

**RULES OF PROCEDURE
ZONING BOARD OF ADJUSTMENT
BRUNSWICK COUNTY
NORTH CAROLINA**

I. GENERAL RULES

- A. The Brunswick County Board of Adjustment shall be governed by the terms of Section 153A, of the General Statutes of North Carolina and by the terms of the Brunswick County Zoning Ordinance and Partial Development Code. All members of the Board shall thoroughly familiarize themselves with these laws.

II. OFFICERS AND DUTIES

- A. Chairman - A Chairman shall be elected by majority vote of the membership of the Board from among its voting members. The term of office shall be for one year, and until a successor is elected, beginning on August first, and the Chairman shall be eligible for re-election. Subject to these rules, the Chairman shall decide upon all points of order and procedure, unless directed otherwise by a majority of the Board in session at the time. The Chairman shall appoint any committee found necessary to investigate any matter before the Board.
- B. Vice-Chairman - A Vice-Chairman shall be elected by the Board from among its members in the same manner and for the same term as the Chairman. The Vice-Chairman shall serve as Acting Chairman in the absence of the Chairman, and at such times shall have the same powers and duties as the Chairman.
- C. Clerk - The County Zoning Administrator shall serve as Clerk to the Board. In the absence of the Zoning Administrator, the Planning Director or Chief Building Officer shall serve. The Clerk shall keep all records and see that there are minutes of each Board meeting, and shall keep them, and shall keep a record of all important facts pertaining to each meeting and hearing, every action by the Board, and the votes of all members upon any matter, indicating the names of absentees or those failing to vote. All minutes shall be filed in the Office of the Zoning Administrator and are public record.

III. ALTERNATE MEMBERS

Alternate members of the Board shall be called on to attend only those meetings and hearings at which one or more regular members are absent or are unable to participate in hearing a case because of financial or other interest. Regular members, on receiving notice of a special meeting that they cannot attend or on learning that they will be unable to participate in a particular case, shall give prompt notice to the Zoning Administrator that they are unable to attend or to participate.

On receiving such notice, the Zoning Administrator shall, by the most expeditious means, notify an alternate member to attend. Assignments shall be rotated among the alternate members. At any

meeting that they are called on to attend, alternate members shall have the same powers and duties as regular members.

Except at the election of officers, at no time shall more than [five] members participate officially in any hearing.

IV. RULES OF CONDUCT FOR MEMBERS

- A. Members of the Board may be removed for cause, including violation of the rules stated below.
- B. Faithful attendance at all Board meetings and conscientious performance of the duties required of Board members shall be considered a prerequisite of continuing membership on the Board. Three consecutive unexcused absences as determined by the Board constitute unfaithful attendance.
- C. No Board member shall take part in the hearing, consideration, or determination of any case in which he or she is personally or financially interested. Members may be excused only by majority vote of the Board.
- D. No Board member shall vote on any matter deciding an application or appeal unless he or she has attended the public hearing on that application or has been afforded access to the minutes and evidence of that Hearing.
- E. No Board member shall discuss any case with any parties thereto before the public hearing on that case; provided, however, that members may receive and/or seek information pertaining to the case from any other member of the Board, or the Zoning Administrator prior to the hearing.
- F. Members of the Board shall not express individual opinions on the proper judgment of any case with any parties thereto before that case is determined. Violation of this rule shall be cause for dismissal from the Board.
- G. Each Board member shall endeavor to avoid a conflict (or perception) of interest in any matter brought before the Board. He or she shall remove themselves from deliberation or voting in matters in which they may have a real or perceived financial or personal interest, or in which they or their relatives or business associates may stand to gain financially.

V. MEETINGS

- A. **Regular Meetings.** Regular meetings of the Board shall be held on the second and fourth Thursday of the month at 7:00 P.M. in the Commissioners' Chamber, if available. As required by the Open Meetings Law, a copy of the schedule of regular meetings will be kept on file by the Clerk to the Board of County Commissioners.
- B. **Special Meetings.** The Chairman may call special meetings of the Board at any time. At least forty-eight(48) hours' written notice of the time and place of special meetings shall be given, by either the Clerk or the Chairman, to each member of the Board. The Open Meetings Law also requires this notice be given to both the public and the media.
- C. **Cancellation of Meetings.** If there are no variance appeals, appeals from a decision of a building inspector, applications for special exceptions, or requests for interpretation, or if so many regular and alternate members notify the Clerk that they cannot attend so that a quorum will not be available, the Chairman or Vice-Chairman may dispense with a regular meeting by giving written or oral notice to all members not less than twenty-four (24) hours before the time set for the meeting.
- D. **Quorum.** A quorum shall consist of four(4) members of the Board.
- E. **Voting.** All regular members may vote on any issue unless disqualified for one or more of the reasons listed in Section IV. The required vote to decide appeals and applications shall not be reduced by any disqualification. Four members are needed for a vote on any matter.
- F. **Conduct of Meetings.** All meetings shall be open to the public. The order of business at regular meetings shall be as follows: (a) roll call; (b) approval of minutes of the previous meeting; (c) hearings of cases; (d) unfinished business; (e) new business; (f) consideration and determination of cases heard; (g) staff report.

