

## **16.0 BOARD OF ZONING APPEALS**

### **16.1 Establishment of Board of Zoning Appeals**

A Board of Zoning Appeals is hereby established. Said Board shall consist of seven (7) members, who shall be citizens of the City of Anderson, and shall be appointed by the Anderson City Council for overlapping terms of five (5) years. Initial appointment shall be as follows: Two (2) members for a term of three (3) years; three (3) members for a term of two (2) years; and two (2) members for a term of one (1) year. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. No member shall hold any other position of public office with the City of Anderson.

### **16.2 Meetings, Procedures, and Records**

The Board of Zoning Appeals shall elect a chairman and a vice-chairman from its members who shall serve for one (1) year or until re-elected, or until a successor is elected. The Board shall appoint a secretary, who may be a City officer, an employee of the City, or a member of the Board of Zoning Appeals.

The Board shall adopt rules and bylaws in accordance with the provisions of this Ordinance and of the General Statutes of South Carolina, 1976 Code of Laws, 1994 Cumulative Supplement, Title VI, Chapter 29. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. All meetings of the Board shall be open to the public.

Minutes of the meeting shall be kept, 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 appropriate office and kept available to public review.

### **16.3 Decisions**

The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to affect any variation of this Ordinance. On all appeals, applications and matters brought before the Board of Zoning Appeals, the Board shall inform in writing all the parties involved of its decisions and the reasons therefore.

### **16.4 Appeals, Hearings, and Notice**

Any person aggrieved by any officer, department, board, or bureau of the municipality may take appeals to the Board. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Zoning Appeals notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate of stay, the stay would 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 or by a court of record on application, on notice to the officer from whom the appeal is taken, and on due cause shown.

The Board shall fix reasonable time for the hearing of the appeal or other matter referred to it, and give public notice not less than 15 days prior, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent or by attorney.

## **16.5 Powers and Duties**

The Board of Zoning Appeals shall have the following powers and duties:

- 16.5.1 To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Ordinance.
- 16.5.2 To hear and decide appeals for variance from the requirements of this Ordinance when strict application of the provisions of this Ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing the following findings:
  - (A) there are extraordinary and exceptional conditions pertaining to the particular piece of property in question (because of its size, shape, or topography);
  - (B) these conditions do not generally apply to other property in the vicinity;
  - (C) because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and;
  - (D) the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

The Board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a non-conforming use of land, or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.

In granting a variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare;

- 16.5.3 To decide on other such matters where a decision of the Board of Zoning Appeals may be specifically required by the provision of the Ordinance.

In exercising the above powers, the Board of Zoning Appeals may, in conformity with the provisions of this act: reverse or affirm wholly or in part, or may modify the order, requirements, decision, or determination; and, to this end, shall have all the powers of the officer from whom an appeal is taken and may issue or direct the issuance of a permit. The Board, in the execution of the duties for which appointed, may subpoena witnesses and in case of contempt, may certify such fact to the Circuit Court in and for the County of Anderson.

## **16.6 Appeals from Decisions of the Board of Zoning Appeals**

Any person who may have a substantial interest in any decision of the Board of Zoning Appeals may appeal any decision of the Board to the Circuit Court in and for the County of Anderson, by filing with the Clerk of such court a petition in writing setting forth plainly, fully, and distinctly wherein such decision is contrary to law. Such appeal shall be filed within thirty (30) days after the decision of the Board is rendered.