

**TOWN OF WEDDINGTON
REGULAR TOWN COUNCIL MEETING
MONDAY, JULY 18, 2016 – 7:00 P.M.
MINUTES**

The Town Council of the Town of Weddington, North Carolina, met in a Regular Session at the Weddington Town Hall, 1924 Weddington Road, Weddington, NC 28104 on July 18, 2016, with Mayor Bill Deter presiding.

Present: Mayor Bill Deter, Councilmembers Scott Buzzard, Janice Propst, Michael Smith, Town Attorney Anthony Fox, Town Administrator/Clerk Peggy S. Piontek, Finance Officer Leslie Gaylord, and Town Planner Julian Burton

Absent: Mayor Pro Tem Don Titherington

Visitors: Walton Hogan, Larry Wood and Anna-Marie Smith

Mayor Bill Deter offered the Invocation prior to the opening of the meeting.

Item No. 1. Open the Meeting Mayor Deter opened the July 18, 2016 Regular Town Council Meeting at 7:00 p.m.

Item No. 2. Pledge of Allegiance Mayor Deter led in the Pledge of Allegiance.

Item No. 3. Determination of Quorum There was a quorum. Mayor Deter announced that Mayor Pro Tem Don Titherington was absent.

Item No. 4. Public Comments - None

Item No. 5. Additions, Deletions and/or Adoption of the Agenda

Councilwoman Janice Propst moved to adopt the agenda as written. All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Buzzard, and Propst

NAYS: None

Item No. 6. Consent Agenda

- A. Review Consideration of Authorizing the Tax Collector to Collect the 2016 Real Property Taxes for the Town of Weddington (**COPY ATTACHED HERETO AND MADE A PART OF THE RECORD**)
- B. Call for a Public Hearing for Review and Consideration of Atherton Estates Conditional Rezoning for Amenity Center

Councilwoman Propst moved to approve the Consent Agenda as written. All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Buzzard, and Propst
NAYS: None

Item No. 7. Approval of Minutes

- A. Approval of May 9, 2016 Regular Town Council Minutes
- B. Approval of June 13, 2016 Regular Town Council Minutes

Councilman Michael Smith moved to approve the May 9, 2016 Regular Town Council minutes. All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Buzzard, and Propst
NAYS: None

Councilwoman Propst moved to approve the June 13, 2016 Regular Town Council minutes. All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Buzzard, and Propst
NAYS: None

Item No. 8 Public Hearing and Consideration of Public Hearing

- A. **Review and Consideration of Text Amendment to Section 58-4 of the Zoning Ordinance to define the term "Foundation Survey"**

Mayor Deter opened and closed the Public hearing as no one had signed up to speak.

Town Planner Julian Burton - In order to ask for any kind of exception to our zoning ordinance, a property owner must apply for a variance, which is then reviewed and voted on by the Board of Adjustment. A common variance request is from a setback requirement, a foundation survey and subsequent foundation permit. These are important pieces of evidence to determine that a structure was indeed placed in an allowable position when the foundation was poured. Because it is an important piece of evidence it was necessary that staff and the planning board make sure that a foundation survey is clearly defined in the ordinance. It hadn't really been defined at all. So this text amendment defines the term for a foundation survey to better help the Board of Adjustment and help to provide a clear definition in our ordinance.

Councilman Smith moved to approve the Text Amendment to Section 58-4 of the Zoning Ordinance to define the term "Foundation Survey" **(COPY ATTACHED HERETO AND MADE A PART OF THE RECORD)**. All were in favor with the votes recorded as follows:

AYES: Councilmembers Smith, Buzzard, and Propst
NAYS: None

- B. **Review and Consideration of Text Amendment to Section 58-234 to further clarify the relationship between foundation surveys and a setback variance request.**

Mayor Deter opened and closed the Public hearing as no one had signed up to speak.

