



AGENDA
BREVARD BOARD OF ADJUSTMENT-- REGULAR MEETING
Tuesday, March 1, 2016 – 3:00 PM
Council Chambers

- I. Welcome**
- II. Introduction of Board Members**
 - a. Certify Quorum and Voting Members
- III. Approval of Agenda**
- IV. Approval of Minutes**
 - a. February 2, 2016
- V. New Business - None**
- VI. Old Business**
 - a. Rules of Procedure
- VII. Other Business**
- VIII. Adjourn**

MINUTES
BREVARD BOARD OF ADJUSTMENT – REGULAR MEETING
Tuesday, February 2, 2016– 3:00 PM – Council Chambers

The Brevard Board of Adjustment met in regular session on Tuesday, February 2, 2016 at 3:00 PM in Council Chambers of City Hall.

Members Present: Judith A. Mathews, Chair
 Carol Dillingham
 Tad Fogel
 Mike Young
 Tom Tartt
 Paul Welch
 Kevin Jones

Staff Present: Daniel Cobb, Planning Director
 Aaron Bland, Planner
 Paul Ray, Sr. Code Enforcement Officer
 Janice H. Pinson, Board Secretary
 Mike Egan, Board Attorney

I. Welcome and Introduction of Board Members

Chair, J. Mathews called the meeting to order at 3:00 PM, Board introduced themselves. Chair, J. Mathews certified that a quorum of the Board was present and established who the voting members.

II. Approval of Agenda

J. Mathews requested a Motion to approve the Agenda. C. Dillingham moved to approve, seconded by Tad Fogel, unanimously carried.

III. Approval of Minutes

J. Mathews requested a motion to approve the Minutes of the January 12, 2016 meeting. Motion by T. Tartt to approve minutes as written, seconded by Mike Young, unanimously carried.

IV. New Business:

a. Presentation by Annette Raines, Transylvania County Tax Administrator, Countywide Reappraisal 2016.

Annette Raines, Tax Administrator, made a presentation on the 2016 tax reappraisal process.

Kevin Jones arrived at 3:11 PM and apologized for being late.

b. Election of Officers

T. Fogel moved to nominate Judy Mathews as Chair, seconded by T. Tartt, unanimously carried.

M. Young nominated T. Tartt as Vice Chair, seconded by T. Fogel, unanimously carried.

c. Rules of Procedure Discussion

Daniel Cobb stated that over the last few months a couple of topics had been touched on that needed further discussion. There was discussion of changing voting requirements to a majority of members present, instead of a majority of the board members. Also, to use the publication "Suggested Rules of Procedure for Small Local Government Boards" Second Edition by A Fleming Bell, II, instead of Roberts Rules. There was also discussion of changing the number of cases that are allowed to be heard, and making revisions to application submittal guidelines. D. Cobb stated that he just wanted to open the discussion and that text for review would be provided at the next meeting.

VI. Old Business

a. Training

Mike Egan, Board Attorney, provided training using role play of a special use permit case for the board.

VII. Other Business

None.

VIII. Adjourn

Motion to adjourn unanimously carried and meeting adjourned at 4:52 PM.

Judith A. Mathews, Chairman

Janice H. Pinson, Board Secretary



The City of
Brevard
North Carolina

NEW BUSINESS STAFF REPORT

March 1, 2016

TITLE: Rules of Procedure Amendments
SPEAKER: Daniel P. Cobb AICP, Planning Director
PREPARED BY: Daniel P. Cobb AICP, Planning Director

EXECUTIVE SUMMARY: The Board will review proposed changes to the Rules of Procedure.

BACKGROUND: The current version of the Board's Rules of Procedure were adopted in 2014, included with this report is a copy of the recommended changes.

DISCUSSION: Over the last several months the Rules of Procedure governing how the BOA operate has come up for discussion. Examples of changes include which members should vote on a given issue, the change in meeting time, and other minor changes. Text recommended for deletion is shown as ~~red with strikethrough~~, text recommended to be inserted is shown as **blue**.

