



February 21st, 2023
 Stallings Town Hall
 321 Stallings Road
 Stallings, NC 28104
 704-821-8557
www.stallingsnc.org

Planning Board Meeting Agenda

	Time	Item	Presenter	Action Requested/Next Step
	7:00 pm	Invocation Call Meeting to Order	Chair	N/A
1.		Approval of Agenda	Chair	Approve Agenda <i>Motion: I make the motion to:</i> 1) Approve the Agenda as presented; or 2) Approve the Agenda with the following changes: -----.
2.		Approval of Minutes A. January 17th, 2023	Chair	Approve Minutes <i>Motion: I make the motion to:</i> 1) Approve the Minutes as presented; or 2) Approve the Minutes with the following changes: -----.
3.		TX23.02.01 A. To amend Article 2.10-2 Accessory Structures located in Setback to implement limitations on the size and quantity of accessory structures in the Town of Stallings. B. Statement of Consistency and Reasonableness	Patrick Blaszyk	Approval/Denial of TX23.02.01 <i>Motion: I make the motion to recommend:</i> 1) Approval of the request as presented. 2) Defer the request to -----. 3) Denial of the request as submitted.
4.		Discussion Item A. Reformatted Rules of Procedure	Max Hsiang	

	Time	Item	Presenter	Action Requested/Next Step
5.		Discussion Item A. Planning Board and Board of Adjustments Poll	Max Hsiang	
6.		Adjournment	Chair	1) <i>Motion: I make the motion to adjourn.</i>

MINUTES OF PLANNING BOARD MEETING
OF THE
TOWN OF STALLINGS, NORTH CAROLINA

The Planning Board of the Town of Stallings met for their regularly scheduled meeting on January 17, 2022, at 7:00 pm. The meeting was held at the Stallings Government Center, 321 Stallings Road, Stallings, NC 28106.

Planning Board members present: Chairman Robert Koehler, Vice Chairwoman Laurie Wojtowicz, David Barnes, Jacqueline Wilson, and Ryan Awaldt.

No Planning Board members were absent.

Staff members present: Max Hsiang, Planning Director; Patrick Blaszyk, Planning Technician; and Mary McCall, Deputy Town Clerk.

Chairman Robert Koehler recognized a quorum.

Invocation and Call to Order

Chairman Robert Koehler led the Pledge of Allegiance and called the meeting to order at 7:00 pm

1. Approval of Agenda

Vice Chairwoman Wojtowicz made the motion to approve the agenda. The motion was approved unanimously after a second from Board Member Wilson.

2. Approval of Minutes – October 18, 2022

Vice Chairwoman Wojtowicz made the motion to approve the Planning Board Minutes from October 18, 2022. The motion was approved unanimously after a second from Board Member Wilson.

3. TX23.01.01

A. Amend Article 11.6-1 Buffering and Screening of Different Districts to allow the Development Administrator the authority to require a buffer for new development adjacent to existing residential.

B. Statement of Consistency and Reasonableness

Planning Director Hsiang presented text amendment TX23.01.01, explaining the reason for the change is to enable the Development Administrator to address buffer requirements not identified in the ordinance. Planning Director Hsiang advised the Council and Staff's goal is to protect existing residential homes from the impacts of new development by installing a buffer.

Vice Chairwoman Wojtowicz made the motion to approve the recommendation of TX23.01.01 along with a statement that TX23.01.01 is consistent and reasonable in conjunction with the Comprehensive Land Use Plan. The motion was approved unanimously after a second from Board Member Awaldt.

4. TX23.01.02

A. The Town Planning Staff has recommended a text amendment to allow for the use of breweries with or without beverage sales in the Industrial (IND), Business Center (BC) and Town Center (TC) zoning districts.

B. Statement of Consistency and Reasonableness

Planning Technician Blaszyk presented text amendment TX23.01.02 to allow breweries with or without beverage sales in the Industrial, Business Center and Town Center zoning districts. Planning Technician Blaszyk said that the proposed amendment evolved from the recent interest and property inquiries along Stallings Road for the placement of breweries. Planning Technician Blaszyk explained that staff quantified the proposal by considering the disproportionate split of the Stallings' tax base of eighty percent residential and twenty percent commercial, with the theory that the text amendment could improve the balance of the tax split.

