

## **2.6 Board of Adjustment**

### **1. Authority and Establishment**

The Board of Adjustment is hereby established in accordance with NCGS 160A-388.

### **2. Membership**

The Board of Adjustment shall consist of five (5) members, three (3) members residing within the Town shall be appointed by the Town Board of Commissioners; one (1) member residing in the Duplin County ETJ shall be appointed by the Duplin County Board of Commissioners; and one (1) member residing in the Sampson County portion of the Faison ETJ shall be appointed by the Sampson County Board of Commissioners (NCGS 160A-362).

There shall be appointed by the Town Board of Commissioners two (2) alternate members to serve on the Board of Adjustment in absence of any regular member(s). The alternate members have and may exercise all the powers and duties of a regular member. One alternate member shall be a resident of the Town and one alternate member shall a resident of the ETJ.

If a Board of County Commissioners fails to make these appointments within 90 days after receiving a resolution from the Town Commissioners requesting that they be made, the Town may make them (NCGS 160A-362).

Regular term of office is three (3) years. The appointments for the initial Board of Adjustment shall be for staggered terms in order that members' of office will not expire at the same time. In creating the Board two (2) members will be appointed to serve for three (3) years, two (2) members will serve for two (2) years, and one (1) member will be appointed to serve one (1) year. Board members whose terms of office have expired may be reappointed to serve consecutive terms. In appointing members to fill vacancies, the Town Board of Commissioners shall appoint persons to serve the remaining term of office rather than a full three (3) years.

There shall be two (2) alternate members to serve on the Board of Adjustment in the absence for any cause of any regular member. One alternate member shall be a resident of Town and one alternate member shall be a resident of the ETJ area.

The in-town alternate shall serve in the absence for any cause for any in-town regular member and the ETJ alternate shall serve in the absence for any cause for any ETJ regular member. Both alternates shall be appointed by the Town Board of Commissioners. The terms of office of alternate members shall also be for three (3) years. Alternate members shall have and may exercise all the powers and duties of a regular member while attending any regular or special meeting of the Board of Adjustment. The members of the Board shall receive no compensation for their services.

No more than one (1) regular member and one (1) alternate member of the Board shall be permitted to sit concurrently on the Planning Board or on the Town Board of Commissioners.

**3. Quorum**

A simple majority with three fifths (3/5) of the members of the Board of Adjustment shall constitute a quorum.

**4. Voting**

The concurring vote of four fifths (4/5) of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official charged with the enforcement of this Ordinance, or to decide in favor of the applicant any matter upon which it is required to pass under this Ordinance, or to grant a Variance from the provisions of the Ordinance. For the purposes of this Section, 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 supermajority if there are no qualified alternates available to take the place of such members. (160A-388(e))

**5. Powers and Duties - Final Approval Authority**

In the application and enforcement of this Ordinance, the Board of Adjustment shall have the following powers, duties and final approval authority:

- A. Appeals of denials for site plan approval
- B. Appeals of denials of zoning permits
- C. Variances
- D. Appeals of denials for minor subdivision approval
- E. Appeals of denials for recombination plat approval
- F. Appeals of Ordinance interpretations
- G. Appeals of administrative decisions