SUMMARY: Changes to these Rules of Procedure must first be discussed by the Board and adopted at a subsequent meeting. Should the Board desire to approve the changes as presented, Staff will include the modified text for adoption at the Board's regular meeting in April.

ATTACHMENT(S):

- A. Suggested Rules of Procedures (Bylaws)

1 ~~RULES OF PROCEDURE~~
2 BYLAWS
3 OF THE CITY OF BREVARD
4 BOARD OF ADJUSTMENT

5
6 REVISED AND READOPTED: 14 OCTOBER 2014
7
8

9 **ARTICLE I**

10 **Name**

11
12 The name of this Board shall be the City of Brevard Board of Adjustment ("Board").
13

14 **ARTICLE II**

15 **Powers and Duties**

16
17 The Board shall have those powers and duties set out in N.C.G.S. §160A-388, and
18 elsewhere in the General Statutes, and in the Unified Development Ordinance of the
19 City of Brevard, as well as those powers not inconsistent therewith as set forth herein.
20

21 **ARTICLE III**

22 **Members**

23
24 Section 1. *Composition.* The Board shall be composed of five regular members and three
25 alternates as provided by Section 15.1.B of the City of Brevard Unified Development
26 Ordinance ~~Subject to the provisions of N.C.G.S. §§ 160A-362 and 160A-388, or any~~
27 ~~successor statutes, the members shall be chosen as follows:~~
28

29 ~~—A. Three regular members and two alternates, each of whom shall be a resident of~~
30 ~~the City of Brevard, shall be appointed by the City Council of the City of~~
31 ~~Brevard.~~
32

33 ~~—B. Two regular members and one alternate, each of whom shall be a resident of the~~
34 ~~extraterritorial jurisdiction of the City of Brevard, shall be appointed by the~~
35 ~~Transylvania County Commission.~~

36
37 Section 2. *Term of Office.* Members shall serve three-year terms as provided by [Section](#)
38 [15.1.B](#) of the City of Brevard Unified Development Ordinance.

39
40 Section 3. *Vacancies.* Vacancies shall be filled as soon as deemed advisable by the
41 applicable appointing authority.

42
43 Section 4. *Removal of Members.* Any member of the Board may be removed by the
44 applicable appointing authority for inefficiency, neglect of duty, malfeasance, or conflict
45 of interest.

46
47 **ARTICLE IV**
48 **Officers of the Board**

49
50 Section 1. *Designated Officers.* The officers of the Board shall consist of a Chair and a
51 Vice-Chair.

52
53 Section 2. *Nomination and Election.* The Board shall hold elections for officers at its
54 January meeting each year. Should the Board fail to meet in January of any year,
55 elections shall be held at the next meeting of the Board. Nominations for officers shall
56 be made from among the regular members of the Board. Officers shall be elected by a
57 majority vote of ~~all members and shall assume their offices at the close of the meeting at~~
58 ~~which elected~~ [the members, both regular and alternate, present at the meeting.](#)

59
60 Section 3. *Term.* Officers shall be elected for a term of one year or until a successor is
61 elected and assumes office. There shall be no limit to the number of terms an officer
62 may serve.

63
64 Section 4. *Vacancy in Office.* A vacancy in office shall be filled by the Board not later
65 than seventy days after the occurrence of the vacancy, by vote of [the](#) regular [and](#)
66 [alternate](#) members attending the meeting at which the vote is taken.

67
68 Section 5. *Duties of the Chair.* The Chair shall have the following duties:

69

- 70 A. Preside at meetings of the Board;
71
72 B. Provide general supervision of the conduct of the affairs of the Board and
73 assigned staff members;
74 C. Advise the Zoning Administrator of member concerns;
75
76 D. Appoint any committees and committee chairs;
77
78 E. Perform such other duties as determined by the Board, the bylaws, policies and
79 procedures adopted by the Board from time to time.
80

81 Section 6. *Duties of the Vice-Chair.* The Vice-Chair shall serve as acting chair in the
82 absence of the Chair and, at such times, shall have the same powers and duties as the
83 Chair.

