

# TOWN OF YADKINVILLE

"A TOWN IN PROGRESS"

MINUTES  
PLANNING BOARD  
BOARD OF ADJUSTMENT  
JOINT TRAINING SESSION  
MONDAY, July 20, 2020  
5:30 P.M.

Yadkinville Town Hall  
Commissioners Chambers  
213 Van Buren Street, Yadkinville, NC 27055

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**1. SWEARING IN OF RHYNE DOWELL, NEW PLANNING BOARD AND BOARD OF ADJUSTMENT MEMBER AND STEVE BROWN AS PLANNING BOARD AND BOARD OF ADJUSTMENT ALTERNATE MEMBER**

New Planning Board and Board of Adjustment member Rhyne Dowell was sworn in as a regular member for a term of three years, and Steve Brown was sworn in as an alternate member for a term of three years.

**2. CALL THE TRAINING SESSION TO ORDER**

Acting Chair Anna Logan Howe called the training session to order.

**3. PRESENTATION BY ABIGAIL PITTMAN, PLANNING DIRECTOR**

Planning Director Abigaile Pittman presented the attached training session power point to the joint Planning Board/Board of Adjustment.

**4. ADJOURNMENT**

The meeting was adjourned by unanimous consent at approximately 6:45 p.m.

Anna Logan Howe  
Anna Logan Howe, Chair

11/16/20  
Date



# Town of Yadkinville, NC

PLANNING BOARD AND BOARD OF  
ADJUSTMENT  
TRAINING SESSION  
JULY 20, 2020

# LOCAL GOVERNMENT PLANNING FUNCTIONS

Agency	Primary Role	Other Possibilities
<p><b>GOVERNING BOARD:</b> Board of Commissioners</p>	<p>Legislative decisions: adopts ordinances, amendments, policy statements, budgets; approves acquisitions; makes appointments to other bodies</p>	<p>May also serve as planning agency; may approve plats and conditional (aka special) use permits</p>
<p><b>PLANNING AGENCY:</b> Planning Board</p>	<p>Advisory decisions: advises governing board on zoning; must recommend initial zoning ordinance; planning studies; recommends policies</p>	<p>May also serve as Board of Adjustment</p>
<p><b>BOARD OF ADJUSTMENT</b></p>	<p>Quasi-judicial decisions: hears zoning appeals, variances, conditional and special use permits</p>	
<p><b>STAFF:</b> Planning Department, Inspections, Community Development</p>	<p>Administrative decisions: issues permits; conducts technical studies, initiates enforcement; advises Manager</p>	

# OPEN MEETINGS LAW APPLIES TO ALL TOWN BOARDS

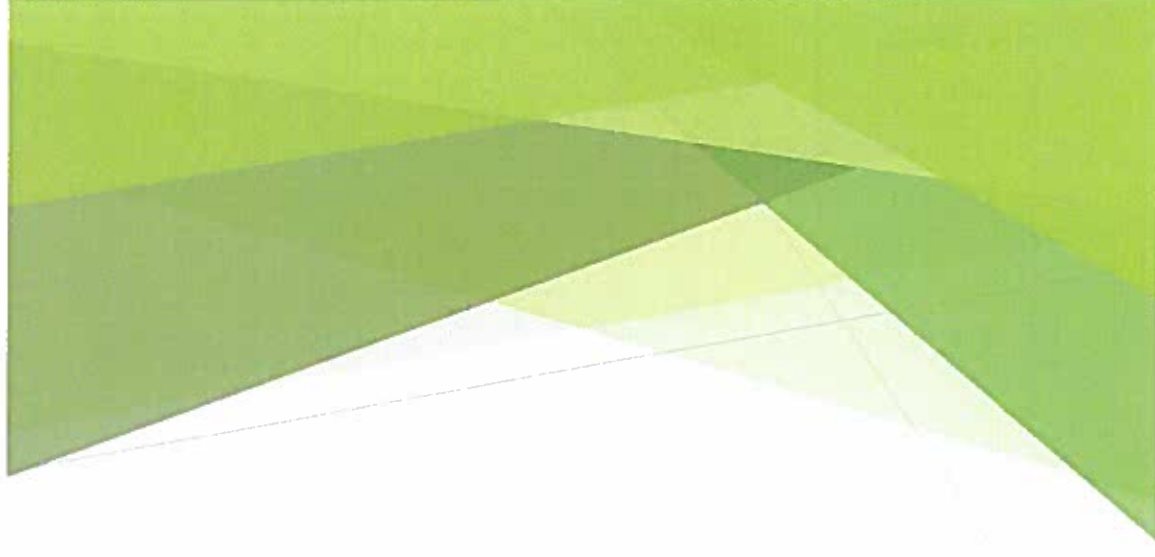
- Adequate public notice required
- Majority of Board = public meeting
- Media, recording and publication
- Accurate minutes for all meetings
- Closed Session only for: confidential records, premature disclosure of awards, attorney/client privilege, real estate transactions, specific personnel issues, investigations of criminal conduct

