mover:</b>	Joseph Warta

<b>Seconded:</b>	Jim Perricone
<b>Yes:</b>	Joseph Warta, Rebecca Berry, Jim Perricone, Marty Bizzell, Karen Spicer
<b>No:</b>	None
<b>Absent:</b>	Richie Wiggins

**5. EVIDENTIARY HEARINGS**

- a. 101 Best Wood Drive 2025-149-APL

Chair Bizzell stated prior to opening the evidentiary hearing, the Board Attorney Rasberry would review the quasi-judicial process for the benefit of new and returning members.

Attorney Rasberry advised the Board of Adjustment is an independent decision-making body operating pursuant to the North Carolina General Statutes. He stated the matter before the Board was an appeal of an administrative determination made by the Town of Clayton planning staff. He explained quasi-judicial hearings are evidentiary in nature and are conducted in a manner similar to a court proceeding rather than a general public hearing.

He reviewed the procedural and constitutional requirements applicable to quasi-judicial hearings, including the right of parties to due process, the right to counsel, the right to present sworn testimony, the right to examine and cross-examine witnesses, and the requirement that the Board base its decision solely on competent, material, and substantial evidence. He explained a written record of the proceedings must be maintained and the Board’s decision must be memorialized in a written final order containing findings of fact and conclusions of law.

He also explained the parties to the proceeding were the Town of Clayton, acting through its administrative staff, and the appealing party. He stated Board Members must serve as a fair and impartial tribunal and may not participate in a case if they have a substantial familial, business, or associational relationship with any party. He advised the Chairman should inquire regarding any conflicts of interest before proceeding.

Attorney Rasberry stated in an administrative appeal, the Board’s role is to receive evidence, determine the relevant facts, and interpret and apply the applicable law. He clarified that Board Members serve as both fact-finders and decision-makers and that the Board may not grant relief beyond the authority provided by statute. Board Members asked questions regarding the conduct of the hearing, deliberations, and the preparation and approval of the final written order, which were addressed by Attorney Rasberry.

Chair Bizzell formally opened the evidentiary hearing and stated all individuals intending to testify be sworn in by Town Clerk Heidi Holland. Ms. Holland swore those individuals in.

Susan Long, Zoning and Code Enforcement Officer for the Town of Clayton, presented the staff report regarding the appeal of a Notice of Violation associated with a shipping container located on the property at 101 Bestwood Drive. Ms. Long testified the property is approximately 1.15 acres in size and is located at the corner of Powhatan Road and Bestwood Drive. She stated the property is developed with a commercial building containing two tenant suites, one occupied by a handyman services business and the other by an indoor tumbling and cheer studio. She stated the property is zoned Light Industrial.

Ms. Long stated public notices for the evidentiary hearing were properly provided through the posting of signage, mailing of notices, and updating of the Town's website. She stated the Notice of Violation was discovered during a routine enforcement activity when staff observed construction materials attached to a shipping container on the property. Upon further investigation, staff determined no building permits or temporary use permits had been issued for the shipping container or for the construction activity associated with it.

Ms. Long presented aerial and street-level imagery showing no shipping container was present on the site in April 2022 or October 2023, but the container appeared on the property by early 2024. She testified the Unified Development Ordinance became effective on January 2, 2024, and under the UDO, shipping containers are classified as temporary structures requiring a temporary use permit. She explained temporary use permits allow placement for a limited period of time and that, even if such a permit had been issued, the allowed duration would have expired well before enforcement action was taken. Ms. Long stated no permits of any kind had been issued and the container was therefore in violation of the UDO.

Members of the Board questioned staff regarding whether the shipping container would have been permitted under the prior development code, whether grandfathering or legal nonconforming status could apply, and what permitting requirements would have existed prior to the adoption of the current UDO. Mr. Olmedo stated under the prior ordinance, shipping containers may have been allowed as an accessory use subject to screening, setbacks, and other standards, but permitting would still have been required. He stated no documentation existed showing the container was lawfully established prior to the effective date of the current UDO.

Additional questions were asked regarding the timing of the container's placement on the site, the issuance of enforcement notices, and the length of time the container had remained on the property without authorization. Staff clarified the enforcement timeline and confirmed that no documentation had been submitted demonstrating lawful establishment of the container.

Attorney Rasberry clarified a use may only be considered legal nonconforming if it was lawfully established prior to a change in the ordinance. He explained the absence of required permits is a critical factor in making this determination and it is the Board's responsibility to determine whether the evidence supports lawful establishment of the use.

