

RULES OF PROCEDURE

Zoning Board of Adjustment

Town of Oakboro, North Carolina

I. GENERAL RULES

The Zoning Board of Adjustment (hereinafter referred to as the “Board”) shall be governed by the terms of Chapter 160 A, Article 19, Part 3 of the General Statutes of North Carolina and by the Town of Oakboro Zoning Ordinance. All members of the Board shall thoroughly familiarize themselves with these laws.

II. MEMBERSHIP, OFFICERS AND DUTIES

A. ELECTIONS

A Chairman, Vice-Chairman and Secretary shall be elected by the full membership (including alternate member) of the Board annually at the regular meeting of the Board held in the month of January. These officers shall be elected for terms of up to one (1) year in length and may be re-elected for successive terms to the same office. Members shall be notified of the date, time and place of the election of officers at least seven (7) days prior to the regular January meeting. Each officer shall serve until relieved of his duties as herein provided.

B. OFFICER’S DUTIES

The Chairman shall decide upon all points of order and procedure subject to these rules, unless directed otherwise by a majority of the Board in session at the time. The Vice-Chairman shall serve as acting Chairman in the absence of the Chairman, and at such times he shall have the same powers and duties as the Chairman. In the event of the absence of the Chairman and Vice-Chairman, a temporary Chairman shall be elected by the remaining members of the Board.

C. SECRETARY AND TOWN CLERK DUTIES

The Secretary shall be responsible for taking minutes at all Board meetings. These minutes shall show the record of all important facts pertaining to each meeting and hearing, every resolution acted upon by the Board, and all votes of members of the Board upon any resolution or upon the final determination of any question, indicating the names of members absent or failing to vote. The Secretary, subject to the direction of the Chairman and the Board, shall conduct all correspondence of the Board, shall arrange for all public notices required to be given and shall notify members of pending meetings and their agenda via the Town Clerk, and shall generally supervise the clerical work of the Board. A copy of the minutes of all Board of Adjustment meetings shall be maintained in the office of the Town Clerk.

D. MEMBERSHIP

Members of the Board of Adjustments shall be appointed for designated terms by the Oakboro Town Board. The Board of Adjustment shall consist of (5) regular members and two (2) alternate members. Three (3) members and one (1) alternate member shall be residents of the Town of Oakboro and appointed by the Oakboro Town Board. Two (2) regular members and one (1) alternate member shall be residents of the extraterritorial area and appointed by the Stanly County Board of Commissioners. The alternate member of the Board shall be requested to attend all regular and special meetings and shall be able to cast a vote on an application for a variance, interpretation, or appeal when a regular member of the Board is absent or if such Board member has a conflict of interest. The alternate member shall have full privileges on the adoption or amendment of these rules of procedure and other procedural aspects of the Board's business.

III. RULES OF CONDUCT FOR MEMBERS

- A. Members of the Board may be removed for cause, including violation of the rules stated herein.
- B. In order for the Board to carry out its duties and responsibilities, it is necessary for all members to attend the meetings. If any regular member is absent for two (2) consecutive regular meetings, the Chairman may direct the Secretary to notify such member in writing of his absences and if such member fails to attend the next regular meeting, the Board of Adjustment, by a majority vote of the remaining regular and alternate members, may request that the position be vacated and a replacement be made:
- C. Should any member of the Board be financially or otherwise closely associated with any issue that comes before the Board, said member shall make public said possible conflict, the nature of the conflict and ask for a determination by the Board. A majority vote of those regular members without such conflict shall determine if such conflict does exist. A member of the Board may raise the question of conflict of interest of another member regarding a specific issue that is before the Board. Similarly, any interested party may challenge the existence of a conflict of interest or ask for the determination of an undisclosed conflict of interest.
- D. Withdrawal from participation in any matter is necessary only in those cases in which a conflict of interest has been determined. There shall be no attempt to exclude entire categories of considerations because of a business or profession with which a member is associated.
- E. Any regular Board member (or alternate member who has replaced an absent or excused voted member) present at a meeting who abstains from voting on a matter without first having been excused from voting, shall be declared to have voted "YEA" on such matter.

- F. No Board member shall vote on any matter deciding a variance, interpretation or appeal unless he shall have attended the entire public hearing on that application. If a public hearing is continued from one meeting date to another, an alternate member may replace a regular member only if the alternate member was in attendance at the previous public hearing sessions concerning that application.
- G. No Board member shall discuss any case with any parties thereto prior to the public hearing on that case; provided however, that members may receive and/or seek information pertaining to the case from the Secretary or Zoning Enforcement Officer prior to the hearing.
- H. Members of the Board may not express individual opinions on the proper judgment of any case with any parties prior to its determination of that case. Violation Of this rule shall be cause for dismissal from the Board.

IV. MEETINGS

A. Regular Meetings

There are no regularly schedules meetings of the Zoning Board of Adjustment.

B. Special Meetings

Special Meetings of the Board may be called at any time by the Chairman, at least seven (7) days written notice of the time and place of special meetings shall be given by the Secretary or Town Clerk to each member of the Board. Should it be determined that a quorum of the regular membership will not be able to attend, alternates should be called by the Secretary of Town Clerk. If a quorum is still not able to meet, the special meeting date will be changed to the first date at which a quorum will be present.

