

SECTION 10

BOARD OF APPEALS

Sec. 10-1 Authority.

The Board of Appeals, which has been created by an Ordinance of the Commissioners of Chatham County dated August 24, 1962, shall have full and complete jurisdiction as hereinafter set forth.

Sec. 10-2 Rules and Procedures.

The Board of Appeals shall elect one of its members as Chairman, who shall serve for one year or until he is re-elected or his successor is elected. The Board of Appeals shall appoint a secretary who may be an officer or employee of Chatham County or of the Planning Commission. The Board of Appeals shall have authority to adopt rules of procedure. Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as said Board may determine. The Chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of said Board and shall be a public record. The decision of the Board of Appeals shall be by resolution, which resolution shall contain a statement of the grounds of its decision or action. The full text of the resolution shall be sent to the appellant. No appeal requesting the same relief in regard to the same property shall be received or heard by the Board of Appeals for a period of 12 months following the date of said resolution, except that this limitation shall not affect the right of said Board to grant a rehearing as provided in the rules of procedure adopted by said Board.

Sec. 10-3 Administrative Assistance.

The Zoning Administrator shall provide such technical, administrative, and clerical assistance and office space as is required by the Board of Appeals to carry out its function under the provisions of these regulations.

Sec. 10-4 Appeals.

Sec. 10-4.1 Who May Appeal.

Appeals to the Board of Appeals may be taken by a person aggrieved or by any officer, department, board, or bureau of the governing authority affected by any decision of the Zoning Administrator.

Such appeal shall be filed no later than 30 days after the date of notification of the decision appealed from, by filing with the Zoning Administrator and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

Sec. 10-4.2 Legal Proceedings Stayed.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Appeals after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or be a court of record on application, on notice to the Zoning Administrator, and on due cause shown.

Sec. 10-4.3 Presentation of Evidence.

The appellant, and any public agency or private individual shall be entitled to present evidence on matters before the Board of Appeals, and said Board may request technical service, advice, data, or factual evidence from the Planning Commission and the governing authorities for assistance in reaching decisions.

Sec. 10-4.4 Extent of Board of Appeals' Power.

The Board of Appeals may, in conformity with the provision of these regulations, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the Zoning Administrator, and to the end shall have all the powers of the Zoning Administrator. The Board of Appeals may direct the issuance of a permit. It shall be the duty of the Zoning Administrator to carry out the decisions of the Board of Appeals.

Sec. 10-4.5 Board of Appeals Decision Invalid After Six Months.

A building permit issued by the authority of the Board of Appeals shall become invalid unless the work authorized by such permit shall have commenced within six months of its issuance, or if work or development authorized by such permit is suspended or abandoned for a period of six months after the work or development has commenced. The valid time of a building permit issued by the Board of Appeals may be extended by the Board for good cause.

Sec. 10-5 Public Hearing.

Sec. 10-5.1 Notice of Hearing Shall be Given.

Before making its decision on any appeal, request for permission to establish a use, request for a variance, or on any other matter within the Board of Appeals' purview, said Board shall hold a public hearing thereon. At least 15 days notice of the time and place of such hearing shall be sent to the appellant or petitioner, to the Planning Commission, to the Zoning Administrator, and to the owner of all properties either adjoining the property with which the hearing is concerned or situated directly across a public right-of-way from said property. Such notice shall contain the name of the appellant or petitioner, the date, time, and place fixed for the hearing and a brief statement of the error alleged by the appellant, or of the variance, use requiring special approval, or other relief requested.

Sec. 10-5.2 Erection of Sign.

At least 15 days prior to the date of the scheduled public hearing of an appeal, the applicant shall erect a sign, to be furnished by the Zoning Administrator, on the land with which the appeal is concerned. This sign shall be nonreturnable, weather-resistant or equal, shall have a minimum size of 30 x 40 inches, show the application number, the type of relief sought, the scheduled date, time, and place of public hearing, and the telephone number to call for further information. Once the petition is disposed of, the applicant must remove and dispose of the sign within ten (10) days.

Sec. 10-5.3 Adjournment of Hearing.

Hearings may be adjourned from time to time and, if the time and place of the continued hearing be publicly announced at the time of the adjournment, no further notice of such continued hearing shall be required; otherwise, notice thereof shall be given, as in the case of the original hearing.

Sec. 10-5.4 Who May Appear.

Any party may appear at the public hearing in person or by agent or by attorney.

Sec. 10-5.5 Public Notice in Newspaper.

The Board of Appeals shall give public notice of the hearing in a newspaper published and circulated in Chatham County by advertisement published at least five days prior to the date of the public hearing.

Sec. 10-5.6 Rehearings.

An application for a rehearing may be made in the same manner as provided for an original hearing.

Sec. 10-5.7 Time Limit on Board's Decision.

