



# Randolph County Planning Board Rules of Procedure

Adopted April 2, 2024



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## **RANDOLPH COUNTY PLANNING BOARD RULES OF PROCEDURE**

### **Article I. Authority and Enactment**

1. The Randolph County Planning Board of Randolph County, North Carolina, under the requirements of *The Randolph County Unified Development Ordinance* and North Carolina General Statutes, does hereby adopt the following Articles to comprise the *Randolph County Planning Board Rules of Procedures*. These Rules of Procedures shall also apply to the Randolph County Zoning Board of Adjustment and any other committees that may be formed for study or advisement to either Board.
2. References to the Randolph County Planning Board, hereinafter referred to as the Board, shall also be understood to reference the Randolph County Zoning Board of Adjustment. References are also intended for the Randolph County Planning Director, hereinafter referred to as the Planning Director, or the Clerk to the Randolph County Planning Board, hereinafter referred to as the Clerk. Any references to *The Randolph County Unified Development Ordinance*, hereinafter referred to as the Ordinance, or *The Randolph County Growth Management Plan*, hereinafter referred to as the Growth Management Plan, are also adopted for these rules.

### **Article II. Applicability of Rules**

1. These rules apply to all meetings of the Randolph County Planning Board at which the Planning Board is empowered to exercise its role as directed by *the Randolph County Unified Development Ordinance* and applicable State statutes, whether meeting in an administrative, evidentiary, legislative, or quasi-judicial hearing.
2. These rules may be amended at any regular meeting or at any properly called special meeting that includes amendment of the rules as one of the stated purposes of the meeting. Adoption of these rules, or an amendment thereof, shall require an affirmative vote equal to a quorum.
3. The Board is also governed by the applicable provisions of the North Carolina General Statutes as they pertain to land development regulations.
4. These rules are public records and are made available to the public via Randolph County's website as required by NCGS § 160D-308.

### **Article III. Open Meetings**

1. The public policy of the State of North Carolina and Randolph County is that the hearings, deliberations, and actions of the Board and any committee shall be conducted openly, and any person may attend.



2. An official meeting of any Board is defined as “any gathering together at any time or place to the simultaneous communication by conference telephone or electronic means of a majority of Board members to conduct hearings, participating in deliberations, or voting upon or otherwise transacting public business within the jurisdiction, real or apparent, of the Board.”

#### **Article IV. Membership**

1. The members of the Board shall be appointed by the Randolph County Board of Commissioners as outlined in the Ordinance. The term of the membership shall be three years. Members of the Board serve at the pleasure and discretion of the Randolph County Board of Commissioners and may be removed before the end of their term of office. New members may be appointed to fill an unexpired term of a previous member.
2. A member completing a term of office who has not been reappointed and for whose seat a new appointment has not been made by the Randolph County Board of Commissioners may continue to serve until he or she is reappointed, a new appointment is made, or until he or she decides to leave the Board.
3. A member who anticipates not being able to attend a meeting of the Board must contact the Planning Director upon receipt of the agenda, or earlier if possible, and indicate the reason for the absence. In the event of an unforeseen emergency or illness, notification to the Planning Director shall be given at the earliest practical time.

#### **Article V. Conflicts of Interest and *Ex Parte* Communications**

1. At the beginning of consideration of a matter before the Board, any member who has a potential conflict of interest, whether direct or indirect, shall notify the Board of this potential conflict in the section of the agenda that covers Conflicts of Interest. The Board shall vote to excuse the member for further participation, including voting, on the case where the conflict may arise.
2. At the beginning of consideration of any quasi-judicial matter before the Board, any member who has received *ex parte* communication shall notify the Board of this potential conflict in the section of the agenda that covers *Ex Parte Communications*. The Board shall vote to excuse the member for further participation, including voting, on the case where *ex parte* communication may arise. *Ex parte* communication is “any communication between a Board member and any other person or party outside of the presence of all parties to a quasi-judicial matter.”

