

Approved by the Board of Adjustment on February 26, 2009

***BUTNER
BOARD OF ADJUSTMENT
MINUTES***

The Butner Board of Adjustment held its first official Board Meeting on January 22, 2009, at 7:00 p.m. in the South Granville Water & Sewer Authority Meeting Room, 209 West C Street, Butner, N. C.

Members Present: Ernest Thompson, Chairman
Herman (Buddy) Weaver, Vice Chairman
William (Bill) Crosby
Marty Daniel
John H. Glenn, Jr.
James Russell
Constance Wortham

Alternates Present: Ronald (Ron) Daniels
Jane Frost
Chandler Wynne

Staff Present: Melissa Hodges, Town Planner

Town Manager: Tommy Marrow

Attorney: James (Jim) Wrenn Jr.

MEETING CALLED TO ORDER

At 7:00 p.m., Tommy Marrow, Butner Town Manager, called the meeting to order. He introduced Brenda Daniel, Secretary to the Board.

SWEARING IN OF THE BOARD OF ADJUSTMENT BOARD MEMBERS

Mr. James Wrenn, Town Attorney, swore the following new Board of Adjustment Members and Alternate Board Members in:

William Crosby	Marty Daniel
James Russell	Ernest Thompson
Constance Wortham	John H. Glenn, Jr.
Herman H. Weaver	Ronald Daniels
Jane Frost	Chandler Wynne

ELECTION OF BOARD OFFICERS

Board Member James Russell made a motion to nominate Ernest Thompson as Chairman and Board Member William Crosby seconded it.

Approved by the Board of Adjustment on February 26, 2009

Board Member Ernest Thompson made a motion to nominate James Russell as Chairman. Mr. Russell declined the motion.

With no other nominations, Board Member Thompson made a motion to close the nomination. Board Member Russell seconded it and it was unanimously carried.

Upon Attorney Wrenn asking the Board to vote on Ernest Thompson as Chairman, it was unanimously carried that Mr. Thompson was voted in as the Chairman.

At this point, Chairman Ernest Thompson asked if there were any nominations for vice chairman. Board Member Ernest Thompson nominated Herman (Buddy) Weaver as vice chairman. With no other nominations, Board Member William Crosby motioned to close the nominations, seconded by Board Member Ronald Daniels

The Board unanimously voted to elect Board Member Herman (Buddy) Weaver as Vice Chairman.

BOARD APPROVES THE JANUARY 22, 2009 BOARD OF ADJUSTMENT MEETING AGENDA

Board Member William Crosby made a motion to adopt the January 22, 2009 Board of Adjustment Meeting Agenda as presented. It was seconded by Board Member Ronald Daniels and was unanimously carried.

ADOPTION OF "RULES OF PROCEDURE" FOR THE BOARD OF ADJUSTMENT

Attorney James Wrenn presented each Board Member with a copy of the "Rules of Procedure" for the Zoning Board of Adjustment for the Town of Butner. He proceeded to explain the outline of the Rules of Procedure to the Board.

Attorney Wrenn explained that the Zoning Board of Adjustment shall be governed by the terms of Chapter 160A, Article 19, Part 3 of the General Statutes of North Carolina and by the Town of Butner, North Carolina Land Development Ordinance. He stated that all members of the Board should thoroughly familiarize themselves with these laws.

At this point, Attorney Wrenn reviewed the following outline of the Rules of Procedure with the Board:

- I. General Rules
- II. Officers and Duties
- III. Alternate Members
- IV. Rules of Conduct for Members
- V. Meetings

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- VI. Appeals and Applications
- VII. Amendments

Upon Chairman Thompson asking about the conflict of interest rule, Attorney Wrenn stated that Melissa Hodges, Planner, is drafting an "Order of the Meeting" and the question will arise, "Do you have a conflict of interest in the matter?" Board Members will be given the opportunity to recuse themselves at this time.

Attorney Wrenn enlightened the Board that the regular Board of Adjustment (BOA) meetings shall be held on the 4th Thursday of each month at 7:00 p.m., in the South Granville Water and Sewer Authority meeting room at 7:00 p.m., 211 West C Street, Butner, North Carolina, provided that meetings may be held at any other convenient place if the chairman so directs before the meeting and appropriate notice is given in accordance with North Carolina Open Meetings Law codified at N. C. Gen. Stat. 143-318.12(b).

Attorney Wrenn explained to the Board the importance of Board Members attending the regular board meetings. He stated that for the Board to approve a variance or special use permit, etc., a vote of four-fifths (4/5) of the Board shall be necessary.

Board Member Crosby asked Attorney Wrenn to give examples of when/why a board member should recuse himself/herself from hearing a request. Attorney Wrenn gave several examples. Mr. Marrow, Town Manager, asked who determines if a board member has a conflict or not? Attorney Wrenn related that if a board member recuses himself/herself, the board would concur with that decision. Another example Mr. Wrenn gave was if an applicant/opponent feels like a member of the board has a conflict, yet the member of the board does not think it is a conflict, the board member can then state why or why not they have a conflict. Then the board can rule on this for the applicant/opponent.

