
Rules of Procedure

Board of Adjustment Person County, N. C.

(Revised May 6, 1998)

I. GENERAL RULES

- A. **Governing Provisions.** The Zoning Board of Adjustment shall be governed by the terms of Article 18 of Chapter 153A, Section 345 of the General Statutes of North Carolina and by Article XIV of the *Person County Planning Ordinance*.
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- B. **Rules.** All members of the Board shall thoroughly familiarize themselves with these rules.

II. OFFICERS AND DUTIES

- A. **Chairman.** The chairman shall be elected by majority vote of the membership of the Board from among its members. His term of office shall be for one year, and until his successor is elected, beginning on July first and the Chairman shall be eligible for reelection. Subject to these rules, the Chairman shall decide upon all points of order and procedure unless directed otherwise by a two-thirds (2/3) majority vote of the Board in session at the time. The Chairman shall appoint any committees 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. He shall serve as active Chairman in the absence of the Chairman and at such times, he shall have the same powers and duties as the Chairman.
- C. **Secretary.** The Person County Planning Director or his or her desinee shall serve as Secretary to the Board. The Secretary shall maintain the minutes of every meeting of the Board. These shall be and show the record 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. If the Secretary is chosen from outside the membership of the Board, he shall not be eligible to vote upon any matter.

III. ALTERNATE MEMBERS

Alternate Members. Alternate members of the Board shall be called on to attend meetings and hearings in case one or more regular members are absent or are unable to participate in hearing a case because of financial or other interest. Regular

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members, on receiving notice of a special meeting that they can not attend or on learning that they will be unable to participate in a particular case, shall give prompt notice to the Board secretary that they are unable to attend or participate. On receiving such notice, the secretary shall, by the most expeditious means, notify an alternate member to attend. At any meeting that they are called on to participate, alternate members shall have the same powers and duties as regular members.

IV. MEMBERSHIP

- A. General. Membership on the Zoning Board of Adjustment shall be governed by the terms of Article 18 of Chapter 153A, Section 345 of the General Statutes of North Carolina and by Article XIV, Section 140 of The Person County Planning Ordinance.
- B. Appointment & Terms. The Person County Board of Commissioners shall appoint members to serve on the Board in accordance with a resolution entitled "Appointment process for Boards, Commissions, Authorities, and Committees" and is included as attachment A.

V. RULES OF CONDUCT

- A. Faithful attendance at all meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite of continuing membership on the Board.
- B. No Board member shall take part in the hearing, consideration or determination of any case in which he has a personal or financial interest.
- C. No Board member shall vote on any matter deciding an application or appeal unless he shall have attended the public hearing on that application or appeal.
- D. No Board member shall discuss any case with any parties thereto prior to the public hearing on that case.
- E. Members of the Board will not express individual opinions on the proper judgment of any case with any parties thereto prior to the Board's determination of that case.

VI. MEETINGS

- A. Regular Meetings. Regular meetings of the Board shall be held on a regular basis each month in the Person County Office Building, 304 South Morgan Street, Roxboro, North Carolina. A current schedule showing the time and place

of regular meetings shall be filed with the Clerk to the Board of County Commissioners and the Person County Planning and Zoning Department.

If no business needing the attention of the Board has arisen since the last meeting and no unfinished business is pending, then the Chairman may notify the other members through the Secretary that the meeting for that month will not be held. This notification should be given at least 24 hours in advance of the regularly scheduled meeting.

In the event of inclement weather, the Chairman may postpone the Board's meeting. Members and applicants shall be notified as soon as possible.

- B. Special Meetings. Special meetings of the Board may be called at any time by the Chairman or by the Secretary. Except for an emergency meeting, written notice of the special meeting shall be given by the Secretary or the Chairman to each member of the Board at least 48 hours before the time of the meeting. Notice of a special meeting held for a public hearing must be given in accordance with Article VII. (Appeals and Applications), item D - 2 of these Rules of Procedure. An emergency meeting may be called at any time by the Chairman because of generally unexpected circumstances that require immediate consideration by the Board. Notice of an emergency meeting shall be given to local news media either by telephone or by the same method used to notify Board members immediately after notice has been given to Board members.
- C. Quorum. A quorum shall consist of a majority of the Board; however, the concurring vote of four-fifths (4/5ths) of the entire membership of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator; to decide in favor of the applicant any matter which it is required to pass under the Person County Planning Ordinance; or grant any variance.
- D. Conduct of Meeting. All meetings shall be open to the public as governed by Article 33C of Chapter 143 of the General Statutes of North Carolina. The order of business at regular meetings shall be as follows: (a) call to order; (b) acknowledgment of a quorum; (c) hearing of cases referred from a previous meeting; (d) hearing of new cases; (f) approval of minutes; (g) unfinished business; (h) new business; (i) adjournment.

