

Board of Zoning Appeals Members

District 1: Beverly Williams
District 2: Kemesha Lowery
District 3: Keye Jones
District 4: Gary Alden
District 5: Sheresa Ingram
District 6:
District 7: Frances Liu, Chair

**County Attorney**

Ginny L. Merck-Dupont

Clerk to Board of Zoning Appeals

Jennifer Bryan

Development Services Director

Allison Hardin

October 3, 2023

6:00 PM

**101 North Main Street
Lancaster, SC 29720**

**LANCASTER COUNTY BOARD OF ZONING
APPEALS
Council Chambers, Lancaster County Administration
Building, 101 N. Main Street**

AGENDA

1. **Call to Order Regular Meeting - Chair**
2. **Roll Call**
3. **Approval of the Agenda - Board of Zoning Appeals**
4. **Approval of Minutes**
 - a. August 29, 2023 BZA Minutes
Contact/Sponsor: J. Bryan
5. **New Business**
 - a. BZA TRAINING
Board Training by consultant Brad Farrar
Sponsor: Allison Hardin
 - b. Other
Other Items of Business
6. **Adjourn**

Please note that the Board of Zoning Appeals makes the final decision on all items.

Anyone requiring special services to attend this meeting should contact 285-1565 at least 24 hours in advance of this meeting. Lancaster County Board of Zoning Appeals agendas are posted at the Lancaster County Administration Building and are available on the Website: www.mylancaster.org

Meetings are live streamed and can be found by using the following link:

<https://www.youtube.com/@LancasterCoSCGov/streams>

Agenda Item Summary

Ordinance # / Resolution #:

Contact Person / Sponsor:

Department: Board of Zoning Appeals

Date Requested to be on Agenda: 10/3/2023

Issue for Consideration:

Points to Consider:

Recommendation:

ATTACHMENTS:

Description

August 29, 2023 BZA Minutes

Upload Date

9/7/2023

Type

Exhibit



MEMBERS OF LANCASTER COUNTY BOARD OF ZONING APPEALS

BEVERLY WILLIAMS, DISTRICT 1
KEMESHA LOWERY, DISTRICT 2
KEYE JONES, DISTRICT 3
GARY WAYNE ALDEN, DISTRICT 4
SHERESA INGRAM, DISTRICT 5
, DISTRICT 6
FRANCES LIU, DISTRICT 7

**MINUTES OF THE LANCASTER COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING**

August 29, 2023 at 6:00 PM

1. Roll Call

Board Members present: Quorum is present (5 Board Members)
Frances Liu Keye Jones Kemesha Lowery
Sheresa Ingram Gary Alden

Absent: Beverly Williams

Staff: Allison Hardin, Interim Planning Director
Jennifer Bryan, Administrative Assistant acted as Clerk and Recording Secretary

Members of the press were not present. All adjacent property owners were notified by mail. A notice was published in the local newspaper to include meeting place, date, time and the agenda and a copy is on file.

2. Call to Order

Chair Liu called the public meeting to order at 6:05 p.m.

a. Discussion of Officer Elections:

Motion to postpone Officer Elections until after fall training session [October 2023], by
Keye Jones; 2nd by Gary Alden.

Discussion: no further questions.

Called Vote: 5:0. **Motion to postpone elections is approved.**

3. Approval of Agenda

Kemesha Lowery moved to Approve the Agenda; 2nd by Sheresa Ingram. The motion was approved by unanimous consent.

4. Approval of Minutes from June 6, 2023

Chair Frances Liu asked if there were any comments, changes or corrections to the Minutes of the June 6, 2023 meeting. Beverly Williams was absent from the meeting of June 6, 2023.

Gary Alden moved to approve minutes as written, seconded by Sheresa Ingram. The Board members voted unanimously to approve and adopt the June 6, 2023 meeting Minutes.

5. Public Hearing Items

Staff was sworn in under oath.

a. BZA 2023-1201: NR Lodges Property Owner LLC

STATEMENT OF MATTER TO BE HEARD:

Application by NR Lodges Property Owner LLC to Appeal the Decision of a Planning/Zoning Official, regarding the assessment and scheduling of payment for School Impact Fees on 44 apartment units. Subject property is The Lodges at Fort Mill Highway near Rosemont Drive (TM 0006-00-086.00).

PRESENTATION BY APPLICANT: Eight (8) Minute limit.

NR Lodges Property Owner LLC represented by **Michael Wilson**. Also present are attorney Dan Ballou (Morton & Gettys), Vice President Kyle Whitaker, and Vice President Ron Stewart. Original site plan was approved before impact fees were implemented; master plan was revised and submitted for approval with 44 additional residential units after impact fees were instituted. Although number of units changed, the number of buildings and the number of bedrooms did not change. Floor plans were reconfigured to include a higher number of one-bedroom units.

Summary of request: Delay the payment of the school impact fee until either a) more than 217 units overall have been built, or b) until more than 4 garden apartments have been built, since the additional units are all garden apartments [green area on schematic].

PRESENTATION BY PLANNING/ZONING STAFF: Eight (8) Minute limit.

Planning/Zoning Staff represented by **Allison Hardin**, Development Services Director. Original plan approved for 217 rental units. Additional units were approved after the implementation of impact fees. On the schematic shown, number of units in the blue area and the yellow area did not change. Only the number of units in the garden apartments (green area) changed.

Impact fees are assessed as proportional to infrastructure demand of a project. Fees apply to all new development. The County chose not to apply the fees on the previously approved 217 units.

Fees are assessed at the time building permits are issued and/or the commencement of construction activity. All other impact fees assessed by the County have been paid by the applicant.

Staff concurred that fees did not need to be assessed for permitting of construction in the blue and yellow sections, but that fees must be assessed for permitting of garden apartment buildings, because the additional units are not confined to one building but are dispersed throughout the garden apartment buildings. The footprints of the buildings have not changed. There is no way to delay permitting or assessment of fees because of the nature of phased construction requires work on multiple areas simultaneously.

If the applicant wishes to challenge the metric of assessment of school impact fees, there is a separate process for that, requiring that they engage a consultant to establish an alternative fee calculation basis.

STIPULATION:

Mr. Wilson:

To clarify the nature of the applicant's request as presented in the application, they are willing to stipulate that in this hearing, they are only requesting a delay in the imposition of school impact fees, not a change in the calculation or waiver of the school impact fees.

Ms. Hardin: If they choose to engage a consultant and pursue the other options, that can be brought back to the Board if needed.

PUBLIC HEARING: Four (4) Minute limit per person

None signed in to speak.

REBUTTAL BY APPLICANT/APPELLANT: Three (3) Minute Limit

Mr. Wilson: We feel that we have a good working relationship with the Director and the Planning Department. At this time we are not asking for a waiver of the fees or a recalculation; we only request a change in the schedule of payment, deferred until either unit 218 overall or unit 75 of the garden apartments.

QUESTIONS/DISCUSSION FROM BOARD:

Frances Liu and **Keye Jones** ask for clarification of the request, per numbered items in the agenda and staff report. **Ms. Hardin** and **Mr. Wilson** resolve what is being requested in this hearing. [See STIPULATION above.]

Gary Alden asked if there is a statutory requirement for the fee to be paid at permitting?
Hardin confirmed that our UDO states that all fees are to be paid at permitting.

Gary Alden asked if the bond was for all impact fees?

Mr. Wilson and **Ms. Hardin** clarified that the other impact fees have been paid, the bond only covers the school impact fees, and that the bond remains in place until project is finished or other conditions for release are met.

Sheresa Ingram asked for the name of the development company.

Mr. Wilson confirmed that the developer is Northwood Raven.

Vote: A 4/5 vote is required in affirmation or denial of the appeal.

Motion to Approve the Appeal request, by Kemesha Lowery; second by Gary Alden.