# CONFLICT OF INTEREST

## *WHEN IN DOUBT, DISCLOSE*

Due process requires an impartial decision-maker. Persons making land use regulatory decisions have an obligation to act in the public interest. Both constitutional and statutory provisions address the question of when a conflict exists between a decision maker's personal interests and public obligations.

- Direct financial benefit
- Indirect financial benefit
- a close familial or business relationship with an applicant
- Adjacent property owner





# LOCAL GOVERNMENT AUTHORITY TO REGULATE LAND USES

- ▶ Local authority is limited by state law. In North Carolina, local governments only have such power to plan and regulate development as has been delegated by the state. So state laws to enable local planning and regulation are very important - they set the limits and procedures local governments must follow.
- ▶ Enabling legislation has been adopted to give municipalities and counties the authority to adopt and implement regulations on:
  - Zoning, subdivision, housing and building codes, and other specific topics
  - General police power to adopt regulations necessary to protect the public health, safety, and welfare
  - Local legislation for specified municipalities that can vary a general rule. For example, to relieve the obligation to send mailed notices for some rezonings.

# MAJOR PLANNING DOCUMENTS

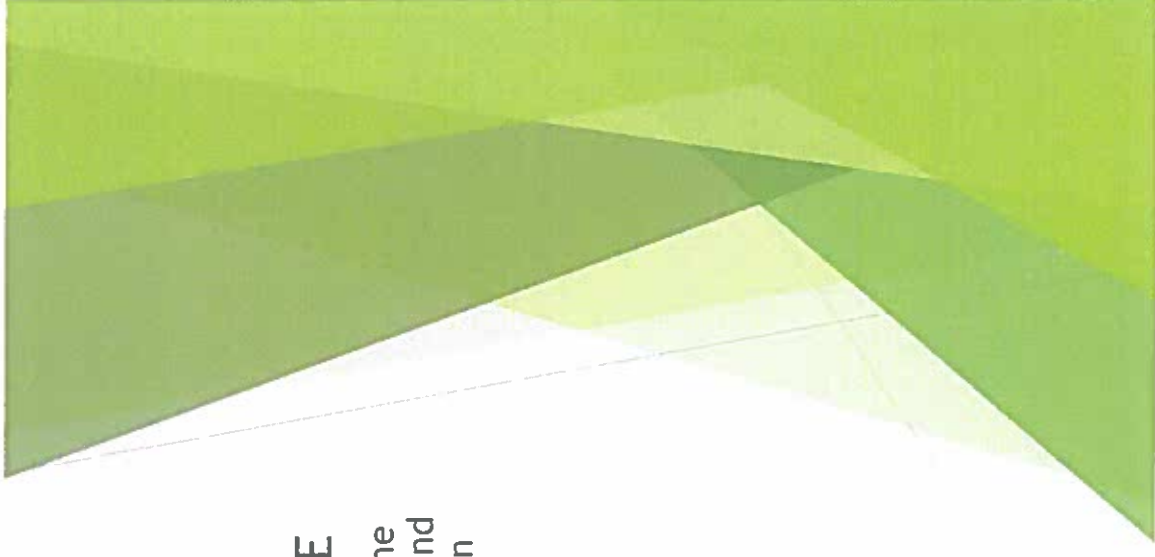
## COMPREHENSIVE PLAN

- ▶ The official statement of policy on future physical development
- ▶ The official blueprint for growth
- ▶ A comprehensive plan is not a regulation, but rather is implemented by zoning and subdivision regulations
- ▶ Typically includes a future land use map
- ▶ Rezoning requests should be consistent with an adopted Comprehensive Plan

## DEVELOPMENT ORDINANCE

- ▶ Regulatory tool that implements the stated goals and adopted future land use map in the Comprehensive Plan
  - Uses
  - Dimensional standards
  - Development standards
  - Design standards

## OFFICIAL ZONING MAP



# WHERE DO WE HAVE PLANNING AUTHORITY?

- ▶ TOWN LIMITS
- ▶ EXTRATERRITORIAL JURISDICTION (ETJ)
  - ETJ can go up to one mile from the Town limits, but a Town can choose to exercise less than the maximum
  - County approval is required when the county is already exercising county zoning
  - ETJ requires Town to provide for representation by residents on Planning Board and Board of Adjustment.
  - Town can only enforce development regulations in the ETJ