#### **Article VI. Officers**

1. The officers of the Randolph County Planning Board shall be the Chair and Vice-Chair for a term of one year, with the election of officers taking place at the December meeting. The Officers shall be eligible for re-election to their position. The Chair may designate the Clerk or the Planning Director to preside over the election of officers.



2. If the Chair is not able to serve an entire term of office, the Vice-Chair shall assume the responsibility of the Chair until the term of office ends. The Board shall, at its next regular meeting after the Vice-Chair becomes Chair, then elect a new Vice-Chair to serve the unexpired term of the Vice-Chair.
3. If the Vice-Chair is not able to serve a full term of office, the Board, at its next regular meeting after the Vice-Chair is out of office, shall elect a new Vice-Chair to fill the unexpired term of the previous Vice-Chair.
4. The Chair shall preside at all meetings of the Board and may appoint committee membership in consultation with the Planning Director.
5. The Vice-Chair shall assume the duties of the Chair in case of absence by the Chair at a Board meeting or in the event the Chair has been recused from discussion and voting.
6. The Board, by a two-thirds majority vote of the full membership, may create other offices when deemed necessary.
7. The Clerk shall be designated by the Planning Director from among the Planning and Zoning Department staff.

#### **Article VII. Meetings**

1. At its November public hearing, or the next public hearing if no meeting is scheduled for November, the Board shall approve its meeting schedule for the following calendar year. The tradition of the Board has been to have public hearings on the Tuesday following the first Monday of every month unless there is a scheduling conflict.
2. Special meetings may be called for by either the Planning Director or the Chair or Vice-Chair of the Board, with at least a forty-eight-hour notice. Only those items contained in the forty-eight-hour notice of the special meeting shall be considered unless all members are present and the Board determines in good faith at the meeting that it is essential to discuss or act on the additional item immediately.
3. Special meetings may also be scheduled by the vote of the Board in open session during another duly called meeting. The motion for the special meeting shall contain (1) the time, (2) the place, and (3) the purpose. Only those items of business specified in the motion calling for the special meeting may be considered at the special meeting unless all members are present and the Board determines in good faith at the meeting that it is essential to discuss or act on the additional item immediately.
4. The Planning Director or the Chair or Vice-Chair of the Board may schedule work sessions, committee meetings, or other informal meetings of the Board or a majority of its members at such times and concerning such subjects as may be established



by the Board. Work sessions, committee meetings, or other informal meetings not regularly held are subject to the same notice requirements as listed above.

5. Whenever there is no business for the Board, the Planning Director shall notify the Board of the cancellation of the meeting. The Planning Director may cancel any meeting for good cause, such as knowing a lack of a quorum or inclement weather. Notice shall be given by the Planning Director at least 24 hours before the time set for the meeting to be canceled to all members, press, applicants, and other interested persons as determined appropriate. In the case of inclement weather, the notice of cancellation shall be given at the earliest practical time. Notice of such cancellation shall include publication on Randolph County's website.
6. The meeting agenda and appropriate review material and reports shall be prepared and distributed to all Board members and applicants as required by NCGS § 160D-406(c). No business, old or new, may be considered by the Board unless such an item properly appears on the agenda. However, a matter of business not subject to public notice requirements may be discussed or considered as a non-agenda item if approved by a majority vote of the members present.
7. A failure to vote by a member who is physically present at the public hearing, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

#### Article VIII. Order of Business

1. To allow for efficient use of the time, the Order of Business for regular meetings shall be as follows:
  - a) Call to Order;
  - b) Roll call to establish quorum;
  - c) Approval of the consent agenda;
  - d) Project or committee reports;
  - e) Old Business;
  - f) New Business;
  - g) Announcements; and
  - h) Adjournment.
2. The Order of Business for a special meeting shall be as follows:
  - a) Call to Order;
  - b) Roll call to establish quorum;
  - c) Business as stated in the meeting notification; and
  - d) Adjournment.
3. If a case is being brought back to the Board as part of the Old Business, the public hearing will resume from the point at which it ended at the previous Board meeting. For purposes of clarification, if the public hearing portion of the request is closed before the request is tabled, deliberations shall resume among the Board. If the



public hearing portion of the request was never closed, the public hearing shall be deemed to still be open. If a public hearing was closed before the request was tabled, a majority vote of the members shall be required to reopen the public hearing.

