



TOWN OF BLACK MOUNTAIN

160 Midland Avenue ♦ Black Mountain ♦ N.C. ♦ 28711

Phone: (828) 419-9300 ♦ Fax: (828) 669-2030

MEMORANDUM

To: Town of Black Mountain Historic Preservation Commission
From: Jennifer Tipton, Senior Admin
Re: Agenda Packet for December 15, 2021
Date: December 9, 2021

The **Town of Black Mountain Historic Preservation Commission** will meet on **Wednesday, December 15, 2021 at 6:00 p.m.** in Town Hall at 160 Midland Avenue and electronically via Zoom.

Please find the following items for your information and use at the meeting:

1. The proposed agenda;
2. Draft minutes from November 17, 2021;
3. HPC Standards Amendments; and
4. HPC Welcome Packet information .

Please let Jennifer Tipton know if you are **unable** to attend this meeting.
jennifer.tipton@tobm.org or (828) 419-9371.

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the American with Disabilities Act. Should you need assistance or a particular accommodation for this meeting, please inform Jennifer Tipton at (828) 419-9371 or by email at jennifer.tipton@tobm.org.

CC: Jessica Trotman, Planning Director
Jake Hair, Planner 1/Zoning Administrator
Ron Sneed, Town Attorney
Anna Stearns, Town Attorney



PUBLIC NOTICE **AVISO PÚBLICO**

BLACK MOUNTAIN HISTORIC PRESERVATION COMMISSION

REGULAR MEETING **REUNIÓN ORDINARIA**

Wednesday, December 15, 2021, at 6:00 p.m.
Miércoles 15 de diciembre de 2021, a las 6:00 p.m.

The Black Mountain Historic Preservation Commission will meet for their regular monthly meeting on **Wednesday, December 15, 2021, at 6:00 p.m.** at Town Hall, 160 Midland Avenue, Black Mountain, NC.

La Comisión de Preservación Histórica de Black Mountain realizará su meeting mensual regular **el miércoles 15 de diciembre de 2021 a las 6:00 p.m.** en el Ayuntamiento, 160 Midland Avenue, Black Mountain, NC.

The meeting is open to the public. Masks are required.
La reunión está abierta al público. Se requieren máscaras.

A Zoom link is available for citizens who cannot attend the meeting.
Un enlace de Zoom está disponible para los ciudadanos que no pueden asistir a la reunión.
<https://us02web.zoom.us/j/82093741079>

Jennifer Tipton
Senior Admin

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or a particular accommodation for this meeting please contact Jennifer Tipton at (828) 419-9371 or by email at Jennifer.tipton@tobm.org.

La ciudad de Black Mountain se compromete a proporcionar instalaciones, programas y servicios accesibles para todas las personas en cumplimiento con la Ley de Estadounidenses con Discapacidades (ADA). Si necesita ayuda o un alojamiento en particular para esta reunión, comuníquese con Jennifer Tipton al (828) 419-9371 o por correo electrónico a Jennifer.tipton@tobm.org.

Posted to the Town Bulletin Board 12/01/2021
www.townofblackmountain.org



**Historic Preservation Commission Regular Meeting
December 15, 2021**

PROPOSED AGENDA

I. CALL TO ORDER

- Welcome
- Determination of Quorum

II. ADOPTION OF AGENDA

- **Motion:** To approve the agenda as presented [or as amended]

III. ADOPTION OF MINUTES

- **Motion:** To approve the minutes of November 17, 2021 as written [or as amended]

IV. OLD BUSINESS

- HPC Standards Amendments
- Welcome Packet Information

V. NEW BUSINESS

VI. COMMUNICATION FROM HISTORIC PRESERVATION COMMISSION

VII. COMMUNICATION FROM STAFF

VIII. ADJOURNMENT

The Black Mountain Historic Preservation Commission held its regular meeting on Wednesday, November 17, 2021, at 6:00 p.m. in Town Hall at 160 Midland Avenue, Black Mountain, North Carolina.

