

SECTION 9. BOARD OF ZONING APPEALS*

A. Membership and appointments.

The Chesnee Board of Zoning Appeals (BZA) shall consist of five (5) members, residents of Chesnee and appointed by the city council. The members of the BZA shall not hold any other public office except that one member may be a member of the planning commission. BZA members shall be removable for cause by the city council upon written charges and after public hearing. Any BZA member shall be disqualified to act upon a matter before the BZA with respect to property in which the member has an interest.

B. Term of office.

The term of office for each member of the BZA shall be for three (3) years, however, in the appointment of the first BZA, two (2) members shall be appointed for three (3) years and two (2) members for two (2) years and one member for one year. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. If one appointee is from the planning commission and he ceases to be a member of said planning commission during the term of appointment to the BZA, his membership on the BZA shall terminate and a member of said planning commission shall be named to fill the unexpired term of the original appointee.

*Cross reference—Boards, committees, commissions, etc., § 2-146 et seq.

C. Compensation.

The BZA members shall receive such compensation for their service as may be determined by the city council.

D. Rules and procedures.

The BZA shall elect one of its members as chairman, who shall serve for one year or until he is re-elected or his successor is elected. The BZA shall appoint a secretary from among its members. Three (3) members shall constitute a quorum. The BZA shall adopt rules and procedures. Meetings of the BZA shall be held at the call of the chairman, or in his absence the secretary. The chairman, or the secretary may administer oaths and compel the attendance of witnesses by subpoena. The BZA shall keep minutes of its proceedings, showing the vote of each member upon each question, and shall keep records of its official actions, all of which shall be a public record. The decisions of the BZA shall be in writing which shall include a separate statement of findings of fact and its decision or action. The full text of such decision shall be sent to the appellant.

E. Administrative assistance.

The zoning administrator shall provide such technical, administrative and clerical assistance and office space as is required by the BZA to carry out its function under the provisions of this appendix.

F. Powers of board of zoning appeals.

The board of zoning appeals shall have the following powers:

- (1) To hear and decide appeals where it is alleged there is error in any order, requirement decision, or determination made by an administrative official in the enforcement of this appendix.
- (2) To authorize upon appeal in specific cases a variance from the terms of this appendix as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this appendix will in an individual case, result in unnecessary hardship, so that the

spirit of this appendix shall be observed, public safety and welfare secured, and substantial justice done. Such variance may be granted in such individual cases of unnecessary hardship upon a finding by the board of zoning appeals that:

- (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;
- (b) The application of this appendix to the particular piece of property would create an unnecessary hardship; and
- (c) Such conditions are peculiar to the particular piece of property involved; and
- (d) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this appendix, provided, however, no variance may be granted for a use of land or building or structure that is prohibited in a given district by this appendix.

G. Who may appeal.

Appeals to the BZA may be taken by any person aggrieved by any decision of the zoning administrator. Such appeals shall be taken no later than thirty (30) days after the date of notification of the decision appealed from by filing with the zoning administrator a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the BZA all the papers constituting the record upon which the action appealed was taken. No appeal requesting a variance in regard to the same property shall be received or heard by the BZA for a period of twelve (12) months following the date of any prior decision on a variance.

H. Forms.

Appeals shall be made on forms provided by the zoning administrator, and all information required on said forms shall be provided by the appellant. Forms shall be filed with the zoning administrator. No form shall be accepted by the zoning administrator unless it contains all pertinent information and is accompanied

by a fee, established by the city council payable to the city to defray expenses.

I. Legal proceedings stayed.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the BZA after the notice of appeal shall have been filed with him that by reason of facts stated in his certificate 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 BZA or by a court of record on application, on notice to the zoning administrator, and on due cause shown.

J. Presentation of evidence.

The appellant and any other person affected shall be entitled to present evidence on matters before the BZA, and the BZA may request technical service, advice and data on factual evidence from the planning commission.

K. Notice of hearing shall be given.

Before making its decision the BZA shall hold a public hearing at least fifteen (15) days notice of the time and place of such hearing shall be sent to the appellant by U.S. mail and to the owners of all properties either adjoining the property with which the hearing is concerned or situated directly across a public right-of-way from said property. Such notice shall contain the name of the appellant, the date, time, and place set for the hearing, and a brief statement of the relief requested.

L. Public notice in newspaper.

The BZA shall give public notice of the time, place and nature of the hearing in a newspaper of general circulation in Chesnee at least fifteen (15) days prior to the date of the public hearing.

M. Who may appear.

Any interested party may appear at the public hearing in person or by agent or attorney.

N. Time limit on board's decision.

The BZA shall reach a decision following the public hearing within thirty (30) days.

O. Appeal from decision of board of zoning appeals.

Any person who may have a substantial interest in any decision of the board of zoning appeals or the City of Chesnee may appeal from any decision of the Board to the circuit court by filing with the clerk of such 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.