

RULES OF PROCEDURE
ZONING BOARD OF ADJUSTMENT

VILLAGE OF WESLEY CHAPEL, UNION COUNTY, NORTH CAROLINA

I. GENERAL RULES

The Zoning Board of Adjustment (hereinafter referred to as the “Board”) shall have all the powers and duties as authorized and prescribed by Section 160A-388 of the General Statutes of North Carolina and by Article 11 of the Village of Wesley Chapel Zoning Ordinance.

Should any conflict between documents be found, the order of precedence shall be (1) the General Statutes, (2) the Zoning Ordinance, and (3) these Rules.

All members of the Board shall thoroughly familiarize themselves with these documents. The Board, being a public body, shall at all times conduct meetings in conformity with the applicable Open Meetings Law statutes.

II. OFFICERS AND DUTIES

A. APPOINTMENTS

The Board of Adjustment shall consist of five (5) regular members and two (2) alternate members (hereinafter, collectively, the “members”). All Board members shall be residents of the Village of Wesley Chapel, and shall be appointed by the Village Council for the designated terms set forth in Sub-section 11.1.2 of the Zoning Ordinance.

The Council shall designate one regular member as Chairman at time of initial appointment. Each Board member shall be sworn by the Mayor or his designee before assuming any position on the Board.

The alternate members of the Board shall attend all regular and special meetings, and shall be permitted to fully participate in Board business whenever a regular member of the Board is absent, or if any Board member is determined to have a conflict of interest.

The alternate members shall be assigned numbers “1” and “2” by the Chairman. Assignments shall be rotated amongst the alternate members. Sitting (or voting) members may be comprised of any combination of regular and alternate members. All members shall serve without pay, but may be reimbursed for any reasonable expenses incurred while representing the Board.

B. ELECTIONS

A Vice-Chairman shall be elected by majority vote of the regular and alternate Board membership at the first called meeting following initial establishment of the Board. Each officer shall serve for a one (1) year term but may be elected by the Board membership for successive terms to the same office. Annually thereafter, at the regular meeting of the Board held in the month of September, a Chairman and Vice Chairman shall be elected. Each officer shall serve until relieved of his duties as herein provided.

C. DUTIES

The Chairman shall decide upon all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Board in session at the time. The Chairman shall appoint any committees found necessary to investigate any matters before the Board. The Vice-Chairman shall serve as acting Chairman in the absence of the Chairman, and at such times he shall have the same powers and duties as the Chairman.

Each sitting member of the Board shall have equal rights, privileges and duties in all matters brought before the Board.

D. SECRETARY

The Village Council of Wesley Chapel shall arrange to have secretarial duties performed for the Board. Said persons (s) (hereinafter referred to as the "Secretary"), shall take minutes and keep all records. The Secretary shall keep in a permanent volume the minutes of every meeting of the Board. These minutes shall accurately reflect the record of all important facts pertaining to each meeting and hearing, the names of all members in attendance, alternates seated, if any, every resolution acted upon by the Board, and all votes of the seated members of the Board upon any resolution or upon the final determination of any question, including the names of any regular members present, but excused from voting per Rule II.C, and the names of any sitting members abstaining to vote. The minutes and records of the Board of Adjustment shall be kept at Village Clerk's office.

E. STAFF ASSISTANCE

The Zoning Administrator shall generally serve as staff to the Board, and shall provide (or cause to be provided) such technical assistance as requested. In particular, the Zoning Administrator shall conduct all correspondence for the Board, arrange for all public notices required to be given, notify members of pending meetings and provide agendas for same in advance, notify interested parties of Board decisions on cases, and generally supervise the clerical work of the Board.

III. RULES OF CONDUCT FOR MEMBERS

A. REMOVAL

Members of the Board may be removed for cause, including violation of any of the rules provided herein.

B. ATTENDANCE

In order for the Board to carry out its duties and responsibilities, it is necessary for all members to attend the meetings. If any regular member is absent for two (2) consecutive regular meetings, the Chairman may direct the Secretary to notify such member in writing of his absences. If such member fails to attend the next regular meeting, the Board of Adjustment may, by a majority vote of the remaining regular and alternate members, request that the position be vacated.

In such instance, the Chairman shall immediately request that a replacement be provided by the Village Council of Wesley Chapel for the remainder of the term of the vacated position. In the interest of Board continuity, the Chairman may also recommend to the Village Council the elevation of an alternate member to become a regular member, and that another alternate member be appointed.

C. CONFLICTS OF INTEREST

Refer to Section 11.5.2 of the Zoning Ordinance regarding Conflicts of Interest.