Vote:	KL: Against	KJ: Against	GA: For
	SI: Against	FL: Against	BW: Against

Vote: 4:1. **The motion is denied.**

No other motions are presented.

6. Other Business:

- There will be no September meeting;
- A training session will be take place on the scheduled date of the October meeting.

7. Adjournment:

With there being no further business, Kemesha Lowery moved to adjourn; motion seconded by Sheresa Ingram. The motion was approved by unanimous consent.



Board of Zoning Appeals Public Hearing Sign In Sheet

Item 5a: BZA-2023-1201 NR Lodges Property Owner LLC

Application by NR Lodges Property Owner LLC to Appeal the Decision of a Planning/Zoning Official, regarding the assessment and scheduling of payment for School Impact Fees on 44 apartment units. Subject property is The Lodges at Fort Mill Highway near Rosemont Drive (TM 0006-00-086.00).

ONLY STATEMENTS OF FACT WILL BE CONSIDERED AS EVIDENCE. HEARSAY AND OPINION ARE INADMISSABLE.

Council Chambers
101 N. Main Street, Lancaster South Carolina
Tuesday, August 29, 2023

Citizens are allowed 3 minutes per person to speak. Everyone speaking before the Board will be required to do so in a civil manner. The Board will not tolerate personal attacks on individual Board Members, County Staff or any person or group. Racial slurs will not be permitted. The Board's number one priority is to conduct business for the citizens of this county.

PLEASE PRINT

1.	MIKE WILSON - NR LODGES PROPERTY OWNER, LLC
2.	DAN BALLOU - NR LODGES MORTON & GOTTYS
3.	

9.2.14 APPEAL OF ADMINISTRATIVE DECISIONS

A. APPLICABILITY

This process is hereby established to provide an appeal process for parties aggrieved by any administrative order, requirement, decision or determination, made by an administrative officer charged with enforcing the provisions of this ordinance.

B. FILING PROCEDURES

1. **Process Type:** Quasi-Judicial.
2. **Filing Procedure:** An appeal of an administrative decision may be taken by any person aggrieved (or by their authorized agent) or may be taken by any officer, department, board or bureau of the County. Such an appeal shall be made to the County within 30 days of the receipt of the written notice of decision from the County.
3. **Stay of Proceedings:** The filing of an appeal shall stay all proceedings in furtherance of the contested action unless the Administrator certifies that, in his/her opinion, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such a case, proceedings shall not be stayed except by restraining order granted by the Court of Common Pleas on notice to the administrative official from whom the appeal is taken with due cause shown.
4. **Required Application Information:** All information relevant to describing the applicant's appeal to the Board of Zoning Appeals is required. The Administrator shall similarly prepare a report detailing the regulations and interpretation behind the matter being appealed and their reason for their decision.
5. **Public Notification:** Level 1 and 3.

C. FORMAL REVIEW

1. Upon receiving the application, the Board shall conduct a public hearing on the matter. Any party may appear in person or be represented by an agent at the hearing.
2. After conducting the public hearing, the Board shall adopt an order reversing or affirming, wholly or in part, or modifying the order requirements, decision or determination in question. It shall take a 4/5ths vote of the Board to reverse or modify the contested action.
3. The Board, in making its ruling, shall have all the powers of the Administrator from whom the appeal is taken, and may issue or direct the issuance of a permit.
4. The decision of the Board must be in writing and permanently filed in the minutes of that reviewing body 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.

D. APPEALS

Any appeal from a decision of the Board of Zoning Appeals may be made by an aggrieved party and shall be made to the Circuit Court of Lancaster County in the nature of certiorari. Any such petition shall be filed no later than 30 days after the applicant receives a written copy of the decision of the Board of Zoning Appeals.

GUIDELINES FOR CONSIDERATION: (All BZA actions)

Section 6.h of Rules & Procedures:

- h. Board members will cast their votes based on evidence presented, considering the following guidelines:
 - 1. The evidence presented does or does not meet the requirements and standards of the UDO;
 - 2. The evidence presented is or is not compatible with the current planned land uses or zoning;
 - 3. The evidence will or will not diminish the value of adjacent property, or property in the general area;
 - 4. The evidence presented will or will not have a positive impact on the general health, safety and welfare of the citizens of the area and Lancaster County;
 - 5. The Board may approve any guidelines or conditions by a simple majority.

**LANCASTER COUNTY BOARD OF ZONING APPEALS SCRIPT
AND ORDER OF MEETING**

1. THE BOARD OF APPEALS AND ZONING DEPARTMENT WELCOME ALL OF YOU TO THE MEETING TONIGHT.

✓ BY ATTENDING THIS MEETING, WE SINCERELY HOPE THE RESULTS ARE INFORMATIVE TO YOU ON HOW THE SYSTEM HANDLES EACH APPLICATION BECAUSE ALL REQUESTS ARE DIFFERENT.

- ✓ 2. OUR BOARD MEMBERS ARE: CHAIR **FRANCES LIU**, VICE-CHAIR **BEVERLY WILLIAMS**, **KEMESHA LOWERY**, **KEYE JONES**, **GARY ALDEN** and **SHERESA INGRAM**

- ✓ 3. THE CLERK WILL PLEASE CALL THE ATTENDANCE.

- ✓ 4. AT THIS TIME, I WILL ASK ALL MEMBERS OF STAFF TO PLEASE STAND, STATE YOUR NAME AND YOUR DUTIES WITHIN THE COUNTY. PLEASE REMAIN STANDING AND THE CLERK WILL PLACE EACH OF YOU UNDER OATH.

ALLISON HARDIN

- ✓ 5. IS THERE ANY BOARD MEMBER THAT HAS NOT RECEIVED A PACKET FROM THE ZONING DEPARTMENT CONTAINING THE NECESSARY INFORMATION FOR OUR MEETING?

- ✓ 6. OUR NEXT ORDER OF BUSINESS IS TO DISCUSS OFFICER ELECTIONS. ELECTIONS ARE TO BE HELD AT THE FIRST MEETING AFTER THE COMMENCEMENT OF THE NEW FISCAL YEAR ON JULY 1ST.

[Discussion on whether to postpone elections until after training this fall.

✓ Outcome of discussion may require motion and vote to postpone. Otherwise proceed to election of Chair and Vice Chair, moderated by Director of Development Services.]

- ✓ 7. OUR NEXT ORDER OF BUSINESS IS TO **APPROVE THE AGENDA**. ARE THERE ANY CHANGES TO THE AGENDA?

[ASK FOR A MOTION TO APPROVE, SECOND, DISCUSS AND APPROVE].

- ✓ 8. OUR NEXT ORDER OF BUSINESS IS TO **APPROVE THE MINUTES** of JUNE 6, 2023. ARE THERE ANY CHANGES?

[ASK FOR MOTION TO APPROVE, SECOND, DISCUSS AND APPROVE.]

9. **LEGAL NOTICE:**

- ✓
- HAS ZONING MADE IT POSSIBLE FOR ALL APPLICANTS OR APPELLANTS TO RECEIVE INFORMATION OF THIS MEETING?
 - HAVE ALL ADJACENT PROPERTY OWNERS WITHIN THE REQUIRED LIMITS BEEN NOTIFIED?
 - WAS THERE A NOTICE OF THIS MEETING PUBLISHED IN THE LOCAL NEWSPAPER TO INCLUDE THE MEETING PLACE, DATE, TIME AND THE AGENDA?
 - IS THERE A COPY POSTED IN THE LOBBY OF THE ADMINISTRATION BUILDING?