Town Planner Burton - This text amendment is somewhat related to the one we just approved for 58-4. It also deals with setback variances and talks specifically about that type of procedure during a variance hearing or for a variance application. At one point, the Board of Adjustment was receiving a lot of setback variance requests on finished houses, and was forced to make determinations without knowing when a mistake was made, or who made the mistake. Meaning, a house was built over the setback line, and it was unclear when that house was approved or when it was incorrectly built. This text amendment brings additional clarity to the process. Initially text was added in the ordinance that required that an applicant would need to show proof of an approved foundation permit in order to ask for a setback variance on a completed or partially completed house. Recently the staff and Board realized the text was basically saying you needed to have a foundation permit even if you have not started any type of construction, which did not procedurally make any sense. We wanted to clarify the intent of that and the last sentence of that text amendment explains that you are allowed to apply for a setback variance at any time as long as you haven't gotten any zoning or building permits.

Councilman Smith moved to approve the Text Amendment to Section 58-234 for setback variance request (**COPY ATTACHED HERETO AND MADE A PART OF THE RECORD**). All were in favor with the votes recorded as follows:

AYES: Councilmembers Smith, Buzzard, and Propst

NAYS: None

Item No. 9. Old Business

None

Item No. 10. New Business

A. Review and Consideration of Atherton Estates Final Plat Phase 3

Town Planner Burton – This is the fourth final plat application for the approved subdivision Atherton Estates. This is 30 lots of the approved 130 lot subdivision. It's located on 44.93 acres and is an R40 by right subdivision. US Infrastructure already provided a letter of approval for all phases of Atherton Estates on April 16, 2015. This phase will be served by Union County Water and Sewer. The Bond estimates are currently being reviewed by US Infrastructure. This will come up on our next item on the agenda. Shea Homes is also applying for a final plat for a lot that will contain the proposed amenity center. Phase 3 includes the entire infrastructure necessary to serve and provide access to that amenity lot so it will be important that Phase 3 be recorded before the amenity center lot. Obviously this will not be recorded until we have the bonds in place for the infrastructure or we have proof that everything has been constructed. The Planning Board did recommend at the June meeting unanimously with the following conditions:

1. Performance and Maintenance Bonds to be approved US Infrastructure.
2. Each remaining lot to be recorded in the Atherton subdivision shall include on its Deed a statement that any roads in the subdivision that are not accepted by NCDOT are private and not

the responsibility of the Town of Weddington and shall be maintained by the Atherton Homeowners Association or its Developer.

3. Vehicle control signs including but not limited to stop signs and speed limit signs shall be installed by the Developer and maintained by the Homeowners Association on any roads not accepted by NCDOT. All speed limits within the subdivision shall be no greater than 25 mph.

4. Coordinate with USPS and DOT to provide cluster mailboxes within subdivisions.

Councilman Smith moved to approve Atherton Estates Conventional Subdivision Final Plat Phase 3 with the four conditions. All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Buzzard, and Propst

NAYS: None

B. Review and Consideration of Atherton Estates Final Plat - Amenity Center

Town Planner Burton – This is another final plat but it is for one lot and it is for a lot that will contain the proposed amenity center that was on our Consent Agenda. The conditional zoning will come before the Council next month. This is just the one lot of record and needed to be approved before we could approve a conditional zoning for that piece of property. This is a procedural issue; the main thing I've pointed out in the last item is the one condition of approval:

1. That the amenity center lot shall not be recorded prior to the recording of Final Plat Phase 3.

If we did that it would make a land locked parcel without any access so we need to make sure Phase 3 is recorded first. The Planning Board recommended approval at the June meeting unanimously.

Councilwoman Propst moved to approve Atherton Estates Final Plat amenity center with the condition as noted above. All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Buzzard, and Propst

NAYS: None

C. Review and Consideration for funding of an NCDOT project at Weddington-Matthews Road and Tilley Morris Road

Councilman Scott Buzzard -- NCDOT submitted several projects to the CRTPO this spring for the STPDA funding. Basically their intent was to see if they could access some type of funds for a roundabout at the intersection of Weddington-Matthews Road and Tilley Morris Road. When determining funding the CRTPO looks at different scoring systems and this project fell into a pretty straight-forward scoring system which was the problem statement, local priority for funding, lost opportunity and system benefit. The projects are scored against each another. Unfortunately this project scored very low because the local priority for funding and lost opportunity was not submitted which caused the loss of points. After discussion with NCDOT I was informed that they were putting in about 20% funding for the project. The project is slated at \$1,046,000.00. To access the other funding portion of the point system it would have needed to be 25% so I am requesting if Council wants to provide the additional 5% to bring the non-STPDA funding up to 25% of the project. That would score us an additional 10 points which would put us in the mix for some things. But if we vote to provide these

