



**TOWN OF MIDWAY
BOARD OF ADJUSTMENT MINUTES
TUESDAY JUNE 24, 2025**

**MINUTES OF MIDWAY BOARD OF ADJUSTMENT MEETING HELD ON TUESDAY, JUNE 24, 2025,
AT 5:00 P.M. AT MIDWAY TOWN HALL, 426 GUMTREE ROAD, MIDWAY, NORTH CAROLINA**

CALL TO ORDER

Chair Jamie Hester called the meeting to order.

DETERMINATION OF QUORUM

Quorum was established. Board of Adjustment members present were Chair Jamie Hester, Vice-Chair Paula Hill, Charles Waddell, James Smith, Carl Tuttle, and Alternate Sherri Thomas. Absent None.

Town Manager Nicholas Smith, Town Clerk Linda Hunt, Deputy Clerk Ree Goodson, Attorney Amanda P. Hodierne Partner with Isaacson Sheridan, Davidson County Planning Officer John Wheeler, Davidson County Planning Officer Josh Tussey, Davidson County Planning Officer Matthew Bruff and CK Auto Sales, Inc. Chief Executive Officer Jennifer Lala were present. Absent None

APPROVAL OF MINUTES

On motion by Board member James Smith, seconded by Board member Carl Tuttle, the Board voted unanimously to approve the April 29, 2025, Board of Adjustment minutes.

ADOPT AGENDA

On motion by Board member Carl Tuttle, seconded by Board member Charles Waddell, the Board voted unanimously to adopt the agenda.

PUBLIC ADDRESS

There were none.

REGULAR BUSINESS

VARIANCE REQUEST VAR-25-8 – CK AUTO SALES, INC.

Chair Jamie Hester opened the evidentiary hearing which is like a court hearing. State law sets specific procedures and rules concerning how this board must make its decision. These rules are different from other types of land use decisions like rezoning cases.

The board's discretion is limited. The board must base its decision upon competent, relevant, and substantial evidence in the record. A quasi-judicial decision is not a popularity contest. It is a decision constrained by the standards in the development regulation and based on the facts presented. If speaking as a witness, focus on the facts and standards not personal preference or opinion.

Participation is limited. This meeting is open to the public. Everyone is welcome to watch. Parties with standing have rights to participate fully. Parties may present evidence, call witnesses, and make legal arguments. Parties are limited to the applicant, the local government, and individuals who can show they will suffer special damages, other individuals may serve as witnesses when called by the board. General witness testimony is limited to facts, not opinions. For certain topics, this board needs to hear opinion testimony from expert witnesses. These topics include projections about impacts on property values and projections about impacts of increased traffic.

Individuals providing expert opinion must be qualified as experts and provide the factual evidence upon which they base their expert opinion.

Witnesses must swear or affirm their testimony. Deputy Clerk Ree Goodson administered the oath for all individuals who intended to provide witness testimony.

Davidson County Planning Officer John Wheeler, Town Manager Nicholas Smith and CK Auto Sales CEO Jennifer Lala were sworn in by Deputy Clerk Ree Goodson.

Davidson County Planning Officer John Wheeler explained that a 4/5 vote of the Board is required to grant the variance. Mr. Wheeler described the hearing as a quasi-judicial evidentiary hearing, similar to a court hearing, with specific procedures and rules set by state law. He emphasized that the board's decision must be based on competent, relevant, and substantial evidence in the record, not personal preferences, or opinions.

Davidson County Planning Officer John Wheeler read the legal advertisement for the variance request into the record detailing the specific location and nature of the request.