10. THE ZONING BOARD OF APPEALS' DUTIES ARE WITHIN THREE SPECIFIC AREAS:

- ✓
- A. AN **ADMINISTRATIVE REVIEW** IS AN APPEAL OF AN ORDER, OR DECISION OF THE ADMINISTRATOR THAT HAS ALLEDGED ERROR(S).
 - B. THE POWER TO GRANT A **VARIANCE** IS GIVEN TO THE BOARD OF ZONING APPEALS BY THE STATE OF SOUTH CAROLINA. VARIANCES MAY BE GRANTED WHEN STRICT APPLICATION OF THE ZONING ORDINANCE WOULD CAUSE UNNECESSARY HARDSHIP AND THE GRANTING OF THE VARIANCE WOULD NOT CAUSE SUBSTANTIAL DETRIMENT TO ADJACENT PROPERTIES OR THE PUBLIC GOOD.
 - C. **SPECIAL EXCEPTIONS** ARE PERMITTED USES WITHIN A ZONING DISTRICT BUT REQUIRE A PUBLIC HEARING PRIOR TO GRANTING FINAL APPROVAL.

✓ 11. A PUBLIC HEARING IS CONDUCTED TO REVIEW EVIDENTIARY COMMENTS AND INFORMATION, BOTH FOR AND AGAINST THE PROPOSED APPLICATION. DURING THE PUBLIC HEARING PORTION OF THE MEETING:

- ALL INTERESTED PARTIES WILL BE GIVEN THE OPPORTUNITY TO SPEAK AND GIVE **FACTUAL INFORMATION** OR PRESENT **FACTUAL DOCUMENTATION**. OPINION AND HEARSAY ARE INADMISSIBLE.
- ALL PERSONS WISHING TO SPEAK WILL SIGN THE REGISTER PRIOR TO SPEAKING.
- ALL PERSONS SPEAKING WILL BE PLACED UNDER OATH.

✓ 12. ANYONE SPEAKING WILL COME FORWARD TO THE PODIUM, SPEAK INTO THE MICROPHONE, STATE HIS OR HER NAME AND ADDRESS, AND BE SWORN IN.

- ALL INFORMATION IS RECORDED FOR THE RECORD.
- THE APPLICANT/APELLANT WILL SPEAK FIRST AND WILL HAVE AN OPPORTUNITY FOR A REBUTTAL AT THE END.
- PLEASE LIMIT YOUR COMMENTS TO NO MORE THAN THE ALLOTTED TIME, PER SECTION 6.b OF THE RULES AND PROCEDURES. (FOUR (4) MINUTES

✓ 13. THE CLERK WILL NOW READ THE STATEMENT OF MATTER AS READ. IF AN AMENDMENT IS NEEDED, PLEASE CORRECT THE DOCUMENT, INITIAL AREAS OF AMENDMENT.

14. I NOW DECLARE THE PUBLIC PORTION OF OUR MEETING OPEN. WE WILL CALL EACH SPEAKER TO THE PODIUM.

- ✓ a. APPLICANT NR LODGES PROPERTY OWNER LLC (8 minutes)
- ✓ b. STAFF REPRESENTATIVE (8 Minutes)
- c. PUBLIC HEARING: (4 minutes per person) *none signed in.*
- d. APPLICANT REBUTTAL (3 minutes)

15. **[AFTER HEARING]**: ALL SPEAKERS HAVE BEEN HEARD; THE PUBLIC PORTION OF THE MEETING IS NOW CLOSED.

16. **[CALL FOR BOARD MEMBERS' QUESTIONS TO APPLICANT]**

17. **[CALL FOR BOARD MEMBERS' QUESTIONS TO STAFF]**

18. **[CALL FOR DISCUSSION]** PLEASE REFER TO THE HANDOUT OF UDO Sec. 9.2.14 REGARDING APPEALS, and Rules & Procedure Sec. 6.h.

19. THE CHAIR WILL ENTERTAIN A MOTION TO:

- A. APPROVE THE APPEAL
- B. DENY THE APPEAL
- C. APPROVE WITH STIPULATIONS/CONDITIONS, OR
- D. POSTPONE THE VOTE UNTIL THE NEXT MEETING, IF THE INFORMATION PROVIDED IS NOT SUFFICIENT FOR THE BOARD TO MAKE A DECISION

VOTE: 1:4 *(G. Alden in support, remainder against).*

~~20. CALL FOR NEXT APPLICATION AND REPEAT ITEMS 12-20~~

THERE ARE NO FURTHER ITEMS FOR PUBLIC HEARING

Motion is denied

21. NEW BUSINESS:

[Discussion of administrative items]:

- Next month's agenda
- Date for group CE Training Session

22. **[IF NO FURTHER BUSINESS, CALL FOR ADJOURNMENT, PAUSE, AND ADJOURN].**

Agenda Item Summary

Ordinance # / Resolution #:

Contact Person / Sponsor:

Department: Board of Zoning Appeals

Date Requested to be on Agenda: 10/3/2023

Issue for Consideration:

Points to Consider:

A draft of updated Rules and Procedures for Lancaster County BZA will be provided. Please bring our copy of the existing Rules and Procedures provided at the last meeting.

Recommendation:

ATTACHMENTS:

Description	Upload Date	Type
Brad Farrar BIO	9/26/2023	Backup Material
Brad Farrar Resume	9/26/2023	Backup Material
Sample Bylaws	9/26/2023	Backup Material
Sample Rules of Procedure	9/26/2023	Backup Material



Bradley T. Farrar is the County Attorney for Aiken County, South Carolina, and a retired U.S. Marine Corps judge advocate.

He is a graduate of the University of South Carolina, the University of South Carolina School of Law, the Air Force War College, and the Marine Corps Command and Staff College.

He regularly appears before religious and secular audiences to teach Christian strategic leadership principles and how to leverage the secular benefits of godliness as set forth in his book, *GOD and America: Lukewarm Is Not a Strategy* (Westbow, 2016).

Bradley T. Farrar
105 Vista Springs Avenue
Lexington, SC 29072
(803) 359-0112 (h) (803) 348-4456 (m)
bradleyfarrar@yahoo.com

EXECUTIVE LEADERSHIP

General counsel, litigator, and United States Marine Corps Judge Advocate advising and trying cases for or involving the U.S. Government, the Department of Defense, the U.S. Marine Corps, U.S. Navy, U.S. Army, U.S. Air Force, U.S. Coast Guard, the State of South Carolina, and local governments for over twenty-nine years over the spectrum of legal practice areas. Author and public speaker focused on Christian Strategic Leadership Principles since 2012.

PROFESSIONAL EXPERIENCE

County Attorney/General Counsel
Aiken County, South Carolina

January 2001 to present

- General Counsel responsible for providing comprehensive legal services to Aiken County, South Carolina, its elected and appointed officials, department heads and personnel. Duties include counseling, litigating, representing County entities and personnel in administrative, judicial and appellate proceedings, drafting pleadings, opinions, memoranda, briefs, motions, ordinances, resolutions, proclamations, deeds, contracts, leases and other instruments. Plans, directs, implements and supervises the legal affairs of the County, manages cases handled by in-house and outside legal counsel, interacting closely with top local and State officials.
- Legal representative for distribution of County portion of proceeds from \$600,000,000 settlement with the U.S. Department of Justice for failure to timely remove nuclear waste from Savannah River Site.
- Managed County's opioid class action lawsuits against pharmaceutical manufacturers, distributors and sellers.
- Represented County in class action lawsuit successfully defeating challenge to the imposition of a road maintenance fee that generates millions of dollars of road and infrastructure funds.
- Coordinated County's receipt of American Rescue Plan Act (ARPA) funds and distribution through sub-recipient agreements.