84

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ARTICLE V

86

Delegation of Duties; Clerk

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88 The Board may delegate duties or functions to staff members as needed to carry out its
89 assigned duties. The Brevard Planning Department Secretary shall serve as the Clerk to
90 the Board of Adjustment and shall keep the minutes and do other tasks as assigned by
91 the Board. The Clerk shall have the following responsibilities:

92

- 93 A. Attend all regular and special meetings and hearings, as well as any committee
94 meetings, and keep a record thereof, which shall be transcribed in the minute
95 book of the Board.
96
97 B. Send notices of all meetings of the Board required to be sent by law, under these
98 bylaws, or as directed by the Chair.
99
100 C. Have charge of all books, papers and records of the Board and attend to all
101 correspondence of the Board.

102

103 If for any reason the Clerk is unable to attend a meeting of the Board or is temporarily
104 unable to otherwise fulfill the responsibilities of that office, the Board may appoint a
105 substitute on an interim basis.

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ARTICLE VI

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Meetings

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110 Section 1. *Regular Meetings.* Regular meetings of the Board shall be held at ~~7:00~~ 3:00
111 p.m. on the ~~second~~ first Tuesday of each month in the Council Chambers of City Hall,
112 except when otherwise decided by the Board, with due notice to the press. If a day
113 scheduled for a regular meeting is a holiday for which the offices of the City of Brevard
114 are closed, the regular meeting shall be held at 3:00 p.m. on the following Tuesday.

115

116 Section 2. *Special Meetings.* Special meetings of the Board may be called at any time by
117 the Chair provided that at least 48 hours written notice of the time and place of a special
118 meeting be given, to each regular and alternate member of the Board and to the Clerk.
119 In addition, members of the press shall be notified of each meeting in accordance with
120 law. Special meetings may include Board retreats and like meetings held to conduct
121 internal business of the Board.

122

123 Section 3. *Cancellations.* If there is no business for the Board, or if it is apparent a
124 quorum will not be available, the Chair or Clerk may dispense with a regular or special
125 meeting by giving written or oral notice to all members not less than 24 hours prior to
126 the time set for the meeting.

127

128 Section 4. *Quorum.* A quorum shall consist of four members of the Board (including
129 alternates); provided, however, when hearing an application for a variance, the Board
130 shall, upon the request of the applicant, continue the hearing when less than five
131 members of the Board are present. Notwithstanding the foregoing, a quorum shall not
132 be necessary to do any of the following:

133

134 A. Set a date, time or place for any subsequent meeting;

135

136 B. Discuss general internal Board business; provided, however, in no event may the
137 Board without a quorum hear or discuss the merits of any matter brought or to
138 be brought before the Board as part of a public hearing.

139
140 Section 5. *Voting*. Except as otherwise provided in these bylaws, including the policies
141 and procedures attached hereto, a majority of all regular and alternate members eligible
142 to vote shall be necessary to transact any official business. Except as otherwise
143 provided herein, any regular member in attendance at any meeting shall be eligible to
144 vote on all matters brought before the Board at that meeting. If there are more
145 alternates present than regular members missing, the Chair shall select which
146 alternate(s) shall be eligible to vote. The Chair may empower alternates to vote at any
147 portion of a meeting where a regular member is absent or excused, including any public
148 hearing.

149
150 Section 6. *Records*. The Board shall keep minutes and records of all proceedings,
151 including resolutions, transactions, findings and determinations, shall record the
152 number of votes for and against each question presented, and shall indicate whether
153 any member is absent or abstains from voting. All such records shall be filed in the
154 office of the Clerk to the Board.

155
156 Section 7. *Open Meetings and Public Hearings*. Board meetings and public hearings shall
157 be open to the public as required by N.C.G.S. Chapter 143 Article 33C.

158
159 Section 8. *Order of Business*. The order of business at regular meetings shall be as
160 follows:

- 161
162 Roll call; determination of quorum;
163 Approval of the Agenda
164 Approval of Minutes of previous meeting;
165 Hearing of cases;
166 Other business;
167 Adjourn.