funds I think it will provide additional points for local priority, resulting in an additional 20 points to our scoring. Since they have delegated funds in this budget for infrastructure we could possibly score points for loss opportunity since these funds may not be there in the future. If we are successful in gaining all of those points we would actually have scored high enough to have had this project slated in the first go around in this past spring of STPDA. If this was approved it is likely that construction would start in 2018. The construction calendar for NCDOT runs March through November. The 5% amount would fall somewhere in between NCDOT's estimated cost of \$1,046,000.00 to \$1,214,000.00.

Councilwoman Propst – That would be approximately \$50,000.00 to \$60,000.00 and you would like us to vote on this tonight?

Councilman Buzzard – Yes. Joe Lesh presented a motion to the TCC that they actually release all the funds they have available for these projects. In which case, by default, the project would have come to fruition but that did not get approved by the TCC.

Mayor Deter – For Council's information we created a line item in the budget of \$100,000.00 for projects like this. My question is if this is approved tonight does that lock those funds up?

Councilman Buzzard – I don't think those funds would be locked up until or unless the project was approved and we would probably know that at the CRTPO December meeting - certainly before our next budget.

Councilman Smith – I have concerns about the issues we are having with Cari Lane and the anticipated new development coming in and the possibility of this aggravating the difficulty of the situation that already exists. Can you address that and perhaps they can find a solution to that? They are quite close to each other.

Councilman Buzzard – It is. I drive that route almost daily on my commute to work. I don't know the configuration of the traffic circle; I would imagine that if it's a concern that Council and our residents have we can take that to NCDOT. In looking at the land configuration they might actually move the roundabout further up which would give Cari Lane a little bit longer site distance before they have to get into that traffic pattern.

Councilman Buzzard moved to support the funding of an NCDOT project at Weddington-Matthew Road and Tilley Morris Road roundabout at a rate of 5% of the project not to exceed \$60,000.00. All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Buzzard, and Propst

NAYS: None

D. Review and Consideration of Miracle Amusements invoice for Weddington Country Festival

Mayor Deter – It is time to pay the bill for the September 17th Festival. The amount is \$6,449.24.

Councilwoman Propst moved to approve Miracle Amusements invoice in the amount of \$6,449.24 for Weddington Country Festival. All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Buzzard, and Propst
NAYS: None

E. Land Use Plan Annual Update

Councilwoman Propst – The only thing I saw was “The Town continues to maintain the medians on Providence Road to enhance rural look.” We do maintain medians on Providence Road, Rea Road, and the roundabout on 84, some on Tilley Morris and Hemby. Don’t we want to include all the roads that we maintain in that statement?

Town Planner Burton – I will make that revision. I wanted to point out one of the bigger text amendments that Council approved: The Town Council has approved stronger language to protect viewshed from the road. Where a conservation subdivision is on both sides of a thoroughfare, both viewshed from the road and the distribution of homes is addressed.

F. Review and Consideration of new code enforcement contract with Centralina Council of Governments (COG)

Town Planner Burton – We were considering other options and COG really wanted our business and they came back with a contract for about 1/3 of the price we were paying last year for the same exact scope of work.

Mayor Deter – In the past it was around \$15,000.00 and now it’s about \$5,000.00.

Councilman Smith moved to approve the new code enforcement contract with Centralina Council of Governments in the amount of \$5,000.00. All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Buzzard, and Propst
NAYS: None

A. Discussion and Update of Weddington Country Festival

Mayor Deter – We have sent out letters looking for sponsors and have received some funds. Tomorrow I will be making personal visits to some potential sponsors. We always get volunteers to assist, but we are looking at hiring labor to assist with that. We always provide BBQ for the seniors and it was donated in the past but he is unable to assist us this year. We have found a vendor to provide the food. The solid waste company we use has informed us they will no longer be providing complimentary trash service effective September 30th. Staff is researching other options and will report back to Council. We will be getting tables, chairs and fire trucks from Wesley Chapel Fire Department and they will advise if they are interested in grilling for it. We have lined up an ambulance to be here but there’s a possibility it will get called away. The Temporary Use Permit application will be presented to the Planning Board next Monday. I will be there for any questions. The Hinson Girls will be providing the entertainment. I meet with staff every couple of weeks to review the progress we’ve made and tasks needed to be completed. It’s all falling into place and we’re hoping to have a great festival.

