

CHAPTER SIX

FORSYTH COUNTY ZONING BOARD OF APPEALS

ARTICLE I, CONTINUATION:

6-1.1 **Existence Continued.**

- (A) The Forsyth County Zoning Board of Appeals (ZBA), established by resolution of the governing authority of Forsyth County on September 24, 1973, shall continue in existence and be governed hereafter by the provisions of this Code; provided, however, this Code shall in no way alter or change the existence of said board, the number which has heretofore been, and shall continue to be, five members. The ZBA shall elect a chairman, vice-chairman, and a secretary at the beginning of each calendar year. The ZBA shall continue to have full and complete jurisdiction as provided by this Code.
- (B) The Forsyth County Board of Commissioners by majority vote shall approve each ZBA member nominated by the respective Board of Commissioners member. Each member of the Board of Commissioners shall nominate an individual to serve on the ZBA. The term of each member of the ZBA shall run concurrent with the term of the district Commissioner who recommended such member for approval to the Board and for whose district the ZBA member represents, plus an additional ninety (90) day period or until (if occurring earlier than the termination of such ninety (90) day period: i) reappointment by such member of the Board of Commissioners, or his successor, for another term; or ii) appointment of a successor ZBA member by such member of the Board of Commissioners, or his successor. ZBA members serving on the ZBA as of April 1, 2010 shall also be bound by these term requirements, and their respective terms shall run concurrent with the term of the member, or successor to the former member, of the Board of Commissioners who nominated such ZBA member for their current term as of April 1, 2010.

ARTICLE II, MEETINGS AND RECORDS:

6-2.1 **Meetings.** The ZBA shall adopt a meeting schedule for public hearings at the beginning of each calendar year. This schedule shall be for the upcoming twelve months. This schedule, however, in no way limits the ability of the ZBA to schedule additional hearing dates throughout the year. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses.

6-2.2 **Minutes and Public Records.** The ZBA shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, an indication of such absenteeism or abstention, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Planning and Community Development Department and shall be public records.

6-2.3 **Person Responsible.** The director shall maintain all records and perform all such services required of him by the ZBA to enable it to fulfill its responsibilities.

ARTICLE III, POWERS:

6-3.1 **Powers.** The ZBA shall have the following powers:

- (A) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the director in the administration, interpretation, or enforcement of this Code, or by another other official with appropriate authority, including but not limited to the Director of Engineering, and Director of Water and Sewer, in the administration of this Code. The ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the director, official or administrative officer. The ZBA shall, however, only reverse or modify such a decision or determination after conducting a public hearing if the ZBA determines the director, official or administrative officer was clearly erroneous in his interpretation, administration or enforcement of the Code. It is not sufficient grounds to reverse a decision by the director or other official if the ZBA merely disagrees with the decision.
- (B) To consider and grant, with or without conditions, one or more variances, as outlined in Chapter 8 and Chapter 18 of the Code. In deciding whether to grant such a variance request, the ZBA must base its decision on consideration of the criteria delineated in Section 8-6.4 (B)(4)(a) or Section 18-5.18 and

18-11.3 of the Code. Variance requests that apply to assemblages of four (4) or more existing or proposed lots or units shall be relegated to the Board of Commissioners for consideration; the Commissioners shall base decisions upon the same criteria as the ZBA. Variances described in section 8-6.4(A) may be approved administratively by the director without being presented to the Zoning Board of Appeals for consideration.

- (C) To hear and decide appeals made pursuant to other County ordinances granting jurisdiction to the ZBA. Unless otherwise provided for in the applicable ordinance, the ZBA's authority shall be limited to reviewing the appropriate official's interpretation, administration, or enforcement of the ordinance. The ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the director, official or administrative officer. The ZBA shall, however, only reverse or modify such a decision or determination after conducting a public hearing if the ZBA determines the Director, official or administrative officer was clearly erroneous in his interpretation, administration or enforcement of the ordinance. It is not sufficient grounds to reverse a decision by the director or other official if the ZBA merely disagrees with the decision. If a fine is at issue, the ZBA has the authority to reduce the fine but may not increase it.

ARTICLE IV, APPEAL OF AN ADMINISTRATIVE DECISION OR ORDINANCE DECISION:

6-4.1 **Appeals of Administrative Decisions.** Appeals of Administrative Decisions shall be heard by the ZBA in accordance with Article VII, Chapter 8 of this Code.

ARTICLE V, VARIANCES:

6-5.1 **Variances.** Variances shall be heard by the ZBA in accordance with Article VI, Chapter 8 of the Code, unless such requests may be approved administratively pursuant to 8-6.4(A).

ARTICLE VI, APPEALS OF ZBA DECISIONS:

6-6.1 **Administrative Decisions.** Appeals of the ZBA's ruling on an administrative decision shall be heard in accordance with Article VIII, Chapter 8 of the Code.

6-6.2 **Variances.** Appeals from the ZBA's decision to grant or deny a variance shall be heard in accordance with Article VIII, Chapter 8 of the Code.

6-6.3 **Conflict with other ordinances.** If a decision by the ZBA is based upon another County ordinance as opposed to this Code, appeals shall be conducted as delineated in the applicable ordinance. If the ordinance at issue is silent as to the issue of appeals from the ZBA, then Article VI of this Chapter shall control.