

TOWN OF CARRBORO BOARD OF ADJUSTMENT PUBLIC HEARING GUIDELINES

This information is intended only as a general summary of the Town of Carrboro Board of Adjustment's authority and procedures. For more details, refer to the Town of Carrboro Land Use Ordinance, The Carrboro Board of Adjustment Handbook, or contact the town Zoning and Planning staff at 919-918-7336 or by email at plandept@townofcarrboro.org.

Who We Are

The Town of Carrboro Board of Adjustment is a quasi-judicial body whose responsibility is to interpret the Town of Carrboro Land Use Ordinance, as adopted by the Board of Aldermen, for five types of requests for review – appeals, variances, special use permits (including approvals of subdivisions containing between 5 and 12 lots), special exceptions, and zoning map interpretations.

What We Do

The Board of Adjustment will grant or deny applications based upon evidence presented at a public hearing in accordance with the standards and criteria set forth in the Land Use Ordinance. Some of the standards and criteria are listed in the third section of this brochure. The Board of Adjustment's decisions can be appealed to the Orange County Superior Court.

Citizens may apply to the Board of Adjustment for the following:

1. *Appeals.* An applicant may appeal a decision to the Board of Adjustment if he or she believes the Development Review Administrator has made a mistake in granting or denying a permit or in issuing an order, or has interpreted the Land Use Ordinance correctly.

2. *Variances.* An applicant may ask the Board of Adjustment for permission to deviate from a dimensional requirement (e.g., setback, maximum height, minimum lot width) of the Land Use Ordinance.

3. *Special Use Permits.* Some uses described in the Land Use Ordinance require a special use permit from the Board of Adjustment before those uses are allowed. Among other uses, subdivisions of land, located outside designated watershed districts, containing between 5 and 12 lots, require a special use permit.

4. *Special Exceptions.* In certain specified circumstances, the Board of Adjustment may allow the reduction of certain setback requirements without the "hardship" findings required for a variance.

5. *Zoning Map Interpretations.* The Board of Adjustment is authorized to interpret the Zoning Map and determine the location of lot lines and zoning district boundary lines.

How We Do It (Process)

Upon submission of an application, the town staff schedules a public hearing before the Board of

Adjustment to review the application. The staff notifies the applicant of the date of the public hearing. Notice of the public hearing on an application is sent to owners of property within 150 feet of the property named in the application, with the exception of special use permits, which require notification to owners within 500 feet.

At the public hearing, all persons who wish to speak and/or present evidence should inform the town staff present at the hearing of their intention. Each person is required to be sworn in. The public hearing and the Board of Adjustment's discussions and decisions are recorded and minutes are kept of the entire proceedings.

Under most circumstances, the procedure of the Board of Adjustment's public hearings is as follows:

First, a town staff representative presents the application by summarizing the pertinent facts and issues. The town staff representative also provides information on prior decisions, proceedings, or recommendations that are related to the application. Additionally, the town staff representative presents the town's recommendation for the Board of Adjustment's decision based on the Land Use Ordinance. Members of the Board of Adjustment may ask questions of the town staff representative following his/her presentation.

Next, the applicant, or chosen representative presents his/her case. If the application is for a variance or special use permit, the applicant has the burden of proving that he/she has complied with all standards for the variance or special use permit as specified in the Land Use Ordinance. Members of the Board of Adjustment may ask

questions of the applicant following the applicant's presentation.

Next, other persons who wish to speak for or against the application are allowed to testify following the town's and the applicant's presentations. The Board of Adjustment may ask questions of each person following his/her testimony. Because the Board of Adjustment's decision must be based upon evidence as to whether the application satisfies the standards of the ordinance, each person's testimony should be directed to these standards.

After everyone has spoken, the public comment portion of the hearing is closed and the Board of Adjustment begins its public discussion of the application and the evidence presented by all speakers during the public hearing. The Board of Adjustment may seek clarification on an issue from staff, the applicant or any speaker from the floor. At the conclusion of these deliberations, the Board of Adjustment makes its decision to approve, approve with conditions, or deny the application.

Standards

The following are brief summaries of the standards by which the Board of Adjustment makes its decisions on applications it hears. For a complete listing of the standards and criteria, please refer to the Land Use Ordinance.

Variations

The Board of Adjustment may grant a variance if it believes strict enforcement of the Land Use

Ordinance would impose a hardship on the applicant by depriving the applicant of any reasonable use of the applicant's property. The Board of Adjustment must determine that the variance would be consistent with the spirit of the ordinance and would not endanger public health or safety. The applicant's hardship must relate to the land, be unique to the applicant and not be self-created. The Board of Adjustment may impose conditions on variances.

Special Use Permits

The Board of Adjustment is required to issue a special use permit to allow certain uses specified in the ordinance (including subdivisions of between 5 and 12 lots) if the application demonstrates compliance with the specific requirements of the ordinance. However, the Board of Adjustment may deny the request if it finds, based upon evidence in the record or presented at the hearing, that the use will be detrimental to the public health or safety, to surrounding property values, or to the character of the nearby area. The Board of Adjustment may place conditions on special use permits to prevent such detrimental effects.

Special Exceptions

The Board of Adjustment may allow a reductions of up to 50% in lot boundary setback lines for additions to pre-existing buildings under certain circumstances if the Board of Adjustment finds that the special exception will not create a threat to the public health or safety and will not adversely affect the value of adjoining properties.

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NORTH CAROLINA



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