Item No. 11. Update from Planner

Town Planner Burton – Two things I need to add to my memo, we also have a Final Plat for Vintage Creek that is going to be at the next Planning Board meeting and that meeting is going to be a joint meeting with the Board of Adjustment to continue a variance hearing associated with the Falls at Weddington and there is a Falls of Weddington Final Plat that is also dependant on that variance that could potentially be heard that night as well. As Mayor Deter stated there will be a Temporary Use Permit Public Hearing as well.

Item No. 12. Code Enforcement Report

Town Planner Burton – No real changes from last month there are still a couple of outstanding Code Enforcement issues that Mr. Leggett and I are dealing with.

Item No. 13. Update from Finance Officer and Tax Collector

Town Finance Leslie Officer Gaylord – You have the reports in your packets for the preliminary June statements. They are not the final statements for the year because we still have to get some receivables and payables to be recorded but it's pretty close.

Item No. 14. Public Safety Report

Councilman Smith – The Public Safety Committee is in the process of fixing the radar trailer. Mr. Bilbao is working with the deputies on some software issues in deploying the sign. The traffic counter is still in service but is not deployed at this time. They do have some data for Antioch Church Road during and after school and it has been placed in a Drop Box. Mr. Bilbao will be here at the next meeting to present that data. One of the members is looking into getting a price from the Heart Association on getting certified as a CPR Instructor. Ms. Crooks is looking into her and possibly Ms. Piontek to be instructors. This will enable us to provide that service for the residents in the future.

Item No. 15 Transportation Report

Councilman Buzzard – I spoke with Mayor Pro Tem Titherington today and he wanted me to update you on the Rea Road Extension in regard to WCWAA. His conversations with NCDOT are progressing and are still working on a shift of that section of Rea Road to move away from the WCWAA property preventing the loss of fields. In addition when we discuss projects we do have the Ennis Road intersection that we could probably look at to submit to CRTPO. I will work with Mr. Burton on taking care of that. There is a new four way stop at the intersection of Indian Trail and Beulah Church Road. NCDOT is in the process of putting a roundabout there. It's been funded but is not scheduled until 2017 building cycle.

Item No. 16. Council Comments

Councilwoman Propst – I'd like to thank everyone for coming out tonight.

Councilman Smith – No comments.

Councilman Buzzard – Thanks everyone for coming out.

Mayor Deter – Thanks everyone for coming out.

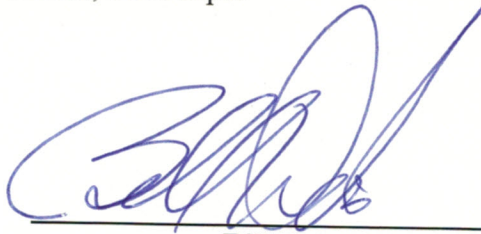
17. Adjournment

Councilwoman Propst moved to Adjourn. All were in favor, with votes recorded as follows:

AYES: Councilmembers Smith, Buzzard, and Propst

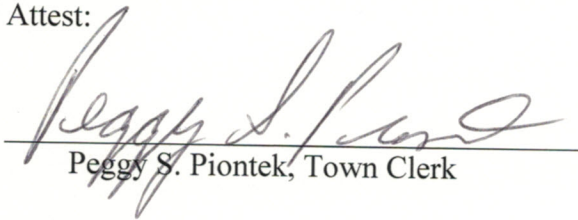
NAYS: None

The meeting ended at 7:55 p.m.

A handwritten signature in blue ink, appearing to be "Bill Deter", written over a horizontal line.

Bill Deter Mayor

Attest:

A handwritten signature in blue ink, appearing to be "Peggy S. Piontek", written over a horizontal line.

