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RULES OF PROCEDURE

**ZONING BOARD OF ADJUSTMENT
CLEMMONS, NORTH CAROLINA**

I. GENERAL RULES.

- A. The Zoning Board of Adjustment shall be governed by the Village of Clemmons Zoning Ordinance (particularly Sections 23-14 and 23-15 thereof), Chapter 777, 1953 Sessions Laws and other applicable laws:

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. 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 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 Acting 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 Zoning Officer shall serve as Secretary of the Board. The Secretary, subject to the direction of the Chairman, shall keep all records, shall conduct all correspondence of the Board, shall arrange for all public notices required to be given, and shall generally supervise the clerical work of the Board. The Secretary shall keep in a permanent volume the minutes of every

meeting of the Board. These shall be and show the record of all important facts 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. Tape recordings shall be made of any meeting upon request by the Board and shall be kept for a reasonable time by the Secretary. The Secretary shall not be eligible to vote upon any matter.

- D. Clerk. A Clerk shall be appointed by the Secretary. The Clerk shall perform such tasks as may be assigned by the Chairman or Secretary, and shall assist the Secretary generally in the performance of his duties. The Clerk shall not be eligible to vote upon any matter.

III. MEMBERS.

- A. Membership on the Zoning Board of Adjustment shall be governed by the Village of Clemmons Zoning Ordinance, by Chapter 777, 1953 Session Laws, and other applicable laws.
- B. 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 Board Secretary that they are unable to attend or to participate. On receiving such notice, the Secretary 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

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 meeting or hearing.

- C. Members of the Board may be removed for cause by the Village Council upon written charges and after a public hearing.
- D. 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.
- E. No Board member shall take part in the hearing, consideration or determination of any case in which he is personally or financially interested.
- F. No Board member shall vote on any matter deciding an application or appeal unless he shall have attended the public hearing on the application or appeal or has read the minutes of record of the case.
- G. No Board member shall discuss any case with any parties thereto prior to 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, its Secretary or Clerk prior to the hearing and provided further, that parties may submit briefs, letters, etc. to the Secretary for distribution to and prior consideration by the Board members.
- H. Members of the Board will not express individual opinions on the proper judgment of any case with any parties thereto prior to its determination of that case at the scheduled hearing.

IV. MEETINGS.

- A. Regular Meetings. Regular meetings of the Board shall be held on the second ~~Wednesday~~ ^{6:30 PM} of each month at ~~7:30 p.m.~~ in the Village Meeting Room; provided, however, that meetings may be held at some other convenient place or time if directed by the Chairman in advance of the beginning of the meeting.
- B. Special Meetings. Special meetings of the Board may be called at any time by the Chairman. At least forty-eight (48) hours written notice of the time and place of special meetings shall be given, by the Secretary or the Chairman, to each member of the Board.
- C. Quorum. A quorum shall consist of three (3) members of the Board. The concurring vote of four (4) of the members of the Board present for the hearing of a particular case or who shall have read the minutes shall be necessary to reverse any order, requirement, decision or determination of the Zoning Officer; to decide in favor of the applicant; or to pass upon any other matter on which it is required to pass under the Zoning Ordinance.
- D. Conduct of Meetings. All meetings shall be open to the public, except for executive sessions as allowed by law. The order of business at regular meetings shall be as follows: (a) roll call, (b) acceptance and correction of minutes of previous meetings, (c) hearing of cases, (d) reports of committees, (e) unfinished business, (f) new business, (g) adjournment. The consideration and determination of cases shall be made at the conclusion of the hearings of the evidence in each case.

V. 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 Officer. It shall also hear and decide all other matters referred to it or upon which it is required to pass by the Zoning Ordinance and other applicable laws.

- 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 receives notice of the order, requirement, decision or determination by the Zoning Officer. No application for a special use permit or variance shall be considered by the Board unless a completed application is received at least fifteen (15) days prior to the next regular meeting of the Board. All applications shall be made upon the 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.
- C. Fees. No application to appear before the Board shall be considered as having been completed until fees required by the Zoning Ordinance have been paid.
- D. Hearings.
1. Time. After receipt of the notice of appeal or application, the Secretary shall schedule the time for a hearing, which shall be either at a regular or special meeting within forty-five (45) days from the filing of such notice or completed application.
 2. Notice. The Secretary shall assure that notice of public hearing is given as required by the Zoning Ordinance.
 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 applicant shall present the arguments in support of his case or application; (c) persons opposed to granting the application shall present the argument against the application; (d) both sides will be permitted to present rebuttals to opposing testimony; (e) an appropriate staff member shall be available to make a recommendation, if requested to do so by a Board member. 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. All witnesses shall be sworn and may be cross-examined. Board members may view the premises and obtain additional facts in the matter before arriving at a determination of the case. Board members shall discuss the case among themselves in open session, and may recall witnesses and otherwise deliberate among themselves, waiting until all evidence is presented before rendering a decision.