The appellant, Ritchie Schacher testified under oath as a fact witness. He stated he operates a business located at 101 Bestwood Drive but does not own the property. He testified the shipping container was acquired as part of the purchase of the business and that it is used exclusively for storage of tools, equipment, and materials related to business operations. He acknowledged the container was not permitted.

Mr. Schacher testified he believed the container had been delivered prior to the effective date of the Unified Development Ordinance, possibly in October 2023, but stated he lacked documentary evidence confirming the delivery date. He testified after acquiring the business, he removed the unauthorized construction that had been attached to the container. He further testified he had relied on representations from the prior owner that the matter was being addressed and believed it had been resolved until later enforcement notices were received.

Mr. Schacher stated his objective in filing the appeal was to stop the accrual of daily penalties

and to find a path toward compliance. He requested the Board consider allowing the container to remain on the property, citing the presence of similar containers on neighboring properties and the financial hardship associated with removal.

Members of the Board questioned the applicant regarding permit history, his knowledge of the violation prior to acquiring the business, ownership of the container, and use of the container. Mr. Schacher acknowledged no permits had been obtained and confirmed he was aware of the violation prior to completing the business acquisition.

Ms. Long testified other shipping containers in the area had either been lawfully established under previous regulations or had existed for a duration beyond the applicable enforcement limitations. She testified that temporary permitting options had been discussed with the prior owner and the current UDO prohibits granting use variances for uses not permitted by right.

Mr. Schacher asked whether there was any process available, outside of a legislative amendment and a rewrite of the Unified Development Ordinance, that would allow the matter to remain in compliance on a permanent basis through a variance, waiver, or similar mechanism. Mr. Olmedo responded, at this time, no such alternative path exists. It was explained potential solutions had been discussed previously, including conversations with Mr. Richie Stewart, and there was interest in addressing the issue legislatively in the future.

Mr. Olmedo noted the matter before the board that evening was limited to whether the cited violation should be appealed or not appealed, and emphasized this should remain the focus of the current decision. While alternative solutions and future possibilities could be discussed at a later time, staff indicated they would be willing to continue those discussions outside of the immediate appeal process. No further questions were raised.

Attorney Rasberry clarified the Board's role was limited to determining whether staff correctly issued the Notice of Violation. He stated the Board lacked authority to grant a use variance, waive ordinance requirements, or direct staff to negotiate alternative compliance paths. He further clarified that matters related to civil penalties and enforcement are not within the Board's jurisdiction and that legislative amendments to the Unified Development Ordinance are outside the Board's authority.

No additional evidence or testimony was offered by either staff or the appellant.

Chair Bizzell closed the evidentiary hearing and opened the matter for Board deliberation.

Following deliberation, Board Member Perricone made a motion to affirm the determination of staff in Appeal No. 2025-149-APL on the grounds that the shipping container was not lawfully established, required permits were not obtained, and the use does not comply with the current Unified Development Ordinance. The motion was seconded by Vice-Chair Berry.

**Affirm the Determination of Staff in Appeal No. 2025-149-APL**

<b>Result:</b>	<b>Passed 5-0</b>
<b>Mover:</b>	Jim Perricone
<b>Secunder:</b>	Rebecca Berry
<b>Yes:</b>	Joseph Warta, Rebecca Berry, Jim Perricone, Marty Bizzell, Karen Spicer

<b>No:</b>	None
<b>Absent:</b>	Richie Wiggins

**6. NEW BUSINESS**

- a. Information update on the Written Decision of the Board of Adjustment.

Attorney Rasberry stated a written final order containing findings of fact and conclusions of law would be prepared and presented to the Board for review and formal approval at the next regular meeting, in accordance with statutory requirements.

**7. ADJOURNMENT**

- a. Adjourn

With nothing further, the meeting was adjourned at 7:31 p.m.


**Motion To Adjourn**

<b>Result:</b>	<b>Passed 5-0</b>
<b>Mover:</b>	Joseph Warta
<b>Second:</b>	Karen Spicer
<b>Yes:</b>	Joseph Warta, Rebecca Berry, Jim Perricone, Marty Bizzell, Karen Spicer
<b>No:</b>	None
<b>Absent:</b>	Richie Wiggins

Duly Adopted by the Board of Adjustment on Wednesday, May 20, 2026 while in regular session.

  
 Marty Bizzell  
 Chair

**ATTEST:**

  
 Heidi L. Holland, MMC, NCCMC  
 Town Clerk

