

CITY OF GASTONIA
ZONING BOARD OF ADJUSTMENT

July 25, 2019

Minutes

The regular meeting of the Zoning Board of Adjustment was held on Thursday, July 25, 2019 at 9:02 a.m. in the City Council Chambers at City Hall.

Board Members present: Chairman Lee Taylor Jr., William Marino, James Nebo, Melanie Blankenship and Sidney Craig

Board Members absent: None

Staff present: Joe Gates, Zoning Administrator; Charles Graham, Assistant City Attorney; Jason Thompson, Planning Director; and Chrystal Howard, Secretary

Chairman Taylor called the Board of Adjustment meeting to order.

Roll Call

Introductions occurred amongst Board Members and staff.

Item I: Oath of Office

Ms. Chrystal Howard administered the Oath of Office to newly appointed Mr. Octavius Reid, Ms. Fay Marcus, as well as, reappointed Board Members Mr. William Marino and Mr. J. Lee Taylor.

Item II: Approval of January 24, 2019 Minutes

Board Member Blankenship made a motion to approve the minutes of January 24, 2019 and Board Member Craig seconded the motion. The motion was unanimously approved (5-0).

Item III: Approval of Public Hearing Schedule – November/December Dates

Chairman Taylor explained November and December combined meetings are typically held on the first Thursday in December. Board Member Blankenship made a motion to approve December 5, 2019 and December 3, 2020 as the upcoming combined meeting dates and Board Member Marino seconded the motion. The motion was unanimously approved (5-0).

Item IV: Remarks

Chairman Taylor commented that City Council's authority is to appoint Board of Adjustment members, and the Board of Adjustment's vote is final unless appealed to Superior Court. He explained the quasi-judicial body acts as judge and jury to enforce but not to rewrite the City's ordinances. Variances dealing with hardships, Special Exceptions dealing with a specific list, and Appeals initiated by administration were briefly explained by Chairman Taylor, Attorney Graham and Mr. Gates. Chairman Taylor commented that he would like meetings handled with professionalism, decorum, and respectfulness. Attorney Graham explained that staff can provide factual information about a case, ordinance, plus legal and administrative interpretation. The Board makes a decision based on evidence presented in the public hearing and that staff will not tell the Board how to decide, but can make a recommendation. Discussion ensued on a past public hearing item that was complex and difficult for the Board to make a decision. Mr. Gates emphasized on the Board enforcing the ordinance, and then explained the process of a text amendment change handled by the Gastonia Planning Commission and City Council. He continued that the Board of Adjustment may authorize fair and reasonable conditions and are the protectors and upholders of the ordinance preserving the integrity of the ordinance. Mr. Gates encouraged the Board to view the ordinance online and also contact staff with any questions.

Chairman Taylor explained meeting notifications and instructed each board member to add meeting dates to their calendars. He also encouraged the Board members to inform staff if they are unable to attend an upcoming meeting. Chairman Taylor commented that the Board follows Roberts Rules of Order for organization to a meeting and he briefly explained the process. Board Member Nebo asked if discussion is on the motion itself and not discussion on what was presented. Attorney Graham replied that the Board is discussing the motion, but you are talking about all the evidence that was presented in the hearing as to how it applies to that motion.

Chairman Taylor introduced ex parte communication and provided examples. He emphasized on stopping a person from talking about the case. After reviewing the agenda, Chairman Taylor spoke about each Board member individually driving by the property, not discussing agenda items with each other, and contacting staff with questions. He explained roll call and addressing any contacts.

Mr. Gates commented on adjacent property owner notifications and the online accessibility of the agenda for the public. The website page was displayed. Brief discussion occurred on being recused. Attorney Graham stated the Board has a duty to vote, provided appropriate conflict reasons for being excused. He continued that the Board should vote to excuse.

To help support the Board, Mr. Gates asked for comments on; the layout of information he presents in the agenda, the technology needs for the room, or if there was anything he could do better to present information during the cases. Chairman Taylor asked Board members to bring their packets with them to the meetings that staff provides. He continued that the overhead screens are nice, but the side screens would be nice if they were closer to the public screens. He liked notifications and material being sent out early. Board Member Marino stated the information provided was wonderful and it gave a lot of information. Board Member Nebo stated the information provides the Board with everything they need. Mr. Gates explained the information is a representation of how he thinks, tools he uses, and how he makes decisions administratively. Attorney Graham stated it is proper for the Board to contact staff for more information after reading the material provided in the agenda packet, after reading the ordinances, and prior to a meeting. The additional information requested can be presented at the hearing for all parties to hear and would not be considered ex parte communication. This lead Attorney Graham to explain a fair trial and avoid having a bias opinion. Attorney Graham explained proper evidence to hear in the hearing because a decision is based on competent factual testimony and evidence. He provided examples of how to handle hearsay and irrelevant information during the meeting and when making a decision. Attorney Graham stated to outline the basis of the decision of the facts. Brief discussion ensued on irrelevant information.

Chairman Taylor requested business casual attire at the meetings.

Board Member Craig addressed the United States flag's proper location in the Council Chambers. Staff will correct this issue.

Attorney Graham suggested the UNC School of Government as a great resource for Board members. He briefly explained Coates' Canons: NC Local Government Law <https://canons.sog.unc.edu/>. Mr. Gates provided another resource, On-Demand Board Training Library, available through the school of Government. Staff currently has access for a year to the self-paced training webinars. Mr. Gates displayed a couple books that are available through the UNC School of Government. Discussion ensued on using the self-paced webinars for training at least once a year and to be presented after a Board of Adjustment meeting. Staff will determine webinars that are pertinent to this Board and will discuss with the Chair prior to the next hearing.

Mr. Thompson encouraged the Board to contact him either by phone or email for any questions. He mentioned as an appointed public body, contact information is public information and can be requested.

Item III: Other Business or Announcements

No requests were received to be heard by the Board of Adjustment; therefore, the meeting of the Board of Adjustment scheduled for Thursday, August 22, 2019 has been cancelled.

Board Member Nebo made a motion to adjourn the meeting and Board Member Blankenship seconded the motion. There being no further discussion or announcements, the motion was unanimously approved. The meeting was adjourned at 10:45 a.m.

Respectfully Submitted:

Chrystal Howard, Secretary

Zoning Board of Adjustment
City of Gastonia, NC

Chairman Lee Taylor Jr.

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