Peggy S. Piontek, Town Clerk



TOWN OF
WEDDINGTON

1924 Weddington Road • Weddington, North Carolina 28104

TO: Mayor and Town Council
FROM: Kim H. Woods, Tax Collector
DATE: July 18, 2016
SUBJECT: 2016 Real Property Taxes

In accordance with General Statutes 105.321, I am hereby requesting authorization to collect the 2016 Real Property Taxes for the Town of Weddington.

State of North Carolina
Town of Weddington

To the Tax Collector of the Town of Weddington

You are hereby authorized, empowered, and commanded to collect the taxes set forth in the tax records filed in the Town of Weddington Collections Department and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in the Town of Weddington, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with the law.

Witness my hand and official seal this 18th day of July, 2016.

Bill Deter, Mayor

Attest:

Peggy Piontek, Town Clerk

Telephone (704) 846-2709 • Fax (704) 844-6372

**AN ORDINANCE TO AMEND SECTION 58-4
OF THE CODE OF ORDINANCES
OF THE TOWN OF WEDDINGTON
O-2016-08**

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WEDDINGTON THAT SECTION 58-4 OF THE CODE OF ORDINANCES BE AMENDED AS FOLLOWS:

Sec. 58-4. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

[...]

Fabric store means a retail establishment which is primarily in the business of selling fabric, yarn, patterns for clothing and nonclothing items, sewing machines, and various types of notions. Some examples of notions are appliques, bobbins, crochet hooks, cutting tools, drapery rods and fittings, dress shields, elastic, fabric dye, iron-ons, knitting needles, needles, pads, patches, pins, scissors, sewing boxes, snaps, stabilizers, tapes, velcro, zippers, etc.

Facilities, common, means facilities within a conservation subdivision that are located on conservation land and are meant for the enjoyment and use of residents of that subdivision. The term "common facilities " includes, but is not limited to, ballfields, benches, playgrounds, trails, paths, etc.

Family means an individual, or two or more persons related by blood, marriage, or adoption living together as a single housekeeping unit, or a group of not more than six persons, who need not be related by blood, marriage, or adoption, living together as a single housekeeping unit.

Family care home means a home with support and supervisory personnel that provides room and board, personal care and rehabilitation services in a family environment for not more than six resident handicapped persons, as defined in G.S. 168-1(2).

Farmland means those areas that are used for the production and activities related or incidental to the production of crops, fruit, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market.

Financial institution means any building in which the principal use is a business which provides financial service involving the management of money, funds, securities, and other financial assets. Financial institutions include banks; savings and loan associations; agricultural, business, and personal credit services and credit unions; security and commodity brokerages, exchanges and services; and other investment firms, lending companies, and credit services.

Floodplain means any land area susceptible to being inundated by water from the base flood. The term "floodplain" refers to that area designated as subject to flooding from the base flood (i.e., 100-year flood) on the Flood Boundary and Floodway Map prepared by the U.S. Department of Housing and Urban Development, dated July 18, 1983, or latest revision thereof, a copy of which is on file in the zoning administrator's office.

Floor area ratio means the total floor area of all buildings or structures in square feet, excluding parking decks, within a development divided by the total area of all lots or tracts containing that development.

Floor covering, wallpaper, paint and window covering store means a commercial establishment primarily in the business of selling floor covering, wallpaper, paint and window coverings, and similar and related items.

Florist and gift shop means a retail store primarily in the business of selling flowers and/or ornamental plants (neither of which shall be grown on-premises) and/or gifts.

Forestland means a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater and includes areas that have at least 100 trees per acre with at least 50 percent of those trees having at least a two-inch or greater diameter at 4.5 feet above the ground.

Foundation Survey is a survey done to collect the positional data on a foundation that has been poured and is cured. This is done to ensure that the foundation was constructed in the location, and at the elevation shown on Town approved plot plan, site plan, or subdivision plan. This survey verifies proper placement of the structure before the builder resumes construction.

Funeral chapel means a building used for the display of the deceased and ceremonies connected therewith before burial. No preparation or embalming of bodies or the cremation of bodies shall take place at a funeral chapel.

Golf course means a tract of land for playing golf improved with tees, fairways, hazards, and may include clubhouses and shelters.

Government or town facility means a building or structure owned, operated, or occupied by a government agency to provide a governmental service to the public.