I. CALL TO ORDER

The meeting was called to order at 6:00 p.m. with the following members present:

Susan Leive, Chair
Matthew Turner, Vice Chair
Jay Parmar
Ron Collins

Staff:

Jennifer Tipton, Senior Admin

Others Present:

Sarah Vekasi
Nick
Fred

The meeting was called to order at 6:00 p.m. and duly constituted and opened for business with a quorum of four (4) regular members.

II. ADOPTION OF AGENDA

Susan Leive made a motion to adopt the agenda as presented. The motion was seconded by Ron Collins and approved by a vote of 4-0.

III. ADOPTION OF MINUTES

There was one change made and that was to add 6:00 p.m. under the call to order. Susan Leive made a motion to adopt the minutes of October 20, 2021, as amended. The motion was seconded by Ron Collins and approved by a vote of 4-0.

IV. OLD BUSINESS

None.

V. NEW BUSINESS

1. Certificate of Appropriateness Request – 105 Cherry Street

Jennifer Tipton presented the Commission with the Certificate of Appropriateness application for 105 Cherry Street to replace a rear deck. The existing deck is in extreme disrepair. The new deck will be constructed of pressure treated lumber and will be stained an earthtone color after it has dried out. The deck will be standalone deck bracketed into footers on an existing slab. The applicant chose not to attach the deck due to the existing damage that has been done to the bricks. The deck will be a fourteen-by-fourteen square deck. The Commission felt that all materials were in keeping with the district and did not see any issues with the size of the deck. Ron Collins made a motion to grant the Certificate of Appropriateness. The motion was seconded by Matthew Turner and approved by a vote of 4-0.

2. Mikkel Hansen – 112 Hilltop Road

Mikkel Hansen owns the house at 112 Hilltop Road that was built in 1956 and was designed by Clyde Merrill, a local architect. The house was once known as 100 Hilltop Road and was once of the first houses built in the neighborhood. Mr. Hansen made a donation of an historic preservation easement to the Historic Preservation Foundation of North Carolina. An historic preservation easement is a voluntary legal agreement that is typically in the form of a deed which permanently protects a significant historic property. The house is not listed in the National Register of Historic Places and more than likely would not qualify for nomination due to its age.

3. Discussion of Mural/Artwork Regulations

Susan Leive provided a draft of some regulations for murals and artwork as a starting point. The Commission asked that language be added about disapproving murals and artwork that has offensive, obscene or inflammatory content. The title of Chapter 4 will also be changed to include murals and artwork. A contact list will be added to the front of the standards as well as a contact for maintenance concerns and complaints for awnings, signs, and murals. The color requirements for signs will be added to the murals/artworks section. The Commission also asked about providing packets for new owners in the Historic District that could include the standards and other helpful information. Jennifer Tipton said that she will bring a draft of the amendments for murals/artwork. Ms. Tipton will also bring a copy of the brochure that the commission created as well as the Town Council brochure and some other documents that might be helpful in a welcome packet for new owners.

4. Discussion of Chamber of Commerce Downtown Project

Susan Leive said that she heard about this project from the Valley Echo. The Chamber of Commerce has applied to Buncombe County for some of the Covid-19 relief money to purchase property on Broadway and Cherry Street to relocate the Chamber of Commerce and add a 41-car parking deck. There are parking standards and they require that parking be located in the rear and that a parking structure must have a building associated with it. There have been no updates on if this project will receive funding.

VI. COMMUNICATION FROM HISTORIC PRESERVATION COMMISSION

None.

VII. COMMUNICATION FROM STAFF

Jennifer Tipton said that meetings will remain as a hybrid option until further notice.

VII. ADJOURNMENT

Ron Collins made a motion to adjourn the meeting at 6:55 p.m. The motion was approved by consensus with a vote of 4-0.

Prepared by:

Susan Leive, Chair

Jennifer Tipton, Senior Admin

SPECIAL THANKS AND CREDIT GIVEN TO:

ALL THOSE WHO DEVOTED THEIR TIME AND TALENTS IN PROVIDING HISTORICAL INFORMATION AND
TECHNICAL ASSISTANCE.