The Board of Appeals shall reach a decision following a public hearing within a reasonable period of time; however, said period shall not exceed 30 days.

Sec. 10-6 Powers and Duties.

Sec. 10-6.1 Appeals from Actions of the Zoning Administrator.

The Board of Appeals shall hear and decide upon appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Zoning Ordinance.

Sec. 10-6.2 Request for Permission to Establish Uses.

The Board of Appeals shall hear and decide upon requests for permission to establish uses upon which the Board of Appeals is required to pass under the terms of these regulations.

The application to establish such use shall be approved on a finding by the Board of Appeals that:

- a. The proposed use does not affect adversely the general plans for the physical development of Chatham County, as embodied in these regulations and in any Master Plan or portion thereof adopted by the Commissioners of Chatham County.
- b. The proposed use will not be contrary to the purpose stated for these regulations.
- c. The proposed use will not affect adversely the health and safety of residents or workers in Chatham County.
- d. The proposed use will not be detrimental to the use or development of adjacent properties or the general neighborhood.
- e. The proposed use will not be affected adversely by the existing uses.
- f. The proposed use will be placed on a lot of sufficient size to satisfy the space requirements of said use.

- g. The proposed use will not constitute a nuisance or hazard because of the number of person who will attend or use such facility, vehicular movement, noise or fume generation, or type of physical activity.
- h. The standards set forth for each particular use for which a permit may be granted have been met.
- i. Provided, that the Board of Appeals may impose or require such additional restrictions and standards as may be necessary to protect the health and safety of workers and residents in the community, and to protect the value and use of property in the general neighborhood.
- j. Provided, that the proposed use shall be subject to the minimum area, setback, and other location requirements of the zoning district in which it will be located.
- k. Provided, that the proposed use shall be subject to the off-street parking and service requirements of these regulations.
- l. Provided, that wherever the Board of Appeals shall find, in the case of any permit granted pursuant to the provisions of these regulations, that any of the terms, conditions or restrictions upon which such permit was granted are not being complied with, said Board shall rescind and revoke such permit after giving due notice to all parties concerned and granting full opportunity for a public hearing.

Use approval granted by the Board of Appeals shall be subject to the following provisions:

- a. The use approval shall run with the property. The sale or transfer of an approved use to a new owner or tenant shall not require re-approval by the Board of Appeals.
- b. The use approval shall apply only to the specific location on the property, configuration and intensity as identified in the site plan submitted with the use approval application and as approved by the Board.
- c. Relocation of the use on the site, expansion of the use, or the establishment of additional similar uses on the site (where permitted by the district within which it is located) requires a new sue approval application to the Board.
- d. Any approved use which ceases to operate for a period of one year shall require Board approval to be reestablished.

Sec. 10-6.3 Request for a Variance.

The Board of Appeals may authorize upon appeal in specific cases such variance from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations will in an individual case, result in unnecessary hardship, so that the spirit of these regulations will be observed, public safety and welfare secured, and substantial justice done; provided, however, that a variance shall not be granted to permit a use of land or building or structure that is prohibited by this ordinance in the district in question. Such variance may be granted in an individual case upon a finding by the Board of Appeals that:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.
- b. The application of these regulations to this particular piece of property would create an unnecessary hardship.
- c. Such conditions are peculiar to the particular piece of property involved.
- d. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations.

Sec. 10-6.4 Request for Extension of Nonconforming Use.

The Board of Appeals may authorize, upon appeal in specific cases, an extension of an existing nonconforming use involving an increase in either or both the land area or the floor area in a building or buildings occupied by a nonconforming use, and an extension of an existing nonconforming use involving an increase in the land area occupied by an open use of land which is a nonconforming use. Said extension may be granted in an individual case upon a finding by the Board of Appeals that:

- a. The use is a nonconforming use as defined in these regulations.
- b. The use is in full compliance with all requirements of these regulations applicable to nonconforming uses.
- c. The extension of said use will not further injure a permitted use of adjacent property in the same zoning district.

Sec. 10-7 Forms.

Appeals, request for permission to establish a use requiring special approval, requests for variances, and requests for extension of nonconforming uses shall be made on forms provided therefore, and all information required on said forms shall be provided by the appellant. Forms shall be filed with the Board of Appeals, and the appellant shall pay said Board for expenses incidental to the appeal. No form shall be accepted by the Board of Appeals unless it contains all pertinent information is accompanied by the required fee to defray expenses.

Sec. 10-8 Calendar of Appeals.

Appeals and application filed in proper form shall be numbered serially, docketed, and placed under the calendar of the Board of Appeals. The calendar of appeals to be heard shall be posted conspicuously in the office of the Board of Appeals and in the office of the Zoning Administrator during the period before such hearing date.