



## **CURRITUCK COUNTY BOARD OF ADJUSTMENT RULES OF PROCEDURE**

### **I. General Rules**

- A. The Board of Adjustment shall be governed by the terms of Article 18 of Chapter 153A-345 of the General Statutes of North Carolina. All members of the board shall familiarize themselves with these laws.

### **II. Powers and Duties of the Board of Adjustment**

- A. Application Review and Decision:

- 1. Variances
- 2. Appeals of administrative decisions by the Planning Director or the Technical Review Committee.

- B. Other Powers and Duties:

The board is authorized by the Unified Development Ordinance (UDO) to carry out any other powers and duties delegated to it by the Board of Commissioners, consistent with state law.

### **III. Appointment and Terms**

- A. The Board of Adjustment shall consist of five regular members and two alternate members appointed by the Board of Commissioners. Each commissioner may appoint one member from any electoral district in the county, two of which shall be alternate members.
- B. Regular members leaving the board shall be replaced by existing alternate members. Newly appointed members shall be assigned as alternate members, when practicable. In situations when this cannot be met, seats shall be determined by the Board of Commissioners.
- C. Board of Adjustment members shall reside within the county. A change in residence to a location outside the county shall constitute a resignation from the Board of Adjustment, effective upon the date a replacement is appointed.
- D. An alternate member may sit in-lieu of a regular member upon recusal by a regular member and assignment by the chairman. When seated as a regular member, an alternate member shall have the same powers and duties as the regular member he replaces.
- E. Board of Adjustment members shall be appointed for three year staggered terms. Members shall continue to serve until their successors are appointed. Members may be appointed to a maximum of two successive terms.
- F. Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term only.

#### **IV. Rules of Conduct for Members of the Board**

- A. A board member may be removed by the Board of Commissioners 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.
- C. A board member shall not take part in the hearing, consideration, or determination of any case that the member is personally or financially interested.
- D. A board member shall not vote on any matter that decides an application or appeal unless the member has attended the public hearing on that application or appeal.
- E. A board member shall not vote on any matter when said member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgement in the public interest.
- F. A board member shall not vote on a matter if participation in the matter might violate the letter or spirit of the member's code of professional responsibility.
- G. A board member may be allowed to withdraw from the entire remainder of the meeting by majority vote of the members present for a good and sufficient reason other than the member's desire to avoid voting on matters to be considered at the meeting.
- H. A board member shall not discuss any case with any parties before the public hearing on that case; however, members may receive and/or seek information pertaining to the case from any other member of the board or staff.
- I. Members of the board shall not express individual opinion on the proper judgement of any case with any parties before that case has been determined. Violation of this rule shall be cause for dismissal from the board.

#### **V. Meetings**

- A. Regular meetings of the board shall be held on the second Thursday of each month at 7:00 p.m. in the Historic Courthouse boardroom; however, that meeting may be held at some other convenient location in the county if directed by the chairman before the meeting.
- B. Special meetings of the board may be called by the chairman at any time. At least 48 hours written notice of the time and the place of the meeting shall be given, by the clerk to the board or the chairman, to each member of the board.
- C. If there are no applications for an appeal, variance, or other business for the board, or if so many regular and alternate members notify the clerk that they cannot attend and that a quorum will not be available, the chairman may dispense with a regular meeting by giving written or oral notice to all members not less than 24 hours before the time set for the meeting.
- D. A quorum shall consist of four members of the board. No official business of the board shall be conducted without a quorum present.

- E. All meetings shall be open to the public. The order of business at a regular meeting shall be as follows:
  - 1. Roll Call
  - 2. Approval of the minutes from the previous meeting
  - 3. Hearing of applications
    - a. Presentation by planning staff
    - b. Applicant presentation
    - c. Public comment
    - d. Applicant response to comment
    - e. Staff response to comment
    - f. Closing of hearing
    - g. Board review and decision
  - 4. Other business
- F. All regular members may vote on any issue unless they have disqualified themselves. If a member does not disqualify himself or withdraw from the meeting, subsequent failure to vote shall be recorded as an affirmative vote.
- G. Alternate members shall be called on to vote on cases only during those meetings and hearings at which one or more regular members are absent or unable to participate.
- H. Except at the election of officers, at no time shall more than five members participate in any meeting or hearing. A non-voting alternate member shall sit in the audience and may participate as a member of the audience during the public hearing.
- I. Regular board members may be removed by the Board of Commissioners at any time for failure to attend three consecutive meetings or for failure to attend 30% or more of the meetings within any 12 month period.

## **VI. HEARINGS**

- A. Appeal and variance applications received prior to the cutoff date for the next regularly scheduled board meeting shall be heard during said meeting. If deemed necessary and required notification given, a special meeting may be called by the chairman.
- B. The board shall give public notification of hearings as required by the Unified Development Ordinance and North Carolina General Statutes.
- C. Any person filing an application to be heard by the board shall be required to attend the hearing or have an agent or attorney appear on his behalf.
- D. 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 what is necessary to enable the board to determine whether there has been substantial change in the facts, evidence, or condition of the case. The board shall deny the application for rehearing if, from the record, it finds that there has been no substantial change in facts, evidence, or conditions. If the board finds that substantial change has occurred, it shall treat the request in the same manner as a new application.

## **VII. Decisions**

- A. Action shall be taken as promptly as possible in consideration of the interests of the applicant, the citizens of the county, and shall include a decision of approval, approval with conditions, disapproval, or other appropriate action.
- B. The final disposition of the case shall be recorded in the minutes of the board and signed by the clerk. 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. Written notification of the final disposition of a case shall also be mailed to the applicant 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 by a majority of the members of the Board of Adjustment, provided that such amendment is presented in writing at a regular or special meeting, proceeding which the vote may be taken.

**Date Presented to the Board of Adjustment: 1/14/16**

**Date Adopted: 1/14/16**



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**David Palmer, Chairman**