

BOA MEETING OVERVIEW

WHAT DOES THE BOARD OF ADJUSTMENT DO?

Reviews Variance applications and Conditional Use Permits, and hears appeals to development regulations and decisions to determine whether or not applications meet the Ordinance and Land Use standards.

WHAT IS A CONDITIONAL USE PERMIT?

An application for a use that is allowed by the ordinance with certain size and scope thresholds, and requiring a formal review by the Board to determine compliance with ordinance standards and intent.

PUBLIC COMMENT – WHEN CAN IT BE CONSIDERED?

Anyone may make a comment during the meeting, but only certain types of comments may legally be considered at a quasi-judicial hearing. The board can consider evidence presented during the hearing. The Board may not consider personal opinion, subjective observations, or preferences.

For your comment to be considered, it must be:

1. Given under sworn or affirmed oath
2. Factual
3. Focused on Ordinance standards and land use impacts
4. Supported by first-hand knowledge or documentary evidence.

HOW IS AN APPLICATION APPROVED?

Hearings are quasi-judicial. They are similar to court decisions, where the Board must:

- Decide how the current law applies to a particular application.
- Obtain evidence and review ordinance standards to make legal determinations
- Follow established rules to protect the constitutional due process rights of the parties

HOW ARE LAND USE DECISIONS MADE?

1. Buncombe County first adopted a Land Use Plan in 1998. The plan was updated in 2013 and is the document which guides development in the County. This plan included extensive public participation.
2. The Zoning Ordinance was adopted in 2009 to provide specific regulatory standards for development based on the Land Use Plan goals. Zoning dictates standards related to allowed uses, building setbacks and height, parking, landscaping, and more.
3. Once Zoning was adopted, applications to develop land had to comply with the ordinance standards.
4. The Board of Adjustment reviews Conditional Use Permit applications to determine whether or not the ordinance standards are being met by the applicant.
5. The Board of Adjustment does not have the authority to change the Land Use Plan or Zoning Ordinance, or make decisions based on community preferences, opinions, or unsubstantiated information. Changes to land use regulations and ordinances may only be made by the elected Board of Commissioners during advertised public hearings.