Board Member Awaldt made the motion to approve the recommendation of TX23.01.02 along with a statement that TX23.01.02 is consistent and reasonable in conjunction with the Comprehensive Land Use Plan. The motion was approved unanimously after a second from Board Member Wilson.

5. Adjournment

Board Member Wilson made the motion for adjournment. The motion was approved unanimously after a second from Board Member Awaldt.

The meeting adjourned at 7:23 pm.

Robert Koehler, Chairman

Mary McCall, Deputy Town Clerk



MEMO

To: Planning Board
From: Patrick Blaszyk, Planning Technician
Date: 02/21/2023
Re: TX23.02.01 - Accessory Structure Limitations

❖ **Request:**

To amend Article 2.10-2 Accessory Structures located in Setback to implement limitations on the size and quantity of accessory structures in the Town of Stallings.

❖ **Reason for Request:**

The Town has received permit requests over the past several months for accessory structures that are not in harmony with the area they are built in. Many times, these structures significantly add to the quantity of impervious surface on the lot and are too large. The Town did not have any way to regulate the size and quantity of these structures in the past.

❖ **Amendment:**

The text amendment request reads as follows:

2.10-2 Accessory Structures located in Setback.

(A.) Except as otherwise provided in this article, accessory structures located within an established setback or required side yard can be no closer than five (5') feet of a side or rear lot line and meet requirements established in Article 9 for Building Type. Accessory structures Stallings Development Ordinance - Article 2 - Page 15 on corner lots must meet the established side yard setbacks and accessory structures in double frontage lots must meet established rear yard setback. Where permitted, accessory dwellings may be located no closer than four (4') feet to the right-of-way or easement of an abutting mid-block alley, nor closer than five (5') feet to an abutting rear property line. Fences, walls, security gates, paths, walkways, mailboxes, utility poles, lighting fixtures, patios at grade, and similar features may be located in an established setback or required yard, so long as the sight triangle on corner lots is protected according to the provisions of section 2.11 of this Ordinance.

B.) There must be a primary structure prior to any accessory structures allowed on the property. Below is the chart on accessory structures sizes and quantities allowed.

Accessory Structure Maximum Size and Number of Structures Allowed *

Lot Size	Maximum Footprint	Maximum No. of Structures
0.00 to 0.499 acre	25% of the square footage of ground floor area of the principle structure as identified by tax parcel records, not to exceed 1,200 sf total.	1
0.50 to 1 acre	50% of the square footage of ground floor area of the principle structure as identified by tax parcel records, not to exceed 1,600 sf total.	2
1.01 to 2 acres	Aggregate size of all accessory structures combined shall not exceed 5% of the square footage of the lot; in no case shall a single accessory structure be more than 50% of the heated square footage of the principle structure.	2
2.01 to 3 acres	Aggregate size of all accessory structures combined shall not exceed 5% of the square footage of the lot; in no case shall a single accessory structure be more than 75% of the heated square footage of the principle structure.	3
3.01 to 5 acres	Aggregate size of all accessory structures combined shall not exceed 5% of the square footage of the lot; in no case shall a single accessory structure be more than 90% of the heated square footage of the principle structure.	3
Over 5 acres	Aggregate size of all accessory structures combined shall not exceed 5% of the square footage of the lot; in no case shall a single accessory structure be more than 125% of the heated square footage of the principle structure.	5

*Fences, pools and pergolas are not included.
(Amended March 27, 2023)



Statement of Consistency and Reasonableness

ZONING AMENDMENT: TX23.02.01

REQUEST: To amend Article 2.10-2 Accessory Structures located in Setback to implement limitations on the size and quantity of accessory structures in the Town of Stallings.

WHEREAS, The Town of Stallings Town Council, hereafter referred to as the “Town Council”, adopted the Stallings Comprehensive Land Use Plan on November 27, 2017; and

WHEREAS, the Town Council finds it necessary to adopt a new land development ordinance to maintain consistency with the Comprehensive Land Use Plan; and

WHEREAS, the Town Council finds it necessary to revise the Unified Development Ordinance to comply with state law found in NCGS § 160D.

WHEREAS, the Town Council finds it necessary to consider the Planning Board’s recommendations.