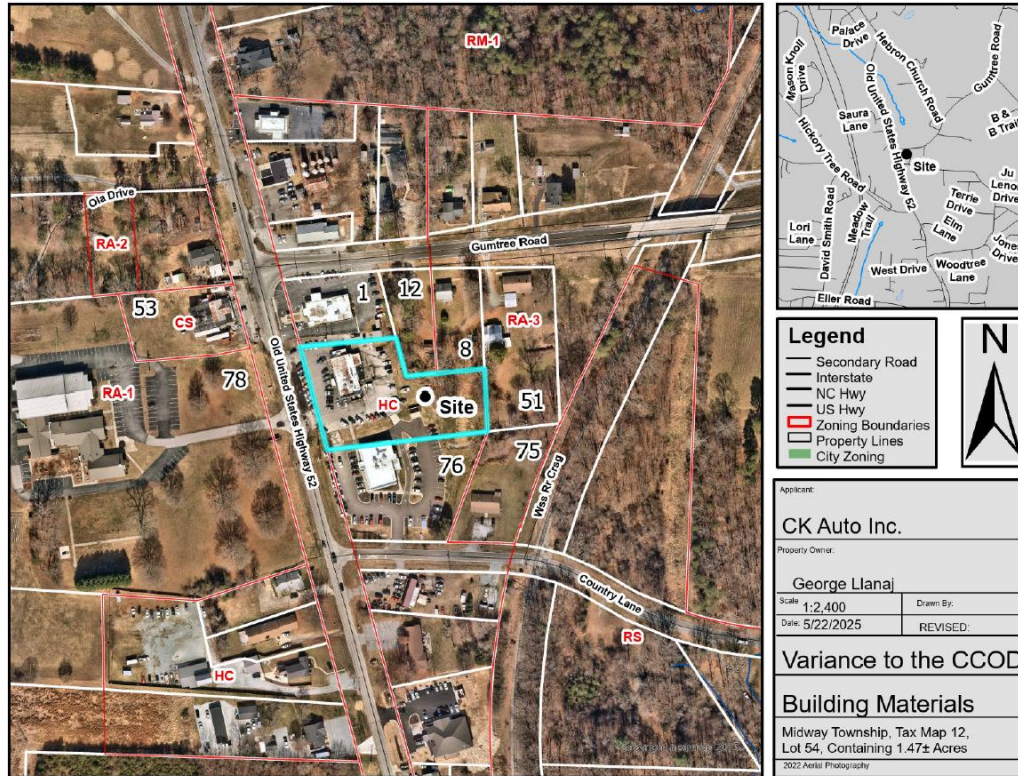
Legal Advertisement: Request by CK Auto Sales, Inc for a variance to deviate from the Town of Midways Core Commercial Overlay District in a HC, Highway Commercial Zoning District. Said property is located on the east side of Old US HWY 52 approximately 250 feet south from the Gumtree Road intersection and is further described as being located at 11464 Old US HWY 52. Said property is further described as being located in Midway Township, Tax Map 12, Lot 54 containing 1.47 acres more or less.

Davidson County Planning Office John Wheeler then explained the factors relevant to the issuance of a variance.

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance under the terms of the Davidson County Zoning Ordinance. A variance may only be allowed by the Board of Adjustment in cases involving practical difficulties or unnecessary hardships when substantial evidence in the official record of the application supports all five of the Findings of Facts listed below. In the space provided below, indicate the facts you intend to show and the arguments that you intend to make to convince the Board that it can properly find the following five required findings of fact:

1. That the alleged hardships or practical difficulties are unique and singular as regards the property of the person requesting that variance and are not those suffered in common with other property similarly located.
2. That the alleged hardships and practical difficulties, which will result from failure to grant variance, extend to the inability to use the land in question for any use in conformity with the provisions of this ordinance and include substantially more than mere inconvenience and inability to attain a higher financial return.
3. That the variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.
4. That the variance is in harmony with and serves the general intent and purpose of this ordinance.
5. That allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by this ordinance and the individual hardships that will be suffered by a failure of the Board to grant a variance.

Mr. Wheeler provided a PowerPoint presentation.



(C) Building Materials

All structures shall be required to have a minimum of 70% of the exterior wall area of the structure clad in unpainted brick. The remaining 30% of the exterior wall area may contain accent materials that meet high quality standards such as:

natural or synthetic stone; stucco; integrally-colored, textured, or glazed concrete masonry units; high-quality prestressed concrete systems; water-managed Exterior Installation Finish Systems (EIFS); or glass. Natural wood or wood paneling shall not be used as an exterior wall material, but durable synthetic materials with the appearance of wood may be used.





May 30, 2025

To Whom It May Concern.

I, Michelle Epley a REALTOR in Davidson County NC Have been to the property at 11464 Old US Highway 52 Winston Salem NC.

It is in my personal opinion that remodeling the building and installing stucco on the outside will not only not damage property values of the properties around it but it may even raise the property values of the buildings around it.

If you have any further questions... Dont hesitate to give me a call on my cell. 336-230-0209 or email me at sellwithmichelle68@gmail.com

Best Regards,

Michelle Epley, REALTOR
Southern Key Realty
211 Wood Duck Run
Lexington NC 27295

The variance request pertained to Article 3, Section 3.08 of the Town of Midway zoning ordinance, specifically regarding building materials. The ordinance requires a minimum of 70% of the exterior wall area to be clad in unpainted brick, with the remaining 30% allowed to be accent materials. The applicant was seeking to increase the allowance for stucco from 30% to 100% of the building exterior.

