

# **ARTICLE X**

## **APPEALS, HOW TAKEN**

### **Section 1001. Appointment of the Board of Appeals**

The Board of Appeals of Glynn County (hereinafter referred to as "The Board") is hereby established in accordance with the provisions of this Ordinance. Said Board shall consist of five (5) members appointed by the County Commission who are residents of the County. The members shall serve for overlapping terms of four (4) years or until succeeded. The initial individual appointments shall be one (1) member for a term of one (1) year, one (1) member for a term of two (2) years, one (1) member for a term of three (3) years, and two (2) members for the regular term of four (4) years.

No member of the Board shall hold any public office or position, except that one (1) member may serve on the Planning Commission. Any vacancy in the membership shall be filled for the unexpired term in the same manner that the initial appointment was made. Members shall be removable without cause by the appointing authority. No compensation shall be paid to members of the Board. Members may succeed themselves.

### **Section 1002. Authority**

The Board of Appeals shall have jurisdiction over certain matters arising in connection with the administration of this Ordinance as herein provided.

### **Section 1003. Procedure**

The Board of Appeals shall elect one (1) of its members as Chairman, who shall serve in this capacity for one (1) year, or until he is re-elected, or his successor is elected. The Board of Appeals shall appoint a Secretary who may be an officer of the governing authority or of the Planning Commission. Said Secretary shall not be permitted to vote on any issue before the Board of Appeals. The Board shall adopt rules in accordance with the provisions of this Ordinance.

Meetings of the Board shall be held at the call of the Chairman and at such times as the Board of Appeals may determine. The Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board shall be open to the public. No member of the Board shall participate in a hearing in which he has any pecuniary or special interest.

The Board shall keep minutes of its proceedings, showing the vote to each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

On all appeals, applications and other matters brought before the Board of Appeals, said Board shall inform, in writing, all parties involved of its decision and reasons thereof.

#### **Section 1004. Appeal Procedure**

Appeals to the Board of Appeals may be taken by any person aggrieved, or by any officer, department, board or bureau of Glynn County affected by any decision of the Building Official or other County official based on this Ordinance. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the Building Official, a written notice of appeal specifying the grounds thereof. Appeals shall be submitted on application forms obtained from the Building Official. All papers constituting the record upon which the action appealed from was taken shall forthwith be transmitted to the Board of Appeals by the Building Official.

Appeal applications shall be accompanied by an application fee of one hundred dollars (\$100.00) to be utilized for the incidental costs of administration and advertising. Action shall not be initiated on the same appeal by the same applicant more often than once every twelve (12) months. Any communication purporting to be an application for an appeal shall be regarded as mere notice to seek relief until it is made in the form required.

## **Section 1005. Powers and Duties**

The Board of Appeals shall have the following powers and duties.

1005.1 To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Ordinance.

1005.2 To hear and decide special exceptions to the terms of this Ordinance upon which the Board is required to pass under the provisions of this Ordinance.

When acting upon such application for special exceptions, the Board shall give consideration to the following factors, where applicable:

- a) The proposed design and location of the particular development;
- b) The possible traffic generating characteristics of the proposed development;
- c) The effects of the proposed development on the present or intended character of the area in which it is proposed for location; and,
- d) The availability of public utilities, facilities and services.

After such consideration, the Board shall take such actions or establish such reasonable conditions of approval, as will accomplish the intents and purposes of this Ordinance. Applications for special exceptions may be referred to the Planning Commission for comment and recommendations and returned to the Board of Appeals within a specified period of time.

1005.3 To authorize upon appeal in specific cases, so that the spirit of this Ordinance shall be observed, public welfare and safety secured, and substantial justice done, such variances from the terms of this Ordinance as will not be contrary to the public interest where, owing

to special conditions, a literal enforcement of the provisions of this Ordinance will, in an individual case, result in unnecessary hardship. No variance application will be accepted or processed unless the Community Development Director, or designee, determines that it is reasonable possible for the Board of Appeals to find that the application meets the terms of subsections (a), (b), (c), and (d) of the standards set forth below. Such variance may be granted in each individual case of unnecessary hardship upon a finding by the Board of 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) Such conditions are peculiar to the particular piece of property involved;
- c) No variance may be permitted for a land use that is prohibited by this Ordinance within the District in which the property is located;
- d) The special conditions or circumstances do not result from the action or actions of the applicant, i.e., a self-imposed hardship; and
- e) Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this Ordinance.

Any request for a variance from the terms of Article VIII – Signs shall be reviewed and decided by the Glynn County Board of Commissioners. Such variances shall be under the exclusive jurisdiction of the Glynn County Board of Commissioners and such decisions shall be based on the above stated criteria. (Ordinance #O-2001-14; Amended 12/06/01)

### **Section 1006. Action on Appeals**

In exercising the above powers, the Board of Appeals may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify

the order, requirement, or decision of the Building Official or other administrative official and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.