**Operational Lawyer
Headquarters, U.S. European Command
Stuttgart, Germany**

January 2020 to present

- All work conducted in SCIF / Current Top Secret (TS/SCI) Clearance.
- Advised the U.S. European Command (USEUCOM) Staff Judge Advocate and the USEUCOM Command and Principal Staff on a range of Operational Law matters.
- Reviewed exercise and operational plans and provided direct support to same in order to ensure compliance with Rules of Engagement (ROE), international treaties, and NATO obligations to ensure command interests are protected.
- Operational Law (OpLaw) Watch Officer, Russia-Ukraine conflict.
- Published article on COVID-19 scams for Legal Assistance for Military Personnel (LAMP) and provided legal assistance to Marine Corps Installations East. Drafted and revised legal assistance "Take One" and "Co-Counsel" briefs on domestic law and probate issues.
- Reviewed and issued legal opinions on exercise and operational plans, public affairs guidance for Thracian Star 21 Exercise, Task Order (TASKORD) for Level Shadow 78, and Transfer of Authority (TOA) of NATO Air Policing.
- Member, Commander's Communication Synchronization Working Group, Joint Plans and Logistics Working Groups. Transitioned from Exercise support to Command COVID-19 response until departure due to DoD travel ban.

**Chief Deputy County Attorney
Richland County, South Carolina**

September 1999 to December 2020

- As Deputy Chief Legal Counsel, provided comprehensive legal services to Richland County (Columbia, South Carolina), its elected and appointed officials, department heads and personnel.
- Drafted ordinances and represented County in defeating legal challenges to \$1,000,000,000 transportation sales tax referendum.
- Represented County in complex land development, regulatory, contract, and tort cases, and managed litigation involving up to \$50,000,000 in controversy.

**International Lawyer
Headquarters, U.S. Africa Command
Kelley Barracks, Möhringen, Germany**

April 2016 to January 2020

- All work performed in SCIF/maintained TS/SCI Security Clearance.
- Served as Acting Chief and Deputy for International Law Division, advising the U.S. Africa Command (USAFRICOM) Staff Judge Advocate, the USAFRICOM Command Principal Staff and Ambassador on range of International law matters.
- Reviewed exercise and operational plans to ensure compliance with rules of engagement, international treaties and conventions, and provided support to USAFRICOM planning cycle to advise on the legal considerations of proposed programs or expenditures to ensure the Command's interests were protected under international agreements.
- Advised Command on legal issues concerning Acquisition and Cross-Servicing Agreements, defense cooperation and security assistance authorities, Military Postal Service System country review, Status of Forces Agreements (SOFA), misuse of Government Travel Credit Cards (GTCC), Foreign Liaison Officer reviews, and the application of African laws concerning customs, taxes, foreign criminal jurisdiction and status protection waivers for personnel theater clearance.
- While transitioning to USAFRICOM, led a team of lawyers to Montenegro to assist host nation attorneys and the Ministry of Defense prepare for NATO accession and the provision of comprehensive legal services to ensure interoperability with NATO, European Union and other partners.
- Supported current and future operations, counter-terrorism, counter-piracy, support to exercises, legal military-to-military engagements, legal subject training/capacity building.
- Authored position paper on operational control of infrastructure investment and military construction initiatives within the Area of Responsibility (AOR) in accordance with Title 10 and DoD Instructions. Responsible for development and maintenance of USAFRICOM international agreements and instructions, country law studies and international agreements database, mutual logistical support agreements, foreign claims, foreign tax and foreign criminal jurisdiction matters.
- Served as Operational Lawyer during troops in contact (TIC) event in Somalia.
- Analyzed and provided legal advice on Acquisition Cross Servicing Agreements, Foreign Liaison officers in the USAFRICOM AOR, Foreign Criminal Jurisdiction, Foreign Claims, and SOFA/Status Protection Agreements, and reviewed command instruction on targeting.
- Directorate representative to New Normal and orders rewriting operational planning teams (OPTs) to oversee command instruction on DoD support to U.S. Embassy military assisted departures. Member, Theater Posture Working Group, Joint Targeting Working Group and Joint Threat Working Group.

**International Lawyer/Civil Lawyer
Headquarters, U.S. European Command
Patch Barracks, Stuttgart, Germany**

July 2013 to April 2016

- Advised the USEUCOM Staff Judge Advocate, Command and Principal Staff on range of International Law Matters. Provided legal guidance on NATO obligations, Status of Forces Agreements, NATO Partnership for Peace issues, exercise and operational plans, Rules of Engagement, international treaties and conventions, Intelligence Law, Ballistic Missile Defense Agreements, Acquisition and Cross-Servicing Agreements, defense cooperation and security assistance authorities, and the application of European Union laws concerning customs and taxes.
- Reviewed European Command Instructions (ECIs) for Military Justice, ACCM USEUCOM Focal Point Program, and issued legal opinions on Informal Fund Operations, civil and administrative law issues, U.S. Air Force National Guard Title 10 General Court-Martial convening authority for deployed personnel, military justice and Article 15 guidance on senior officer misconduct case.
- Performed INF Treaty and country study reviews. Conducted Defense Support to Civilian Authorities (DSCA) training for II Marine Expeditionary Force, Camp Lejeune.
- Awarded Defense Meritorious Service Medal and Humanitarian Service Medal while serving as Title 10 Legal Advisor to the Commander, JTF-New Jersey ISO Hurricane SANDY.
- Legal Advisor, Austere Challenge 15. European Command Staff Judge Advocate representative to the Joint Targeting Working Group. Drafted information papers on the use of cluster munitions in Lithuania, deliberate and dynamic targeting review and approval process.
- Member, European Union ("EU") "Registration, Evaluation, Authorisation, and Restriction of Chemicals" ("REACH") Working Group to analyze the applicability of EU treaty on U.S. Department of Defense activities in Europe.
- Issued legal opinions on Concept and Funding Requests (CFR) for consistency with U.S. European Command Theater Campaign Plan and U.S. sources of legal authority and funding for activities throughout the USEUCOM area of responsibility and involving numerous NATO partners. Provided legal opinion on appropriate Use of Appropriated Funds for Official Representation Purposes (ORF).
- Author, "Ship to Objective Maneuver," selected for publication in Marine Corps Gazette. Author, "Leadership: Timeless Principles for Principled Times," General Robert E. Hogaboom Leadership Writing Contest.
- USEUCOM Instructor, State Partnership Program, Garmisch, Germany.

Admin Law Chief/Engagements and Operational Lawyer
Headquarters, U.S. Africa Command
Kelley Barracks, Möhringen, Germany

May 2011 to June 2011
May 2010 to August 2010

- Served as command Deputy Legal Counsel. Responsible for support to current and future ops, counter-terrorism, counter-piracy, support to exercises, military-to-military engagements, legal subject training/capacity building, reviewed misconduct cases, military justice matters and DoD IG ethics investigation.
- Reviewed command legal ethics program, authored guide for implementing legal ethics program w/FAQs for filers, supervisors/reviewers of OGE SF 450 financial disclosures, resources, timelines and training for transition to on-line Financial Disclosure Management system.
- Legal advisor for mil-to-mil/civ engagement during Personnel Recovery Conference, Garmisch, Germany, providing guidance on mission authorities, non-conventional assisted recovery (NAR), and funding sources.
- Reviewed/recommended disciplinary action for EUCOM IG Report of Investigation (ROI), civilian employee misconduct, improper personnel hiring actions and prohibited personnel practices. IMA rep, Commandant of the Marine Corps' (CMC) EUCOM/AFRICOM visit.
- As Admin Chief also responsible for joint command MilJus issues, separations and review of ACI for Legal Affairs and the Administration of Military Justice. Investigated/reviewed officer and enlisted misconduct cases, trespasser incident at CJTF-HOA, and DoD IG ethics investigation.
- USAFRICOM instructor for mil-to-mil/civ engagement during Defense Institute of International Legal Studies (DIILS) course, Legal Aspects of Counter-terrorism, Gako, Rwanda, instructing Rwandan Army Officers and NSS (Intel) personnel on border security, criminalizing terrorist offenses and the African Charter on Human Rights.
- Legal advisor, Judicious Response 10-2 TTX, Djibouti Harbor tanker incident. Operational lawyer for counter-terrorism and counter-piracy JPTs providing guidance on mission authorities and funding sources. Coordinated command's first USN admin separation, recommending changes for AFRICOM Command Instruction on MilJus and admin separation processing.