THEREFORE, The Planning Board hereby recommends that the proposed zoning/text amendment is consistent/inconsistent and reasonable/unreasonable with the Comprehensive Land Use Plan adopted on November 27, 2017 based on the goals and objectives set forth in the document of promoting quality development and consistency with all state mandated land use regulations established through NCGS § 160D. The Planning Board recommends to **APPROVE/DENY** the proposed amendment and stated that the Planning Board finds and determines that the zoning/text amendment is consistent/inconsistent and reasonable/unreasonable with the key guiding principles, goals, and objectives of the Comprehensive Land Use Plan for the following reasons:

- 1) This text amendment allows accessory structures to be more in harmony with the zoning districts and areas of town they are built in.
- 2) This allows the Town of Stallings to be better able to restrict the quantity of impervious surface within its limits.
- 3) This text amendment can aid in reducing the number of stormwater runoff issues by managing impervious surface quantities.

Recommended this the ___ day of February, 2023.

Planning Board Chair

Attest:

Planning Staff



**PLANNING BOARD
&
ZONING BOARD OF ADJUSTMENTS
POLICY DOCUMENTS**

Revised: 02-21-2023

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AN ORDINANCE TO ESTABLISH A PLANNING BOARD
FOR THE TOWN OF STALLINGS

WHEREAS, the Town Council of the Town of Stallings recognizes the need for a town-wide comprehensive planning effort; and

WHEREAS, the General Statutes of the State of North Carolina, Chapter 160A, Article 19, Part 1, Section 361 provides for the establishment and operation of Town Planning Boards; and

WHEREAS, THE Town Council finds it necessary to create and establish such a Board for the purposes set forth in Chapter 160A, Section 361.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of Stallings, North Carolina, hereby establishes a Board to be known as the Stallings Planning Board hereinafter referred to as the "Planning Board" and ordains that it be governed by the following provisions:

SECTION I. COMPOSITION AND TERM OF OFFICE

The Town Council of the Town of Stallings shall appoint five (5) members plus one (1) alternate member who shall serve the Town Council at the pleasure of the Council. The members shall be residents of Stallings. All appointed members shall serve a term for three (3) years except for the initial appointment where one (1) member plus the alternate shall be appointed for a one (1) year term, two (2) members shall be appointed for a two (2) year term, and two (2) members shall be appointed for a three (3) year term. Vacancies shall be filled for the unexpired portions of the terms in the same manner as the initial appointment. The term for each appointed member shall begin March 5th, in the year of appointment and shall terminate March 4th, in the final year of the member's term.

SECTION II. ORGANIZATION, RULES, MEETINGS, AND RECORDS

Within thirty (30) days after appointment the Planning Board shall meet and elect a Chairman and create and fill such offices as it may determine. The term of the Chairman and other officers shall be one (1) year with eligibility for re-election. The Board shall recommend rules for transaction of its business for Town Council approval and shall keep a record of its member's attendance and of its resolutions, discussion, findings, and recommendations, which record shall be a public record. Such minutes shall be submitted to the Town Council and shall be on file at the Town Offices for public inspection. The Board shall hold at least one (1) meeting monthly, and all of its meetings shall be open to the public. There shall be a quorum of three (3)

members for the purpose of taking any official action required by this ordinance.

SECTION III. POWERS AND DUTIES

The Stallings Planning Board shall have the following powers and duties:

- (1) Make studies of the Town and surrounding areas;
- (2) Determine objectives to be sought in the development of the Town;
- (3) Propose and recommend plans for achieving these objectives;
- (4) Develop and recommend to the Town Council policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner;
- (5) Advise the Town Council concerning the use and amendment of means for carrying out plans;
- (6) Exercise such functions in the administration and enforcement of various means for carrying out plans as may be assigned by this or other ordinances of the Town; and
- (7) Perform other related duties as may be assigned by this or other ordinances.

SECTION IV. SEPARABILITY CLAUSE

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part to be declared unconstitutional or invalid.

SECTION V. EFFECTIVE DATE

This ordinance shall be effective from and after the 5th day of March 1990.

Sam Parks
Sam Parks, Mayor

ATTEST
Minnie K. Garnie
Town Clerk

**AMENDMENT TO
ORDINANCE TO ESTABLISH A PLANNING BOARD
FOR THE TOWN OF STALLINGS**

BE IT ORDAINED by the Town Council of the Town of Stallings, North Carolina:

SECTION 1: That Section 1 of the Ordinance to Establish a Planning Board for the Town of Stallings which was adopted on March 5, 1990, is amended by deleting the last sentence and substituting in lieu thereof the following:

The term for each initially appointed member began March 5, 1990, and shall terminate as follows:

Those members appointed for one-year terms shall have terms extended, the same to expire the first Monday in December, 1993;

Those members appointed for two-year terms shall have said terms extended, the same to expire the first Monday in December, 1994; and

Those members appointed for three-year terms shall have said terms extended, the same to expire the first Monday in December, 1995.

