

# THE BOARD OF ADJUSTMENT



The Board of Adjustment is a quasi-judicial administrative body that operates on a level between the Zoning Administrator and the court system. The Board consists of five members. Four members are citizens and residents of the City of Burlington, appointed by the City Council. One member is a citizen of Alamance County and resides outside the city limits but within the extraterritorial jurisdiction boundaries of the city and are appointed by the County Commissioners. The five member board votes on all matters whether they arise within the city limits or within the extraterritorial jurisdiction

The duties of the Board of Adjustment are to: 1) hear appeals from and review any order, requirement or decision made by the Zoning Administrator; 2) grant Special Use Permits; and 3) grant variances of the requirements of the zoning ordinance when unnecessary hardships result from carrying out the strict letter of the ordinance. The Board of Adjustment also hears appeals from the Burlington Historic Preservation Commission.

If you are going to appear before the Board of Adjustment as an applicant or as a member of the general public, the following information will help guide you through the process.

- Board of Adjustment meetings are held on the second Tuesday of every month in the City Council chambers located at 425 South Lexington Ave.
- Applications for a variance or Special Use Permits may be obtained from the Planning Department or downloaded from our web page at [www.burlingtonnc.gov](http://www.burlingtonnc.gov)
- The application must be completed and signed by the applicant and/or property owner. A site plan is required in order to clearly define your request. The application along with the site plan must be submitted to the Zoning Administrator on or before the last Wednesday of the month. There is a \$200.00 filing fee for variance and Special Use Permit applications. (Please make checks payable to City of Burlington)
- Upon receipt of your completed application, your request will be placed on the agenda for the next regular meeting. ***(Please have your application reviewed by the Zoning Administrator for completeness. An incomplete item could cause a delay in your case).***
- You may bring pictures or other documents to the meeting in order to clarify facts pertaining to your case. However, once you submit documents to the Board they become part of the official record and will be retained as evidence. Be sure and make copies of all evidence to be presented.
- All adjoining property owners will be notified of your request by mail and will be given an opportunity to present any evidence or arguments they may have if they attend the meeting. Also, notification of the meeting will be advertised in the legal section of the newspaper no less than five days prior to the meeting.
- **You must be present or have a representative at the meeting to present your case. Failure to appear may cause your request to be postponed or denied**

## THE HEARING



- Because the Board of Adjustment is a Quasi-Judicial body, it performs its duties much like that of a court. All persons speaking before the board, such as the applicant, a representative of the applicant, an adjoining property owner or a member of the general public, must testify under oath and be subject to cross examination. The board can only consider facts and evidence relevant to the case. You should not discuss a case with any board member prior to a case. When presenting evidence to the board, be brief, concise and clear. The Board may accept signed petitions or letters from neighbors, which, at the discretion of the board, may or may not be admitted.
- The Zoning Administrator and/or the Zoning Enforcement Officer will present evidence to the board explaining the technical aspects of the ordinance as it pertains to each case. The applicant will then present his or her case to the board. Once the Board has heard and received all necessary evidence, discussion will then be open to the public or anyone else who wishes to present evidence related to the case. The Board will then openly discuss the facts and take a vote.
- The concurring vote of four-fifths of the members of the board shall be necessary to decide in favor of the applicant for a variance. A majority vote shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or to approve a Special Use Permit.
- Appeals of the decision of the Board may be made to Alamance County Superior Court by proceedings in the nature of certiorari within 30 days of the approval of the minutes. If no appeal is made within this time period, the decision of the board shall be final and binding.

## GRANTING A VARIANCE

**YOU MUST CLEARLY DEMONSTRATE THAT YOUR VARIANCE REQUEST MEETS EACH OF THE FOUR FOLLOWING REQUIREMENTS. THIS MUST BE DONE BOTH ON THE APPLICATION FORM AND ORALLY AT THE HEARING.**

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the state enabling act, the board is required to reach four conclusions as a prerequisite to the issuance of a variance:

- 1) That there are unnecessary hardships in the way of carrying out the strict letter of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;
- 2) That the hardship results from conditions that are peculiar to the property such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance;
- 3) That the hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship and;
- 4) That the requested variance is consistent with the spirit, purpose, and intent of the ordinance such that public safety is secured and substantial justice is achieved.

***If you need a continuance for your case, information concerning a rehearing, or have other questions please contact the Zoning Enforcement Officer at (336) 222-5084***



City Of Burlington  
P.O. Box 1358  
Burlington, NC 27216



# THE BOARD OF ADJUSTMENT ASSISTANCE GUIDE



## CITY OF BURLINGTON

425 South Lexington Ave.  
Burlington, NC, 27215  
(336)222-5084  
[www.burlingtonnc.gov](http://www.burlingtonnc.gov)