Operational Lawyer
Headquarters, NORAD - U.S. Northern Command
Peterson Air Force Base, Colorado Springs, CO

October 2010 to July 2013

- Provided legal support to current and future operations for NORAD and U.S. Northern Command (USNORTHCOM), Defense Support to Civilian Authorities (DSCA),

Homeland Security within National Response Framework and National Incident Management System.

- Served as Title 10 Legal Advisor to the New Jersey TAG during Super Storm Sandy.
- USNORTHCOM Legal Advisor to Democratic National Convention, Charlotte (2012).
- Legal advisor, Vigilant Shield 12, NORAD-USNORTHCOM Tier 1 Exercise supported by Joint Coalition Warfighting, Joint Staff/J7, NORAD-USNORTHCOM HQ staffs in Homeland Defense and Homeland Security, linked to Joint Staff POS RESPONSE 12-1, VIGILANT GUARD-Arizona, and Canada Command's DETERMINED DRAGON 11.
- Legal advisor, Ardent Sentry 12, providing guidance on casualty evacuation, Personnel Recovery (PR), domestic imagery, Standing Rules of Engagement and Rules for the use of Force (SROE/SRUF), Title 10/Title 32 status of National Guard, Defense Support to Civil Authorities (DSCA), interagency coordination, Posse Comitatus Act, National Search and Rescue (SAR) plan, NORAD Northern Sovereignty Operations, Arctic mission, CANUS Civil Assistance Plan, nuclear weapons accident response operations.
- Author, "The Navy-Marine Team: Crisis Responders in a Dynamic Threat Environment," LtCol Earl Pete Ellis Contest 2012.

Legislative Coordination Officer
Office of the Chief of Marine Corps Reserve
Headquarters, U.S. Marine Corps, Washington, D.C.

December 2007 to December 2010

- Prepared and presented 2008 USMC Reserve Equipment Management Brief to Assistant Secretary of Defense for Reserve Affairs and DASN Reserve Affairs.
- Drafted executive summary, Defense Materiel Readiness Board's First Report to Congress, supplemental funding and effects on reset, joint expeditionary base working group, and proposed Title 10 change, enabling documents for official recognition of the Office of the Chief Marine Corps Reserve.
- Action Officer for NGREA funding of VTC, counter-intel HUMINT equipment suites, liaison with Systems Command and Program Manager TRASYS for USMCR equipment purchasing and fielding for NDAA and OCO supplemental funding. Submitted OCMCR nominations for CMC Joint Staff Working Group, and Management HQMC quarterly report to the Assistant Commandant of the Marine Corps. Drafted Justice Marion Chambers Award revision, MCO 1650R.35C. Provided legal assistance, ethics and MARCORSEPS guidance to command, and wrote professional awards citations for HQMC Marines.

Operations Officer, Manpower and Reserve Affairs
Headquarters, U.S. Marine Corps, Quantico, VA

May 2006 to July 2006

**Senior Legal Advisor
Deployment Processing Command, Camp Lejeune, NC**

August 2003 to October 2007

- Responsible for Mobilization Processing Center Legal Section in the mobilization and deployment of service members and civilian contractors in support of Operation Iraqi Freedom and other contingencies. Principal legal advisor to Command in military, civil, administrative law and legal assistance matters. Counseled military members, dependents and retirees across full spectrum of legal issues.
- Augmented Base SJA in legal assistance, civil law and special project work when not engaged in primary mobilization and Command advisor mission.

**Legal Affairs Officer
Office of Marine Forces Reserve, Arlington, VA**

June 2007 to August 2007

**Legal Assistance Officer
Deployment Processing Command, Camp Lejeune, NC**

April 2003 to August 2007

- Responsible for Mobilization Processing Center Legal Section in the mobilization and deployment of service members and civilian contractors in support of Operation Iraqi Freedom and other contingencies. Principal legal advisor to Command in military, civil, administrative law and legal assistance matters.
- Counseled military members, dependents and retirees across full spectrum of legal issues. Augmented Base SJA in legal assistance, civil law and special project work when not engaged in primary mobilization and Command advisor mission.

**Operations Officer
Manpower and Reserve Affairs
Headquarters, U.S. Marine Corps, Quantico, VA**

July 2006 to August 2006

- Responsible for coordinating Reserve Affairs responses to full spectrum of issues impacting Reserve Marines. Prepared briefs, position/point papers, Naval Correspondence, After Action and other reports and Congressional Testimony for Director, Reserve Affairs, for General Officers and other briefers.

**Officer in Charge, Civil Law
Staff Judge Advocate, Camp Lejeune, NC**

March 2003 to August 2003

- Coordinated and supervised efforts of all staff attorneys, civil process personnel, paralegals and enlisted Marines.
- Rendered ethics opinions for Base Commanding General and his commands on issues including the following: standards of conduct, OGE 450/SF 278 financial disclosure, gifts, conflicts of interest, fiscal law, use of government resources, political activities of

federal employees, relations with non-Federal entities, non-appropriated fund activities, fundraising, government travel and transportation, contractors in the workforce, outside activities, post-government employment, ethics in disaster relief, and Reserve component personnel ethics, Operation Enduring Freedom/Noble Eagle and Operation Iraqi Freedom Related Opinions.

Senior Legal Advisor **January 2003 to March 2003**
Mobilization Support Battalion, Camp Lejeune, NC

Adjunct Professor, College of Criminal Justice **August 2000 to December 2001**
University of South Carolina, Columbia, SC

Legal Assistance Officer **October 2000 to January 2003**
Reserve Support Battalion, Camp Lejeune, NC

Associate, King and Vernon, P.A., Columbia, SC **February 1999 to September 1999**

- Represented clients in complex domestic cases, criminal and civil litigation.

Associate, Harris and McLeod, Cheraw, SC **July 1998 to December 1998**

- Extensive and varied caseload included insurance defense, domestic relations, criminal law, PCR, appellate cases, real estate transactions, wills and estate planning, probate, litigation, contracts. Firm represented Town of Cheraw, corporate, and individual clients.

Defense Counsel, U.S. Marine Corps **October 1996 to July 1998**
Marine Corps Base Camp Lejeune, NC

- Defended more than 200 Marines and Sailors charged with crimes including attempted murder, rape, assault, battery, maiming, sexual molestation, larceny, munitions theft and sale, drug use, possession and distribution, unauthorized absences, orders violations and other military offenses. Served as defense counsel for Marine charged in FBI Operation Longfuse.
- Lead counsel in more than 200 courts-martial and administrative discharge boards in cases involving drug abuse, commission of a serious offense (murder, armed robbery, larcenies), and pattern of misconduct.

Legal Assistance Attorney **October 1995 to October 1996**
Marine Corps Base Camp Lejeune, NC

- Counseled over 1,400 active duty military personnel, reservists, retirees and dependents in broad range of civil and criminal matters, including domestic, estate planning, contracts, torts, insurance, and consumer law. Prepared hundreds of wills, living wills, trusts, and powers of attorney for deploying Marines, retirees and their spouses. Drafted more than 160 separation and property settlement agreements. Prepared numerous

divorce, child custody, spousal and child support pleadings. Assisted in the recovery of thousands of dollars in contract damages.

- Taught classes (up to Battalion size) in estate planning, consumer law, marriage preparation legal workshops, pre-deployment, welcome aboard briefs, and pre-retirement seminars.

