



Chatham County Planning Board Agenda Notes

Date: April 7, 2015

Agenda Item: VIII. 1. Attachment #: Online

- Subdivision**
 Conditional Use Permit
 Rezoning Request
 Other: Text Amendment

Subject:	A legislative public hearing request for a proposed county-initiated text amendment to the Chatham County Zoning Ordinance Section 18, Board of Adjustment, to update the ordinance in response to statutory changes.
Action Requested:	See Recommendation
Attachments:	<p>These attachments are posted on the Planning and Rezoning webpage: http://www.chathamnc.org/RezoningSubdivisionCases/2014/2014_ite_ms.htm</p> <ol style="list-style-type: none"> 1. Proposed Text Amendments to Section 18- Board of Adjustment 2. NCGS §160A-388 Board of Adjustment

Introduction & Background

The state legislature passed S.L. 2013-126, which addresses new changes to state statute NCGS §160A-388 and 153A-345.1 governing Board of Adjustment regulations. This law has necessitated local governments update their zoning ordinances to conform to the new requirements for the Board of Adjustment. Areas impacted by the new law include determinations provided by Zoning Administrators, Hearings, Appeals, Variances and Decisions.

A legislative public hearing was held January 20, 2014. No public comment was received. Commissioner Diana Hales inquired about statutory references within the amended text as well as a summary of the areas affected. The report below details the proposed changes to the ordinance. NCGS § 153A-345.1 now directs counties to reference NCGS § 160A-388 or §153A-345.1. Staff has included a reference to both statutes within the amended Section 18 text. Additionally, the changes have also been reviewed by the County Attorney for consistency with the revised statutes.

Following the Planning Board’s decision to postpone the recommendation of Section 18 text amendments at the February 3rd meeting for additional Commissioner input, staff discussed the establishment of a separate Board of Adjustment with the Board of Commissioners March 16th. The Board agreed to establish the Board of

Adjustment by the five Commissioner districts, with two at-large alternates. The Commissioners agreed the Board may be compromised of county and municipal ETJ residents, excluding municipal residents. The Board did not provide specific direction to include related ordinances by name within the text, considering the ordinances cross-reference currently.

Discussion & Analysis

The proposed changes to the zoning ordinance triggered by S.L. 2013-126 are limited to Section 18, Board of Adjustment. The proposed rewrite of Section 18 is provided in draft form in Attachment 1.

Scope of changes to Section 18

Subsection 18.2 Meetings- Our current ordinance did not specifically define the process for administering **oaths** as outlined by the revised statute. The procedure for **hearing notices** has been included for noticing standards as it relates to Board of Adjustment hearings. A separate subsection has been included regarding **Subpoenas**, adding provisions that the chair to the board rules on requests for and objections to subpoenas, with appeals possible to full board.

Subsection 18.3 Powers and Duties of the Board of Adjustment- Per the revised statute, the term **decision** has been added and defined within the text. There have been significant revisions to the standards for granting **Variances**. These changes are directly from the statute and serve to further clarify and standardize the variance process. A section outlining **Quasi-Judicial Decisions** has been added to summarize the process required of the Board for quasi-judicial decisions. This includes language regarding filing the decision with the Clerk to the Board and delivery of said decision to the applicant, property owner and those who have submitted a written request for said decision.

Section 18.4 Appeal Procedure- The section outlining the **appeal procedure** has been revised to include the specific standards for determining grounds for appeal, standards for providing written notice, timeline for filing appeals, and enforcement proceedings before an appeal hearing.

Section 18.5 Vote Required- Judicial Appeal- This section has been amended to include standards for superior court review for **quasi-judicial decisions**.

All proposed text amendment applications must address the following items outlined within the Chatham County Zoning Ordinance, Section 19. These items are addressed below:

ITEM #1- The alleged error in this Ordinance, if any, which would be remedied by the proposed amendment with a detailed explanation of such error in the Ordinance and detailed reasons how the proposed amendment will correct the same.

The amendments serve to update Section 18 Board of Adjustment to align with recently modified state statutes NCGS § 153a-345.1 and 160-388.

ITEM #2- The changed or changing conditions, if any, in the area or in the County generally, which make the proposed amendment reasonably necessary to the promotion of the public health, safety and welfare.

The amendments provide for consistency with state statutes, which are both reasonable and promote public health, safety and welfare.

ITEM #3- The manner in which the proposed amendment will carry out the intent and purpose of the adopted Land Use Plan.

The amendments assist the *Users* of the adopted Land Conservation and Development Plan, specifically Elected Officials, Appointed Boards, and County Staff, to appropriately make recommendations and decisions on land use issues.

ITEM #4- All other circumstances, factors and reasons which the applicant offers in support of the proposed amendment.

The proposed amendments will create consistency with state law regarding Board of Adjustment procedure and regulations.

Recommendation:

Planning Staff recommends approval of the proposed text amendments. This is the third Planning Board meeting since this was initially discussed therefore a recommendation must be made at this meeting.

If the Planning Board finds the amendment to be consistent with the Land Conservation and Development Plan, the Board may adopt a consistency statement and recommend approval to the Board of Commissioners. If the Board finds the amendment to not be reasonable and inconsistent with the Land Conservation and Development Plan, the Board must transmit a statement of inconsistency with the adopted plan and a recommendation of disapproval to the Board of Commissioners.

CONSISTENCY STATEMENT- Staff recommends that the proposed text amendment is consistent with the Chatham County Land Conservation and Development Plan in the following area:

- The amendments assists the *Users* of the adopted Land Conservation and Development Plan, specifically Elected Officials, Appointed Boards, and County Staff, to appropriately make recommendations and decisions on land use issues consistent with local ordinances, policies, and state law.