THE FIRST HISTORIC PRESERVATION COMMISSION

CREATED 2004:

SUSAN ROBINSON
SARA MARCIA RAFTER
GAY CURRIE FOX
MAURY HURT
BILL MCMURRAY

THE BLACK MOUNTAIN SWANNANOVA VALLEY MUSEUM
THE CITY OF SALISBURY

SPECIAL THANKS AND CREDIT GIVEN TO:

TOWN OF BLACK MOUNTAIN STAFF
BLACK MOUNTAIN HISTORIC PRESERVATION COMMISSION

SUSAN LEIVE
RON COLLINS
FRANK CAPPELLI
ELAINE LOUTZENHEISER
MATTHEW TURNER

TOWN STAFF

JENNIFER TIPTON, SENIOR ADMIN – 828-419-9300, OPTION 4
JAKE HAIR, ZONING ADMINISTRATOR – 828-419-9300, OPTION 4
JESSICA TROTMAN, PLANNING DIRECTOR – 828-419-9300, OPTION 4
ANNE PHILLIP, STORMWATER TECHNICIAN – 828-419-9300, OPTION 4
CHARLIE RUSSELL, BUILDING/FIRE INSPECTOR – 828-419-9300, OPTION 4

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CHAPTER 4: SITE FEATURES

4.1 SIGNAGE, ~~AND~~ AWNINGS, MURALS AND OTHER ARTWORK

Signs, as much as the buildings in which they serve, can contribute greatly to the overall sense of place of downtown Black Mountain – positively or negatively. The purpose of design review of signs and awnings is to ensure that design, location, and materials are consistent with the character and scale of the building and are in keeping with the historic nature of downtown while also promoting and accommodating retail and street activity.

Signs in the downtown come in many different forms. Wall, projecting, awnings, and window signs are the most common found in the district. Sign design is addressed in these standards and approved by the Historic Preservation Commission and the Minor Works Commission but overall size, location and sign type falls under Chapter 9 of the Land Use Code of the Town of Black Mountain Code of Ordinances and will be approved by the Zoning Administrator.

Sign Standards

- Retain and preserve signage that is original or is important in defining the overall historic character of a building.
- Signs shall be compatible with the architectural character of the building in size, scale, materials and style. When possible, base new sign designs on historic documentation such as old photographs.
- Use traditional materials commonly found on early twentieth century commercial building such as wood, metal, or stone or use modern materials that have the appearance of traditional.
- Whether they are wall mounted, freestanding or affixed to awnings, signs shall be placed in locations that do not obscure any historic architectural features of the building or obstruct any views or vistas of Black Mountain's historic downtown.
- Color selection for signs will not be restricted to a specific palette, however, the colors within the Historic District shall be based on respect for the historical context and period of the building.
- Selected colors shall be calm and muted and blend in with neighboring buildings and compliment the surrounding neighborhood.
- Accent colors on signs shall be complimentary to the dominant color. The use of loud, harsh, or garish colors is not allowed. Supporting documentation will need to be provided for any challenge.
- Wall signs shall be flush-mounted on flat surfaces and done in such a way that does not destroy or conceal architectural features or details.

- Wall-mounted signs on friezes, lintels, spandrels, and fascia's over storefront windows shall be of an appropriate size and fit within these surfaces.
- Appliques applied to media (i.e. plywood, foamboard, etc.) other than masonry shall follow the standards for signs.
- ~~Murals are not allowed on unpainted masonry. Murals may be allowed on masonry that has already been painted or to paint over an existing mural but are not allowed to extend the mural to any areas of unpainted masonry.~~
- Projecting signs are allowed provided that:
 - a. They project no more than three (3) feet from the building.
 - b. The sign area is no greater than eight (8) square feet.
 - c. The bottom of the sign must be at least nine (9) feet above the sidewalk.
- Install freestanding signs appropriately, such as on well landscaped ground bases or low standards.
- Standalone manufacturer's signs are not allowed.
- Digital and LED signs are not allowed within the historic district and at historic landmarks, with the exception of interior open signs.
- Signs illuminated from within are not allowed unless they relate to the period of the building. Lighting for externally illuminated signs shall be simple and unobtrusive and shall not obscure the content of the sign or the building façade.
- **Signs shall be kept and maintained in good condition. Signs that are deteriorating, fading, or broken shall be reported to the Town of Black Mountain Zoning Administrator. Deteriorating signs shall be repaired, replaced or removed.**

