

**NEW HANOVER COUNTY
ZONING BOARD OF ADJUSTMENT**

Number of Members: 5 plus three alternates
Ex-Officio: Planning Director

Term of Office: 3 years

Regular Meetings: Fourth Tuesday of each month at 5:30 p.m. in the conference room at the Government Center, 230 Government Center Drive, Suite 110, Wilmington, NC.

Compensation: \$20.00 per member per meeting plus auto mileage

Statute or cause creating Board: N.C. General Statutes 153-A-345, 266.17. The Commissioners increased to 3 alternates 11/21/94 (officially 4/1/96). The Zoning Ordinance requires members to be appointed from different areas within the County's zoning jurisdiction.

Brief on Functions: The Board of Adjustment is a recognition of human frailty. If it were possible for the legislative body to write a perfect zoning ordinance which would meet the needs of the community while at the same time avoiding hardship in individual cases, there would be no need for this board. Because that has been found near impossible, the Board of Adjustment has been introduced as an integral part of almost every smoothly operating zoning enforcement mechanism, serving as a "pop-off valve" to relieve pressures resulting from hardship cases.

In New Hanover County, the duties of the Board fall into two general categories: Interpretation and Granting Variances.

Interpretation: The function of the Board of Adjustment which is most closely similar to that of the courts is interpretation of the Ordinance. This function involves (a) interpreting the meaning of parts of the Ordinance which are unclear, (b) applying the Ordinance to particular fact situations, and, if necessary, (c) correcting any mistakes or abuses of discretion which the Building Inspector may have made in administering the Ordinance. In exercising this power, the basic principle for the Board to keep in mind is that it must not vary the Ordinance. Its function here is to interpret and apply what the governing body has written, not to vary that legislative pronouncement to fit its own ideas. Its decisions must be in accord with what the Board believes to be the actual meaning and intent of the Ordinance.

Granting of Variances: General Statute 153A-345(d) provides that, "when practical difficulties or unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment may, in passing upon appeals, vary or modify any regulation or provision of the Ordinance relating to the use of land, so that the spirit of the Ordinance is observed, public safety and welfare secured, and substantial justice done." Basically, a variance is a permit, which the Board may grant in certain situations, enabling a property owner to make use of his property in some way which is in conflict with the literal provisions of the Ordinance. Sometimes a lot so small or so peculiarly shaped that the owner would have great difficulty in complying with the yard requirements and yet erecting a suitable building. Sometimes contours of the terrain are such as to create hardships in complying with these requirements. Sometimes the lot is located in a cluster of nonconforming uses which will prevent the owner from securing any reasonable return from his land if he complies with the Ordinance (as where a lot in a residential district is surrounded by nonconforming business structures). When the Board grants exemptions from harsh provisions, it is "granting a variance."

Finally, it should be noted that there is a good bit of "law" connected with the duties and responsibilities of the Zoning Board of Adjustment. This is understandable, however, when one considers the importance of its decisions which expand or limit property values. These are issues which must not be dealt with casually or arbitrarily.

The above has been largely excerpted from the Zoning Board of Adjustment in North Carolina by Michael B. Brough and Philip P. Green, Jr.

CURRENT MEMBERS	TERM OF OFFICE	
	APPOINTMENT	EXPIRATION
Robert F. Cameron, Jr., Vice-Chair 5119 Nicholas Creek Wilmington, NC 28409 313-1961 (H) 762-9635 (W)	First 11/19/07	12/1/10
Eric C. Hickman 2027 Gray Walsh Drive Wilmington, NC 28411 256-2219 (H) 793-4400 (W)	Unexpired 4/21/08 First 11/10/08	12/1/08 12/1/11
Justin Michael Lewis 3702 Providence Court Wilmington, NC 28412 414-8410 (H/W) 794-4880 (Cell)	First 11/16/09	12/1/12
Peyton Williams 651 Walston Drive (28412) P.O. Box 15527 Wilmington, NC 28408 798-0774 (H) 798-0021 (W)	First 11/19/07	12/1/10
Noelle M. Winstead 1305 Carolina Beach Avenue, N., A-3 Carolina Beach, NC 28428 790-1050 (H) 794-8699 (W)	First 11/10/08	12/1/11
ALTERNATES: Peter M. DeVita 1336 Heron Run Wilmington, NC 28403 509-3055 (H) 262-2113 (C)	Unexpired 7/24/06 First 11/19/07	12/1/07 12/1/10
Tim Fuller 133 Settlers Lane Kure Beach, NC 28449 540-3346 (Cell) 772-9777 (W)	First 11/22/04 Second 11/19/07	12/1/07 12/1/10

CURRENT MEMBERS	TERM OF OFFICE	
	APPOINTMENT	EXPIRATION
Michael D. McCulley, Jr. 6102 Lydden Road Wilmington, NC 28409 547-5185 (C) 251-2500 (W)	First 11/10/08	12/1/11
Staff Support: Ann Hines, Chief Zoning Enforcement Officer NHC Planning and Zoning Division 230 Government Center Drive, Suite 110 Wilmington, NC 28403 798-7118		File: /Zoning B/C#33