

ARTICLE XVI

ZONING BOARD OF APPEALS

1600. **Establishment of Zoning Board of Appeals.** A Zoning Board of Appeals is hereby established. Said Board shall consist of seven (7) members, who shall be citizens of Georgetown County and shall be appointed by the County Council for overlapping terms of three (3) years. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the original appointment. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board.
1601. **Proceedings of the Zoning Board of Appeals.** The Zoning Board of Appeals shall elect a chairman and a vice-chairman from its members who shall serve for one (1) year or until re-elected and appoint a secretary, who may be a County Officer, an employee of the County, a member of the Planning Commission, or a member of the Zoning Board of Appeals. The Board shall adopt rules and by-laws in accordance with the provisions of this Ordinance and of the General Statutes of South Carolina, Title 6, Chapter 29, Article 5, Code of Laws of S.C., 1976 as amended. 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.
1602. **Decisions of the Zoning Board of Appeals.** The concurring vote of at least three (3) members of the Zoning Board of Appeals 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. The Board shall keep minutes of its proceedings, 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 the office of the Board and shall be public record. On all appeals, applications and matters brought before the Zoning Board of Appeals, the Board shall inform in writing all the parties involved in its decisions and reasons thereof.
1603. **Appeals, Hearing, and Notice.** Appeals to the Board may be taken by any person aggrieved or by an officer, department, board or bureau of the County. Such appeal shall be taken within thirty (30) days from the date that the decision is rendered, as provided by the rules of the Board, by filing with the Zoning Administrator and with the Zoning Board of Appeals notice of said 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 Zoning Administrator certifies to the Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, 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 a reasonable time for the hearing of the appeal or other matter referred to it and give public notice thereof, as well as due notice to the parties in interest and decide the same within a reasonable time. Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the County at least fifteen (15) days in advance of the scheduled hearing date. At the hearing any party may appear in person or by agent or attorney. Notice shall also be posted on the affected property, with at least one such notice being visible from each public thoroughfare that abuts the property.

It is the intention of this Ordinance that all questions arising in connection with the enforcement of the Ordinance shall be presented first to the Zoning Administrator and that questions shall be presented to the Zoning Board of Appeals only on appeal from the decision of the Zoning Administrator.

1604. **Powers and Duties of the Zoning Board of Appeals.** The Zoning Board of Appeals shall have the following powers and duties:

1604.1 To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination by the Zoning Administrator in the enforcement of this Ordinance.

1604.2 To hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provision of the 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:

1604.201 There are extraordinary and exceptional conditions pertaining to the particular piece of property;

1604.202 These conditions do not generally apply to other property in the vicinity;

1604.203 Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;

1604.204 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 nonconforming 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. The board shall not grant or hear any variance regarding properties in a Planned Development. *(Amended Ord. 2007-95)*

1604.3 All final decisions and orders of the board must be in writing and be permanently filed in the office of the board as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the board which must be delivered to parties of interest by certified mail.

1604.4 In exercising the above powers, the Zoning Board of Appeals may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determination and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken and may issue or direct the issuance of a permit. The Board, in execution of the duties for which appointed, may subpoena witnesses and in case of contempt may certify such fact to the Circuit Court having jurisdiction.

1605. **Appeals from Decisions of the Zoning Board of Appeals.** Any person who may have a substantial interest in any decision of the Zoning Board of Appeals may appeal from any decision of the Board to the Circuit Court in and for the County of Georgetown by filing with the Clerk of said 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.
1606. **Contempt; Penalty.** In case of contempt by a party, witness, or other person before the board of appeals, the board may certify this fact to the circuit court of the county in which the contempt occurs and the judge of the court, in open court or in chambers, after hearing, may impose a penalty as authorized by law.