### **Section 1007. Stay of Proceedings**

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

### **Section 1008. Public Hearings on Appeals**

#### **(A) NOTICE**

If an application is filed with the Director of Community Development for request for hearing before the Board of Appeals, in accordance with Section 1004, all interested parties shall be notified at least fifteen (15) days, but not more than forty-five (45) days, prior to the meeting by placement of notice in the official organ designated by the Board of Commissioners. Said notice shall contain the date, time and place of the public hearing and a description of the appeal requested and the property involved.

The public shall also be notified by posting on the subject property in a conspicuous location, a sign containing the date, time and place of public hearing. The property shall be posted at least fifteen (15) days prior to the date of the hearing.

The Director of Community Development shall also use his or her best efforts to mail notice of public hearing to all property owners of record within two hundred (200) feet of the property involved in the request, as their names appear on the records of the Glynn County Board of Tax Assessors.

**(B) CONDUCT OF HEARING**

1. At a hearing, any party may appear in person, or be represented by an agent or an attorney. A verbal staff report shall be made by County staff, stating the recommendation or decision of the County staff.
2. Both persons favoring and persons opposing a proposed special exception or variance request shall have an opportunity to address the Board of Appeals. The party seeking special exception of variance request from county ordinances shall be invited to speak first, followed by persons opposed to the proposed special exception or variance request. Each speaker will be asked to identify himself or herself and state his/her current address. When all opposing statements have been heard, the party seeking the special exception or variance request may be permitted to rebut those statements.
3. Each speaker shall speak only to the merits of the special exception or variance request and shall address remarks only to the Board of Appeals. Each speaker shall refrain from personal attacks on any speaker or others or the discussion of facts or opinions irrelevant to the special exception or variance request. The Chairman may limit or refuse a speaker the right to continue if the speaker, after first being cautioned, continues to violate this requirement.
4. The proponents and the opposition of any relief sought shall have a total of 30 minutes each to address the Board of Appeals regarding the special exception or variance request.

5. Upon request made to and approved by the Board of Appeals prior to speaking, any single individual for or against a special exception or variance request may speak for up to 15 minutes. All other speakers shall be limited to no more than 5 minutes unless permitted additional time by the Board of Appeals. Any allowance of additional time shall not extend the overall 30 minute time limit for a particular side of the special exception or variance request unless more overall time is granted by the Board of Appeals to permit a more complete discussion of the issue. Any rebuttal by proponents shall be allowed only within the overall time constraints set out herein. Nothing in this shall be construed to limit the ability of the Chairman to maintain decorum in the conduct of a hearing in a fair and orderly manner.
6. Because of time constraints in hearings, interested parties shall be encouraged to submit petitions, studies, letters, and other materials. Such materials, if presented orally at the hearing, shall be subject to the time limits provided above.
7. The Board of Appeals may question all speakers as necessary for clarification of views expressed or the materials submitted. The Board of Appeals may call for such additional view, studies, or other information from any source as then considered necessary to making a sound decision on the proposed special exception or variance request. All such requests shall not count against the time allowed the speaker or side to whom the question or request for additional information is directed.
8. The Board of Appeals shall have discretion to continue a hearing to a later date if the materials submitted or views expressed require more time for study and consideration than may reasonably be allocated in one meeting. Any hearing so continued shall not be deemed to be held until the last segment of the hearing so continued has been completed. Board action is not necessary to consider a hearing completed.

9. If, following the presentation of the request by the applicant, the Board of Appeals determines that a valid case has been made for the request and when no opposition has been presented, the Board of Appeals may immediately close the hearing and act.

**(C) BOARD'S FAILURE TO ACT**

The Board must act upon the request within at least thirty (30) days after the end of the public hearing. If no decision has been made within that time, the request shall automatically be considered denied by the Board.

**Section 1009. Appeals from Decisions of Board of Appeals**

Any person or persons severally or jointly who has requested a special exception or variance under the appeals procedure outlined in Section 1004 of this Article and is dissatisfied with any decision of the Board of Appeals; or any officer, department, board or bureau of Glynn County affected by any decision of the Board of Appeals may take an appeal to the Board of Commissioners. Said appeal to the Board of Commissioners must be filed in writing with the office of the Board of Commissioners and shall briefly describe the basis for said appeal and state the appellants specific objection to the decision of the Board of Appeals. Said appeal shall be filed within thirty (30) days from the date of the decision of the Board of Appeals, and upon failure to file said appeal within thirty (30) days the decision of the Board of Appeals shall be final. Before taking action on any appeal from a decision of the Board of Appeals, the Board of Commissioners shall conduct a public hearing at a regular meeting. The public hearing shall be advertised and conducted as provided for in Section 1008. (O-2005-06, 4/21/2005; O-2009-13, 11/19/2009)