

**TOWN OF BLACK MOUNTAIN
ZONING BOARD OF ADJUSTMENT**

The Black Mountain Zoning Board of Adjustment held its regular meeting on Thursday, March 15, 2018 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 with the following members present:

Cheryl Milton, Chair
John DeWitt, Vice Chair
Jillian Ballard, Secretary
Rebecca Harris
Bob Osmundsen
Ted Mattson, Alternate
Janet McKimpson, Alternate

Absent:

Pam Pauly, Alternate

Staff:

Jennifer Tipton, Zoning Administrator
William Morgan, Attorney

The meeting was called to order at 6:01 p.m. and duly constituted and opened for business with a quorum of three (3) regular members and two (2) alternates.

II. ADOPTION OF AGENDA

Jillian Ballard made a motion to adopt the agenda as presented. The motion was seconded by Bob Osmundsen and approved by a vote of 5-0.

III. ADOPTION OF MINUTES

Janet McKimpson made a motion to adopt the minutes of February 15, 2018 as written. The motion was seconded by Jillian Ballard and approved by a vote of 5-0.

IV. OLD BUSINESS

There was no old business to report.

V. NEW BUSINESS

1. Training with Attorney William Morgan

Attorney William Morgan provided training to the board regarding remands from Superior Court. There are new statutes regarding quasi-judicial hearings that became effective on January 10, 2010 and is the guiding document for appeals and goes over who has standing, the method, the record, the scope of review and the relief. There are six things that Superior Court looks at when reviewing a record, which is created during the hearing. They look to see if there has been a constitutional violation, did the board act in excess of their authority, was the board inconsistent with procedures, was there an error of law, and were the findings not support by the evidence. If someone appeals a Board of Adjustment decision then the record is transmitted to Superior Court, a hearing will be scheduled, the attorney's will read their briefs and then the judge will review the record. North Carolina General Statute 160A-393 lists the remedies that are available and the remedy will be spelled out in the order issued by the judge. The remedies are

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affirm, reverse, remand with appropriate instructions or remand for rehearing. In making findings of fact, the board is limited to the record. There is a published opinion from the Court of Appeals regarding a remand to make reviewable findings of fact based only upon the testimony and evidence presented at the hearings held on specific dates. (NO. COA13-1274, Templeton Properties, LP v. Town of Boone). The board can still hear arguments but not new evidence or testimony and usually the arguments will be from the attorney's.

VI. COMMUNICATION FROM ZBA

None.

VII. COMMUNICATION FROM STAFF

None.

VIII. ADJOURNMENT

John DeWitt made a motion to adjourn the meeting at 7:18 p.m. The motion was seconded by Bob Osmundsen and approved by a vote of 5-0.

Prepared by:

Cheryl Milton, Chair

Jennifer Tipton, Zoning Administrator

Jillian Ballard, Secretary

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