Thereafter, appointments shall be made during the organizational meeting held the first Monday in December of each year; and the term for each appointed member shall begin at the time of such appointment and shall be a three-year term.

SECTION 2: This Amendment to the Ordinance to Establish a Planning Board for the Town of Stallings shall be effective upon its adoption.

SECTION 3: That the said Ordinance, except as hereby amended, shall remain in full force and effect.

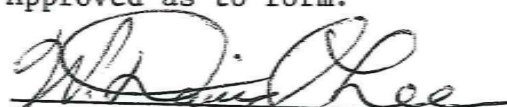
ADOPTED this the 4th day of February, 1991.



Sam A. Parks, Mayor

A T T E S T :


Marie K. Garris, Town Clerk

Approved as to form:


W. David Lee, Town Attorney

AN AMENDMENT TO THE ORDINANCE TO ESTABLISH A PLANNING BOARD IN THE TOWN OF STALLINGS

WHEREAS, the Town Council of the Town of Stallings has an active and fully functional Planning Board;
and

WHEREAS, the Town Council of the Town of Stallings wishes for the Planning Board to serve in the capacity of the Board of Adjustment when the need arises; and

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Stallings, North Carolina, that Section 32.32 be added to the Stallings Code of Ordinances, Title III: Administration; Chapter 32: Departments, Boards, Committees and Commissions:

Section 32.32 The five (5) most tenured members of the Planning Board shall serve in the capacity of the Board of Adjustment (BOA) when needed. Should more than five (5) members have the same amount of tenure, the chairman of the Planning Board shall chose the five (5) members to serve in the BOA capacity. These members, when serving as the BOA, shall follow the rules and procedures of the BOA as outlined in the Stallings Unified Development Ordinance, Article 14: Board of Adjustment.

Adopted this 22nd day of April 2013.



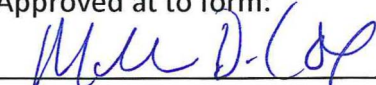
Lynda M. Paxton, Mayor

Attest:



Erinn E. Nichols, Town Clerk

Approved at to form:



Perry, Bundy, Plyler, Long & Cox, LLP

BOARDS AND COMMITTEES

§ 32.10 BOARDS REQUIRED BY STATUTE.

(A) *Planning Board.*

(1) *Membership.* Seven members and two alternate members.

(2) *Membership term.* Three years; no term limit.

(3) *Officers.* The members of the Planning Board shall elect a Chairman and Vice-Chairman during the Board's first regular meeting of a new calendar year or at the next regular meeting following the vacancy of the Chairman or Vice-Chairman.

(4) *Purpose/objective.* In accordance with state law, the Planning Board shall:

(a) Make studies of the area within its jurisdiction and surrounding areas;

(b) Determine objectives to be sought in the development of the study area;

(c) Prepare and adopt plans for achieving these objectives.

(d) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;

(e) Advise the Council concerning the use and amendment of means for carrying out plans;

(f) Exercise any functions in the administration and enforcement of various means for carrying out plans that the Council may direct;

(g) Perform any other related duties that the Council may direct.

(B) *Board of Adjustment.*

(1) *Membership.* The Board of Adjustment shall consist of nine members, consisting of seven full members and two alternate members. All full members shall have equal rights, privileges, and duties, except as defined for officers by adopted rules of procedure.

(2) *Membership term.* Three years; no term limit.

(3) *Officers.* The members of the Board of Adjustment shall elect a Chairman and Vice-Chairman during the Board's first regular meeting of a new calendar year or at the next regular meeting following the vacancy of the Chairman or Vice-Chairman.

(4) *Purpose/objective.*

(a) Cases heard are quasi-judicial and all witnesses testifying during a hearing are to be sworn in;

(b) The Board of Adjustment shall have the following powers:

1. To hear and decide appeals, where it is alleged that there is error in any order, requirements, decisions, or determinations made by an administrative official or body in the enforcement of these regulations;

2. To authorize upon appeal a variance from the provisions of these regulations as provided so as not to contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship, so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done.

