



**TOWN OF MIDWAY  
BOARD OF ADJUSTMENT MINUTES  
TUESDAY, FEBRUARY 25, 2020**

**MINUTES OF MIDWAY BOARD OF ADJUSTMENT MEETING HELD ON TUESDAY,  
FEBRUARY 25, 2020 AT 5:00 P.M. AT MIDWAY TOWN HALL, 426 GUMTREE ROAD,  
MIDWAY, NORTH CAROLINA**

**CALL TO ORDER**

Vice-Chairman Carl Tuttle called the meeting to order.

Board of Adjustment members present were: Charles Waddell, Jamie Hester, Carl Tuttle and James Smith. Absent: LeeAnn Tuttle-Thomas. Alternate: Vacant.

Town Manager Tammy Michael, Town Clerk Linda Hunt, Deputy Clerk Tammy Robertson, Davidson County Zoning Officers Lee Crook and Travis Swain were present.

**ADOPT AGENDA**

On motion by Board member Jamie Hester, seconded by Board member James Smith, the Board voted unanimously to adopt the agenda as presented.

**PUBLIC HEARING**

**REQUEST BY DUSTIN FLOYD FOR A VARIANCE TO THE FRONT YARD SETBACK IN A  
RS, LOW INTENSITY RESIDENTIAL DISTRICT.**

Davidson County Zoning Officer Lee Crook discussed the procedures of a Variance request and stated that no ordinance is comprehensive enough to allow for everything that people can come up with in the development world. There has to be a procedure in the ordinance to allow for when certain circumstances are present, an exception to the rule. A Variance can only be to the dimensional or locational dimensions of the ordinance.

An applicant has to prove that an unnecessary hardship would result from the strict application of the ordinance. The hardship results from conditions peculiar to the property such as location, size, or topography that may hinder an applicant from developing his or her property in accordance with the standards of the law.

Since a Variance is an exception to the rule, the process requires a supermajority or four-fifths of the Sitting Board to approve a variance. Chairperson LeeAnn Tuttle Thomas was absent from the meeting due to a death in her family, but her seat still counts in the vote. The only way her seat would not be counted is if she had a conflict of interest in the Variance request. For the process to be carried out, the remaining four Board members would have to vote in approval.

A Quasi-Judicial Hearing is like a Court of Law, with sworn testimonies. All information presented must be factual and not opinion based.

Mr. Floyd asked the Board of Adjustment for a continuance with the hearing until the next available meeting time.

Mr. Crook said that asking for a continuance from the applicant is a common occurrence and applicants

have a right to ask this of the Board of Adjustment. Mr. Floyd has a right for the full Board of Adjustment to hear his case. It is up to the Board of Adjustment to decide whether to grant the request for a continuance and if the continuance is granted, to set a date and time specific for the next meeting.

Part of the legal process for Board of Adjustment hearings is to post two public hearing notices not less than ten days and no more than twenty-five days in the newspaper of local circulation. Notices of the public hearing are also mailed to adjoining property owners and a sign is also posted on the property of the applicant. By continuing the meeting to a date certain, legal obligations are still met in respect to North Carolina General Statutes. Mr. Crook stated that as a courtesy, the Davidson County Planning and Zoning Department will repost the property with a new date and time on it and mail new notices to the adjoining property owners.

On motion by Board member James Smith, seconded by Board member Charles Waddell, the Board of Adjustment voted unanimously for a continuance in the hearing for Variance request by Mr. Dustin Floyd until March 31, 2020 at 5:00 p.m. at Town Hall as recommended by Vice-Chairman Carl Tuttle.

**ADJOURNMENT**

On motion by Board member Charles Waddell, seconded by Board member Jamie Hester, the Board voted unanimously to adjourn the meeting at 5:09 p.m.

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Carl Tuttle, Vice-Chairperson

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Tammy H. Robertson, Deputy Clerk