C. Quorum

The Board shall not pass upon any question relating to an appeal from a decision, order, requirement, or determination of the Zoning Enforcement Officer or an application for a variance when there are less than four (4) voting members present. To approve any change in these rules of procedure, a quorum of at least four (4) regular and alternate members shall be required.

D. Conduct of Meetings

All meetings shall be open to the public. The order of business at regular meetings shall be as follows:

- (1) Determination of Quorum
- (2) Approval of Minutes of Previous Meetings

- (3) Hearing of Cases
- (4) Consideration and Determination of Cases Heard
- (5) Reports of Committees
- (6) New Business
- (7) Adjourn

V. APPEALS, APPLICATIONS, PUBLIC HEARINGS

A. Types of Appeals

The Board shall hear and decide all appeals from and review any order, requirement, decision or determination made by the Zoning Enforcement Officer. In deciding appeals, it may hear both those based upon an allegedly improper or erroneous interpretation of the Ordinance and those based upon alleged hardship resulting from strict interpretation of the Ordinance.

B. Procedure for Filing Appeals

No appeal shall be heard by the Board unless notice thereof is filed with the Zoning Enforcement Officer within thirty (30) days after the interested party or parties receive notice of the order, requirement, decision or determination by the Zoning Enforcement Officer. All applications shall be made upon the form furnished for that purpose by the Town, and all information required shall be furnished before an appeal shall be considered as having been filed.

C. Procedure for Filing Applications for Variances

A complete application for a variance shall be submitted to the Zoning Enforcement Officer at least fifteen (15) days prior to the Board of Adjustment hearing at which the case is to be heard. All applications shall be made upon the form furnished for the purpose by the Town, and all information required. shall be furnished before the application can be considered for the Board of Adjustment to hear.

D. Conduct of Hearing

Any party may appear in person or by agent or by attorney at the hearing. The order of business for the hearing shall be as follows:

- (1) The Chairman, or such person as he shall direct, shall give a preliminary statement of the case;
- (2) The applicant shall present the argument in support of his application;
- (3) Persons opposed to granting the application shall present the argument against the application;
- (4) The Chairman (or the Secretary, at the Chairman's direction) shall summarize the evidence which has been presented, giving the parties

opportunity to make objections or corrections. Board members may individually view the premises before arriving at a decision. All witnesses giving evidence before the Board shall be placed under oath and the opposing party may cross-examine them.

- (5) Once the public hearing is closed, persons in the audience may address the Board only if asked to by a voting Board member.
- (6) The Chairman reserves the right to reopen a public hearing prior to a vote having been taken on a particular application.

E. Rehearing

An application for a rehearing may be made in the same manner as provided for an original hearing. Said application may only be filed within fifteen (15) days after the date the Board originally voted in determining the outcome Of the case. Evidence in support of the application shall initially be limited to that which is necessary to enable the Board to determine whether there has been a substantial change in facts, evidence on conditions in the case. The application for rehearing shall be denied by the Board if from the record, it finds that there has been no substantial change in facts, evidence or conditions. If the Board finds that there has been a change, it shall thereupon treat the request in the same manner as any other application. A public hearing shall not be required to be held by the Board of Adjustment to determine whether a rehearing is to be held. Those Board members who voted on the application at the prior public hearing need not all be voting to determine if a rehearing is to be held. In order to conduct a rehearing, the concurring vote of at least four voting members shall be required.

F. Decisions

1. Time

Decisions by the Board shall be made no later than thirty-one (31) days from the time the hearing was closed.

2. Form

The final decision of the Board shall be shown in the record of the case as entered in the minutes of the Board and signed by the Secretary and the Chairman upon approval of the minutes by the Board. Such record shall show the reasons for the determination, with a summary of the evidence introduced and the findings of fact made by the Board. Where a variance is granted, the record shall state in detail any exceptional difficulty of unnecessary hardship upon which the appeal was based and which the Board finds to exist the decision may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from. The record shall state in detail what, if any, conditions and safeguards are imposed by the Board in connection with the granting of a variance.

3. Expiration of Permits

Unless otherwise specified, any order or decision of the Board granting a variance shall expire if a building permit or certificate of occupancy for such use is not obtained within twelve (12) months from the date of the Board's decision.

4. Voting at Hearings

In no case shall less than four (4) nor more than five (5) Board of Adjustment members be allowed to vote on any case involving a variance application, interpretation of the Zoning Ordinance text, or appeal of the Zoning Enforcement Officer's decision. The concurring vote of at least four voting members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Enforcement Officer, to decide in favor of the applicant any matter upon which the Board is required by Ordinance to pass, or to grant a variance from the Ordinance provisions. Voting on any issue shall be done by a show of hands or by voice.

5. Public Record of Decision

The decisions of the Board, as filed in its minutes, shall be of public record, available for inspection at the Zoning Enforcement Officer's office during normal business hours.

VI. AMENDMENTS

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than four (4) regular or alternate members of the Board, provided that such amendment be presented in writing at a regular or special meeting preceding the meeting at which the vote is taken.

ADOPTED THIS THE 2-08-00 DAY OF FEBRUARY

CHAIRMAN

SECRETARY