# PLANNING BOARD



## PLANNING BOARD

- 7 Members and up to 2 alternates (including 2 ETJ members)
- Appointed to 3-year terms
- Upon expiration of a member's term of office, that member is expected to continue service until replaced
- Members elect Chair (& Vice-Chair)
- Quorum for Board business- 4 members

## REQUIRED PLANNING BOARD PROCESSES

- ▶ Established regular meeting date (once per month)
- ▶ Have a standard agenda format
- ▶ Established standard deadline for application submission
- ▶ Advertisement of meeting in local newspaper, and posted at the Town (staff)
- ▶ Sign posting notification on a subject property when required (staff)
- ▶ Notification to adjoining properties when required (staff)



# PLANNING BOARD POWERS & DUTIES

- ▶ Serves in an advisory capacity to the Board of Commissioners, providing **recommendations** to pertaining to zoning amendments and text amendments to the Development Ordinance
- ▶ Make determinations on alternate design proposals required by the Development Ordinance
- ▶ The Board of Commissioners may request the Planning Board to advise them on other matters such as:
  - ❑ Studies of the Town and surrounding areas
  - ❑ Determining objectives in the development of the Town
  - ❑ The amendment of Town plans such as the Comprehensive Plan
  - ❑ Development and recommendation of policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner
  - ❑ The designation of study areas and redevelopment areas

# PLANNING BOARD

## TEXT AMENDMENTS

- Possible Reasons for Text Amendments:
  - Legislative changes
  - Implement the Comprehensive Plan
  - Continual Variance requests for the same issue
  - Applicant initiated
- Make a recommendation to the Board of Commissioners


## MAP AMENDMENTS

- Possible Reasons for Map Amendments (Rezoning):
  - Implement the Comprehensive Plan
  - Applicant initiated
- Make a recommendation to the Board of Commissioners



## PLANNING BOARD

### IMPORTANT STATUTORY REFERENCES

- NCGS 160A-383 requires a statement of consistency and reasonableness; whether the action is consistent with the adopted comprehensive plan and why the board considers the action taken to be reasonable and in the public interest.
  - NCGS 160A-387 moves an amendment request forward to the governing board if the Planning Board has not made a recommendation within 30 days. Governing board is not bound by recommendations of Planning Board.
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## ALTERNATE DESIGN PROPOSAL

- The Planning Board may approve alternative design proposals that differ from the requirements of the Ordinance in regards to landscaping, parking, infrastructure or building design due to unique site circumstances or creative design proposals, provided that the intent of the Ordinance is met. The Planning Board must use the following review criteria:
  - ☐ The proposed project represents a design in site and/or architecture which will result in a development that is equivalent to or superior to that achievable under the applicable regulations;
  - ☐ The proposed project will be compatible with surrounding development in materials, scale, massing, and site layout;
  - ☐ The proposed project is consistent with the intent of the Ordinance and substantially meets the requirements of the Ordinance; and
  - ☐ The proposed project is consistent with adopted plans and policies of the Town.
- The Planning Board may approve, approve with conditions or deny the proposal requests by a simple majority vote of those present and voting.