A challenge to the existence of a conflict of interest or a challenge of an undisclosed conflict of interest may be filed by any interested party with the Board. Such a challenge may be an appeal for a review of the findings of the Board or may be for the purpose of alleging an undeclared conflict of interest. Any challenge made to the Board shall be supported by competent evidence and shall be submitted at a properly convened meeting of the Board. The Board shall hear all such evidence. In order to find that a sitting member does have a previously undisclosed conflict of interest, a majority vote to such effect of the remaining sitting members shall be required.

In the event a sitting Board member is found to have a conflict of interest and is excused from voting on a particular issue by the Board; he shall be replaced by an alternate member for that business associated with the conflict of interest, as provided for in Rule II.A. For unfilled vacancies due to conflict of interest, calculation of the super-majority shall be done in accordance with Section 11.5.1 of the Zoning Ordinance.

D. DISCUSSION OF BOARD CASES

Board members shall refrain from discussing forthcoming or anticipated matters of business with any parties, including other Board members, prior to the meeting at which such items are to be publicly discussed.

Members may receive and/or seek general technical information pertaining to a case from the Secretary or Zoning Administrator prior to the Board meeting at which the case is to be heard. Such requested information shall be provided to all members in writing, and shall also be entered into the case record by the Secretary.

Members of the Board shall not express individual opinions on the proper judgement of any case with any parties thereto, or one another, before or during the hearing for that case.

IV. MEETINGS

A. REGULAR MEETINGS

The regular meeting date of the Board shall be on the **Third Monday** of each month at **7:00 P. M.** in the Wesley Chapel United Methodist Church Fellowship Hall. Meetings may alternately be held at any other conveniently located place in Wesley Chapel as directed by the Chairman in advance of the meeting. All Board members shall be notified of and provided an agenda for each meeting by the Secretary, and public notices shall be posted by the Secretary as prescribed by law.

B. SPECIAL MEETINGS

Special meetings of the Board may be called at any time by the Chairman, provided that at least forty-eight (48) hours advance notice of the time, place and purpose of such special meetings are provided by the Secretary to all members of the Board. Public notices to this effect shall also be posted.

Following initial appointment of the Board, the Chairman shall call for an organizational meeting to review, revise (as deemed appropriate) and adopt these rules before the first regular meeting may take place.

C. QUORUM

A quorum shall consist of at least four (4) sitting members, entitled to vote on matters brought before the Board, including any alternates seated, as set forth in Rule II.A. A quorum shall be in attendance in order to open any meeting of the

Board. One of the seated members must be either the Chairman, or the Vice-Chairman.

D. CANCELLATION OF MEETINGS

Whenever there are no appeals, interpretations, applications for variances, or other business for the Board, or whenever so many regular and alternate members notify the Secretary or Chairman of their inability to attend that a quorum can not be established, the Chairman may dispense with a meeting and instead meet on a quarterly basis. If there is business before the Board, it shall meet on the next regularly scheduled meeting date. In such instance, the Secretary shall give written or oral notice to all Board members as much in advance of the scheduled meeting date as possible, and post suitable public notice.

E. VOTING

Refer to Section 11.5.1 of the Zoning Ordinance regarding required voting majorities.

The Chairman shall be able to vote on any matter, including making and seconding a motion. An unauthorized abstention from voting by a sitting member shall be considered as a “yea” vote. No sitting Board member shall vote on any matter deciding an application or appeal unless he shall have attended the public hearing(s) on that application.

Unless otherwise specified in these Rules, all regular and alternate members may vote on procedural matters, which do not necessitate a public hearing.

F. CONDUCT OF MEETINGS

All meetings shall be open to the public. The order of business at regular meetings shall be as follows:

- (a) Determination of Quorum; Recording of Seated (Voting) Members
- (b) Approval of Minutes of Previous Meetings
- (c) Hearing of Cases
- (d) Other Business
- (e) Consideration and Determination of Cases
- (f) Adjourn

G. CONTINUATION OF MEETINGS

Meetings may be continued from one date to another, provided that the reconvened meeting occurs no later than forty-eight (48) hours thereafter, and such meeting is held at a conveniently located meeting site in Wesley Chapel. Public notice shall be provided by the Secretary as to time and place of any such continuation.

V. APPEALS, APPLICATIONS, PUBLIC HEARINGS

A. TYPES OF APPEALS

The Board shall hear and decide all appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator, hear and decide any appeals that require an interpretation of the Zoning Ordinance, and hear and grant variances to certain provisions of the Zoning Ordinance.

B. PROCEDURE FOR FILING APPLICATIONS

Applications shall be filed in accordance with Article 11 of the Zoning Ordinance.