Platoon Commander
Midshipmen Leadership Training, Quantico, VA

July 1995 to August 1995

Staff Attorney
Richland County Attorney's Office, Columbia, SC

November 1993 to December 1994

Law Clerk, Gergel, Burnette, Columbia, SC

August 1993 to November 1993

Legal Marketing Director
Sherrill and Rogers, P.C., Columbia, SC

February 1991 to August 1991

Law Clerk, Bowers & Orr, Columbia, SC

May 1990 to August 1990

EDUCATION

May 1993

University of South Carolina School of Law, Columbia, SC

- J.D., May 1993. Member, South Carolina Bar, since November 1993.
- Captain, American Bar Association Moot Court Bar, National Appellate Advocacy Competition, Baltimore, MD, Spring 1992.
- Finalist, 1992 J. Woodrow Lewis Moot Court Competition.
- Member Order of the Barristers, Moot Court Bar, Phi Delta Phi Legal Fraternity, Christian Legal Society.

1989-1990

Graduate School, Political Science, University of South Carolina, Columbia, SC

- Completed all course work and requirements while also attending law school as a full-time student.
- Member, South Carolina Political Science Association. Presented paper, "Decision Making on the South Carolina Court of Appeals," Spring 1990 meeting of S.C. Political Science Association.

1987-1989

B.A., Political Science, University of South Carolina, Columbia, SC

- Dean's List; Assistant Editor, Garnet and Black yearbook; Viewpoint Editor, The Gamecock; Lacrosse team

1985-1987

Wittenberg University, Springfield, Ohio

- Awarded Wittenberg Alumni Scholarship; Phi Gamma Delta scholarship winner; Member, Phi Gamma Delta fraternity; Varsity Lacrosse team; English tutor.

MILITARY EDUCATION

2016	Air War College DEP
2011	Marine Corps Command and Staff College
2007	Naval Justice School Reserve Lawyer Course, Newport, RI
2003	Ethics Advisors Course, TJAGSA, Charlottesville, VA
2003	Basic Operational Law Training, Newport, RI
2002	Legal Assistance Course, JTAGSA, Charlottesville, VA
1997	Law of War Course, Camp Pendleton, CA
1996	National Institute of Trial Advocacy (NITA) Training, New River Air Station, Jacksonville, NC
1996	Army Legal Assistance Course, Charlottesville, VA
1995	Naval Justice School, Newport, RI
1995	Marine Officer Basic School, Quantico, VA
1992	Marine Officer Candidate School, Quantico, VA

PROFESSIONAL ASSOCIATIONS

Member, South Carolina Bar
U.S. District Court, South Carolina
Court of Appeals for the Armed Forces
Order of the Barristers
Phi Delta Phi Legal Fraternity
Christian Legal Society

MILITARY AWARDS

Defense Meritorious Service Medal (x4 with Bronze Oak Leaf Cluster)
National Defense Service Medal (x2)
Navy and Marine Corps Overseas Service Ribbon
Navy Meritorious Unit Commendation (x2)
Humanitarian Service Medal
Joint Meritorious Unit Award
Armed Forces Reserve Medal (x3 with “M” device and Bronze Hour Glass)
Sea Service Deployment Ribbon
Navy and Marine Corps Achievement Medal
Navy and Marine Corps Commendation Medal
Joint Service Achievement Medal (x2)
Selected Marine Corps Reserve Medal (x4)
Global War On Terrorism Service Medal

BYLAWS
Of the Board of Zoning Appeals
Of _____ County, South Carolina

ARTICLE I.

Name

The official name of the Board shall be the "Board of Zoning Appeals of _____ County, South Carolina."

ARTICLE II.

Object

In accordance with S.C. Code of Laws Ann. Section 6-29-780 *et seq.* (1994, as amended),¹ and _____ County Code of Ordinances (Zoning), Article ____, the Board shall function as part of the administrative mechanism designed to enforce the _____ County zoning ordinance. The Board and its members shall be subject to the constitution and laws of the State of South Carolina, including the Ethics Act² and the Freedom of Information Act,³ and the Code of Ordinances of _____ County, South Carolina.

ARTICLE III.

Members

The Board shall consist of seven (7) members appointed by county council. The term of office of each member shall be three (3) years or after that time until such member's successor is appointed. A vacancy in the membership must be filled for the unexpired term in the same manner as the initial appointment. The governing authority creating the Board may remove any member of the Board for cause upon written charges and after a public hearing.

ARTICLE IV.

¹ Title 6, Chapter 29 of the South Carolina Code of Laws, "South Carolina Local Government Comprehensive Planning Enabling Act of 1994."

² Title 8, Chapter 13 of the South Carolina Code of Laws (1992, as amended), "Ethics, Government Accountability, and Campaign Reform."

³ Title 30, Chapter 4 of the South Carolina Code of Laws (1978, as amended), "Freedom of Information Act."

Officers

4.1 Chair and Vice Chair.

The Board at its annual meeting in January or as soon thereafter as practical shall elect a Chair, who shall serve for one (1) year or until he or she is re-elected or his or her successor is elected. The Board at its annual meeting in January or as soon thereafter as practical shall elect a Vice Chair, who shall serve for one (1) year or until he or she is re-elected or his or her successor is elected. The Chair and Vice Chair shall begin their terms of office at the close of the meeting at which they are elected. No member shall hold more than one office at a time, and no member shall be eligible to serve more than two (2) consecutive terms in the same office. The Chair or, in his or her absence, the acting chair or anyone authorized by law to administer oaths may administer oaths. The Chair, or, in his or her absence, the acting chair, may compel the attendance of witnesses by subpoena.

The Chair and Vice Chair shall perform the duties prescribed by these bylaws, the rules of procedure and parliamentary authority adopted by the Board.

4.2 Secretary.

The Board shall appoint a Secretary who may be an officer of the governing authority or of the Board. The Secretary shall keep or cause to be kept the minutes of the Board's proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep or cause to be kept records of its examinations and other official actions, all of which must be filed in the office of the Zoning Administrator (also known as the Development Services Manager) as public records.

ARTICLE V.

Meetings

5.1 Time and Place.

The regular meetings of the Board shall be held on the first (1st) Wednesday of each month unless otherwise ordered by the Board. The regular meeting in January shall be known as the annual meeting and shall be for the purpose of electing officers and for any other business that may arise.

Special meetings may be held at the call of the Chair and at such other times as the Board may determine.

The Board shall meet in the _____ County Council Chambers,
_____ Floor, _____ County Administration Building,
_____, _____, South Carolina _____, or any other suitable
noticed location.

5.2 Notice.

Public notice of a hearing of the Board shall be published in a newspaper of general circulation in _____ County and posted on or adjacent to the property affected in a given hearing at least fifteen (15) days prior to the hearing.

5.3 Agenda and Case Docketing.

A written agenda shall be prepared by the secretary or his or her designee and posted at least twenty-four (24) hours prior to any meeting of the Board. The secretary shall number and place upon the Board's docket for hearing every appeal filed timely and in the proper form. All cases docketed not later than the first business day of the month preceding a regular Board meeting shall be set for hearing at such meeting. All cases docketed after the first business day of the month preceding a regular Board meeting shall be set for hearing on the second regular meeting day after such docketing, unless a different date is set by the Board. For purposes of this section, "business day" means any day during the standard Monday through Friday workweek that the Planning Department is open to the public for business (*e.g.*, legal holidays observed by _____ County are not business days).

Any matter before the Board may be removed from the agenda or postponed or continued at a meeting by majority vote of the Board and as otherwise provided in these bylaws, the Board's rules of procedure or parliamentary authority adopted by the Board. The Board may reorder a meeting agenda to accommodate any exigency or circumstance shown upon good cause.

