

## **RULES OF PROCEDURE MOUNT PLEASANT BOARD OF ADJUSTMENT**

### **I. GENERAL RULES**

The Zoning Board of Adjustment (hereinafter referred to as the “Board”) shall be governed by the terms of Chapter 160D-3-2 (formerly 160A, Article 19, Part 3) of the General Statutes of North Carolina and by the *Town of Mount Pleasant Unified Development Ordinance*. All members of the Board shall thoroughly familiarize themselves with these laws.

### **II. OFFICERS AND DUTIES**

#### **A. Elections**

A Chairman and Vice Chairman shall be elected by the full membership (including alternate and extraterritorial members) of the Board annually at the first regular meeting of the Board held after July 1. These officers shall be elected for terms of up to one (1) year in length and may be re-elected for successive terms to the same office. Each officer shall serve until relieved of his duties as herein provided.

#### **B. Officer’s 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 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.

#### **C. Secretary and Town Clerk Duties**

A Secretary shall be appointed by the Chairman of the Board, either from within or outside its membership, to hold office during the term of the Chairman and/or until a successor Secretary shall have been appointed. The Secretary shall be eligible for reappointment. The Secretary shall be responsible for taking minutes at all Board meetings. These minutes shall show the record of all important facts pertaining to each meeting and hearing, every resolution acted upon by the Board and all votes of members of the Board upon any resolution or upon any final determination of any question, indicating the names of members absent or failing to vote. The Secretary, subject to the direction of the Chairman and the Board, shall conduct all correspondence of the Board, shall arrange for all public notices required to be given, shall notify members of pending meetings and their agenda, shall notify parties to cases before the Board of its decision on such cases and shall generally supervise the clerical work of the Board. A copy of the minutes of all Board of Adjustment meetings shall be maintained in the office of the Town Clerk.

### III. RULES OF CONDUCT FOR MEMBERS

- A. Members of the Board may be removed for cause, including violation of the rules stated below.
- B. 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 absence and if such member fails to attend the next regular meeting, the Town Board of Commissioners (or County Commissioners for ETJ members) may vote to remove and replace said member.
- C. Should any member of the Board be financially or otherwise closely associated with any issue that comes before the Board, said member shall disqualify himself from participating in considering the issue and shall not sit with the Board during such consideration. A member of the Board may raise the question of conflict of interest of another member regarding a specific issue that is before the Board. A majority vote of those members without such conflict shall determine if such conflict does exist.
- D. No Board member shall vote on any matter deciding an application or appeal unless he/she shall have attended the public hearing on the application or appeal.
- E. No Board member shall discuss any case with any parties thereto prior to the public hearing on the case; provided however, members may receive and/or seek information pertaining to the case from any other member of the Board, its Secretary or Zoning Administrator, prior to the public hearing.
- F. Members of the Board will not express individual opinions on the proper judgment of any case with any parties thereto prior to its determination of that case. Violations of this rule shall be cause for dismissal from the Board.

### IV. MEETINGS

#### A. **Regular Meetings**

Regular meetings of the Board shall be held on the fourth Monday of each month at 6:00PM in the Board Room of the Town Hall. Meetings may be held at any other convenient place in the Mount Pleasant area if directed by the Chairman in advance of the Meeting. The Secretary shall notify all Board Members when the location of a meeting has been changed from the regular venue.

#### B. **Special Meetings**

Special meetings of the Board may be called at any time by the Chairman or set by a majority vote of the Board during a regular meeting. Notice of the time and place of special

meetings called by the Chairman shall be given by the Secretary to each member of the Board at least forty-eight (48) hours in advance.

**C. Cancellation of Meetings**

Whenever there is no business before the Board, or whenever so many members notify the Secretary of their inability to attend that a quorum will not be available, the Chairman may dispense with a regular meeting by having the Secretary give notice to all members not less than twenty-four (24) hours prior to the time set for the meeting. Other meetings may be cancelled by a majority vote of the Board during a regular meeting.

**D. Quorum**

A quorum shall consist of three (3) members of the Board, but the Board shall not pass upon any question relating to an appeal from a decision, order, requirement or determination of the Zoning Administrator or an application for a variance or special use permit when there are less than four (4) voting members present.

**E. Alternate Member**

The alternate member shall sit with the Board of Adjustment and have the right to ask questions and participate in discussions on all matters, but may not vote. The alternate member may participate as a regular (voting) member if there is an absence or disqualification of a regular member.

**F. Voting**

All regular members shall vote on each issue unless they have disqualified themselves for one or more of the reasons listed in Section III. The required vote to decide appeals and applications shall be as provided in Section V-(G)(4). When no qualified alternates are present, vacant seats and disqualified members shall not be considered in calculating the requisite four-fifths (4/5) supermajority required to grant a Variance. In all other matters the vote of a simple majority of the members present and voting shall decide the issues before the board.