(Ord. passed 11-13-2017; Am. Ord. passed 1-24-2022)



**RULES OF PROCEDURE
STALLINGS PLANNING BOARD**

**ARTICLE I
PLANNING BOARD**

- 1-1** The official name of the Planning Board shall be the Stallings Planning and Zoning Board, hereafter referred to as the "Planning Board".

**ARTICLE II
OBJECTIVE AND PURPOSE**

- 2-1** The primary objective of the Planning Board is to develop and maintain a continuing, cooperative planning program to benefit the people of the Town of Stallings.

- 2-2** The purposes of the Planning Board are:

- (a)** To make studies of the Town;
- (b)** To determine objectives to be sought in the development of the areas under study;
- (c)** To prepare and adopt plans for achieving these objectives;
- (d)** To develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
- (e)** To keep the Town Council and the general public informed and advised as to these matters; and
- (f)** To perform any other related duties that the Town Council may direct.

**ARTICLE III
MEMBERSHIP**

- 3-1** Members of the Planning Board shall be appointed by the Town Council for designated terms. The Planning Board shall consist of seven (7) regular members and two (2) alternate members.

- 3-2** If a vacancy occurs on the Planning Board by reason of death, resignation, change of residence, or any other cause, it shall be filled by Town Council appointment for the duration of the unexpired term.

**ARTICLE IV
ELECTION OF OFFICERS**

- 4.1** Annually, at the regular meeting of the Planning Board held in the month of January, a Chairman and Vice-Chairman shall be elected. These officers shall be elected for a term of one (1) year and may be re-elected for successive terms to the same office. Members shall be notified of the date, time and place of the election of officers, at least seven (7) days prior to the regular January meeting. Each officer shall serve until relieved of his duties as herein provided.
- 4-2** The Chairman shall preside at all meetings and hearings of the Planning Board, appoint all standing and temporary committees, and have the duties normally conferred on such office. The Chairman shall have the privilege of discussing all matters before the Planning Board.
- 4-3** In the event of the absence of both the Chairman and Vice-Chairman from a meeting of the Planning Board, the remaining members present may elect a temporary Chairman for that meeting and proceed with the order of business.
- 4-4** The Planning board may appoint from its membership or recommend that the Town Council appoint or hire a person(s) to serve as a secretary for the Planning Board. Said person (s) (hereinafter referred to as the "Secretary") shall keep minutes and records of the Planning Board, prepare with the Chairman the agenda for regular and special meetings, attend to correspondence of the Planning Board and perform such other duties normally carried out by a Secretary.

**ARTICLE V
MEETINGS**

- 5-1** Regular meetings of the Planning Board shall be held on the third Tuesday of each month at 7:00 p.m. in the Stallings Town Hall. Each member shall be notified of each regular meeting by the Secretary to the Planning Board. The Secretary shall also notify each Planning Board member of all joint Town Council/Planning Board public hearings. Said meetings shall be considered Town Council meetings for purposes of determining the rules of conduct and procedure.
- 5-2** Special meetings may be called only by the Chairman, provided that at least forty-eight (48) hours written or oral notice of time of such meeting shall be given each member by the Secretary.
- 5-3** Four (4) members of the Planning Board shall constitute a quorum. A quorum shall be present before any business is transacted.
- 5-4** The Chairman shall decide all points of procedure unless otherwise directed by a majority of the Planning Board in session at the time.
- 5-5** All regular and special meetings of the Planning Board shall be open to the public. Public notice of all regular meetings shall be made by posting a Planning Board agenda in a conspicuous location accessible to the general public within the Stallings Town Hall at least seven (7) days prior to the meeting. The notice shall remain posted until the meeting has been concluded.

**ARTICLE VI
ATTENDANCE**

- 6-1 In order for the Planning Board to carry out its duties and responsibilities, it is necessary for all members to attend meetings. If any member is absent for two (2) consecutive regular meetings, the Chairman may direct the Secretary to notify such member in writing of his absences and if such member fails to attend the next regular meeting, the Planning Board, by a majority vote of the remaining members, may request that the position be vacated and that a replacement be made by the Town Council.

**ARTICLE VII
ORDER OF BUSINESS**

- 7-1 The order of business shall be as follows:
- (a) Determination of Quorum
 - (b) Approval of Previous Minutes
 - (c) Old Business
 - (d) New Business
 - (e) Adjournment
- 7-2 Items of business at the regular meeting shall appear on the agenda. Business which is not identified on the agenda may be considered only after approval by a majority of the Planning Board in session at the time.