Green, village, means a small, grassed open area that is centrally located in the neighborhood in which it is located and contains no structures other than benches, pavillions, memorials, etc.

Greenhouse, commercial, means an establishment whose primary business is the growing of plants through the use of one or more on-premises greenhouses.

Grocery store means a retail store greater than 3,000 square feet in area which sells a wide variety of fresh produce, canned and packaged food items, small household goods and similar items which are consumed and used off-premises. In addition, a grocery store may contain a section where prepared foods are sold and consumed on-premises in a specially designated sitdown area. The sale of prepared foods for on-premises consumption, however, must be clearly subordinate to the sale of food and goods intended for consumption and use off-premises. The sale of fuel at fuel stations shall not be permitted at grocery stores.

Gross floor area means the total area of a building (in square feet) measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.

Hardware store means a retail establishment primarily in the business of selling various household goods, paints, building and hardware products, household animal supplies, nursery and yard goods, and durable goods (e.g., lawn mowers, appliances, etc.).

Health/sports club means a facility designed and equipped for the conduct of sports, exercise or other customary and usual recreational activities, operated for profit or not-for-profit and which can be open only to bona fide members and guests of the club or open to the public for a fee.

Historic site means one or more parcels, structures, or buildings that is either included on the state register of historic properties or designated on the National Register of Historic Places, or authenticated as historic in a survey and report by a registered architect or architectural historian and which has been submitted to and approved by the town.

Historical marker means any manmade plaque or sign containing an inscription with historical information about a person, place, or event.

Horse farm or academy means a site where three or more horses are housed, bred, boarded, trained or sold.

Impervious surface means any material which reduces and prevents absorption of stormwater into previously undeveloped land.

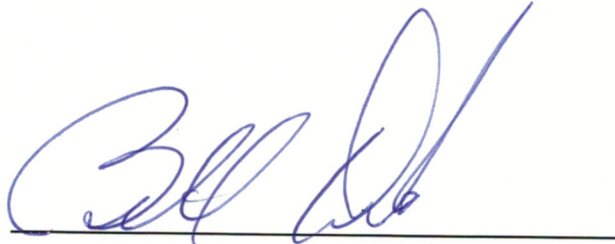
Insurance agency means an office that is primarily in the business of selling insurance.

Jewelry store means a retail store that is primarily in the business of selling, buying and/or repairing jewelry.

Junkyard means the use of more than 600 square feet of the area of any lot for the storage, keeping, or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.


(Ord. No. 87-04-08, § 2.2, 4-8-1987; Amd. of 5-9-1994; Ord. No. O-2002-33, 12-9-2002; Ord. No. O-2003-05, 3-10-2003; Ord. No. O-2003-14, 7-14-2003; Ord. No. O-2004-01, 3-8-2004; Ord. No. O-2004-06, 6-14-2004; Ord. No. O-2004-08, 7-12-2004; Ord. No. O-2004-25, 11-18-2004; Ord. No. O-2006-05, 1-9-2006; Ord. No. O-2006-14, 8-14-2006; Ord. No. O-2006-17, 10-9-2006; Ord. No. O-2006-19, 10-9-2006; Ord. No. O-2007-01, 1-8-2007; Ord. No. O-2008-06, 4-14-2008; Ord. No. O-2009-06, 7-13-2009; Ord. No. O-2010-05, 4-12-2010; Ord. No. O-2011-02, 3-14-2011; Ord. No. O-2011-07, 4-11-2011; Ord. No. O-2011-09, 5-9-2011; Ord. No. O-2011-11, 7-11-2011; Ord. No. O-2011-16, 12-12-2011; Ord. No. O-2012-01, 1-9-2012; Ord. No. O-2012-11, 7-9-2012; Ord. No. O-2012-12, 8-13-2012; Ord. No. O-2012-13, 10-8-2012; Ord. No. O-2013-12, 8-12-2013; Ord. No. O-2013-14, 12-9-2013; Ord. No. O-2014-03, 3-10-2014; Ord. No. O-2014-13, 11-10-2014; Ord. No. O-2015-01, 2-9-2015; Ord. No. O-2015-11, 6-8-2015; Ord. No. O-2016-2, 4-11-2016, Ord. No. O-2016-08, 7-18-2016)

ADOPTED THIS 18TH DAY OF JULY, 2016



Bill Deter, Mayor

Attest:


Peggy S. Piontek, Town Clerk

**AN ORDINANCE TO AMEND SECTION 58-234
OF THE CODE OF ORDINANCES
OF THE TOWN OF WEDDINGTON
O-2016-09**

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WEDDINGTON THAT SECTION 58-234 OF THE CODE OF ORDINANCES BE AMENDED AS FOLLOWS:

Sec. 58-234. - Variance application procedure.