Awning Standards

- Awnings shall be made of cloth. Metal awnings are generally not allowed, but can be used in some instances if they are compatible with the historic character of the building. Vinyl or plastic awnings are not allowed.
- Base the design of new awnings on historic documentation of the building or examples from buildings of similar style and age. Awnings for new buildings shall be of similar materials, size and scale of that commonly found in the historic district.
- Mount awnings in a manner that does not obscure or damage historic architectural features of the buildings. Awnings shall be placed appropriately above the transom.

- Back-lit awnings or those with interior illumination are not allowed in the historic district.
- In the interest of acceptable appearance, awnings shall be replaced, repaired or cleaned as soon as possible after damage or deterioration is present.
- Awning design, pattern, and color scheme shall be in keeping with the historic period. Background colors shall be calm and muted. No harsh, loud, or garish colors or overpowering wording are allowed on any part of the awning.
- Awnings shall be kept and maintained in good condition. Awnings that are deteriorating, fading, or broken shall be reported to the Town of Black Mountain Zoning Administrator. Deteriorating awnings shall be repaired, replaced or removed.

Mural Standards

- Murals are not allowed on unpainted masonry. Murals may be allowed on masonry that has already been painted or to paint over an existing mural but are not allowed to extend the mural to any areas of unpainted masonry.
- The size of murals shall be dictated by the Town of Black mountain Sign Ordinance.
- Color selection for signs will not be restricted to a specific palette, however, the colors within the Historic District shall be based on respect for the historical context and period of the building.
- Selected colors shall be calm and muted and blend in with neighboring buildings and compliment the surrounding neighborhood.
- Accent colors on signs shall be complimentary to the dominant color. The use of loud, harsh, or garish colors is not allowed. Supporting documentation will need to be provided for any challenge.
- The HPC does not review the content or subject matter of murals except for content that is obscene, vulgar, offensive, or inflammatory in nature. Murals with content that is obscene, vulgar, offensive, or inflammatory in nature are not allowed.

Other Artwork

- Artwork shall not obscure the buildings historical features.
- The HPC does not review the content or subject matter of artwork except for content that is obscene, vulgar, offensive, or inflammatory in nature. Artwork with content that is obscene, vulgar, offensive, or inflammatory in nature are not allowed.
- Artwork shall be attached to the building in such a way that the masonry shall not be damaged.

4.2 PARKING AND PAVING

Parking areas serve a utility function more than anything else. They provide vehicular access to the consumer while also facilitating various service functions and commercial deliveries. With appropriate paving materials, landscaping and screening, a parking area can be designed to minimize its impact on the historic downtown and with some creativity, be an attractive area for parking, pedestrian and vehicular circulation, or even as a public gathering space for events and festivals.

The location of parking areas in downtown Black Mountain is a product of the orientation of the main building on the lot. Most off-street parking areas are either to the rear of buildings fronting on a street or are within an interior area of the block. There are, unfortunately, instances in downtown Black Mountain where a building may have a suburban orientation with the main structure set back far from the street with parking in the front. This is simply not appropriate in a historic downtown.

A variety of paving materials are appropriate including brick and concrete pavers, bomanite, concrete, and asphalt. There are other modern paving treatments such as stamped concrete and open-pavers that may be appropriate providing the design complements the downtown district.

