



**CURRITUCK COUNTY
NORTH CAROLINA**

January 10, 2019
Minutes – Regular Meeting of the Board of Adjustment

CALL TO ORDER

The Board of Adjustment Attorney, Ben Gallop, called the meeting to order at 7:00 PM. The regular meeting of the Board of Adjustment was held in the boardroom at the Currituck County Historic Courthouse - 153 Courthouse Road, Currituck, North Carolina.

Attendee Name	Title	Status	Arrived
Matthew Battey	Board Member	Absent	
Cathy Bontemps	Board Member	Present	
Troy Breathwaite	Board Member	Present	
Gregory Hammer	Board Member	Present	
Thom Roddy	Board Member	Present	
Cheri Elliott	Clerk to the Board	Present	
Ben Gallop	Board of Adjustment Attorney	Present	

A Announce Quorum Being Met

Mr. Gallop announced a quorum being met with four regular members present. There were no alternates present at the meeting.

B Swearing In of New Members

Oaths of Office were completed prior to the meeting in the boardroom. Notary, Cheri C. Elliott, swore in two new board members: Cathy Bontemps (term ends December 31, 2020) appointed by the Board of Commissioners on August 6, 2018 and Thomas Roddy (filled an unexpired term with ending date December 31, 2019) appointed by the Board of Commissioners on March 5, 2018.

C Election of Chairs

Mr. Hammer nominated Troy Breathwaite for Chairman. There were no other nominations. Mr. Hammer motioned for approval. Ms. Bontemps seconded the motion and the motion carried unanimously.

Chairman Breathwaite asked for nominations for Vice-Chairman.

Ms. Bontemps nominated Greg Hammer for Vice-Chairman. There were no other nominations. Mr. Hammer motioned for approval. Mr. Roddy seconded the motion and the motion carried unanimously.

Mr. Gallop congratulated the new Chairman, Troy Breathwaite, and the new Vice-Chairman, Greg Hammer.

D. Approval of Agenda

Vice-Chairman Hammer motioned to approve the Agenda for tonight's meeting. Ms. Bontemps seconded the motion and the motion carried unanimously.

RESULT:	APPROVED [UNANIMOUS]
AYES:	Cathy Bontemps, Board Member, Troy Breathwaite, Board Member, Gregory Hammer, Board Member, Thom Roddy, Board Member
ABSENT:	Matthew Battey, Board Member

APPROVAL OF MINUTES FOR NOVEMBER 9, 2017

Vice-Chairman Hammer motioned to approve the meeting minutes for November 9, 2017. Ms. Bontemps seconded the motion and the motion carried unanimously.

RESULT:	APPROVED [UNANIMOUS]
AYES:	Cathy Bontemps, Board Member, Troy Breathwaite, Board Member, Gregory Hammer, Board Member, Thom Roddy, Board Member
ABSENT:	Matthew Battey, Board Member

E. Board of Adjustment Minutes for November 9, 2017

OLD BUSINESS

Mr. Gallop informed the board he will resign as their attorney with tonight being his last meeting.

Mr. Gallop briefed the board on the pending lawsuit, Currituck County v. Currituck County Board of Adjustment and Davis Street Holdings, LLC and asked to go into a closed session to advise them.

Mr. Roddy motioned for a closed session with the Board of Adjustment Attorney to preserve the Attorney-Client Privilege in Matters Entitled Currituck County v. Currituck County Board of Adjustment and Davis Street Holdings, LLC, pursuant to G.S. 143-318.11(a)(3). Ms. Bontemps seconded the motion and the motion carried unanimously.

The closed session began at 7:10 PM in the in the conference room with Mr. Gallop taking the minutes. The clerk to the board did not attend and remained in the boardroom during the closed session. The board returned to the boardroom at 7:25 PM.

NEW BUSINESS

Mr. Gallop started the training session discussing variances and appeals. Some of the items explained were appeals from an enforcement action and a variance being an exceptional remedy from a hardship. Mr. Gallop also discussed the four items necessary to have a founded hardship and stressed the importance of the applicant having the burden of the proof. Voting necessary was also explained: Variance 4/5 vote and simple majority for an appeal. Known conflicts were explained: Having a fixed opinion, undisclosed ex parte communications and a close relationship or financial relationship. Mr. Gallop gave reasons for the existence of the

Board of Adjustment; he said they have the added benefit of being appointed and not elected so it helps to remove political misconceptions of their decisions. Evidence was explained with the importance of expert testimony versus neighbor's opinions. Decisions must be made on facts. Due process was explained with the difference between parties and public to limit the public comment and remind them they are under oath. The public does not have the right to question; only the parties are allowed to question the parties. Mr. Gallop also explained the benefit of attorney's opening statements and said this will be a benefit to the board.