4. Each case presented under the section of New Business of the agenda shall be presented to the Board by the Planning Director. Once the case has been presented, the Chair shall open the public hearing. The applicant and those in favor of the request will be allowed to speak first, followed by those in opposition. After the opposition has been heard, the applicant shall be allowed to answer questions or comments raised during the public hearing. After all sides have been allowed to speak, including answering questions from Board members, the Chair shall close the public hearing for discussion among the members and a motion to act. The Board may reopen the public hearing after it has been closed by the Chair if new evidence is to be presented or for clarification and answers to questions posed by the Board. Once all necessary votes have taken place, the Board shall move to the next case.

#### Article IX. Expectations of Board Members

1. Board members are expected to be generally familiar with the Ordinance and the Growth Management Plan and with these Rules of Procedure.
2. Board members are expected to be prepared for the meeting by examining the agenda packet and consulting County Planning Staff with questions.
3. Board members are to ask questions as appropriate during the hearing and actively participate in deliberations.
4. Board members should consider **all** information on each matter before the Board and make an informed decision.
5. Board members shall consider the application without prejudice.
6. Board members should **not** take a public position on any application before the meeting at which the application is considered.
7. Board members should refrain from deliberation with other members of the public or formulation of a judgment or decision before the meeting at which the application is considered.
8. Board members must act in a fair, ethical, and consistent manner under these Rules of Procedure and applicable North Carolina General Statutes.
9. When not sitting in the place of an absent member, Alternates may sit with the Board if there is space, but they shall **not** participate in any part of the public hearings.



### Article X. Public Comments and Input

1. Anyone attending a Board meeting shall have the opportunity to speak and make comments on any agenda item **only to the Board** for a total of three minutes. (Applicants for cases are not limited in the amount of time to speak.) Additional time may be granted to speakers at the discretion of the Chair. Comments are to be directed to the Board as a whole and not one specific member, and must be relevant to the case before the Board at the time of their comments. Comments shall not be disparaging. Questions for the applicant will be noted and asked of the applicant by the Chair.
2. Speakers must give their names and addresses orally before speaking and in writing after speaking.
3. Disruptions or disruptive behavior during a Board meeting shall not be tolerated. All disruptive behavior shall be enforced according to NCGS § 143-318.17, which states, "A person who willfully interrupts, disturbs, or disrupts an official meeting and who, upon being directed to leave the meeting by the presiding officer, willfully refuses to leave the meeting is guilty of a Class 2 Misdemeanor."

### Article XI. Meeting Procedures

1. For the public hearings, the Board hereby adopts all rules as currently required by the North Carolina General Statutes and any rules that may be adopted in the future by the North Carolina General Assembly. This is intended to include requirements for administrative, evidentiary, legislative, or quasi-judicial hearings as may be required by the Ordinance or the General Statutes.
2. There shall be a quorum present at the meeting for actions taken to have legal standing. A quorum shall constitute a majority of current members of the Board.
3. If a member feels that insufficient information has been presented for the member to form an opinion on the matter in question, then the member may request that consideration of the matter be postponed until either (1) the next regular meeting of the Board or (2) at some stated date in the future. The member may then explain what is still needed from the applicant to make a decision.
4. In any case, in which a motion results in a tie vote, the Chair shall encourage an alternate motion for consideration. If the alternate motion results in a tie vote, neither motion shall be considered to pass, and the request shall be considered denied.
5. The County Planning and Zoning staff shall prepare the agenda for each meeting of the Board. The agenda, as presented at the meeting, may only be changed by a two-thirds vote of the Board.