VI. APPEALS AND APPLICATIONS

- A. **Types of Appeals** - The Board shall hear and decide all appeals from and review any order, requirement, decision, or determination made by any County official acting under the authority of an ordinance for which the Board is the designated appellant forum. Any person aggrieved of such officer, department, board or bureau of the County may appeal. The Board does not have appellant jurisdiction on matters relating to the enforcement of the North Carolina State Building Code. In deciding appeals, it may hear both those based upon an allegedly improper or erroneous interpretation of an ordinance and those based upon alleged hardship resulting from strict interpretation of the Zoning Ordinance. The Board shall also hear and decide all applications for Special Exceptions stipulated as being under their jurisdiction.

- B. Procedure for Filing Appeals - No appeal shall be heard by the Board unless notice thereof is filed within twenty (20) days after the interested party or parties receive notice of the order, requirement, decision, or determination by a County official. For appeals of building permits, constructive receipt of notice is deemed to have occurred the day following its issuance. All applications for hearings shall be filed with the Zoning Administrator. All applications shall be made upon a form furnished for that purpose, and all required information shall be provided thereon before an appeal or an application shall be considered as having been filed. The filing deadline shall be 4:00 P.M. twenty (20) calendar days prior to a regularly scheduled meeting. Any resident of the area of zoning jurisdiction may appeal from an order or act of the County official pertaining to enforcement of the Zoning Ordinance. Any public or private, profit or non-profit corporation, shall append to the appeal the corporate resolution which authorizes the appeal. This resolution shall state the name of the person authorized to act for the corporation, shall be signed by the President, attested by the Secretary, and shall bear the corporate seal.
- C. Fees - No application or notice of appeal shall be considered as having been completed until there has been the required filing fee.
- D. Conduct of Hearing - Any party may appear in person or by agent or by attorney at the hearing. The order of business for each hearing shall be as follows:
- (a) The Chairman, or such person as the Chairman shall direct, shall give a preliminary state of the case;
 - (b) the applicant may present arguments and relevant evidence in support of his or her case or application;
 - (c) persons opposed to granting the application may present argument and relevant evidence against the application;
 - (d) the County Official from whom the appeal is taken, may present relevant evidence in support of the appealed order, requirement, decision or determination;
 - (e) the Zoning Administrator shall submit into evidence the required Findings of Fact;
 - (f) all parties to the proceeding shall be permitted to present rebuttals to opposing testimony; and
 - (g) the Chairman may summarize the evidence which has been presented, giving the parties an opportunity to make objections or corrections. Witnesses may be called and factual evidence may be submitted, but the Board shall not be limited to consideration of such evidence as would be admissible in a court of law. The Board may, in its discretion, view the premises and call and examine witnesses to obtain additional facts in the matter before arriving at a determination of the case. All witnesses before the Board shall be placed under oath and the opposing party may cross examine them.
- E. Rehearings - An application for a rehearing may be made in the same manner as provided for an original hearing. 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 substantial change in the facts, evidence or conditions in

the case. A rehearing shall be denied by the Board if in its judgment there has been no substantial change in the facts, evidence, or conditions in the case. If the Board finds that there has been such a change, it shall thereupon treat the request in the same manner as any other application.

F. Decisions

- (1) Time - Decision by the Board shall be made within thirty (30) days of the hearing.
- (2) Form - Written notice of the decision in a case shall be given to the applicant by the Clerk as soon as practicable after the cases have been decided. 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 Chairman and the Clerk upon approval of the minutes by the Board. The record shall show the reasons for the decision, with a summary of the evidence introduced and the findings of fact made by the Board.
 - (a) Variances - Where a variance is granted, the record shall state in detail the Findings of Fact of the exceptional difficulty or 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) Public Record of Decision - The decisions of the Board, as filed in its minutes, shall be a public record, available for inspection at all reasonable times.

- G. Notification of Meeting - Upon receipt of an appeal or application, the Zoning Administrator or his designee shall adequately post the particular property as soon as reasonably possible.