**ARTICLE VIII
CONFLICT OF INTEREST**

- 8-1 No member of the Planning Board shall seek to influence a decision, participate in any action or cast a vote involving any matter that is before the Board which may result in a private benefit to themselves, their immediate relatives or their business interest. In applying this rule, the following procedure shall govern.

A Planning Board member who believes there may exist a conflict of interest shall declare his possible conflict, the nature of the conflict, and ask for a determination by the Board. A majority vote of the remaining Board members present shall determine whether or not a conflict of interest exists. If determined that a conflict of interest does exist said member shall be excused from voting on that matter, but may voice his opinion, as a local citizen, on the matter.

- 8-2** A challenge of the existence of a conflict of interest or a challenge of an undisclosed conflict of interest may be filed by any interested party with the Board. Such a challenge may be an appeal for review of the finding of the Board or may be for the purpose of alleging an undeclared conflict of interest. Any challenge made to the Board shall be supported by competent evidence and shall be submitted to a properly convened meeting of the Board. The Board shall hear all evidence and shall, by majority vote, make the final determination as to the existence of a conflict of interest.
- 8-3** Withdrawal from participation in any matter is necessary only in those specific cases in which a conflict arises. There shall be no attempt to exclude entire categories of considerations because of the business or profession with which a member is associated.
- 8-4** Any person who abstains from voting without having first been excused by the Board as herein prescribed shall be deemed to have voted on the matter in an affirmative manner.

ARTICLE IX RECORDS

- 9-1** The Secretary shall keep a record of the Planning Board's recommendations, transactions, findings and determinations. Said records shall be public and filed in the Stallings Town Hall.

ARTICLE X ACTION BY BOARD

- 10.1** All actions of the Planning Board shall have been put before the Planning Board members in the form of a motion, duly seconded, and voted upon by all unexcused members present for a quorum (except as provided in Section 8-4).
- 10-2** Voting shall be done by voice or hand. The Chairman shall vote only in case of a tie and instances where there are only three (3) other voting members present. Only members present at the time a vote is taken shall be eligible to vote. If an issue before the Planning Board is carried over from one meeting to another, a member may be able to vote on the issue if he or she did not attend the previous meeting at which item was discussed.
- 10-3** All members of the Planning Board have the right to vote on all matters except as specified in Sections 8-1 and 10-2.

**ARTICLE XI
ADOPTION AND AMENDMENT**

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of a majority of the voting 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.

Adopted this _____ day of _____, 2007.

Chairman

Secretary

152.190 BOARD OF ADJUSTMENTS ESTABLISHED.

- (A) The Board of Adjustment is hereby established. The Board shall consist of five (5) members and two (2) alternates to be appointed by Town Council. The members shall serve for overlapping terms of three (3) years or thereafter until their successor is appointed. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. None of the members shall hold more than one other public office or position in the town.

§ 152.191 POWERS OF THE BOARD OF ADJUSTMENT.

(A) Cases heard by the Board of Adjustment are quasi judicial, and all witnesses are to be sworn in.

(B) The Board of Adjustment shall have the following powers:

(1) To hear and decide appeals, where it is alleged there is error in any order, requirements, decisions, or determinations made by an administrative official or body in the enforcement of these regulations;

(2) To authorize upon appeal a variance from the provisions of these regulations as provided so as not to be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship, so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done.



**RULES OF PROCEDURE
STALLINGS BOARD OF ADJUSTMENTS**

**ARTICLE I
GENERAL RULES**

- 1-1** The Zoning Board of Adjustment (hereinafter referred to as the "Board") shall be governed by the terms of Chapter 160A, Article 19, Part 3 of the General Statutes of North Carolina and by the Town of Stallings Zoning Ordinance. All members of the Board shall thoroughly familiarize themselves with these laws.

**ARTICLE II
MEMBERSHIP, OFFICERS AND DUTIES**

2-1 Elections

A Chairman and a Vice-Chairman shall be elected by the full membership (including alternate members) of the Board annually at the regular meeting of the Board held in the month of May. These officers shall be elected for terms of up to one (1) year in length and may be re-elected for successive terms to the same office. Members shall be notified of the date, time and place of the election of officers at least seven (7) days prior to the regular May meeting. Each officer shall serve until relieved of his duties as herein provided.