4. Rehearings. An application for a rehearing by a petitioner who was previously denied may be made by letter to the Board and shall contain evidence that there has been a substantial change in the facts or conditions of the case. The application for rehearing shall be denied by the Board if, from the record, it finds in its discretion that there has been no substantial change in facts or conditions. If the Board finds that there has been a change, it shall thereupon treat the request in the same manner as any other application.
5. Required Delay After Denial of Applications. If the Board denies a

request for a variance or special use permit on a particular piece of property, or denies a request for rehearing of a denied request, no new application shall be made with respect to said particular property earlier than two years from the date of denial of the earlier application.

E. Decisions.

1. Time. Decisions by the Board shall be made not more than thirty (30) days from the completion of the hearing, unless delayed by the Board for good cause.
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 and signed by the Chairman and the Secretary upon approval of the minutes of the Board. The record shall show the reasons for the decision as required by law. The record shall state in detail what, if any, conditions and safeguards are imposed by the Board in connection with the granting or a variance or an exception, as required by law.
 - (A) Variances. Where a variance is granted, the record shall state in detail any exceptional difficulty upon which the appeal was based and which the Board finds to exist.
 - (B) Appeals. The decision may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from.
 - (C) Special Use Permits. Where a special use permit is granted, the

record shall state in detail any facts supporting findings required to be made prior to the issuance of a permit. The record shall also show in detail any conditions imposed on the issuance of the permit by the Board. If a special use permit is denied by the Board, the record shall show the reasons for denial of the permit.

3. Voting at Hearings. The concurring vote of four (4) 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 Zoning Officer or to decide in favor of the applicant as to any matter on which it is required to pass under the Zoning Ordinance.
4. 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.

VI. ANNUAL REPORT TO VILLAGE COUNCIL

- A. The Board shall prepare and submit in July of every year to the Village Council a report of its activities for the fiscal year ending June 30. Such report shall contain a statement of the number of cases heard and a summary of the actions taken, along with any other matters which the Board deems appropriate for inclusion in such report.

VII. AMENDMENTS

- A. These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than three (3) members 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.

Read, approved and adopted by the Zoning Board of Adjustment on the 8th day of June, 1994.

The following Board members voting AYE:

Paul D. Wise
Dorothy Leamon
Don Cameron
Howard Little, Jr.
Roy Braswell

Voting NO:

None

These Rules of Procedure shall become effective the 8th day of June, 1994.

Paul D. Wise (Chairman)
Howard A. Little (Acting Secretary)

**AMENDMENT TO
RULES OF PROCEDURE
ZONING BOARD OF ADJUSTMENT
CLEMMONS, NC**

Pursuant to Section VII. A. of the Rules of Procedure, the Zoning Board of Adjustment does hereby adopt the following Amendment to its Rules of Procedure:

Immediately following Section IV. D. of the Rules, a new section, IV. E. is added, as follows:

E. Continuances. The Board may, in its discretion, continue the hearing of any matter before it for hearing, at the request of the applicant, an objecting party, or upon motion of the Board. A continuance may be granted for a period of time (not to exceed 12 months) from the date of the originally scheduled hearing, as the Board may determine. Continuances may be granted at any time before or during any scheduled hearing prior to the rendering of a decision. In the event of any continuance granted for a longer period than the next scheduled meeting date, it shall be the responsibility of the applicant to re-post the property which is the subject of the continued hearing, in accordance with the Zoning Ordinance. The Secretary shall provide appropriate notice to an applicant of the applicant's obligation under this section to re-post the property.

Read, approved and adopted by the Clemmons Zoning Board of Adjustment on the 10th day of July, 2002.

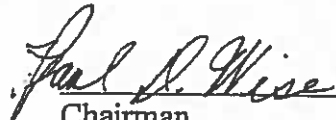
The following Board Members voting AYE:

Tim Carpenter
Ray Bedsaul
Paul Wise
Holly Teague
Spencer Greene

Voting NO:

None

This amendment shall become effective upon the date of adoption.


Chairman


Secretary