

## Board of Adjustment

### Functions

The purpose of the Board of Adjustment is to act as a safety valve in cases of hardship imposed on individuals by the Zoning Ordinance. If it were possible for the City Council to write a perfect zoning ordinance which would meet the needs of High Point while at the same time avoiding hardship in individual cases, there would be no need for this board. However, since it is impossible to write a zoning ordinance that will work perfectly, the Board of Adjustment is an essential part of the zoning enforcement mechanism.

The Board is a "quasi-judicial" administrative body operating on a level between the enforcement officers and the courts. If there were no Board, every appeal from a Building Inspector's denial of permit would have to be taken either to the courts (in the form of a suit for writ of mandamus ordering issuance of a permit) or to the governing body (in the form of a request for a change of zone or other amendment).

### Statutory Powers and Duties

The High Point Development Ordinance sets forth the following powers and duties of the Board of Adjustment. These are based upon enabling legislation passed by the North Carolina General Assembly which authorizes cities to adopt zoning ordinances.

1. To hear and decide appeals from and review any zoning order, requirement, decision, determination, or interpretation made by an Enforcement Officer charged with enforcing this Ordinance;
2. To review appeals from the proceedings of the Historic Preservation Commission concerning the issuance of a Certificate of Appropriateness, limited to certiorari;
3. To hear and decide requests for special exceptions which are specifically delegated to it by this Ordinance;
4. To vary and modify application of zoning regulations in harmony with their general purpose and intent and in accordance with general and specific rules contained therein;
5. To hear and decide requests for variances from the zoning provisions of this Ordinance in cases where special conditions would make strict and literal interpretation and enforcement of the zoning provisions of this Ordinance result in a loss of privileges shared by other properties within the same zoning district;
6. To interpret zoning maps and pass upon disputed questions of district boundary lines and similar questions as they arise in the administration of the Ordinance;
7. To hear and decide all matters referred to it or upon which it is required to pass under this Ordinance; and
8. To hear and decide appeals from and review any order, requirement, decision, determination, or interpretation made by the Enforcement Officer with regard to Title 9, Chapter 6, Article E (Minimum Housing Code) provisions of the High Point City Code of Ordinances.

### **Granting "Variances"**

A variance is a permit, which the Board may grant in certain situations, allowing a property owner to make use of his property in some way which is in conflict with the literal powers of the zoning ordinance.

### **Required Findings**

North Carolina's state enabling act requires the following findings of facts to be made before a variance is granted:

1. *Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;*
2. *The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.*
3. *The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.*
4. *The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.*

### **Recommending Zoning Amendments To The City Council**

The Board of Adjustment has both the authority and the responsibility to make recommendations on zoning amendments to the City Council whenever it encounters situations in which the ordinance does not seem to be working.