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ARTICLE VII
Parliamentary Authority

~~Robert's Rules of Order, Modern Edition, most current revision~~ Suggested Rules of Procedure for Small Local Government Boards, published by the University of North Carolina School of Government, shall govern the proceedings of the Board in all cases to which they are applicable and in which they are not inconsistent with these ~~Rules of Procedure~~ bylaws, the North Carolina General Statutes, or the Ordinances of the City of Brevard.

ARTICLE VIII
Amendment

These ~~Rules of Procedure~~ bylaws may be amended or rescinded from time to time by a vote of a majority of ~~all~~ the members, regular and alternate, of the Board present at the meeting at which the matter is voted upon; provided, however, the Board shall under no circumstance have the authority to modify any provisions or requirements of the North Carolina General Statutes or the Code of Ordinances of the City of Brevard. Any proposed amendment may be read at any meeting. Final vote thereon shall take place, if at all, not earlier than ten days nor later than seventy days following the initial reading.

ARTICLE IX
Employment of Attorneys at Law

Subject to budgetary limitations, the Board may employ attorneys at law for assistance in the prosecution of its purposes. Any such counsel, including any counsel whose representation of the Board may be funded by the City of Brevard or by any other entity, shall nevertheless be independent of the directives of any person or entity other than the Board.

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ARTICLE X
Governing Law, Construction and Definitions

These bylaws, including any policies and procedures adopted hereunder, shall be, so far as reasonable, construed to be in harmony with the statutes and case law of the State of North Carolina and the ordinances of the City of Brevard. Where such construction is unreasonable, these bylaws shall be subject to and superseded by such statutes, case law and ordinances.

As used in the Bylaws and in the Policies and Procedures the following words have the indicated meanings:

“Appeal” means an appeal from the ruling of the Zoning Administrator.

“Application” shall mean any matter brought before the Board for ruling upon quasi-judicial hearing, including any appeal.

“Board” shall mean the City of Brevard Board of Adjustment.

“City” shall mean the City of Brevard, a municipal corporation.

“Entity” shall mean an individual human being, unincorporated association, limited liability company, corporation, partnership, or governmental body.

“Final Vote” shall mean any vote legally sufficient to carry the will of the Board (though not necessarily a majority of the Board, as in the case of a super-majority requirement) into effect. An initial vote may be a final vote.

“Person” shall mean an individual human being.

“Initial Vote” shall mean the first full vote resulting in an initial decision of the board, not including a final written decision including findings of facts and conclusions of law.

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237 "Zoning Administrator" shall mean either the Zoning Administrator for the City or the
238 designee of such person, but in any case being an employee of the City.

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240 **ARTICLE XI**
241 **Preservation**

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243 If any court of competent jurisdiction declares any of these bylaws, policies or
244 procedures to be invalid or unenforceable, the remaining bylaws, policies and
245 procedures shall remain nevertheless in full force and effect.

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247 **ARTICLE XII**
248 **Repeal of Previous Bylaws, Rules and Policies**

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250 All bylaws, rules, policies and procedures heretofore adopted by the Board are
251 **REPEALED** by the adoption of these Bylaws.

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257 1. Board Policies.

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259 A. Policies shall be adopted by a majority vote of the entire Board.

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261 B. Policies may be amended or rescinded from time to time by a vote of a majority
262 of members, regular and alternate, of the Board present at any lawful meeting of
263 the Board in a manner consistent with the procedures for amending the bylaws
264 of the Board. Any proposed amendment may be read at any meeting. Final vote
265 thereon, shall take place, if at all, not earlier than ten days nor later than seventy
266 days following the initial reading.

267

268 C. Policies may be suspended temporarily by a majority vote of those present, for
269 reasons declared clearly and specifically and placed upon the minutes.

270

271 2. Administration.

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273 The Clerk shall house all official books, papers and records of the Board and shall be
274 responsible for all official correspondence relative to hearings, meetings, resolutions
275 and decisions of the Board, if any such delegation of duties is not specifically set
276 forth in the Bylaws.

277

278 3. Filing appeals and other applications.