Jennifer Lala, Chief Executive Officer of CK Auto Sales, Inc., spoke on behalf of the applicant. Ms. Lala explained that CK Auto Sales wanted to improve the appearance of the building to match other buildings in the area. Ms. Lala acknowledged that she was unaware of the need for the Core Commercial Overlay District (CCOD) variance before starting the project.

Mr. Wheeler clarified that the property had undergone a change of use from a restaurant to a car lot, which was an allowed use in the zoning district. However, the exterior alterations triggered the need for compliance with the Core Commercial Overlay District (CCOD) regulations.

The Board of Adjustment members expressed concern about setting a precedent by granting the variance, as it could affect other businesses and potentially undermine the Town's established ordinances. The Board discussed the importance of maintaining consistency with the Core Commercial Overlay District (CCOD) regulations, which were put in place to promote uniformity in the Town's appearance.

The Board reviewed the five standards required for granting a variance:

1. That the alleged hardships or practical difficulties are unique and singular as regards the property of the person requesting that variance and are not those suffered in common with other property similarly located.
2. That the alleged hardships and practical difficulties, which will result from failure to grant variance, extend to the inability to use the land in question for any use in conformity with the provisions of this ordinance and include substantially more than mere inconvenience and inability to attain a higher financial return.

3. That the variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.
4. That the variance is in harmony with and serves the general intent and purpose of this ordinance.
5. That allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by this ordinance and the individual hardships that will be suffered by a failure of the Board to grant a variance.

Board members commented that variance standards one (1), two (2), four (4), and five (5) were not met, while variance standard three (3) was potentially met based on a realtor's letter stating the change would likely not negatively impact neighboring properties.

The board members expressed reluctance to grant the variance, citing concerns about maintaining the integrity of the town's ordinances and the potential precedent it could set for future requests.

Town Manager Nicholas Smith stated the agenda needs to be amended to add a closed session in accordance with N.C.G.S. 143-318.11(a)(3)(7) to discuss matters pertaining to attorney-client privilege.

On motion by Board member James Smith, seconded by Board member Carl Tuttle, the Board voted unanimously to adopt the amended agenda to add a closed session in accordance with N.C.G.S. 143-318.11(a)(3)(7) to discuss matters pertaining to attorney-client privilege as presented.

RECESS TO CLOSED SESSION

On motion by Vice Chair Paula Hill, seconded by Board member Carl Tuttle, the Board voted unanimously to recess to Closed Session in accordance with N.C.G.S. 143-318.11 (a)(3)(7) to discuss matters pertaining to attorney-client privilege.

RECONVENE TO OPEN SESSION

On motion by Board member James Smith, seconded by Vice Chair Paula Hill, the Board voted unanimously to reconvene to open session.

The Board reconvened in open session to discuss the variance request VAR-25-8 from CK Auto Sales, Inc.

Vice Chair Paula Hill made a motion to deny the variance request for allowing 100% stucco, based on the following reasons:

- There was no evidence that the insulation issue constituted a hardship that only stucco could alleviate.
- No compelling reason was found that the appearance would necessitate a variance.
- Insufficient evidence was presented regarding the impact on surrounding properties.
- No evidence was provided on how the variance would further uniformity, which is the purpose of the CCOD (Commercial Corridor Overlay District).
- Allowing the variance would contradict the harmony of the CCOD.
- No evidence of hardship was found to compel granting the variance.

Motion was seconded by Carl Tuttle. The Board voted unanimously to deny the variance request VAR-25-8 from CK Auto Sales, Inc, for allowing 100% stucco. The variance request was officially denied.

Following the vote, Town Manager Nicholas Smith referred to Page 206, Section 13 in the Quasi-Judicial Handbook, regarding the decision and closing procedures. Mr. Smith stated that staff would draft and sign a final written decision reflecting the vote and reasoning for the decision. This written decision would be provided for the applicant and other parties with the right to such notice. Parties would have thirty days to appeal the decision.

ADJOURNMENT

On motion by Board member James Smith, seconded by Vice Chair Paula Hill, the Board voted unanimously to adjourn the meeting.

Jamie Hester, Chair

Ree Goodson, Deputy Clerk