Parking Standards

- Whenever possible, retain and preserve the historic configuration and materials of paved areas including alleys and sidewalks.
- Parking in downtown shall be located to the rear of the building. In certain cases, it may be advisable for parking to be located to the side and rear of the structure. Parking lots shall not be located on a corner lot.
- Appropriate materials that complement a historic district (such as brick pavers) are encouraged to be used in the design of a parking area. This would minimize the aesthetic impact of an expansive parking area while also facilitating more efficient pedestrian and vehicular circulation.
- Whenever possible, use effective screening methods for parking areas such as landscaping, wrought iron or wooden fences, and stone or masonry walls that are compatible with the adjacent structures and district.
- Parking structures shall be compatible with the district in design, materials, and fenestration. Structures shall incorporate street level retail or offices with upper floors used for parking.

4.3 LANDSCAPING

Landscaping

- Retain and maintain specific landscape features that are character defining elements of the historic district, including large trees, parks, hedges, foundation plantings, grassy lawns, and ground cover.

- New landscaping areas shall use planting materials compatible with the historic district and appropriate in the urban environment.
- Appropriate landscaping shall be used to screen parking lots, utilities, garbage receptacles, and other service areas.
- Planting shall not obstruct the view of historic structures, facades or architectural details.

Streetscape

- Sidewalk furniture including benches, trash receptacles, tree grates, etc. shall be of a material and color that is compatible with a historic downtown and coordinated with the Town landscaping plan and ordinances.
- Sidewalk retail and cafes are encouraged in downtown provided they use appropriate street furniture, do not significantly obstruct historic structures or architectural features, and do not create a hazard for the pedestrian.
- Retain and preserve historic fences and walls. Modern fencing such as chain link is not allowed in the downtown historic district.
- Landscape elements such as fences, gates and walls are allowed downtown to screen parking lots or service areas. They shall be compatible with the existing structure and be made of appropriate materials such as masonry, stone, wrought iron and wood.
- Public art, including sculptures and murals, is encouraged in downtown provided it does not significantly obstruct historic structures or architectural features, and does not create a hazard for the pedestrians.

4.4 LIGHTING

Lighting in downtown serves several purposes including security, facilitating vehicular and pedestrian traffic, illumination of signage and facades, and accentuating architectural details of buildings. Whenever designing lighting elements in downtown, it is important to consider not only the overall design of the lighting fixtures, but also the level of lighting and scale in accordance with the lighting ordinance of the Town of Black Mountain.

Lighting Guidelines

- Introduce exterior lighting that is compatible with the historic nature of the structure, the property and district. Compatibility of exterior lighting and lighting fixtures is assessed in terms of design, material, use, size, scale, color and brightness.
- Whether lighting the street or parking areas, appropriate fixtures shall be selected that are compatible with existing fixtures and the historic character of the district.
- When mounting lighting fixtures on buildings, select those that are as unobtrusive as possible and whose installation will not damage or conceal any historical architectural features.

- Rather than indiscriminately lighting areas, introduce subtle lighting qualities by carefully locating light sources.
- Introduce lighting levels that provide adequate safety, yet do not detract from or overly emphasize the structure or the property.
- Introduce directional lighting that does not spill light onto adjacent properties. Exterior lighting in parking lots shall be directed into the parking area itself.

- **How long will the approval process take?**

After you submit your completed application, it will be reviewed by the HPC at the next monthly meeting. You will receive notice of the meeting date. A decision is usually made during the meeting, and if approved, the COA will be issued shortly after the meeting.

- **What happens at the meeting?**

You will appear at the meeting to explain your project to the HPC. You may want to bring your contractor with you. You should also bring photos, drawings and sample building materials. The HPC may ask questions and can approve, approve with conditions or deny your application.

- **How long is my COA valid?**

The COA is valid for 6 months. If needed, you can apply for an extension.

- **What if I disagree with the decision?**

You may appeal the decision of the HPC to the Zoning Board of Adjustment within 30 days of the date of the decision. The ZBA will review the record of the meeting to determine whether the HPC found sufficient factual evidence to support its decision. Appeals of decisions of the ZBA are filed with the Buncombe County Superior Court.