279

280 A. Applications for variances, special use permits, and architectural exceptions shall
281 be filed with the Zoning Administrator ~~between 8:00 a.m. and 4:30 p.m., except~~
282 ~~on weekends and holidays.~~

283

284 B. All appeals shall be filed with the City Clerk in accordance with the procedure
285 set forth in Section 16.13.C of the City of Brevard Unified Development
286 Ordinance. ~~not later than ten days after the appellant has received notice of the~~

287

288 ~~action that is appealed.~~ Appeals must be filed within 30 days of the receipt of
289 notice, either actual or constructive, of the decision being appealed. Actual
290 notice includes written, and in that event, notice will be adjudged to have been
291 received on the earliest of any of the following dates:

292

293 (1) in the case of hand delivery, on the date of delivery to the appellant or any
294 person reasonably adjudged to be capable of forwarding it in a timely manner
295 to the appellant or any director, officer or manager of the appellant;

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297 (2) in the case of delivery sent return receipt requested, on the date of signing of
298 the return receipt unless the appellant can demonstrate to the Board's
299 satisfaction that such person was neither an appellant nor any person capable
300 of forwarding it in a timely manner to the appellant or any director, officer or
301 manager of the appellant;

302

303 (3) in the case of any other delivery sent through the U.S. mails, three days after
304 the date of deposit in the U.S. mails, sufficient postage prepaid, and upon the
305 credible sworn statement of the sender or any designee that the notice was so
306 deposited and was not returned;

307

308 (4) in the case of any nationally or regionally recognized private courier, on the
309 date shown to have been delivered on a standard receipt or delivery form
310 issued by the courier;

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312 (5) in the case of delivery by electronic mail, on the date of delivery indicated on
313 an electronic delivery receipt form to an electronic address designated by the
314 appellant to receive such notice, accompanied by a printed version of the
315 receipt introduced by the credible sworn statement of the sender or any
316 designee that the electronic receipt is genuine.

317

318 C. No application for a variance shall be accepted for Board action within one year
319 of Board action on an application on the same, or substantially the same tract of
320 property, unless the Board finds and resolves that either (1) substantial land use,
321 economic or social changes affecting the property have occurred in the interim or
322 (2) the new application differs significantly from the original application.

323

324 For purposes of this Policy, "differs significantly" shall mean (1) that the issue is
325 substantially different from an issue that was or might have been raised in the
326 original application or (2) that the new application contains any other difference
327 that the Board finds to constitute a significant change from the original
328 application.

329

330 Applications made by governmental agencies shall not be subject to this policy
331 nor shall governmental applications affect the filing of subsequent non-
332 governmental applications under this provision.

333

334 4. Docket procedures.

335

336 A. The filing deadline for docketing cases for any Board meeting shall be ~~4:30~~ 5:00
337 p.m. on the day that is ~~20~~ 30 days before the Board meeting; however, no more
338 than four cases shall be docketed for public hearing at any regular meeting of the
339 Board. Except as otherwise directed by the Chair, cases shall be docketed in the
340 order in which applications were received.

341

342 B. The agenda of cases to be considered at any Board meeting shall be posted in the
343 office of the Planning ~~and Zoning~~ Department not less than three days before
344 such meeting.

345

346 5. ~~Public~~ Hearings.

347

348 A. ~~Public~~ Hearings shall be held in the Council Chamber of the City of Brevard or
349 such other place as the Chair from time to time designates.

350

351 B. Cases set for ~~public~~ hearing on a given day shall be heard in the order in which
352 they appear on the agenda unless the Chair directs otherwise.

353

354 C. The Chair shall rule on any matter of law before the Board, including the
355 admissibility of evidence and the competence of any witness. In addition, the
356 Chair may limit testimony by an examination of a witness for reasonable cause.
357 On motion of the Chair or any Board member, the Chair's ruling may be

358 reversed by an affirmative vote of three members of the board present for the
359 entirety of the hearing to that point and eligible to vote on the application. In
360 these bylaws and policies, a member may be absent from the meeting for a very
361 brief period, as determined by the Chair under all the circumstances, and still be
362 present for "the entirety of the hearing."

363

364 D. Rulings of the Chair or the Board on the admissibility of evidence, the
365 competence of witnesses and like matters shall not be strictly bound by the North
366 Carolina Rules of Evidence; however, these rules shall be a guide to rulings on
367 such matters, which rulings shall be made with the intention of preserving both
368 the credibility of the evidence and the public policies of the State of North
369 Carolina with respect to judicial and quasi-judicial hearings.