6. The County Planning and Zoning staff shall prepare recommendations from the Technical Review Committee for the cases where such recommendations are allowed or required by the Ordinance or the General Statutes.
7. The Clerk shall keep minutes of all Board meetings. Minutes shall be given to all Board members before the next meeting. Minutes must be approved by a majority vote of the Board.
8. A failure to vote by a member who is physically present at the public hearing, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

## **Article XII. Disposition of Requests**

1. Due to the complexity of the General Statutes and the need to ensure that proper procedures are followed, whether the Board is meeting in an administrative, evidentiary, legislative, or quasi-judicial hearing, it is important to follow proper procedures.
2. Rezoning, Special Use Permits, and Appeals require a majority vote of the Board in favor of or denial of a request. However, Variances require a four-fifths majority vote of the Board to decide in favor of the applicant. For example, if there are seven members present for the Zoning Board of Adjustment meeting, at least six members must vote in favor of the applicant to grant a Variance.
3. It is a requirement of the General Statutes for the Board to state in the motion to approve or deny any type of request the reason the motion is being made. It is not sufficient to make a motion to approve or deny the request—the reasoning **must be stated.**
4. In the cases of rezonings, it is a requirement of the General Statutes for the Board when deciding that the rezoning is consistent, reasonable, and in the public interest, for the member making that motion to **specifically state the policies from the Growth Management Plan that lead the member to that conclusion.** The Consistency Determination and Findings of Reasonableness and Public Interest shall be updated by the Planning Staff to reflect the decision of the Board in cases where the Board goes against the recommendation of the Technical Review Committee before the Board can vote to approve the rezoning request.
5. In the cases of Special Use Permits, a quasi-judicial function, it is **required** by the General Statutes for the Board to find, based upon the sworn evidence as to the testimony of professionals, that:
  - a) the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
  - b) the use meets all required conditions and specifications;
  - c) the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and



- d) the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Growth Management Plan for Randolph County.

If one of the above findings of fact cannot be supported by the evidence or testimony presented, the Special Use Permit **must be denied**. The Board members making the motions to approve or deny a request for a Special Use Permit shall state the facts that support the decision of the Board. The Order of the Planning Board will be updated by the Planning Staff before the Board can vote to approve the Special Use Permit request.

6. In the cases of Variances, a quasi-judicial function, it is **required** by the General Statutes that the Board base its decision on **all** the following findings of fact:
  - a) that if the applicant complies with the literal terms of the Ordinance, he cannot secure a reasonable return from, or make reasonable use of this property;
  - b) that the hardship of which the applicant complains results from unique circumstances related to the applicant's land;
  - c) that the hardship is not the result of the applicant's own actions;
  - d) that, if granted, the Variance will be in harmony with the general purpose and intent of the Ordinance and will preserve its spirit; and
  - e) that, if granted, the Variance will secure the public safety and welfare and will do substantial justice.

If one of the above findings of fact cannot be supported by the evidence or testimony presented, the Variance **must be denied**. The Board members making the motions to approve or deny a request for a Variance shall state the facts that support the decision of the Board. The Order of the Zoning Board of Adjustment will be updated by the Planning Staff before the Board can vote to approve the Variance request. As a reminder, a Variance may only be approved with a four-fifths vote of the Board, as explained in number two above.

### **Article XIII. Miscellaneous**

1. All communication to the Board, including applications, petitions, and e-mails, when specifically directed to the Board or appropriate for the Board's information at the reasonable discretion of the Planning and Zoning Staff, shall be directed to the Planning and Zoning Staff and shall thereafter be provided to the Board.
2. All requests for information (e.g., maps, ordinances, etc.) from a Board member shall be directed to the Planning Director. Any response by the Planning Director shall be directed to all Board members.
3. The Planning Board may recommend the adoption, amendment, repeal, or alteration, in whole or in part, of these *Randolph County Planning Board Rules of*



*Procedures* by a majority vote at any regular meeting if any change requested has been placed on the Board's agenda for the meeting.

These foregoing *Randolph County Planning Board Rules of Procedures* are hereby adopted on the second day of April 2024, a quorum of the Board being present.