# BOARD OF ADJUSTMENT



# THE BOARD OF ADJUSTMENT IS A QUASI-JUDICIAL BOARD

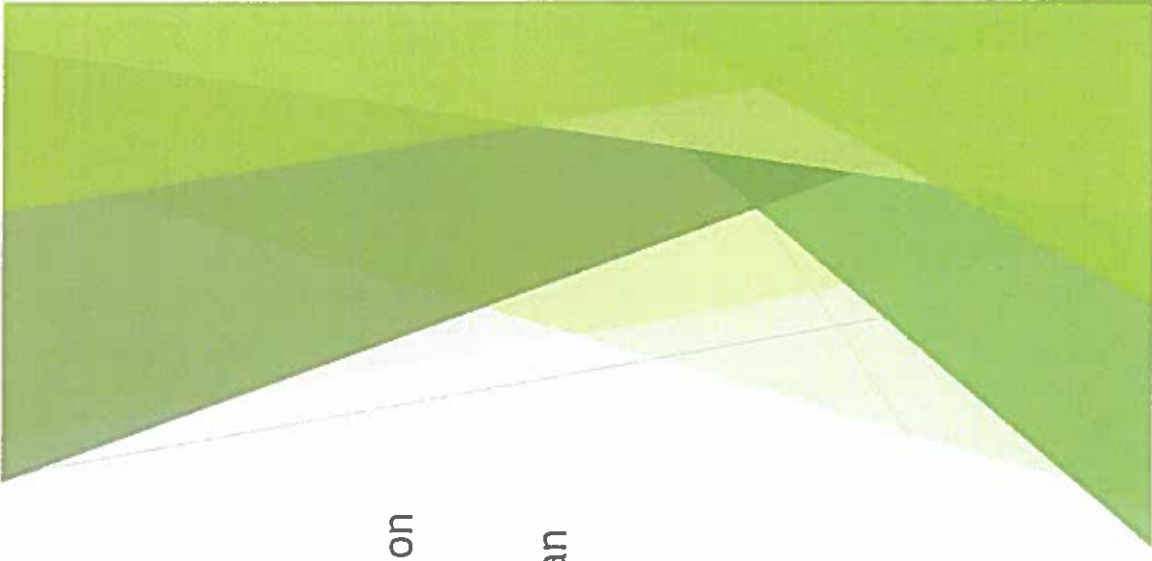
- ▶ Quasi-judicial decisions involve the application of ordinance policies to individual situations.
- ▶ These decisions involve two key elements—the finding of facts regarding the specific proposal and the exercise of judgment and discretion in applying predetermined policies to the situation.
- ▶ Therefore there are fairly strict procedural requirements on these decisions in order to protect the legal rights of the parties involved.
- ▶ Any person coming before the Board of Adjustment must be administered an oath to tell the truth before the Board.
- ▶ Witnesses may be subpoenaed through the Chair.
- ▶ Every quasi-judicial decision is subject to review by the superior court by proceedings in the nature of certiorari (NC GS 160A-393). A petition for review must be filed with the clerk of superior court within 30 days of the decision of the Board of Adjustment or receipt of the Board's writing decision.

## BOARD OF ADJUSTMENT

- 7 Members and up to 2 alternates (including 2 ETJ members)
- Appointed to 3-year terms
- At the time of appointment, members shall hold no other official town position except on the Planning Board
- Upon expiration of a member's term of office, that member is expected to continue service until replaced
- Members elect Chair (& Vice-Chair)
- Quorum for Board business (other than a variance) - 4 members  
Quorum for a variance – 6 members
- No ex parte communications

## EX PARTE COMMUNICATION (This is very important!)

- Members of the Board of Adjustment may not participate in or vote on any matter on which they have a fixed opinion prior to the hearing, have undisclosed ex parte (without equal representation) communications or close family, business or associational ties with an affected person, or have a financial interest in the outcome of the case. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.



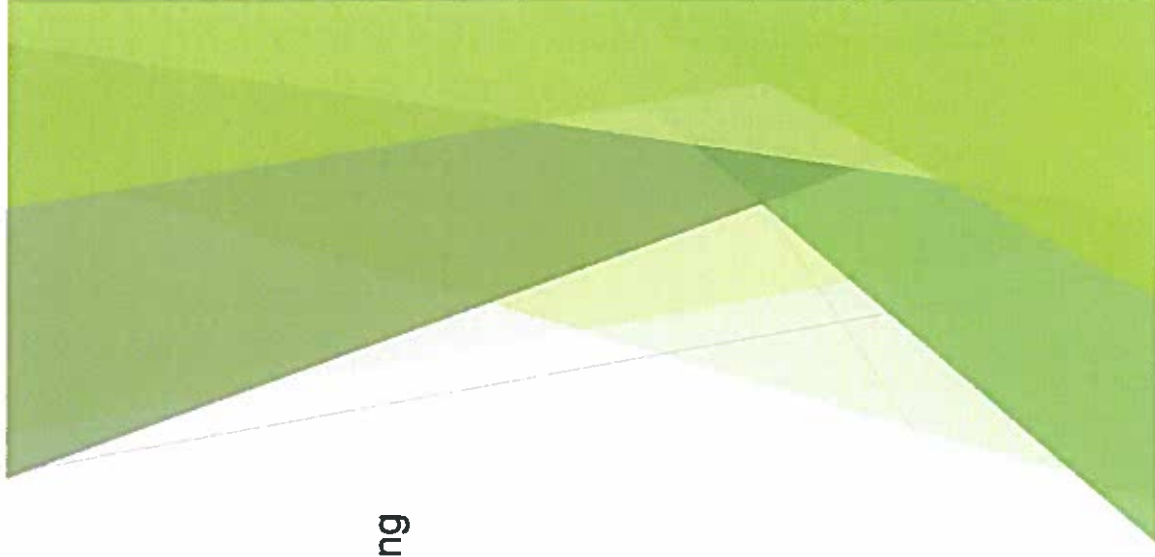
# BOARD OF ADJUSTMENT

## Decides:

- Conditional Use Permits (aka Special Use Permits)
- Variances
- Administrative Appeals/ Interpretations
- Certificates of Nonconformity Adjustment
- Watershed Variances (acting as Watershed Review Board)

