

**TOWN OF DUCK
BOARD OF ADJUSTMENT MEETING
TUESDAY, SEPTEMBER 1, 2015
MINUTES**

The Board of Adjustment for the Town of Duck convened at the Duck Meeting Hall at 3:00 p.m. on Tuesday, September 1, 2015.

BOARD OF ADJUSTMENT MEMBERS PRESENT: Olin Finch, Allan Starr, Bill Guillaume, Carol Powell, Sandy Whitman, Ed Sadler and Kent Zimmerman. **Staff present:** Director of Community Development Joseph Heard and Board of Adjustment Clerk Sandy Cross.

MEMBERS ABSENT: None.

OTHERS PRESENT: Mayor Don Kingston, Planning Board Chairman Joe Blakaitis and Town Manager Christopher Layton.

CALL TO ORDER

The meeting was called to order at 3:08 p.m.

NOMINATIONS/ELECTION OF CHAIR AND VICE-CHAIR POSITIONS

Member Powell moved to nominate Olin Finch as Chair to the Board of Adjustment and Sandy Whitman as Vice Chair. Member Guillaume seconded.

Motion carried 6-0. Member Starr was not present for the vote.

APPROVAL OF MINUTES FROM THE JULY 22, 2011, MEETING

Chair Finch opened the approval of minutes from the July 22, 2011 meeting. He directed the Board to review the minutes from the July 22, 2011 meeting for changes.

Member Powell moved to approve the minutes as presented. Vice Chair Whitman seconded. Motion carried 6-0. Member Starr was not present for the vote.

BOARD OF ADJUSTMENT TRAINING/ORIENTATION

Chair Finch turned the meeting over to Director Heard.

Director of Community Development Joe Heard was recognized to speak. Director Heard had the Board of Adjustment members introduce themselves as well as giving a short background on themselves to each other.

Director Heard stated that in North Carolina, cities and counties did not have what many other states have, which was Home Rule. He explained that local governments in North Carolina only have the authority to do things granted to them by the State. The Town cannot go off and do its own thing. He

stated that one of the State's statutes outlined the standards for a creation of a local Board of Adjustment. He noted that a town does not have to have a Board of Adjustment and the functions could be performed by the Planning Board or Town Council. He stated that the Town Council wanted to involve people in the community who could focus on these issues. He went on to explain the different roles of each Board in Town and how they function. He pointed out that the Board of Adjustment is only responsible for hearing variances and appeals; the Board does not make new rules or offer judgment on standards that have been adopted by the Town Council.

Director Heard stated that members of the Board of Adjustment are appointed by the Town Council. He stated that there are several things that the State requires – the Board has to have at least five members, appointments must be for three years, the Board functioned separately from other boards, members of the Board may not be removed from office except for cause, and all Board members are considered to be officers and have to be sworn in.

Director Heard reviewed the type of decisions that the Board of Adjustment makes. He noted that State law requires a 4/5 majority to grant a variance. He added that appeals do not require a super majority but a simple majority. He stated that Alternates to the Board are requested to attend all Board of Adjustment meetings. He stated that with this Board, Member Starr and Member Guillaume are the appointed Alternates.

Director Heard reviewed conflicts of interest, bias and ex-parte contact with the Board and audience, giving examples of each.

Member Powell asked if Director Heard was going to discuss what would happen at the proceedings of a meeting. She recalled certain procedures regarding the Board being able to hear information a certain number of times. She suggested that the Board members take notes during a hearing as they may not hear from the individual a second time. Director Heard stated that the Board has an opportunity to hear from anyone who has been sworn and wants to provide testimony.

Member Starr asked how the proceedings were recorded. Director Heard stated that the meetings are taped and thorough minutes provided. Member Powell pointed out that the recording could be replayed but thought the Board was limited as to how many times something could be repeated. Director Heard stated that there was a full recording of each meeting and minutes were produced from the recording. Member Starr thought it was important for the Board members to focus on the actual testimony apart from the notes they took. He added that in a past meeting, the recording was played back more than once to make sure the Board had the correct information.

Director Heard stated that Board of Adjustment meetings were subject to the Open Meetings law of the State of North Carolina. He reviewed the notification process for a hearing to the Board and audience. He further reviewed the purpose of a hearing, the proceedings during it and the type of applications the Board members will hear.

Director Heard and the Board went on to discuss various scenarios that could come up and the appropriate actions of the Board in each case.

OTHER BUSINESS

None.

STAFF COMMENTS

Director Heard stated that he would like to look at procedures that the Board uses to make decisions to make sure the Town Attorney and the Board are comfortable with it.

BOARD COMMENTS

Chair Finch asked Director Heard if he could pass out what was discussed to help the Board remember what they talked about. Director Heard stated that he would be happy to do so.

ADJOURNMENT

Member Powell moved to adjourn the meeting. There was no second.

Motion carried 7-0.

The time was 5:13 p.m.

Approved: _____
Secretary