5.4 Cancellation.

When it appears that there is no business to be taken up by the Board at a meeting the Chair, or in his or her absence, the Vice Chair, may dispense with such meeting and a notice of cancellation shall be posted outside the place where such meeting was to have been held. Board members shall notify the Zoning Administrator of any anticipated absences or conflicts that would preclude a Board member's participation at any Board meeting as far in advance of such a conflict or anticipated absence as is practical.

5.5 Adjournment.

When all appeals cannot be disposed of on the day set, the Board may adjourn and reconvene the next day with no further notice required.

5.5 Quorum.

A majority of the appointed members of the Board shall constitute a quorum. A quorum shall be present before any business is conducted other than to 1) fix the time to adjourn, 2) adjourn, 3) recess, or 4) take measures to obtain a quorum such as recessing to contact absent members.

5.6 Executive Sessions.

The members of the Board may go into executive session for any purpose prescribed by the Freedom of Information Act.

5.7 Rules of Order.

Robert's Rules of Order Newly Revised, latest edition, shall govern the conduct of meetings except as otherwise provided by these bylaws or rules of procedure adopted by the Board.

Article VI.

Ex Parte Communications

In view of the quasi-judicial nature of service on the Board of Zoning Appeals, Board members shall not discuss any case pending before the Board with parties of record or other interested persons, except as part of a public hearing concerning that case. If a member is contacted by a party of record or other interested person, the member shall decline to discuss the case and inform the contacting person of the opportunity to appear before the Board at a public hearing to present his or her views on the record.

If contact or a relationship between an interested party and a member is such that it compromises, or appears to compromise, the ability of the member or the Board to render a fair and unbiased decision in a case, it shall be the duty of the member to disclose the contact on the record at the start of the meeting where the case is to be heard, and to recuse himself or herself from participation in the discussion and any vote concerning the case wherein the contact or relationship exists.

Article VII.

Amendment, Suspension and Adoption

7.1 Amendment.

These bylaws may be amended at any meeting of the Board by majority vote of the appointed members of the Board at least five (5) days after the written amendment is delivered to all appointed members of the Board.

7.2 Suspension.

In case of any exigency or circumstance shown upon good cause and as is needed to prevent or abate a manifest injustice these bylaws may be suspended at any meeting by two-thirds vote of the appointed members of the Board.

7.3 Adoption.

These bylaws were adopted and became effective by vote of a majority of the Board at a public meeting on _____, 20__.

RULES OF PROCEDURE
Of the Board of Zoning Appeals
Of _____ County, South Carolina

ARTICLE I.

Rules

These rules of procedure are adopted pursuant to S.C. Code of Laws Annotated Section 6-29-790 (1994)¹ for the _____ County Board of Zoning Appeals, and should be read in conjunction with the Board's bylaws, the laws and constitution of South Carolina, and the _____ County Code of Ordinances for reference to the authority governing the operation of the Board.

Robert's Rules of Order Newly Revised, latest edition, shall govern the conduct of meetings except as otherwise provided by the bylaws or rules of procedure adopted by the Board or laws applicable to the Board's operation.

ARTICLE II.

Appeals Procedure

2.1 Form of Appeal.

Appeals from administrative decisions, applications for variances, and applications for special exceptions shall be filed on forms approved by the Board and provided to applicants by the secretary or the Development Services Division (Zoning) of the _____ County Planning Department. The Board may require additional information as deemed necessary to decide an appeal. The failure to submit adequate information may be grounds for dismissal of an appeal.

2.1a Applications filed by Agents.

An application filed by an agent shall be accompanied by written designation of the agent signed by the applicant or party in interest. In cases where it is clear to the Board that the applicant or party in interest is unable to provide written designation, alternate proof of the agent's authority to act on behalf of the applicant, such as a valid

¹ Title 6, Chapter 29 of the South Carolina Code of Laws, "South Carolina Local Government Comprehensive Planning Enabling Act of 1994."

order from a court of competent jurisdiction, or other proof may be considered by the Board in allowing an agent to proceed.

Misrepresentation of an agent's authority to act on behalf of an applicant by the agent or any other person may be grounds for voiding an administrative decision, special exception, variance or any other relief granted by the Board, in addition to any other civil or criminal consequences that may accompany such misrepresentation.

2.2. Amendments.

Technical or minor amendments to applications may be allowed to conform to the true nature of the request provided such amendments would not appear to the Board to substantially prejudice the rights of any party. Reconsideration of a matter may be appropriate where an amendment believed to be minor subsequently work injustice upon a party not noticed of the amendment.

2.3 Withdrawal of Appeal.

Any appeal or application may be withdrawn at any time prior to action by the Board. Withdrawn applications may be re-filed three (3) months from the date of withdrawal or thereafter and shall be placed on the docket for hearing based on the date re-filed.

An appeal from an administrative decision that is withdrawn may not be re-filed after the thirty (30) day period for appeal (as set forth in Section _____ of the _____ County Code of Ordinances) has expired.

2.4 Continuances and Deferrals.

The Board may continue or defer an appeal or application for good cause shown upon its own motion or at the request of any applicant, witness or interested party.

2.4a Administrative Deferrals.

The Development Services Manager (Zoning Administrator) or his or her designee may administratively defer any appeal or application upon good cause shown at any time prior to the call of the matter before the Board; provided, however, that no appeal or application may be administratively deferred more than twice under this subsection absent leave of the Board. The deferral and the reason therefor shall be made known to the Board as soon after the deferral is granted as is practical and the agenda so noted to inform the public of such action.

ARTICLE III.

Hearing Procedure

3.1 Appearances.

The applicant or any party in interest may appear in person or by agent or attorney. The Board may treat the failure to appear by or on behalf of an applicant as a withdrawal, or it may postpone any matter before it in the absence of such an appearance for a period other than that prescribed for a withdrawal.

3.2 Witnesses.

Parties in interest may present testimony under oath. Witnesses may be compelled to attend by subpoena pursuant to S.C. Code of Laws Annotated Section 6-29-790 (1994). The Board may call its own witnesses when deemed appropriate.

Each witness shall state his or her name and address for the record. Owners of neighboring property appearing for or against the granting of appeal shall, upon request, furnish the Board with descriptions of the neighboring property which they own and with affidavits of such ownership, or in the absence of such descriptions and affidavits of ownership, may, after being sworn, testify thereto.

No party shall have the right to cross-examine witnesses. Witnesses shall not examine Board members except for *voir dire* to determine whether a member may have a conflict of interest that may call into question that member's impartiality in the matter in which the *voir dire* is taken.

Intimidation of witnesses is prohibited. Witness exchanges with the audience or staff members is not permitted except by leave of the Board. Contempt of the Board may be certified to the circuit court pursuant to S.C. Code of Laws Annotated Section 6-29-810 (1994).

Misrepresentation of an agent's authority to act on behalf of an applicant by the agent or any other person may be grounds for voiding an administrative decision, special exception, variance or any other relief granted by the Board, in addition to any other civil or criminal consequences that may accompany such misrepresentation.

3.2a Oath.

All witnesses shall be sworn by the Chairman or the acting chairman pursuant to S.C. Code of Laws Annotated Section 6-29-790 (1994), or an official authorized to

administer oaths on behalf of the Board prior to presenting testimony, except that unsworn testimony may be allowed as provided for in section 3.3.

3.3 Evidence.

Original documents, photographs, maps, plans, plats, drawings and the like, or legible copies thereof, may be received in the record without authentication.

The chairman, or in his or her absence, the acting chairman shall rule on all evidentiary matters. Testimony that is irrelevant, immaterial, conjectural, embarrassing, degrading, hearsay, that assumes facts not in evidence, misquotes a witness or misstates a witness' testimony, violates a privilege, is cumulative or repetitive, or is prejudicial beyond its probative value may be disallowed. Evidence may be placed in the record with any objections noted.

Petitions and unsworn statements may be accepted but will be given lesser weight than affidavits or testimony given under oath.

