

**Town of Angier  
Board of Adjustment  
Tuesday, June 28, 2022  
Municipal Building  
28 N. Raleigh Street  
Angier, North Carolina 27501  
Minutes**

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The Town of Angier Board of Adjustment met in regular session on Tuesday, June 28, 2022, inside the Municipal Building Board Room, 28 N. Raleigh Street. Mayor Bob Smith presided, calling the meeting to order at 6:38 p.m.

**Members Present:** Mayor Bob Smith  
Commissioner Loru Boyer Hawley  
Commissioner Alan Coats  
Commissioner Jim Kazakavage arrived at 6:48pm

**Members Absent:** Commissioner George "Jr." Price

**ETJ Members Present:** Lee Marshall

**ETJ Members Absent:** Haley Plumley

**Staff Members Present:** Town Clerk Veronica Hardaway  
Planning Director Sean Johnson  
Town Attorney Dan Hartzog, Jr. via *Zoom*

**2. Pledge of Allegiance:** Mayor Bob Smith led the pledge of allegiance.

**3. Invocation:** Mayor Smith offered the invocation.

**4. Approval of the May 24, 2022 Board of Adjustment Meeting Minutes:** The Town Board unanimously approved the minutes as presented.

**Board Action:** The Town Board unanimously voted to approve the May 24, 2022 Board of Adjustment Meeting Minutes as presented.

**Motion:** Commissioner Hawley

**Vote:** 5-0; unanimous

**Board Action:** The Town Board unanimously voted to excuse Commissioner Price and Haley Plumley from the meeting.

**Motion:** Commissioner Hawley

**Vote:** 5-0; unanimous

**5. Swearing in of Witnesses:** The following persons giving testimony during the evidentiary hearings on the agenda were duly sworn by the Town Clerk.

Sean Johnson, Planning Director  
Vann Stephenson, 4808 Abercroft Place, Fuquay-Varina  
Dave Ballentine, 353 East Six Forks Road, Raleigh

## **6. New Business**

### **A. Variance Application**

Applicant: White Oak Creek Crossing, LLC  
Property Owners: Dwight & Eloise Stephenson  
Property Address: 1251 N. Raleigh Street, Angier, NC  
Variance Request: Alternative to Required Sidewalks along NC 55 Bypass

Mayor Smith opened the Evidentiary Hearing.

Planning Director Sean Johnson stated that a Variance Request application was submitted by White Oak Creek Crossing, LLC, regarding the 76.56 acre property located at 1251 N. Raleigh Street, Angier, NC that is owned by Dwight & Eloise Stephenson. There is a mixed-use development which extends from N. Raleigh Street to Rawls Church Road that was previously approved on this site. The Variance in question is related to a specific piece of sidewalk required along both the eastern and western borders of the NC 55 Bypass right-of-way, that is to be obtained by NCDOT. The 5ft. sidewalks are just outside of the future right-of-way of the bypass due to NCDOT not wanting any curb, gutter or sidewalks inside the new bypass right-of-way.

Mr. Johnson reviewed the applicable Ordinance requirements of Section 9.1.5.2 – Sidewalks of the Unified Development Ordinance.

#### *9.1.5.2 Sidewalks*

*A. Sidewalks shall be required along both sides of all streets to provide pedestrian linkages within and adjacent to nonresidential developments, multifamily developments, on collector streets, on major and minor thoroughfares, and in residential developments in the R-10 or R-6 zoning districts. Sidewalk shall be extended along the existing roadway on either side of the entrance to all new developments and should stub to the adjacent properties.*

*F. Installation of all sidewalk at the entrance of subdivisions and along the adjacent road frontage, as well as sidewalk adjacent to all open space and other common areas within the subdivision shall be installed by the developer prior to plat recordation. Installation of sidewalk adjacent to individual lots within subdivisions may be bonded by the developer and completed by the builder as building permits are issued. In the event all of the required sidewalk within the subdivision is not completed within two years of the date of final plat approval, the developer shall be responsible for installing the remaining sidewalk. If the developer has not installed the remaining sidewalk within 90 days after the deadline above,*



*the town may secure the bonded funds through any lawful method and facilitate the completion of remaining sidewalk.*

Mayor Smith called for a 3-minute recess to allow Commissioner Kazakavage to arrive.

Upon Commissioner Kazakavage joining the meeting, Mr. Johnson restated the previously presented information.

Dave Ballentine with *Rivers & Associates*, stated the future NC 55 Bypass will be bisecting the White Oak Creek Crossing development. They understand the sidewalk is required, however NCDOT is restricting access to pedestrians along the bypass due to safety concerns. Mr. Ballentine proposed an alternative pedestrian connection with the ability to provide connected trails that meet the open space requirements. He requested the Board also consider not including sidewalks on each side of the development entrance just to the west of the bypass, to prevent pedestrians being encouraged to walk towards the bypass. Another point Mr. Ballentine made was that the future bypass will be above where the grade will be on each side of the development due to vertical curve requirements as well as a stream crossing.

Town Attorney Dan Hartzog, Jr. clarified to the Board that a hardship is created as a result of something to do with the property such as location, size, or topography, not from personal circumstances. If NCDOT will not allow sidewalks that could be considered a hardship, however the burden is on the applicant to explain why it's a hardship.

Mr. Ballentine explained the hardship is due to NCDOT not allowing pedestrian access along the future NC 55 Bypass, however proposed a pedestrian connectivity alternative within the development.

Mayor Smith closed the Evidentiary Hearing.

*Variance Approval Criteria: Such variances may be granted in such individual case of unnecessary hardship only upon findings by the Board of Adjustment after an evidentiary hearing that the following conditions exist:*

- A. Unnecessary hardship would result from the strict application of the ordinance; **It was the consensus of the Board this applies***
- B. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability; **It was the consensus of the Board this applies***
- C. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist may justify the granting of a variance shall not be regarded as a self-created hardship; **It was the consensus of the Board this applies***

*D. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved; **It was the consensus of the Board this applies***

**Board Action:** Based on the Variance Approval Criteria, the Board of Adjustment voted to grant the requested variance as presented.

**Motion:** Commissioner Hawley  
**Vote:** 5-0; unanimous

**Amended Board Action:** Based on the Variance Approval Criteria, the Board of Adjustment voted to grant the requested variance presented, with the condition that the proposed alternative pedestrian connections be provided.

**Motion:** Commissioner Hawley  
**Vote:** 5-0; unanimous

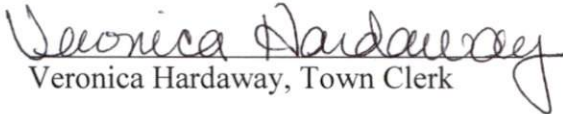
**6. Adjournment:** Mayor Smith entertained a motion to adjourn the meeting. Motion to adjourn was unanimous at approximately 7:23pm.

**Motion:** Commissioner Hawley  
**Vote:** 5-0; unanimous



Robert K. Smith  
Chairman / Board of Adjustment

Attest:

  
Veronica Hardaway, Town Clerk