**G. Conduct of Meetings**

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

- (a) Call to Order
- (b) Determination of Quorum
- (c) Approval of Minutes of Previous Meetings
- (d) Approval of Agenda
- (e) Public Comment Period
- (f) Board of Adjustment Cases (Public Hearings)
  - i) Open hearing (Chairman)*
  - ii) Swear in all persons testifying*
  - iii) Receive staff report and related exhibits*
  - iv) Accept staff report and related exhibits into evidence*

- v) *Receive petitioner testimony*
- vi) *Receive citizen testimony*
  - (1) *Testimony supporting request*
  - (2) *Testimony opposing request*
- vii) *Cross examination or rebuttal*
- viii) *Summarization of evidence presented (Chairman or Secretary)*
- ix) *Discuss case*
- x) *Close hearing*
- xi) *Adopt Findings of Fact*
- xii) *Vote to Approve, Approve with Conditions, Deny or Table Request*
- (g) *New Business*
- (h) *Reports*
- (i) *Board of Adjustment Comment Period*
- (j) *Adjournment*

## **V. APPEALS, APPLICATIONS AND 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. It shall also hear and decide all matters referred to it, or upon which it is required to pass by the Mount Pleasant Unified Development Ordinance. In deciding appeals, it may hear both those based upon an allegedly improper or erroneous interpretation of the Ordinance and those based upon alleged hardship resulting from strict interpretation of the Ordinance.

### **B. Procedures For Filing Appeals**

No appeal shall be heard by the Board unless notice thereof is filed within thirty (30) days after the interested party or parties receive notice of the order, requirement, decision or determination by the Zoning Administrator, who must act as Clerk for the Board in receiving this notice. All applications shall be made upon the form furnished for that purpose, and all information required thereon shall be complete before an appeal shall be considered as having been filed. Any such application shall be accompanied by a fee (in accordance with a fee schedule established by the Mount Pleasant Town Board) paid to the Town Clerk, before such application is deemed to be complete.

### **C. Public Hearing**

A public hearing conducted by the Board shall be required to:

1. Decide all appeals from determinations made by the Zoning Administrator
2. Grant any special use permits
3. Grant any variance from the terms of the Ordinance
4. Hear and decide all other matters referred to it or upon which it is required to pass by the *Town of Mount Pleasant Unified Development Ordinance*. A public hearing shall not be required to elect officers or to conduct similar administrative duties.

**D. Re-hearings**

An application for a rehearing may be made in the same manner as provided for an original hearing. Evidence in support of the application shall initially be limited to that which is necessary to enable the Board to determine whether there has been a substantial change in the facts, evidence or conditions in the case. The application for rehearing shall be denied by the Board if, from the record, it finds that there has been no substantial change in facts, evidence or conditions. If the Board finds that there has been a change, it shall thereupon treat the request in the same manner as any other application.

**E. Decisions**

**1. Time**

Decisions made by the Board shall be made no later than thirty-one (31) days from the time the hearing was closed.

**2. Form**

The final decision of the Board shall be shown in the record of the case as entered in the minutes of the Board and signed by the Secretary and Chairman upon approval of the minutes by 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. Where a variance is granted, the record shall state in detail any exceptional difficulty or unnecessary hardship upon which the appeal was based and which the Board finds to exist. The decision may reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from. Where a special use permit is granted, the record shall state in detail any facts supporting findings required to be made prior to the issuance of such permit. The record shall state in detail what, if any, conditions and safeguards are imposed by the Board in connection with the granting of a variance or special use permit.

**3. Expiration of Permits**

Unless otherwise specified, any order or decision of the Board granting a Special Use Permit or a Variance shall expire if a building permit or certificate of occupancy for such use is not obtained within twelve (12) months from the date of the decision.

**4. Voting at Hearings**

The concurring vote of four-fifths (4/5) of the entire membership of the Board shall be necessary to grant a variance. A majority of the membership shall be required to decide any other matter upon which the Board is required by Ordinance to pass or to determine an appeal. Vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members. Voting on any issue shall be done by a show of hands.

**5. Public Record of Decision**

The decisions of the Board, as filed in its minutes, shall be of public record, available for inspection at the Town Clerk's office during normal business hours.

**VI. AMENDMENTS**

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than four (4) members of the Board, provided that such amendment be presented in writing at a regular or special meeting preceding the meeting at which the vote is to be taken.

To the extent not provided for in these rules and to the extent that the reference does not conflict with the spirit of these rules, the board shall refer to Robert's Rules of Order, Revised, for unresolved procedural questions.

ADOPTED ON: \_\_\_\_\_

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
SECRETARY