At this point, Chairman Thompson asked when the Board of Adjustment (BOA) packets for the board meetings would be delivered to the board members? Ms. Hodges, Planner, stated that the BOA packets would be due to the board members the Friday before the scheduled board meeting. She also informed the Board that a hearing request would be due to the Planning Department five (5) weeks prior to the hearing date. Ms. Hodges continued to state that after receiving a request, she has ten working days to let the applicant know if anything is missing from the application request. She also noted that the public notices have to be mailed not less than ten (10) days and no more than 25 days prior to the meeting date, and Public Hearing Notices have to be advertised in the newspaper once a week for two (2) successive weeks no less than ten (10) days and no more than 25 days prior to the meeting date.

Chairman Thompson asked Mr. Wrenn if a time limit should be placed on people speaking for or against a request. After a brief discussion, Attorney Wrenn explained that people who speak are presenting evidence for or against the application. At such time, when they stop giving evidence and start giving their opinion, then it's the Chairman's

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responsibility to say, “Now you have gone from giving evidence to giving your opinion. Giving evidence for 15 minutes is legitimate, but stating feelings is a different story”. Mr. Wrenn stated that if the applicant is giving relevant evidence, you could not put a time limit on the applicant. He stated that the law isn’t clear on the rights of an opposing person. Mr. Wrenn stated that, to be fair, as long as the person opposing has a valid point then they should be given the same rights as the applicant. So therefore, Mr. Wrenn recommends that the chairperson use discretion when he sees that a speaker is not presenting evidence but stating feelings.

Ms. Hodges, Planner, suggested that if there is a majority in opposition of a request, with the same reason(s) for opposing, then the group should appoint a spokesperson for the opposing people.

Attorney Wrenn stated that next week, he would be working with Ms. Hodges in preparing a statement that to be read at the beginning of each hearing. The statement will alert speakers to present relevant evidence/facts at hand about the request.

Attorney Wrenn acknowledged that he has been in contact with Mr. Ducker at the Institute of Government regarding questions about the applicant and the opponent. Mr. Wrenn noted that appointing a spokesperson for a large group of people in opposition would be a good idea.

At this time, Attorney Wrenn explained the importance of the Board’s final decision, of a request, to acknowledge the reasons for the determinations, with a summary of the evidence and the findings of fact made by the Board. For example, with a Special Use Permit request, you have 7 facts that you have to find before you grant or deny the request. Mr. Wrenn explained that if the Board notes that item #2 and #4 are not met, then the board would have to state specific why the applicant did not meet these items. The Board and Attorney Wrenn, at length, discussed and gave examples of the 7 findings of fact found on an application.

After a lengthy review of the “Rules of Procedure”, with a question and answer work session, Attorney Wrenn acknowledged that some of the language had been changed when a conflict with the Town of Butner Land Development Ordinance was noted.

With no other discussion, Board Member Marty Daniel motioned to adopt the Rules of Procedure for the Zoning Board of Adjustment, Town of Butner. It was seconded by Board Member William Crosby and unanimously carried.

BOARD APPROVES PROCEDURE FOR ALTERNATE BOARD MEMBERS TO SERVE ON THE BOARD

At this time, Attorney Wrenn suggested that the Alternate Board Members begin serving alphabetically by the last name and alternate accordingly.

Approved by the Board of Adjustment on February 26, 2009

Board Member James Russell motioned that the Alternate Board Members serve alphabetically by the last name and alternate accordingly. Board Members William Crosby and Marty Daniel seconded and it was unanimously carried.

DISCUSSION ON THE 3 YEAR TERM FOR BOARD MEMBERS

Attorney Wrenn briefly discussed the three-(3) year term for Board of Adjustment Members (BOA). He stated that the Butner Town Council appointed the BOA Members. The town council related that the BOA Members should come up with a system, to stagger the term for each Board Member, so that the whole Board would not be replaced at one time. The Board acknowledged that this item would be continued for discussion.

TOWN PLANNER'S COMMENTS

Melissa Hodges, Town Planner, related that she has not received any request for the February Board of Adjustment (BOA) Meeting, unless a request will be continued from the January BOA Meeting. She further noted that there may be a subdivision variance request for the March BOA Meeting.

Planner Hodges explained that one of the regular Board Members would not be able to attend the January 29, 2009 BOA meeting and so therefore, Alternate Ronald Daniels would be serving on the BOA.

ADJOURNMENT

Upon a motion of Board Member William Crosby, seconded by Board Member Marty Daniel and unanimously carried, the Board adjourned at 8:50 p.m.

Brenda K. Daniel
Secretary to the Board

Ernest Thompson Chairman
Butner Board of Adjustment