Links and Contact Information

If you have any questions about your historic property, please contact:

Jennifer Tipton
Senior Admin

Planning and Development
Town of Black Mountain
160 Midland Avenue
Black Mountain, NC 28711
(828) 419-9300

For full details on regulations, rules and procedures, please refer to the Design Guidelines. Copies can be obtained online at <https://www.townofblackmountain.org/DocumentCenter/View/282/Historic-District-Design-Guidelines-PDF> or call the Planning Department at (828) 419-9300 to request a hard copy.

If you are contemplating renovations to your historic property, please free to drop by the Planning and Development Department and browse through our files of information. Please also visit the Historic Preservation Commission's web page to learn about deadlines, guidelines and tips to make your next project a preservation success story. Please call (828) 419-9300 for more information.



Guide to the Town of Black Mountain Historic Preservation Commission



Q & A

- **What is the Black Mountain Historic Preservation Commission or HPC?**

The HPC is a group of Black Mountain residents appointed by the Board of Aldermen to regulate changes to historic properties within the District. The HPC meets on the 3rd Wednesday of the month at 6:00 p.m. at Town Hall. These meetings are open to the public.

- **How do I know if my property is located in the Historic District?**

The District includes properties on the west side of Broadway to South Dougherty Street.

- **If my property is located in the Historic District, what do I need to know?**

Before making any changes to the exterior of your property, you should review the Design Guidelines and consult with the Planning and Development Department to determine whether approval is required. This includes changes to the exterior of your building, as well as fencing, porches, siding, windows, doors, additions, accessory structures, roofing, painting, and solar panels. *Interior changes are not regulated by the HPC.



- **What is a COA?**

A Certificate of Appropriateness or "COA" is a document evidencing approval that a change or repair to a historic property conforms to the guidelines set forth in the Design Guidelines, similar to a permit. The COA should be posted in your window until work is complete.

- **Do I have to get a COA before I begin work?**

Yes. Failure to get approval for certain projects can result in fines or removal of the work.



- **What if my property has already been modified – do I still need to get a COA?**

Yes. Regardless of whether changes were previously made to your property, you still need to obtain approval for any future changes.

- **Where can I get a copy of the historic guidelines?**

You can download a copy of the Design Guidelines from <https://www.townofblackmountain.org/DocumentCenter/View/282/Historic-District-Design-Guidelines-PDF> or call the Planning Department at (828) 419-9300 to request a hard copy.

- **How do I get a COA?**

You will need to fill out a COA application. To get a copy of the application, please call the Planning Department at (828) 419-9300. Forms are also available on the Town of Black Mountain website. The application must be submitted at least one month in advance of the next meeting date.

- **What information should I include in my application?**

Your application should include a complete detailed description of your project and (depending on the type of project) photos of the existing property and illustrations of the proposed change, sample materials, architectural drawings and plans, and other relevant information.

- **What factors does the HPC consider in making its decision?**

The primary consideration is whether the proposed change complies with the Design Guidelines. Other considerations include:

1. Scale and proportion of changes.
2. Visibility of the change from the street.
3. Material used.
4. Compatibility with the property and the Historic District as a whole.

- **Can I get guidance about my project without submitting a formal application?**

Yes. You can contact the Planning Department for advice and guidance regarding your project. Depending on the type of work, you may be able to obtain a COA by administrative approval, without having to attend a meeting.

Mission Statement

The Municipal Government of Black Mountain strives to provide quality services to protect the health, safety and welfare of its citizens, exercise stewardship over its resources, promote a high quality of life, support economic prosperity, cultivate community, and honor its heritage and culture.