Officer's Duties

The Chairman shall decide upon all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Board in session at the time. The Vice-Chairman 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.

2-2 Secretary and Town Clerk Duties

A Secretary shall be appointed by the Town Manager from the Town's Administrative Staff. The Secretary shall be responsible for taking minutes at all board meetings. These minutes shall 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. The Secretary, subject to the direction of the Chairman and the Board, shall conduct all correspondence of the Board, shall

arrange for all public notices required to be given and shall notify members of pending meetings and their agenda, and shall generally supervise the clerical work of the Board. A Copy of the minutes of all Board of Adjustments meeting shall be maintained in the office of the Secretary.

2-4 Membership

Members of the Board of Adjustment shall be appointed for designated terms by the Stallings Town Council. The Board of Adjustment shall consist of five (5) regular members and two (2) alternate members. The alternate members of the Board shall be requested to attend all regular and special meetings and shall be able to cast a vote on an application for a variance, interpretation, or appeal when a regular member of the Board is absent or if a Board member has a conflict of interest. The alternate members shall have full voting privileges on the adoption or amendment of these rules of procedure and other procedural aspects of the Board's business.

**ARTICLE III
RULES OF CONDUCT FOR MEMBERS**

- 3-1** Members of the Board may be removed for cause, including violation of the rules stated below.
- 3-2** In order for the Board to carry out its duties and responsibilities, it is necessary for all members to attend the meetings. If any regular member is absent for two (2) consecutive regular meetings, the Chairman may direct the Secretary to notify such member in writing of his absences and Board of Adjustment, by a majority vote of the remaining members, may request that the position be vacated and also request that a replacement be made.
- 3-3** Should any member of the Board be financially or otherwise closely associated with any issue that comes before the Board, said member shall disqualify himself from participating in considering the issue and shall not sit with the Board during such consideration. A member of the Board may raise the question of conflict of interest of another member regarding a specific issue that is before the Board. A majority vote of those members without such conflict shall determine if such conflict does exist.
- 3-4** No Board member shall vote on any matter deciding an applicant or appeal unless he shall have attended the entire public hearing on that application or appeal. If a public hearing is continued from one meeting date to another, an alternate member may replace a regular member only if the alternate member was in attendance at all previous public hearing sessions concerning that application.

- 3-5 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 the Secretary or Zoning Administrator prior to the hearing.
- 3-6 Members of the Board will not express individual opinions on the proper judgment of any case with any parties prior to its determination of that case. Violation of this rule shall be cause for dismissal from the Board.

ARTICLE IV MEETINGS

4-1 Regular Meetings

Regular meetings of the Board shall be held on the Third Thursday of each month at 6:30 P.M. in the Stallings Town Hall; provided that meetings may be held at any other convenient place in the Stallings area if directed by the Chairman in advance of the meeting. Each member shall be notified of each meeting by the Secretary to the Board.

4-2 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 to each member of the Board.

4-3 Cancellation of Meetings

Whenever there is no business for the Board, or whenever so many members notify the Secretary of their inability to attend that a quorum will not be available, the Chairmen may dispense with a regular meeting by having written or oral notice given to all members not less than twenty-four (24) hours prior to the time set for the meeting.

4-4 Quorum

A quorum shall consist of three (3) members of the Board, but the Board shall not pass upon any question relating to an appeal from a decision, order, requirement, or determination of the Zoning Administrator or an application for a variance when there are less than four (4) voting members present.

4-5 Voting

All regular members may vote on any issue unless they have disqualified themselves for one or more of the reasons listed in Article III. The required vote to decide appeals and applications shall be as provided in Article V, and shall not be reduced by any disqualification. In all other matters the vote of a majority of the members present and voting shall decide issues before the Board.

4-6 Conduct of Meetings

All meetings shall be open to the public. The order of business at regular meetings shall be as follows:

- (a) Determination of Quorum
- (b) Approval Of Minutes of Previous Meetings
- (c) Old Business
- (d) New Business

**ARTICLE V
APPEALS, APPLICATIONS, PUBLIC HEARINGS**

5-1 Types of Appeals

The Board shall hear and decide all appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator. In deciding appeals, it may hear both those based upon an allegedly improper or erroneous interpretation of the Ordinance and those based upon alleged hardship resulting from strict interpretation of the Ordinance.