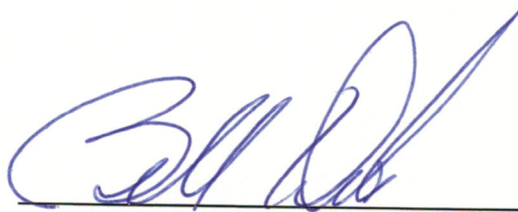
The following regulations apply to all applications submitted to the board of adjustment:

- (1) Before a petition for an interpretation, appeal, or variance shall be considered, a completed application of a form provided by the town, accompanied by a fee (as established by the town council), shall be submitted to the zoning administrator. No application shall be considered complete or processed by the zoning administrator unless accompanied by said fee; provided, however, that the fee shall be waived for any petition initiated by the zoning administrator. The application shall contain the name, address and telephone number of the applicant, and property owner (if different from applicant), and a description of the subject property with reference to the deed book and page. The application shall also contain a list of names and addresses of adjoining and contiguous property owners on all sides and across any street and public right-of-way from the subject property. This information shall be based upon the current year Union County and Mecklenburg County tax records. The application shall be accompanied by a map clearly showing the subject property and all contiguous property on either side and all property across any street or public right-of-way from the subject property.
- (2) The filing of any application stays all proceedings unless the zoning administrator certifies to the board of adjustment that a stay in his opinion will cause imminent peril to life or property, or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of this chapter. In that event, proceedings shall not be stayed, except by a restraining order, which may be granted by the board of adjustment, or by a court of record, on application, on notice to the zoning administrator, and on due cause shown.
- (3) The board of adjustment shall hold a hearing on all complete applications no later than 40 days after the application has been filed with the zoning administrator unless consented to by the applicant.
- (4) Before the board of adjustment holds a public hearing with regards to a variance, the board of adjustment shall give notice of the public hearing by sending notices by first class mail to the person or entity whose appeal is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning ordinance. In the absence of evidence to the contrary, the town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least ten days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of way.
- (5) A written application for a variance must also demonstrate in detail, the following:
 - a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.

- b. That a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.
 - c. That said circumstances do not result from the actions of the applicant.
 - d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures or buildings in the same district.
 - e. That no nonconforming use of neighboring land, structures or buildings in the same district and no permitted use of land, structures or buildings in other districts will be considered grounds for the issuance of a variance.
- (6) In all matters before the board of adjustment, the applicant shall have the burden of providing substantial, competent and material evidence in support of the application.
- (7) Subsequent to the issuance of a zoning permit and construction of a building or structure, the board of adjustment shall have no authority to issue a variance for a waiver of a setback or bulk requirement for a building or structure if the applicant had not first submitted a foundation survey, in accordance with subsection 58-208(8), subsequent to the construction of the foundation and prior to the application for a certificate of compliance. Applicants may still apply for such variance prior to commencement of any construction without meeting the foundation survey requirement.

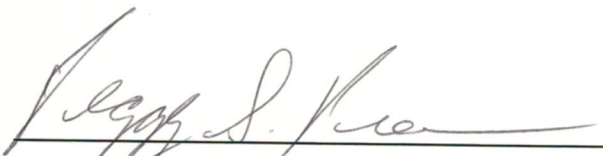
(Ord. No. O-2010-08, 6-14-2010; Ord. No. O-2014-10, 10-13-2014, Ord. No. O-2016-09, 7-18-2016)

ADOPTED THIS 18TH DAY OF JULY, 2016



Bill Deter, Mayor

Attest:



Peggy S. Piontek, Town Clerk