## Board May Not:

- Vary uses allowed in a zoning district





## CONDITIONAL USE PERMIT (AKA SPECIAL USE PERMIT)

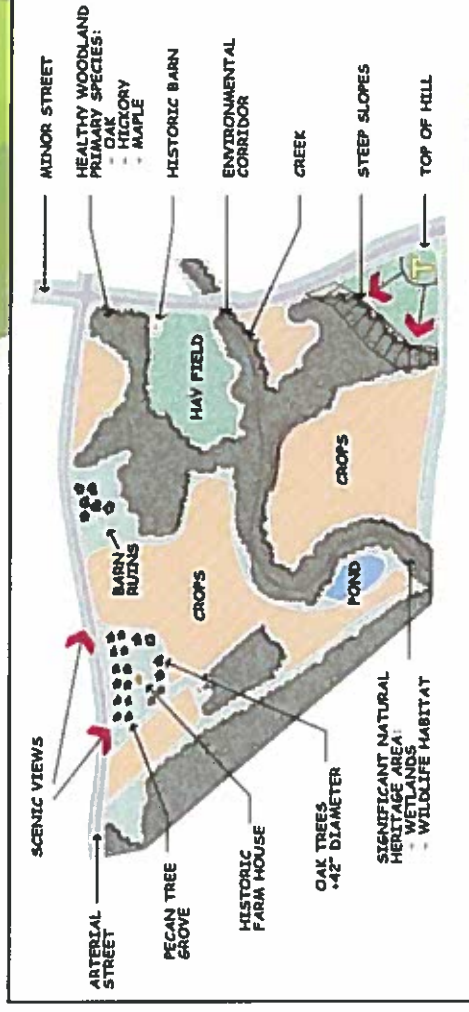
### *What is this?*

Most development ordinances allow some uses in a zoning district that are permitted only if a detailed, careful review of the application concludes that specified standards are met. These “special uses” are deemed to warrant careful review either because they are potentially appropriate anywhere within the zoning district, but only if carefully designed to meet the standards, or because they are potentially harmful wherever they are located unless carefully designed.

The Board of Adjustment is authorized to review and decide on these Conditional Use Permit requests in a quasi-judicial proceeding, applying specific finding of fact.

# CONDITIONAL USE PERMIT (AKA SPECIAL USE PERMIT)

- ▶ Section 2.2.5 of the Development Ordinance
- ▶ Typically accompanied by a Site Plan
- ▶ Specific Findings-of-fact are made
- ▶ Board will consider:
  - ❑ Proposed use
  - ❑ Infrastructure impacts
  - ❑ Physical and environmental conditions of site
  - ❑ Zoning and uses of surrounding area
  - ❑ Setbacks
  - ❑ Landscaping and buffering
  - ❑ Parking, driveways and related transportation issues



## VARIANCE REQUESTS

- Section 2.2.6 of the Development Ordinance
- Variance: A means of providing relief to those property owners who, due to unique circumstances on the land, would face unnecessary hardship in using their property in compliance with the Development Ordinance.
- Typically accompanied by a site plan
  - ❑ Specific Findings of Fact are made to establish that there is a hardship created by the property that prevents reasonable use of the property and that the applicant did not create the hardship.
  - ❑ Use variances are not legal
  - ❑ Appropriate conditions may be imposed if related to the request
  - ❑ 4/5 vote required to grant a variance – 6 members to approve

# APPEALS

- Section 2.2.7 of the Development Ordinance
- Appeal must be filed within 30 days of Zoning Administrator's written determination (NCGS 160A-388 (b1)(3))
- Appeal halts (stays) further enforcement action if appeal is from notice of violation
  - ❑ Unless administrator certifies stay will endanger life or property; or
  - ❑ Violation is transitory in nature & stay would interfere with enforcement
- Board may reverse, affirm (wholly or in part), or modify Administrator's decision/order
- Appeal to Superior Court must be taken within 30 Days from decision date

# CERTIFICATE OF NONCONFORMITY ADJUSTMENT

- Section 2.2.8 of the Development Ordinance
- May be granted to enlarge, expand, or otherwise alter a nonconforming use or structure as set forth in the Article 7 of the Ordinance
- Typically accompanied by a site plan
- Specific Findings of Fact are made
- Simple majority vote is required for approval
- Appeal to Superior Court must be taken within 30 Days from decision date

QUESTIONS?

