



# GATES COUNTY PLANNING AND DEVELOPMENT

## Board of Adjustment

### OVERVIEW

The Gates County Board of Adjustment is a quasi-judicial board appointed by the Board of County Commissioners. The Board of Adjustment is established by the General Statutes to hear the following:

- Appealed decisions and Determinations- Interpretations of the Enforcement Officer
- To hear and decide on variances from provisions of the Zoning Ordinance
- To hear and decide applications for Special Use Permits
- To review Flood Hazard appeals

The Board operates under NCGS General Statute 153A-345.

### MEMBERSHIP AND PROCEDURES

The Board members are appointed for three (3) year terms and may be re-appointed. The membership comprises five (5) regular and two (2) alternate members. A Chairman and Vice-Chairman are elected each year.

The Board generally meets the third Tuesday of each month at 1:00pm.



### APPLICATION PROCEDURES

Once it has been determined that a hearing with the Board of Adjustment is needed, a complete application with all applicable required information must be submitted to the Planning and Development Department.

When the application is received and verified, a Notice of Public Hearing is prepared and at least ten (10) days prior to the Hearing, the property in question is posted, the adjoining owners are notified, the bulletin board is posted at the courthouse and the case may be advertised in the newspaper.

### AT THE HEARING

The cases are heard in the order in which they are received. The applicant and anyone giving testimony will be sworn-in. The applicant is given an opportunity to present their case and submit any evidence in support of the case.

All parties present, who wish to speak will be given an opportunity to be heard, either for or against the case. After the initial presentation, rebuttals may be presented. The Board will close the public comment portion of the hearing and generally make a decision at that time, based on the findings of fact. The applicant will be given written notice of the results of the hearing.

### APPEALS

Appeals of BOA decisions must be filed in Superior Court in nature of certiorari within 30 days after the decision of the Board is filed.

### POWERS AND DUTIES OF THE BOARD

- Decide on appeals of an Enforcement Officer's decision
- Hear and decide Special Use Permits
- Hear and decide Variances from the zoning provision of the ordinance
- Interpret zoning map boundaries
- Decide on appeals of the flood control provision of the Ordinance.



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### GROUND FOR GRANTING A VARIANCE

A variance may be heard and approved by the Board on the following grounds:

- Findings of fact have been met by the applicant pursuant to the Ordinance; and
- The variance requested is the minimum variance to make reasonable use of land, building or structure; or
- Unintentional error of an Enforcement Officer

The Board may not grant a variance to permit a use or density not otherwise permitted or a nonconforming use of land, building or structure legally permitted in another district.

### FACTORS RELEVANT TO GRANTING A VARIANCE

- 1) Unnecessary hardship would result from the strict application of the ordinance;
- 2) The hardship results from conditions that are peculiar to the property;
- 3) The hardship did not result from actions taken by the applicant or the property owner; and
- 4) 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.

*This document is intended for public information purposes only. It summarizes and omits some provisions. It is not to be construed or used as an official interpretation of the Gates County Development Ordinance in any legal proceeding.*