Chairman Breathwaite and Ms. Bontemps asked about the dialog amongst the board and whether their discussion is held in front of the parties and the public. Mr. Gallop said board members do openly discuss during the meeting and a closed session is rare.

Mr. Gallop further explained the procedures of the meeting: Letting the defendant present his case first, procedures of getting the evidence and closing the evidentiary session. Also, the board can vote to reopen the public hearing if necessary.

Mr. Gallop concluded his training session and wished the board luck. He said he may see them again while representing a client at a future meeting.

ANNOUNCEMENTS

There were no announcements made.

ADJOURNMENT

Vice-Chairman Hammer motioned to adjourn the meeting. Ms. Bontemps seconded the motion and the motion carried unanimously with the adjournment at 8:12 PM.



**CURRITUCK COUNTY
NORTH CAROLINA**

November 9, 2017
Minutes – Regular Meeting of the Board of Adjustment

CALL TO ORDER

Chairman McCloud called the meeting to order at 7:02 PM.

Attendee Name	Title	Status	Arrived
Troy Breathwaite	Board Member	Present	
Matthew Battey	Board Member	Present	
Gregory Hammer	Board Member	Present	
Joseph Kovacs	Board Member	Absent	
Donna McCloud	Board Member	Present	
Zia Montesi	Board Member	Present	
Michael Painter	Board Member	Present	
Ben Gallop	Attorney	Present	
Nick Aisthorpe	Staff Support to Board of Adjustment	Present	

A. Approval of Agenda

Chairman McCloud asked for a motion to approve tonight's agenda.

Mr. Hammer motioned to approve the agenda. Mr. Painter seconded the motion and the motion carried unanimously.

RESULT:	APPROVED [UNANIMOUS]
AYES:	Troy Breathwaite, Board Member, Matthew Battey, Board Member, Donna McCloud, Board Member, Zia Montesi, Board Member, Michael Painter, Board Member
ABSENT:	Joseph Kovacs, Board Member

B Ask for Disqualifications

No request for disqualifications since no cases were on the agenda.

C Announce Quorum Being Met

Chairman McCloud announced a quorum was met with four regular board members and two alternate members present.

Alternate, Mr. Hammer will join the regular members for voting purposes.

APPROVAL OF MINUTES FOR SEPTEMBER 14, 2017

Chairman McCloud asked for a motion to approve the minutes for September 14, 2017. Due to an earlier question by a board member, Mr. Gallop clarified the September minutes are being approved and the April and March minutes have already been approved. Mr. Hammer motioned to approve the minutes as presented. Ms. Montesi seconded the motion and the motion carried unanimously.

RESULT:	APPROVED [UNANIMOUS]
AYES:	Troy Breathwaite, Board Member, Matthew Battey, Board Member, Donna McCloud, Board Member, Zia Montesi, Board Member, Michael Painter, Board Member
ABSENT:	Joseph Kovacs, Board Member

D. BOA Minutes September 14, 2017

OLD BUSINESS

There was no old business.

NEW BUSINESS

Chairman McCloud made a motion for the board to go into closed session per North Carolina General Statute 143-318.11(a)(3) to converse with their attorney, Mr. Gallop, concerning Currituck County vs Currituck County Board of Adjustment.

Mr. Hammer seconded the motion and the motion carried unanimously.

The board members left the Board Meeting Room to have a closed session in the Conference Room. Mr. Gallop announced he would take minutes for the closed session.

The Board of Adjustment returned to the Board Meeting Room at 7:38 PM.

Chairman McCloud announced they were back in open session.

Mr. Gallop announced the board met, received his advice and they have given direction to receive his counsel.

ANNOUNCEMENTS

Chairman McCloud asked for any announcements.

Chairman McCloud asked if the future meetings could start at 6:00 PM.

Mr. Painter said he wasn't sure that 6:00 PM would work.

Mr. Gallop advised they could make a motion to revise the meeting time on the New Business agenda for the next meeting.

Chairman McCloud asked the Clerk to the Board, Mr. Aisthorpe to put it on the next agenda as New Business.

ADJOURNMENT

Chairman McCloud made a motion to adjourn the meeting and it was unanimously approved.