

### 2.2.3 - Board of Adjustment

(1) **Creation**

A Board of Adjustment for the Town is hereby created under the authority of the North Carolina General Statutes.

(2) **Membership**

The Board of Adjustment shall consist of five (5) regular members and two (2) alternate members who shall be citizens and residents of the Town and who shall be appointed by the Board of Commissioners. Three (3) regular members of the first Board of Adjustment appointed by the Board of Commissioners shall be appointed for three (3) years, and the remaining two (2) regular members of the first Board of Adjustment shall be appointed for two (2) years. Thereafter, as the terms of the first five (5) regular members of the Board of Adjustment expire, each appointment made by the Board of Commissioners to fill a term shall be for overlapping terms of three (3) years. The terms of office for the two (2) alternate members of the Board of Adjustment shall be two (2) years. In appointing the alternate members of the Board of Adjustment, the Board of Commissioners shall designate one (1) appointment as the "first alternate." Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term.

(3) **Organization; Rules; Meetings; Records**

All meetings of the Board of Adjustment shall be held at a regular place and shall be open to the public. The Board shall adopt rules governing its organization and for all proceedings before it. The Board shall elect a chairman and a vice chairman on an annual basis and shall establish a regular meeting date and time. The Board shall also select a secretary to the Board of Adjustment who shall keep minutes of the proceedings in a book maintained for that purpose only, showing the vote of each member on each question, or if absent or failing to vote, an indication of that fact. Final disposition of appeals shall be by recorded resolution indicating the reasons of the Board thereafter, all of which shall be a public record. No final action shall be taken on any matter unless a quorum is present. A quorum shall consist of four (4) members. The secretary to the Board of Adjustment shall notify all regular and alternate members of the Board of Adjustment of the regular and special meetings and shall also cause written notice to be given all parties having an interest in any appeal or question coming before the Board of Adjustment. Each alternate member, while attending any regular or special meeting of the Board of Adjustment, and serving in the absence of any regular member, shall have and may exercise all of the powers and duties of a regular member. Alternate members shall serve in the absence of a regular member and shall vote in the absence of a regular member and shall have the powers and duties of a regular member in the order in which the alternate members are designated herein. The first alternate member shall serve in the absence of the first regular member absent at any meeting of the Board of Adjustment. The second alternate member shall serve in the absence of the second regular member absent at any meeting of the Board of Adjustment. Either the chairman or any two (2) members of the Board of Adjustment may call a special meeting of the Board of Adjustment by giving written notice to the other regular and alternate members of the Board at least forty-eight (48) hours prior to the called meeting.

The Board shall adopt rules governing its organization and for all proceedings before it. At its first call to meeting the Board of Adjustment shall establish a regular meeting date and time for the regular meeting of the Board of Adjustment. The Board shall elect a vice chairman to serve in the absence of the chairman at the meetings of the Board of Adjustment. The Planning Director, or his designee, shall serve as secretary to the Board of Adjustment and shall keep minutes of the proceedings of the Board of Adjustment, including the vote of each member on each appeal.

Appeals from the enforcement and interpretation of this chapter and requests for variances shall be filed with the Planning Director specifying the grounds for the appeal. The Planning Director

shall transmit to the Board of Adjustment all applications and records pertaining to such appeals or variances. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, and shall give the public notice thereof, published in a newspaper of general circulation in the town at least once each week for two (2) successive weeks prior to the hearing. An appeal stays all proceedings in furtherance of the action appealed from, unless the Planning Director certifies to the Board of Adjustment that by reason of facts stated in the record a stay would, in his opinion, cause imminent peril to life and property, in which case proceedings shall not be stayed otherwise than by an order from the Superior Court of Carteret County.

An appointed member of the Board of Adjustment who has missed three (3) consecutive meetings (special or regular or a combination of both) without the member being excused for his absence by a majority vote of the Board of Adjustment shall be removed by the Board of Commissioners.

**(4) Powers and Duties**

The Board of Adjustment shall have the following powers and duties:

**(A) Appeal of Administrative Decisions and Interpretations**

To hear and decide appeals where it is alleged that there is an error in (1) an order, requirement, decision, or determination pursuant to this Unified Development Ordinance, made by the Planning Director, or (2) an interpretation of this Unified Development Code, made by the Planning Director. The concurring vote of four-fifths ( 4/5 ) of the members of the Board present for the hearing of a particular case shall be necessary to reverse any order, requirement, decision, or determination of the Planning Director, to decide in favor of the applicant any matter that it is required to pass under this Ordinance, or to affect any variance in this Ordinance.

**(B) Interpretation of Zoning Map**

To interpret the location of lines on the Official Zoning District Map where they appear to be unclear. Interpretations shall comply with the following criteria:

- (i) Boundaries delineated by the centerline of streets, highways, or alleys shall follow such centerlines.
- (ii) Boundaries delineated by lot lines shall follow such lot lines.
- (iii) Boundaries shown parallel to or as extensions of features indicated in this subsection shall be interpreted as such. Distances not specifically indicated on the Official Zoning District Map shall be determined by the scale of the map.
- (iv) Where the actual location of existing physical or natural features vary from those shown on the Official Zoning District Map, or in other circumstances not covered by this subsection, the Planning Director shall have the authority to interpret the district boundaries.

**(C) Variances**

To grant variances from the terms of this Ordinance pursuant to section 2.4.17, Variances.

**(D) Appeals from Board of Adjustment**

Appeals from the decisions of the Board of Adjustment shall be to the Carteret County Superior Court, pursuant to G.S. ch. 7A.

**(5) Conflict of Interest**

A Board of Adjustment member shall abstain from voting on any matter in which the member has a direct or indirect financial interests, or in which the applicant or any related party with a material role in the matter being heard by the Board is related to the Board of Adjustment member by

blood or marriage, or in any other situation defined as a conflict of interest by the laws of North Carolina.

(6) **Compensation**

All members of the Board of Adjustment may be compensated from time to time as deemed appropriate by the Board of Commissioners.