

cause, after a public hearing. Members shall serve without pay, but may be reimbursed for any expenses incurred while representing the Board.

### **9-9.1 Proceedings of the Board of Zoning Appeals**

The Board of Zoning Appeals shall elect a Chairman and a Vice-Chairman from its members, who shall serve for one year, or until reelected. The Board shall appoint a Secretary, who may be a county officer or a member of the Board of Zoning Appeals. The Board shall adopt rules and by laws in accordance with Section 6-29-790 of the South Carolina Code of Laws. 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. A quorum shall be required to take any official action by the Board. Three members present shall constitute a quorum.

### **9-9.2 Appeals to the Board of Zoning Appeals; Hearings and Notices**

Appeals to the Board shall be taken within 30 days of the date of the action which is appealed, by filing notice of appeal with the Building Official, who shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed was taken.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed except by a restraining order which may be granted by the Board or by a court of record on application, on notice to the Building Official and on due cause shown.

The Board of Zoning Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it, and give at least 15 days public notice thereof in a newspaper of general circulation in the community, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or by attorney.

### **9-9.3 Powers and Duties of the Board of Zoning Appeals**

The Board of Zoning Appeals shall have the following powers and duties:

- (1) **To Hear and Decide Appeals, Generally.** To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Building Official in the enforcement of this Ordinance.
  
- (2) **To Grant Variances, Generally.** To authorize upon appeal in specific cases a variance from the terms of the Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will, in an individual case, result in the unnecessary hardship so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such individual case of unnecessary hardship if the Board makes and explains in writing the following findings:
  - (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property;
  - (b) These conditions do not generally apply to other property in the vicinity;
  - (c) 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; and
  - (d) 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.

- (3) **To Grant Special Exceptions, Generally.** To hear and authorize specific cases a special exception permit as authorized for those uses specifically identified in TABLE I, SCHEDULE OF PERMITTED AND CONDITIONAL USES, AND OFF-STREET PARKING REQUIREMENTS, BY DISTRICT as allowed by Special Exception (SP). The Board of Zoning Appeals shall issue the requested permit unless it concludes, based on information submitted at the hearing, that:
- (a) The requested permit is not within its jurisdiction according to TABLE I, SCHEDULE OF PERMITTED AND CONDITIONAL USES, AND OFF-STREET PARKING REQUIREMENTS, BY DISTRICT; or
    - a. The application is incomplete; or
    - b. If completed as proposed in the application, the development will not comply with one (1) or more requirements of this ordinance; or
    - c. If completed as proposed in the application, the development;
      - a. Will materially endanger the public health or safety; or
      - b. Will materially injure the value of neighboring property; or
      - c. Will not be in compliance with the general plan for the physical development of the county, as embodied in this ordinance or other plans or policies officially adopted by the County Council.
- (D) **To grant Special Exceptions, Specifically** the Board of Zoning Appeals:
- a. Shall attach to the permit such reasonable requirements in addition

to those specified in this ordinance as shall ensure that the development:

- a. Shall not endanger the public health or safety;
  - b. Shall not injure the value of adjacent or abutting property;
  - c. Shall be in harmony with the area in which it is located ;
  - d. Shall be in conformity with the plan for the physical development of the county, as embodied in this ordinance or other policies or plans officially adopted by the County Council.
- b. Not attach additional conditions or alter the specific requirements set forth in this ordinance unless the development presents extraordinary circumstances that justify the variation from the specified requirements.
  - c. May attach to a permit a condition limiting the permit to a specified duration.
  - d. Must enter all additional conditions or requirements on the permit.

#### **9-9.4 Decisions of the Board of Zoning Appeals**

In exercising the above powers, the concurring vote of a simple majority of all Board members appointed shall be required to reverse or affirm, wholly or in part, or modify any order, requirement, decision, or determination of the Building Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, and to that end, shall have the powers of the officer from whom the appeal is taken and may direct the issuance of a permit. The Board, in the 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.

All final decisions and orders of the Board must be in writing and be

permanently filed in the office of the Board as 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.

### **9-9.5 Special Exception Permit**

- (1) The burden of submitting a completed application shall be upon the applicant. An application is complete when it contains all the information that is necessary for permit issuing authority to decide whether or not the development, if completed as proposed, will comply with all requirements of this ordinance.
- (2) The burden of persuasion on the issue of whether the application should be turned for any of the reasons set forth in Section 9-9.3(3) rests on the party or parties urging that the requested permit be denied, unless the information presented by the applicant in his application and at the public hearing is sufficient to conclude that a reason exists for denying the application.
- (3) The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this ordinance remains at all times on the applicant.
- (4) Special Exception Permits shall expire automatically if, within one (1) year after issuance of such permit, the use authorized by such permit has not materially commenced. Materially commenced shall occur when ten (10) percent of the total cost of all construction, erection, alteration, demolition, or similar work on any development authorized by such permit has been completed.
- (5) If, after some physical alteration to the land or structures begins to take place, such work is discontinued for a period of one (1) year, then the permit authorizing such work shall immediately expire.
- (6) The Board of Zoning Appeals may extend for a period of one (1) year the date when a permit would otherwise expire if it concludes that the permit recipient has proceed with due diligence and good faith, and conditions

have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods of up to one (1) year upon the same findings. All such extensions shall be granted without resorting to the formal process required for a new permit.

- (7) The Special Exception Permit becomes fully executed when the permit is mailed or hand delivered to the permit applicant.
- (8) Minor design modifications or changes in the Special Exception Permit are permissible with the approval of the Board of Zoning Appeals. No public hearing is required for minor modifications. Minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public or those intended to occupy or use the proposed development.
- (9) All other requests for modifications or changes in the Special Exception Permit shall be processed as new applications.
- (10) No person (including successors or assigns of the person who obtained the permit) shall make use of the land or structures covered under the Special Exception Permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit
- (11) The terms and requirements of the Special Exception Permit apply to and restrict the use of land and structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued.
- (12) All conditions and requirements of a Special Exception Permit are enforceable in the same manner and to the same extent as any other applicable requirements of this ordinance, except that the Board of Zoning Appeals may upon hearing and determination of substantial violation may revoke the Special Exception Permit.