Town of Black Mountain Department Contact Information

Phone: (828)419-9300 Fax: (828)669-4204

Administration:	419-9300 press 5
Building:	419-9300 press 4
Finance:	419-9300 press 5
Fire & Rescue:	419-9320 Non-Emergency
Human Resources:	419-9300 press 5
Planning:	419-9300 press 4
Police:	419-9350 Non-Emergency
Public Services:	419-9300 press 2
Recreation & Parks:	419-9300 press 7
Water	419-9300 press 1

For Police/Fire/Medical Emergencies Dial **911**

Board of Adjustment

<http://www.townofblackmountain.org>

John DeWitt, Chair
Jillian Ballard, Vice Chair
Janet McKimpson
Greg Feightner
Patrick Prosser
David Barley, Alternate

For more information visit our website.

<http://www.townofblackmountain.org>



Like us on Facebook!



WELCOME

to the meeting
of the
Town of Black Mountain
Board of Adjustment



Town of Black Mountain

160 Midland Avenue
Black Mountain, NC 28711(828)419-9300

Welcome

The Black Mountain Board of Adjustment hears and decides all matters related to variances, appeals and special uses.

The Black Mountain Board of Adjustment consists of five (5) sitting members and three (3) alternate members. Members served three-year terms and can serve two consecutive terms.

Regular Board of Adjustment meetings are held on the third Thursday of each month at 6:00 p.m. at Town Hall.

Applications to Board of Adjustment

The Black Mountain Board of Adjustment hears appeals, variances and special uses.

Appeals: The Board of Adjustment hears appeals of administrative decisions and the Historic Preservation Commission. Appeals must be made within thirty (30) days of receipt of the written notice. Appeals from the Board of Adjustment shall be made to Superior Court of Buncombe County.

Variances: The Board of Adjustment hears variances from the Town's Land Use Code. Variances are intended to provide limited relief from regulations in cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise allowed under the Land Use Code.

Special Uses: The Board of Adjustment hears requests for special use permits. Special use permits required additional development standards be met to insure the same compatibility as uses permitted by right.

Evidentiary Hearings

The Board of Adjustment conducts evidentiary hearings.

The purpose of an evidentiary hearing is to gather facts and not to solicit citizen opinions.

Evidentiary hearings resemble a court hearing where testimony is presented and the Board of Adjustment acts like a court of law. The Board of Adjustment receives only sworn testimony and other credible evidence. The Board of Adjustment must make findings of fact based upon the evidence presented. All parties wishing to testify are sworn in under oath.

Parties must have substantial and competent evidence and/or professional opinions to support their case.

All meeting are open to the public and all business of the Board of Adjustment is conducted in open, public sessions.

Conduct

Evidentiary hearings before the Board of Adjustment are less formal than a courtroom trial. All participants are expected to observe basic decorum one would expect in a court of law and show respect for the Board and all other participants.

The Chair may rule out of order any comments if such comments are unruly or are repetitive of information previously received. The Chair may also rule out of order any comments that are rude, inappropriate, or intended to harass any person or group of people, and is authorized to take reasonable and appropriate measures to ensure compliance with these rules.

Comments

While the Board of Adjustment meetings are open to the public, not all participants will be able to speak.

Parties with standing are those that are allowed to call witnesses, cross-examine witnesses, and present evidence. Parties with standing include the Town, the applicant, and those persons who will be harmed in a manner different than that of the public at large.

The Chair may permit other persons to speak, however, the Chair may also not allow comments if they are not factual or do not offer any evidence to the case.

Written comments are not permitted unless the author of the comments is available at the meeting to answer questions. These comments are considered hearsay and cannot be used by the board when making a decision.

It is not permissible to contact any of the board members prior to an evidentiary hearing as this is considered ex-parte communication and could be a potential conflict of interest.

Questions regarding evidentiary hearings, meeting procedure, or how to participate in a meeting must be directed to staff.

Contact Us

Town of Black Mountain

160 Midland Avenue
Black Mountain, NC 28711
(828)419-9300

Visit our Website

<http://www.townofblackmountain.org>

Contact the Clerk to Board of Adjustment

Jennifer Tipton
(828)419-9371
jennifer.tipton@townofblackmountain.org