

## ARTICLE 4

### PLANNING BOARD & BOARD OF ADJUSTMENT

#### 4.1 **Boards Established**

The following boards are hereby established to carry out the duties and responsibilities set forth in this Ordinance and in fulfillment of the goals and purposes of this Ordinance:

(A.) *Planning Board*

(B.) *Board of Adjustment*

#### 4.2 **Planning Board**

4.2-1 Authority. There is hereby created a planning agency, pursuant to G.S. § 160D-301 to be known as the Town of Stallings *Planning Board*.

4.2-2 Membership and Officer.

(A.) Members and Term. The Planning Board shall consist of nine (9) members consisting of seven (7) full members and two (2) alternate members. All members shall be appointed for three (3) year terms and there are no term limits. (*Amended July 11, 2022*)

(B.) Alternates. The Town Council may, in its discretion, appoint alternate members to serve on the Planning Board in the absence or temporary disqualification of any regular member or to fill a vacancy pending the appointment of a member. Alternate members shall be appointed for the same term, simultaneously, and in the same manner as regular members. Each alternate member, while attending any regular or special meetings of the Board and serving on behalf of any regular member, shall have and may exercise all the powers and duties of a regular member. (*Amended, January 24, 2022*)

(C.) 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 a vacancy in the office of Chairman or Vice-Chairman. (*Amended July 11, 2022*)

4.2-3 Purpose and Objectives. In accordance with the state law, the *Planning Board*, may at the request of Town Council:

(A.) Prepare, review, maintain, monitor, and periodically update and recommend to the governing board a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis;

(B.) Facilitate and coordinate citizen engagement and participation in the planning process;

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

(D.) Advise the governing board concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. § 160D-604;

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

(F.) Perform any other duties that the Council may direct. (*Amended July 11, 2022*)

4.2-4 Conflict of Interest. Members of the *Planning Board* shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to G.S. § 160D or the Stallings Development Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A *Planning Board* member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

4.2-5 Rules of Procedure. Rules of Procedure that are consistent with the provisions of G.S. § 160D may be adopted by the Town Council for the *Planning Board*. In the absence of action by the Town Council, the *Planning Board* is authorized under G.S. § 160D-308 to adopt their own rules of procedure. A copy of any adopted rules of procedures shall be maintained by the Town Clerk or Development Administrator and posted on the Town's website. The *Planning Board* shall keep minutes of its proceeding.

4.2.6 Oath of Office. All members of the Planning Board shall, before entering their duties, qualify by an oath of office as required by G.S. § 160A-61.

### 4.3 Board of Adjustment

4.3-1 Authority. Pursuant to G.S. § 160D-302, there is hereby created a *Board of Adjustment*.

4.3-2 Membership.

(A.) Number of Members. The *Board of Adjustment* shall consist of nine (9) members consisting of seven (7) full members and two (2) alternate members. All full members shall have equal rights, privileges, and duties; except as defined for officers by adopted rules of Procedure. All members shall be appointed for three (3) year terms except in making the original appointments. (*Amended January 24, 2022*)

(B.) Alternates. The Town Council may, in its discretion, appoint alternate members to serve on the *Board of Adjustment* in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meetings of the board and serving on behalf of any regular member, shall have and may exercise all the powers and duties of a regular member. (G.S. § 160D-302)

4.3-3 Powers and Duties. The *Board of Adjustment* shall have the following powers and duties:

(A.) To hear and decide appeals from an order, denial of a permit or other written decision made by an administrative official charged with enforcing this Ordinance;

(B.) To hear and decide requests for variances from the zoning provisions of this Ordinance in cases where special conditions would make strict and literal interpretation result in a loss of privileges shared by other properties within the same zoning district;

- (C.) To act as the Stormwater Advisory Committee in hearing and deciding appeals from any decision or determination made by the Storm Water Administrator in the enforcement of the Pre-Construction Storm Water Ordinance as set forth in Article 19 of this Ordinance;
- (D.) To hear and decide appeals and requests for variances from the requirements of the Flood Damage Prevention provisions of this Ordinance, as set forth in Article 18; and;
- (E.) To hear and decide all matters referred to it or upon which it is required to pass under this Ordinance and/or any ordinance duly adopted wherein the Board of Adjustment is designated to hear appeals or other duties.

#### 4.3-4 Voting.

A four-fifths (4/5) vote of the members shall be required to grant a variance; otherwise, a simple majority of the Board membership shall be required to affirm, reverse or modify any written order, decision, or interpretation of the Enforcement Officer charged with enforcing this Ordinance; to decide in favor of the applicant on a matter [other than variances] upon which the Board is required to pass; Vacant positions on the *Board of Adjustment* and members who are disqualified from voting on a matter before the *Board of Adjustment* shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

4.3-9 Conflicts of Interest. Members of the *Board of Adjustment* shall not participate or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. (G.S. § 160D-109).

4.3-10 Rules of Procedure. Rules of Procedure that are consistent with the provisions of G.S. § 160D may be adopted by the Town Council for the *Board of Adjustment*. In the absence of action by the Town Council, the *Board of Adjustment* is authorized under G.S. § 160D-308 to adopt their own rules of procedure. A copy of any adopted rules of procedures shall be maintained by the Town Clerk or *Development Administrator* and posted on the Town's website.

4.3.11 Oath of Office. All members of the *Board of Adjustment* shall, before entering their duties, qualify by an oath of office as required by G.S. § 160A-61.

#### 4.3.12 Proceedings.

- (A.) All meetings of the *Board of Adjustment* shall be open to the public. The Board shall keep minutes of its proceedings which shall show the vote of each member on each question and the absence of or recusal of any member on a specific vote.
- (B.) The final disposition of each quasi-judicial matter decided by the *Board of Adjustment* shall be by written decision which shall reflect the Board's determination of contested facts and their application to the applicable standards and be approved by the Board and signed by the chair or other duly authorized member of the Board and shall be public record.
- (C.) On all appeals, applications and other matters brought before the *Board of Adjustment*, the

Board shall inform in writing all the parties involved of its decision and the reasons for that decision.

#### **4.4 Meetings, Hearings, and Procedures of all Boards**

All meetings and hearings shall be open to the public and shall be conducted in accordance with the procedures set forth in these regulations and with the rules of procedure adopted for the *Planning Board*, and *Board of Adjustment*.

#### **4.5 Staff**

The *Development Administrator* shall serve as staff to the *Planning Board*, and *Board of Adjustment*; and shall provide technical assistance to the *Planning Board*, and *Board of Adjustment*, as requested.

4.5-1 Conflict of Interest. No staff member shall make a final decision on an administrative decision required by the Stallings Development Ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associated relationship.