370

371 E. Within a reasonable time before the **public** hearing, any person who has the right
372 to introduce evidence may subpoena witnesses.

373

374 F. Each person who testifies at any **public** hearing shall first furnish his name and
375 address to the Board.

376

377 G. Each matter in the **public** hearing shall be heard in the following order. In each
378 case, after testimony is presented, the witness may be cross examined.

379

380 (1) The Chair of the Board, or other presiding officer, shall read the notice of
381 the hearing.

382

383 (2) The Zoning Administrator, or his designee, shall present a summary of
384 the history of the application and contents of the file. The entire file shall
385 be made part of the record of the case without the necessity of a motion by
386 any person.

387

388 (3) The applicant, or the applicant's designee, may make a statement giving
389 reasons for the request.

390

391 (4) Other persons in favor of the application shall be heard.

392

- 393 (5) Those persons neither in favor of nor opposed to the application, may be
394 heard.
- 395 (6) The Zoning Administrator or other representative of the City may present
396 evidence.
- 397
- 398 (7) Those persons opposed to the application shall be heard.
- 399
- 400 (8) Parties shall have an opportunity to offer evidence in rebuttal.
- 401
- 402 (9) The Chair shall close the hearing, after which no testimony shall be
403 allowed unless the Board votes to reopen the hearing.
- 404
- 405 (10) For good cause the Chair may continue the hearing.
- 406

407 H. Following the public hearing, the Board may take any of the following actions:

408

- 409 (1) Approve the application as submitted or modified. The Board may attach
410 reasonable conditions to the approval of any application.
- 411
- 412 (2) Deny the application.
- 413
- 414 (3) Close the hearing and defer action on the case to a subsequent meeting,
415 subject to its bylaws and procedures.
- 416

417 I. The following may appear before the Board to present or oppose an application:

418

- 419 (1) Individual persons representing their own interests, if deemed by the
420 Board to have a sufficient interest in the application.
- 421
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425 (2) Individual persons representing groups of persons of whom they are a
426 member, if the group is deemed by the Board to have a sufficient interest
427 in the application.

428

429 (3) Individual employees or members of an association, corporation,
430 partnership, or limited liability company, or any officer or director
431 thereof, if the entity so represented is deemed by the Board to have a
432 sufficient interest in the application.

433

434 (4) Any official representing a governmental body, if the government so
435 represented is deemed by the Board to have a sufficient interest in the
436 application. The City, whose ordinances are necessarily the subject of
437 every application, shall be deemed to have a sufficient interest to appear
438 before the board at every hearing.

439

440 (5) Persons possessing a current valid license to practice law in North
441 Carolina may represent any of the persons or entities mentioned above.

442

443 No person, group or entity may be represented by more than one person at any
444 one hearing. This provision is not intended to limit the number of witnesses
445 called.

446

447 J. No licensed attorney not appearing on his or her own behalf may both (1) offer
448 testimony and (2) question any witness or argue (or both) at any one hearing.

449

450 K. The burden of proof in each case shall be as follows:

451

452 (1) In the case of an appeal, on the appellant.

453

454 (2) In any other case, on the applicant.

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459 6. Decisions.

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461 A. The granting of a variance shall require an affirmative vote of four board
462 members or alternates present at the entire hearing and eligible to vote. All other
463 decisions of the Board shall require an affirmative vote of a majority of the
464 members present at the entire hearing and eligible to vote. Votes shall be made
465 upon a motion to grant the relief requested. The movant is under no obligation
466 to vote in favor of the motion. If the motion fails to achieve the required number
467 of votes, the application shall be deemed denied without further action by the
468 Board. Votes taken more than seventy days after the close of the public hearing
469 shall be accompanied by a declaration for the minutes, articulating clearly and
470 specifically the reasons for the delay.

471

472 B. Written decisions containing findings of fact and conclusions of law may be
473 approved at any time within seventy days after the initial vote. Any written
474 decision presented to the board for final vote more than seventy days after the
475 initial vote shall be accompanied by a written statement articulating clearly and
476 specifically the reasons for the delay.