5-2 Procedure for Filing Appeals

No appeal shall be heard by the Board unless notice thereof is filed with the Town Clerk within fifteen (15) days after the interested party or parties receive notice of the order, requirement, decision, or determination by the Zoning Administrator. All applications shall be made upon the form furnished for that purpose by the Town, and all information required shall be furnished before an appeal shall be considered as having been filed.

5-3 Procedure for Filing Application for Variances

A complete application for a variance shall be submitted to the Zoning Administrator at least fifteen (15) days prior to the Board of Adjustment hearing at which the case is to be heard. All applications shall be made upon the form furnished for that purpose by the Town, and all information required shall be furnished before the application can be considered for the Board of Adjustment to hear.

5-4 Public Hearing Notice

After a completed application is submitted to the Zoning Administrator, a public hearing shall be scheduled at the next regularly scheduled meeting of the Board or at a special meeting called for at an earlier date by the Chairman; all such meetings being scheduled at least fifteen (15) days after the application has been accepted and deemed complete by the Zoning Administrator. The Town shall give public notice of the hearing in a newspaper of general circulation in Stallings. Such notice shall be published one (1) or more times with the first publication being at least ten (10) days prior to the public hearing. Said notice shall substantially state the nature of the hearing, the piece(s) of the property involved, and the time, date and place of the public hearing.

In addition, the Town shall also send by first class mail notice of the public hearing to the applicant and to owners of all adjacent (i.e., properties located on any side of the property in question or directly across any road or other right-of-way) properties. The applicant shall be required to furnish the Town the names and addresses of the owners of all adjacent pieces of property.

5-5 Conduct of Hearing

Any party may appear in person or by agent or by attorney at the hearing. The order of business for 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 argument in support of his application;
- (c) Persons opposed to granting the application shall present the argument against the application;
- (e) The Chairman (or the Secretary at the Chairman's direction) shall summarize the evidence which has been objectives or corrections. Board members may view the premises before arriving at a decision. All witnesses giving evidence before the Board shall be placed under oath and the opposing party may cross-examine them.

5-6 Rehearings

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 that which is necessary to enable the Board to determine whether there has been a substantial change in the facts, evidence, or conditions in the case. The application for rehearing shall be denied by the Board if, from the record, it finds that there has been no substantial change in facts, evidence, or conditions. If the Board finds that there has been a change, it shall there upon treat the request in the same manner as any other application. A public hearing shall not be required to be held by the Board of Adjustment to determine whether a rehearing is to be held. Those Board members who voted on the application at the prior public hearing need not all be voting to determine if a rehearing is to be held. In order to conduct a rehearing, the concurring vote of at least four voting members shall be required.

5-7 Decision

(a) Time

Decisions by the Board shall be made no later than thirty-one (31) days from the time the hearing was closed.

(b) Form

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 Secretary and the Chairman upon approval of the minutes by the Board. 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. Where a variance is granted. The record shall state in detail any exceptional difficulty of unnecessary hardship upon which the appeal was based and which the Board finds to exist. The decision any reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from. The record shall state in detail what, if any, conditions and safeguards are imposed by the Board in connection with the granting of a variance.

(c) Expiration Permits

Unless otherwise specified, any order or decision of the Board granting a variance shall expire if a building permit or certificate of occupancy for such use is not obtained within twelve (12) months from the date of the decision.

(d) Voting at Hearings

In no case shall more than five Board of Adjustment members be allowed to vote on any case involving a variance application, interpretation of the Zoning Ordinance text, or appeal of a Zoning Administrator's decision. The concurring vote of at least four voting members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, to decide in favor of the applicant any matter upon which the Board is required by Ordinance to pass, or to grant a variance from the Ordinance provisions. Voting on any issue shall be done by a show of hands.

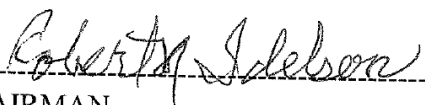
(e) Public Record of Decision

The decisions of the Board, as filed in its minutes, shall be of public record, available for inspection at the Town Clerk's office during normal business hours.

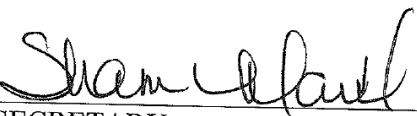
**ARTICLE VI
AMENDMENTS**

6-1 These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than four (4) regular or alternate 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.

ADOPTED THIS 17th DAY OF June, 2010



CHAIRMAN



SECRETARY