VII. 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 the Zoning Administrator. The Board shall also hear and decide all matters referred to it or upon which it is required to pass by Person County Planning Ordinance. In

~~deciding appeals; the Board 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 within thirty (30) days after the interested party or parties receive written notice of the order, requirement, decision or determination by the Zoning Administrator. Notice of the appeal shall be made by filing written specification of the grounds for the appeal with the Zoning Administrator.
- C. Procedure for Filing Applications. No application for a variance, vested right status, zoning district boundary interpretation or conditional use permit to be issued by the Board of Adjustment shall be considered by the Board unless a complete application is received by the Zoning Administrator at least fifteen (15) working days prior to the regularly scheduled meeting at which the application is to be heard. All applications shall be made upon the form furnished for that purpose and all required information shall be provided thereon before the application shall be considered as having been filed.
- D. Fees. No application or notice of appeal shall be considered as complete until a filing fee has been paid to the County of Person as specified in Article XVIII of the Person County Planning Ordinance.
- E. Hearings.
1. Time. After receipt of the completed notice of appeal or application, the Zoning Administrator shall schedule the time for a hearing at the next regularly scheduled meeting within thirty-six (36) working days from the filing of such notice or completed application or at a special meeting.
 2. Notice. The Board shall give public notice of the hearing by all of the following means: (a) by publishing or advertising or advertising notice of the hearing in a newspaper of general circulation in Person County at least once and at least five (5) days prior to the date of the hearing; (b) by mailing notices of the hearing to the parties to the action at least five (5) days prior to the hearing; (c) by mailing notices of the hearing to the residents of all properties adjoining any portion or within five-hundred (500) feet of the property which is the subject of the action at least five (5) days prior to the hearing.
 3. 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 he shall direct, shall give a preliminary statement of the case; (b) the Chairman shall swear in all those wishing to give testimony; (c) the applicant shall present the

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arguments in support of his case or application; (d) persons opposed to granting the application shall present the argument against the application; (e) both sides will be permitted to present rebuttals to opposing testimony; (f) the Chairman shall 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 strictly limited to consideration of such evidence as would be only admissible in a court of law. The Board may, in its discretion, view the premises and obtain additional facts in the matter before arriving at a determination of the case.

4. Rehearing. 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 Zoning Administrator to determine whether there has been a substantial change in the facts, evidence, or conditions in the case. A rehearing shall be denied by the Zoning Administrator if, in his or her judgment, there has been no substantial change in the facts, evidence, or conditions in the case. If the Zoning Administrator finds that there has been such a change, he or she shall thereupon treat the request in the same manner as any other application.

E. Decisions:

1. Time. Decisions by the Board shall be made not more than thirty-six (36) days from the time of the hearing.
2. Form. Written notice of the decision in a case shall be given to the applicant by the Secretary as soon as practicable after the case has 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 as approved 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.
3. Expiration of Permits. Unless otherwise specified, any order or decision of the Board granting a variance or a conditional use permit shall expire if a building permit or certificate of occupancy for such use is not obtained by the applicant within six (6) months from the effective date of the decision.
4. Voting at Hearing. The concurring vote of four-fifths (4/5ths) of the entire membership of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator; to

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decide in favor of the applicant any matter which it is required to pass under the Person County Planning Ordinance; or to grant a variance.

5. Public Record of Decisions. The decisions of the Board, as filed in its minutes, shall be a public record available for inspection at all reasonable times. Written notice of the decision in a case shall be filed by the Secretary with the Planning and Zoning Department as soon as practicable after the case has been decided.

VIII. AMENDMENTS

- A. These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than a majority 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.