477

478 C. The final vote, if approving the written decision, shall be held on the following
479 issue: "Do the findings of fact, conclusions of law and ruling contained in the
480 written decision accurately reflect the sense of those who voted with the decision
481 reached in the initial vote?" Subject to the Board's bylaws and procedures, this
482 final vote may be approved by a majority of those members attending the
483 meeting at which the final vote is held and eligible to vote.

484

485 D. If upon an attempted final vote no majority can be reached upon the issue, the
486 Chair shall request of the members who voted with the decision reached in the
487 initial vote to indicate as clearly as possible for the minutes, if in the Chair's
488 opinion they did not do so at the time of the initial vote, the criteria of the
489 ordinance, met or unmet, upon which they based their vote, and the facts
490 adduced at the hearing that support their conclusions.

491

492 E. When the applicant / appellant has been granted the relief requested and there
493 has not been a third party granted standing who opposed such relief, the Board
494 may delegate to the Chair the authority to approve and execute the decision.

495

496 7. Public Records.

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498 The Board shall conform to the requirements of N.C.G.S. Chapter 132 regarding
499 public records. Board public records are located in the offices of the Zoning
500 Administrator, 95 West Main Street, Brevard, NC. Regular office hours are from
501 8:30 a.m. to 5:00 p.m. business days. The official custodian of the public records
502 shall be the Board Clerk.

503

504 8. Ethics.

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506 A. No member of the board shall participate in or vote on any quasi-judicial matter
507 in a manner that would violate affected persons' constitutional rights to an
508 impartial decision maker. Impermissible conflicts include, but are not limited to,
509 a member having a fixed opinion prior to hearing the matter that is not
510 susceptible to change, undisclosed ex parte communications, a close familial,
511 business, or other associational relationship with an affected person, or a
512 financial interest in the outcome of the matter. If an objection is raised to a
513 member's participation and that member does not recuse himself or herself, the
514 remaining members shall by majority vote rule on the objection. A member who
515 has been recused shall not sit with the Board and shall not participate in any
516 further discussion on the matter.

517

518 B. Every member sitting at any hearing shall announce before the beginning of
519 testimony of the first witness any contacts concerning the application that are not
520 already included in the file. The announcement or inclusion in the record will
521 include the name of the person or persons with whom the contact occurred and
522 the substance of the entire contact; *provided*, however, that no member need
523 announce such general contacts concerning the hearing itself as may be general
524 to all members in their capacity as members.

525

526 9. Reconsideration and Rehearing.

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528 No appeal, application, or other matter acted upon by the Board may be
529 reconsidered or reheard (other than as directed by a court of competent jurisdiction),
530 except upon motion for reconsideration by a member of the Board

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532 who voted with the prevailing side. The motion must be seconded by any member
533 of the Board either for reconsideration or rehearing. Motions for reconsideration
534 shall be made at the meeting, whether regular or special, immediately following the
535 initial vote.

536 *Provided*, however, that a motion for reconsideration based on (1) presence or
537 absence of subject matter jurisdiction or (2) a timely and credible allegation of an
538 unreported conflict of interest may be made at any time before (a) the running of the
539 time to file a petition for certiorari, if no such petition is filed within that time, or (b)
540 the ruling of a superior court judge on a timely filed petition for certiorari based in
541 whole or any part on either or both of the objections listed above.

542

543 10. Judicial Review.

544

545 Petitions for judicial review of any ruling of the Board shall be in accordance with
546 N.C.G.S. § 160A-388 or its successor statute.

547

548 Read, approved and adopted by the Board of Adjustment of the City of Brevard, North
549 Carolina, in a meeting duly called, noticed and held in Brevard, North Carolina the 1ST
550 day of March, 2016.

551

552 The following Board members voted AYE:

553

554 The following Board members voted NAY:

555

556 These bylaws shall become effective upon their adoption.

557

558

559

Judith A. Mathews, Chair

560 ATTEST:

561

562

563 Janice Pinson, Clerk