

**VILLAGE OF WESLEY CHAPEL  
BOARD OF ADJUSTMENT MEETING  
June 16, 2014 at 7 PM**

**MINUTES**

The Board of Adjustment of the Village of Wesley Chapel, North Carolina, met at the Wesley Chapel Town Hall, 6490 Weddington Road, Wesley Chapel, NC 28104.

**Present:** Members Howard Brotton, Bill Rodriguez, Stan Schwartz, Creig Williard and Alternate Bruce Ewing (sitting as regular member) and Alternate Timothy Kolubinskyj

**Absent:** Chairman Butch Byrum

**Village Staff present:** Cheryl Bennett - Village Clerk; Bill Duston – Planning and Zoning Administrator

**Others Present:** Bill Lee

1. Pledge and Invocation

Creig Williard led the pledge and invocation.

2. Oath of Office

Clerk Bennett administered the oath of office to regular members Stan Schwartz and Howard Brotton Jr., and alternate members Bruce Ewing and Timothy Kolubinskyj.

3. Additions, Deletions and Approval of Agenda

“Election of Chair and Vice Chair” was added. Bill Rodriguez motioned to approve the amended agenda; Howard Brotton seconded the motion.

The motion passed unanimously.

4. Election of Chair and Vice Chair

Bruce Ewing nominated Butch Byrum to be the Chairman of the Board. Howard Brotton seconded the motion.

The motion passed unanimously.

Howard Brotton nominated Creig Williard to be the Vice Chair. Bill Rodriguez seconded the motion.

The motion passed unanimously.

5. Approval of Minutes – June 17, 2013

Howard Brotton made a motion to approve the minutes from the June 17, 2013 meeting; Bill Rodriguez seconded the motion.

The motion passed unanimously.

6. Basic Primer on Board of Adjustment Responsibilities

Bill Duston introduced himself and reviewed his experience with the Village. The Board of Adjustment acts in a quasi-judicial manner. Their first main duty is appeals of zoning

administrator decisions; anyone with standing can appeal a decision. The Board's decision is based on evidence brought before the Board. You can't discuss the case outside the meeting, even to family. If you did talk to someone, you must disclose what was discussed. You can't vote if you have a conflict; you would recuse yourself and an alternate takes your place. Last year there was a major change in NC law, now just a simple majority of the board is needed. The second duty is to hear variances. Variances should be very difficult to get. There are findings of fact to be met, and the burden of proof is on the applicant. You still need a four fifths majority for a variance. Typically when only four members are present, you can open and recess the hearing, or ask the applicant if they want to hear the case with four or wait for the fifth member. You have to satisfy all the variance findings. The variance runs with the property.

BOA decisions can be appealed to Superior Court which applies only locally, or the Court of Appeals which has statewide standing, and the NC Supreme Court.

Members asked if they can be sued. Typically no, unless they are in cahoots. What goes to the Court is the record including proper advertising proof. There cannot be a re-hearing. Witnesses have to be sworn in, and must have credentials for the evidence they are giving. Hearsay evidence such as a petition cannot be used to base a decision, since you can't ask the people why they signed it or query them. Attorneys do cross examine witnesses. If someone comes in late it is unfair for the applicant since the member hasn't heard all the information. If the hearing is recessed and an alternate has heard all the evidence, then they can step up in place of an absent member.

7. Other Business - none

8. Adjournment

Bruce Ewing made a motion to adjourn, and Bill Rodriguez seconded it.

The motion passed unanimously.

Respectfully submitted,

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Cheryl Bennett, Clerk

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Henry C. Byrum, Chairman