

Rules of Procedure Board of Adjustment Graham, North Carolina

I. General Rules

The Board of Adjustment shall follow procedures which are regular and properly judicial, and the Board's decisions shall be in accordance with the recognized body of zoning and land use law.

The Board shall comply with all procedures set forth in the State Statutes, the City of Graham Development Ordinances and these Rules of Procedure, which shall be effective upon enactment by the Board. In cases where these Rules of Procedure conflict with any Federal or North Carolina State Statute, or City Ordinance, said statutes and ordinances shall govern.

II. Officers and Duties

A. Chair. The chair shall have the following powers and duties:

- i. To preside at all meetings and public hearings of the Board;
- ii. To decide all points of order and procedure;
- iii. To entertain and answer questions of parliamentary law or procedures;
- iv. To call a brief recess at any time;
- v. To adjourn in an emergency meeting;
- vi. To certify rulings of the Board;
- vii. To issue a subpoena under the direction of the Board;
- viii. Shall exercise full voting rights on all matters under consideration.

B. Vice-Chair. The Vice-Chair shall serve as acting Chair in the absence or disability of the Chair. At such time, he shall have and exercise the same powers and duties as the Chair.

C. Secretary. The Secretary, also known as the clerk to the board, shall keep a record of all business transacted at any meeting of the Board.

III. 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 the Board meetings and conscientious performance of the duties required of Board members shall be considered a prerequisite of continuing membership on the Board.

C. No Board member shall take part in the hearing, consideration, or determination of any case in which he/she is personally or financially interested.

- D. No Board member shall discuss any case with any parties thereto before the public hearing on that case; provided, however, that member may receive and/or seek information pertaining to the case from any other member of the Board or its secretary or staff before the hearing.
- E. 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.

IV. Meetings

- A. Schedule. The Board shall meet on an as-needed basis when called by the Chair. In general, meetings will be held on the third Tuesday of the month immediately following the Planning Board meeting in the Council Chambers of City Hall, 201 South Main Street.
- B. Complete Applications. To request a hearing, a complete application on forms provided by the City must be submitted to the Planning Department at least fourteen calendar days prior to the scheduled Board meeting. All information required by the application form shall be complete before a matter may be scheduled for hearing.
- C. Order of Business. Items shall be placed on the agenda according to the Order of Business as listed below. However, by general consent of the Board of Adjustment, items may be considered out of order.
 - i. Approval of the minutes
 - ii. Discussion/adjustment of agenda
 - iii. Old business
 - iv. New business
 - a. Appeals
 - b. Variances
 - c. Other business
 - v. Administrative Reports

V. Hearing Procedures

For each case, the following procedures shall be used to the greatest practical extent:

- A. The Chair shall poll the Board as to whether any member has had ex parte communication or has any reason to be excused from participating in the hearing.
- B. The Chair, or such person as they shall direct, shall give a preliminary statement of the request.
- C. The Chair shall ask that all persons wishing to provide evidence or arguments for the case identify themselves and step forward.
- D. All witnesses shall be placed under oath by the Chair or the clerk to the board. All witnesses shall sign the written oath and write their name and complete address.



- E. The staff shall present the application and applicable City ordinance provisions.
- F. Evidence and arguments shall be presented in the following order:
 - i. The applicant.
 - ii. Those in support.
 - iii. Those opposed.
- G. Both sides shall be permitted to cross-examine witnesses of the opposing party and to present rebuttal to opposing evidence and arguments.
- H. The Chair shall briefly summarize the evidence that has been presented, giving the parties opportunity to make objections or corrections.
- I. The Chair shall call for a motion to close the hearing.
- J. The Board shall discuss the evidence and arguments presented.
- K. The Board shall make a decision based upon the findings of fact and conclusions of law. If draft findings of fact were presented by the staff, the Board shall specifically state whether any shall be revised and the specific wording of the revisions.
- L. The secretary shall cause the decision to be delivered and shall certify the same.
- M. The official record of the decision shall include any and all exhibits presented. Exhibits shall be labeled alphabetically, shall be referenced as such in the minutes, and shall be kept on file with the secretary.
- N. In the event that a decision is appealed to the courts, the secretary shall certify the record.

VI. Records

- A. The secretary shall maintain a file of all studies, plans, reports, and recommendations made by the Board in the discharge of its duties and responsibilities.
- B. The minutes of the Board shall be known as unofficial minutes until approved by the Board, at which time they become official minutes.
- C. All records of the Board shall be public records, kept on file in the office of the Board, and available for inspection during regular business hours.

VII. Amendments

These Rules of Procedure may be amended by a majority vote of the Board of Adjustment provided that the proposed change shall have been submitted in writing at the previous regular meeting of the Board of Adjustment. Submissions to amend these Rules of Procedure may only be proposed by current Board of Adjustment members, City Council members, or City of Graham staff.