C. FEES

A fee, in accordance with a fee schedule adopted by the Village Council of Wesley Chapel shall accompany an application for any appeal or variance. This fee shall be waived for any application initiated by the Zoning Administrator, the Planning Board or the Village Council. No application shall be considered complete unless accompanied by the fee as herein prescribed.

D. PUBLIC HEARING MANDATE

A public hearing conducted by the Board shall be required to decide all appeals and interpretations, and to grant any variances to the provisions of the Zoning Ordinance.

E. PUBLIC HEARING DATE AND NOTICE

Public hearings shall be scheduled and advertised in accordance with Article 11 of the Zoning Ordinance.

F. CONDUCT OF HEARING

All Board public hearings shall be conducted in a quasi-judicial manner. It shall be the general policy of this Board to allow public participation in the manner and

custom established by the Village Council; insofar that such activity does not unduly interfere with the conduct of the Board's business. The Chairman may limit public discussion or ask unruly members of the public to leave.

Any party may appear in person or be represented by agent or by attorney at any hearing. All persons desiring to present evidence before the Board shall first be placed under oath by the Chairman. Presentation of evidence carries with it the obligation to submit to cross-examination by any opposing party.

The order of business for each case presented at a Board public hearing shall be as follows:

1. All persons desiring to give testimony, and having signed up beforehand with the Secretary to present evidence or arguments, shall be sworn in. In the event any individual(s) declines to be sworn, he may still be heard, but shall be advised by the Chairman that the Board will consider their statements merely as information, not as evidence;
2. The Chairman shall request that any sitting Board member, or any other person present, advise of the existence of any potential conflict of interest regarding the case about to be heard. Any such indication in the affirmative shall be disposed of in accordance with Rule III. C before proceeding further.
3. The Zoning Administrator, or such other person as the Chairman may direct, shall give a preliminary statement of the case;
4. The applicant shall present evidence and arguments in support of his application;
5. Persons opposed to granting the application shall present arguments against the application;
6. Other persons in favor of granting the application shall present arguments for the application;
7. Both sides will be permitted to present rebuttals to opposing testimony, and cross-examine the opposing party(ies). The Chairman shall ensure that cross-examinations are conducted with brevity and decorum, and limited to matters directly relevant to the case at hand;
8. The Chairman, or his designee, shall summarize the evidence, which has been presented, giving all interested parties the opportunity to make objections or offer corrections.

9. The Chairman shall close this case for public discussion, and shall proceed to the next case, if any, and thereafter to the next item of business on the meeting agenda. The Board shall subsequently and publicly discuss the case, calling upon the Zoning Administrator for input, clarification, etc. as deemed desirable, but without further input from the public. Board members, however, may seek further input, clarification, etc. from persons previously sworn and eligible to give evidence who are seated in the audience on any piece of evidence heretofore presented. Cross-examination of any rebuttals by opposing parties at that time shall only be permitted on any such new evidence presented.
10. The Board shall render a decision on the matter in the manner prescribed in Rule IV.E, or, if it so chooses, the Board may continue the public hearing to a publicly stated date, time, and location no later than forty-eight (48) hours thereafter. Notwithstanding any such continuation, a final decision on the case shall be made in accordance with Section 11.5 of the Zoning Ordinance.

G. REHEARINGS

The Board shall not be required to hold a public hearing to determine whether or not a rehearing of the case shall be conducted. Said determination shall, however, require a four-fifths vote of the voting membership at any meeting held for this purpose. The Board shall render a decision on granting a rehearing within thirty (30) calendar days from the day new evidence was provided in a completed application for a rehearing and presented to the Board.

H. DECISIONS

FORM

Written notice of the decision in each case shall be sent by first class mail or hand-delivered to the applicant and to every aggrieved party who has filed a written request for such notice with the Zoning Administrator within fifteen (15) calendar days after the case is decided. The final decision of the Board shall then be concurrently filed in the office of the Village Clerk. The final decision shown in the record of the case shall be entered in the minutes of the Board. Such record shall show the reasons for the determination, with a summary of the evidence introduced and the findings of fact made by the Board. The decision may reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination which was the cause for an appeal or interpretation.

VI. AMENDMENTS

These rules, within the limits allowed by law, may be amended at any time by an affirmative vote of a majority of the entire membership of the Board in attendance at such time, but consisting of not less than three (3) regular members; provided that such amendment be presented in writing at a regular meeting preceding the meeting at which the vote is taken.

October 8, 2001

/S/ Bill Lee

DATE OF ADOPTION

CHAIRMAN