

**TOWN OF HUNTERSVILLE
BOARD OF ADJUSTMENT MEETING
MINUTES**

February 25, 2021
6:30 PM - Huntersville Town Hall

Roll Call, Determination of Quorum

Approval of Minutes

Hearing of Cases

Other Business

Discussion of Rules of Procedure

Chairman Cecil conducted a review of the proposed amendments and edits to the Rules of Procedure.

Regarding Item III. B – Attendance; discussion was had regarding the role of Alternate members during the meeting and the Boards desire to include alternates in discussions and to be allowed to ask questions.

E. Sloop, Town Attorney referenced NCGS 160d.302(a) related to why Alternate members may only participate when acting as a regular member, given that this is a quasi-judicial hearing.

Chairman Cecil commented that from his research there are various municipalities that exclude Alternates from participating in their rules of procedure and various that do not indicate exclusion, thereby leaving the door open for inclusion.

Discussion was had related to how this has been handled previously and what the process is for adjustments to the formation of the Board members. Staff related that the voting requirement of 4/5 dictated the need for alternates to ensure that a quorum and 4/5 vote could be met. Historically the Town Attorney only attended when there was something that could be more controversial being heard. If a decision was appealed, allowing the Alternates to be involved always gives the opposing counsel the option to use their participation as a defense. For that reason, Town counsel is recommending that we avoid that potential litigation.

Related to the addition of “The Chair may treat extenuating circumstances and emergency situations as exceptions to the Attendance Rule.” Town counsel recommended the addition of the specification of Attendance and a change from Chairman to Board.

J. Bradshaw expressed concern about this change to the Board and the following statement to “indicate the general reason for being absent.” Both requirements tend to require the member to share personal information, possibly with the entire Board.

Item IV. D Quorum – the Board proposed that a quorum of six members always be required.

Item IV. E Voting – the Board proposed the four/fifths requirement be of the present voting members as their quorum. E. Sloop stated that four/fifths must be of the seven regular members, which would require six votes to pass; and something other than a variance is a vote by majority which would be four votes to pass.

J. Kluttz asked if the applicant may request a continuance. E. Sloop confirmed that an applicant may request a continuance at any time. The Board must then vote to grant the continuance. This includes if the applicant wanted the entire Board to hear the item versus only the quorum.

The proposed statement, “Where a majority approval is not otherwise defined in these Rules it means a majority of those members present and voting at a meeting where a quorum is present,” was agreed was unnecessary and shall be stricken.

Item VI Adoption of By-laws and Amendments, “These Board of Adjustments, by a majority vote of all members present, shall adopt Rules of Procedures.” E. Sloop recommended that the subsequent sentence clarify the statement “not less than (4) four members.” J. Bradshaw agreed with the recommendation.

There was no further discussion or question related to the balance of the proposed amendments.

S. Genenbacher made a Motion to Continue the March 2, 2021 meeting. B. Welch seconded the motion. The motion passed 6-1 with J. Bradshaw opposed.

New Business

Chairman Cecil brought up new business related to Emergency COVID-19 Act which indicates that quasi-judicial hearings may be held remotely if three criteria are met, 1)if the issue arises during the emergency, 2)the applicant would have to agree and 3)all due process rights are provided.

The question was raised if a member not able to attend due to COVID-19 would be able to participate remotely. The determination is that the regular member would now become an Alternate and would not participate and would not vote. Any adjustments to this would be determined by discussion of the Item III Attendance rules of procedure.

Adjourn