3.4 Conduct of Hearing.

The order of hearing, subject to modification by the chairman or acting chairman shall be:

- a. Statement of the matter to be heard by Zoning Administrator of designee;
- b. Presentation by applicant, including any witnesses applicant may call or who wish to testify in support of applicant **(Fifteen (15) minute limit)**;
- c. Presentation by opponents **(Three (3) minute limit per opponent. However, a spokesperson for an established body or for a group of three or more may be given five minutes provided the other members of the body or group for whom the spokesperson speaks do not otherwise participate)**; and
- d. Rebuttal by applicant **(Five (5) minute limit)**.

The Board may question a witness at any point in the hearing. The Board may extend the above time periods as deemed appropriate.

No witness may yield or cede time to any other witness. Spokespersons are welcome and encouraged, especially when it appears that testimony is likely to be cumulative.

3.5 Disposition.

a) The Board shall make disposition of a matter by majority vote of members present and qualified (*i.e.*, not subject to recusal or challenge by an interested party based on a conflict of interest or other good cause shown) to vote, provided not less than a quorum is qualified to vote.

b) Tie Vote

Any motion that receives a tie vote is considered to have failed for lack of a majority.

c) Impasse

i. Tie Vote on Motion to Approve/No Motion to Deny Offered

In cases where there is a motion to approve a request for a special exception or for a variance or to affirm an administrative decision and such motion to approve or to affirm results in a tie vote (and thus, is deemed to have failed for lack of a majority) and there is no motion to deny the request in the same case, the Chair, or in his/her absence, the Vice Chair, may declare the case to have been denied for lack of a majority on the motion to approve or to affirm and no further motion (such as a motion to deny) having been offered. Nothing in this rule prohibits the Board from continuing a case for any purpose authorized by law or by these rules or the Board's bylaws.

ii. Tie Vote on Motion to Deny/No Motion to Approve Offered

In cases where there is a motion to deny a request for a special exception or for a variance or to overturn an administrative decision and such motion to deny or to overturn results in a tie vote (and thus, is deemed to have failed for lack of a majority) and there is no motion to approve the request in the same case, the Chair, or in his/her absence, the Vice Chair, may declare the case to have been denied for lack of a majority on the motion to deny or to overturn and no further motion (such as a motion to approve) having been offered. Nothing in this rule prohibits the Board from continuing a case for any purpose authorized by law or by these rules or the Board's bylaws.

d) Disposition may be taken at the conclusion of the case unless another time is selected by the Board. A member may not vote on a matter that he or she has not heard. Deliberating and voting shall be done in public.

3.6 Notice of Decision.

The Board may dispose of a matter by granting, denying, modifying or dismissing the matter for lack of jurisdiction, lack of prosecution or other reason, with such conditions as may be deemed necessary, or by affirming, modifying or reversing an administrative decision.

The Zoning Administrator shall give written notice of the decision in a matter to the applicant as soon as practical after the matter has been decided. The notice shall include reference to the appeal procedure as provided by S.C. Code of Laws Annotated Section 6-29-820 (1994).

3.7 Reconsideration.

At any time prior to the approval of the minutes reflecting the action taken, any member of the Board who voted for any disposition of the matter may make a motion that the action taken on that matter be reconsidered. If a majority of the Board votes to reconsider the matter, it will be placed on the next available agenda of the Board. The secretary shall notify, or cause to be notified, the applicant of the Board's decision to be reconsidered. Notice of reconsideration shall be given as provided for in Section 3.13.

Neither a request for reconsideration nor a motion for reconsideration is required to be advertised, as cases remain open until finally disposed of by the Board in accordance with Section 3.8 of these rules.

3.7a Requests for Reconsideration.

There is no right of reconsideration of any decision by the Board. However, a person who may have a substantial interest in any decision of the Board may request reconsideration at any time prior to the approval of the minutes reflecting the action taken. Requests for reconsideration shall be delivered to the Zoning Administrator in writing, setting forth plainly, fully, and distinctly why the decision of the Board is in error based on the following reasons:

- a) mistake of law;
- b) mistake of fact;
- c) inadvertence;
- d) excusable neglect;
- e) newly discovered evidence which by due diligence could not have been discovered in time for the hearing;
- f) fraud;
- g) misrepresentation;
- h) other misconduct of a party in interest; or
- i) evidence of a material clerical or other error.

Unmeritorious requests for reconsideration or requests based on an aggrieved party's desire simply for another hearing shall be denied.

A request for reconsideration shall be based and acted upon entirely the written request submitted pursuant to this subsection; provided, however, that testimony may be allowed only by leave of the Board. The Board may call witnesses for limited testimony if needed to develop an understanding of the nature of the request.

3.8 Finality of Decision.

A decision of the Board is final upon approval of the minutes reflecting the action taken.

3.9 Appeal.

Notwithstanding section 3.8, appeals from the Board may be made to circuit court pursuant to S.C. Code of Laws Annotated Section 6-29-820 (1994), which provides:

A person who may have a substantial interest in any decision of the board of appeals or an officer or agent of the appropriate governing authority may appeal from a decision of the board to circuit court in and for the county by filing with the clerk of the court a petition in writing setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within thirty days after the decision of the board is mailed.

3.10 Resubmission.

No appeal that has been denied shall be considered again by the Board within twelve (12) months of its denial, subject to Section 3.11.

3.11 Rehearing.

No request to grant a rehearing within twelve (12) months of its denial by the Board shall be entertained unless substantial new evidence is submitted which could not reasonably have been presented at the previous hearing, or upon a finding of fraud, misrepresentation or other misconduct of a party.

Requests for rehearing shall be delivered to the Zoning Administrator in writing, setting forth plainly, fully, and distinctly why the decision of the Board is in error. Unmeritorious requests for rehearing or requests based on an aggrieved party's desire

simply for another hearing shall be denied. Testimony is allowed only by leave of the Board. The Board may call witnesses for limited testimony if needed to develop an understanding of the nature of the request.

Once the request for rehearing is placed on the agenda, the party requesting the rehearing shall be notified to appear before the Board. If a motion to grant a rehearing is approved, the case shall be put on the calendar for a rehearing. Rehearing shall be subject to the same notice requirements as original hearings.

3.12 Notice.

Notice shall be given at least fifteen (15) days in advance of a public hearing. The owner of the property with respect to which any matter for determination is before the Board shall be notified by mail, directed to such owner or his agent of record. Notice to the public shall be given by publication in a newspaper of general circulation in _____ County and posting the property with respect to which hearing is to be held. Such public notice shall identify the property involved and shall contain a statement advising the public of what relief is sought.

3.13 Minutes.

The secretary or his or her designee shall record all meetings and hearings of the Board on tape that shall be preserved until final action is taken on all matters presented. The secretary or designee shall prepare minutes of each meeting for approval by the Board. Members in attendance at the meeting for which the minutes were prepared shall sign the original version of the minutes. Minutes shall be maintained as public records.

ARTICLE IV.

Amendment, Suspension and Adoption

4.1 Amendment.

These rules may be amended at any meeting of the Board by majority vote of the appointed members of the Board at least five (5) days after the written amendment is delivered to all appointed members of the Board.

4.2 Suspension.

In case of any exigency or circumstance shown upon good cause and as is needed to prevent or abate a manifest injustice these rules may be suspended at any meeting by two-thirds vote of the appointed members of the Board.

4.3 Adoption.

These rules of procedure were adopted and became effective by vote of a majority of the Board at a public meeting on _____, 2023.

Attest _____
Secretary

Agenda Item Summary

Ordinance # / Resolution #:

Contact Person / Sponsor:

Department: Board of Zoning Appeals

Date Requested to be on Agenda: 10/3/2023

Issue for Consideration:

Points to Consider:

Recommendation: