



BOARD OF ADJUSTMENT

MEETING AGENDA

Thursday, April 25 , 2024

4:30 p.m.

- *Pledge of Allegiance*
- *Roll Call*

Regular Agenda Items

1. **Minutes: September 22, 2022**
2. **BOA 2024-02: Consideration and action on a request for a 5-foot variance to the front yard setback and a 10-foot variance to the rear yard setback to facilitate the construction of a single-family residence at 6743 Chaparral Drive, Eden. This request was previously approved on 3/18/2021, but has expired, per Weber County LUC 102-3-5(d)(1)'' If the board has decided in favor of a variance request, the approval is valid for a period of 18 months. If an approved variance request has not been acted upon within this time frame, the approval shall expire and become void.'' The applicant is seeking a second approval of this same request.**

Staff Presenter: Tammy Aydelotte

3. **Voting for new Chair and Vice Chair for the year 2024**
4. **Rules of Order**

Adjournment

The Board of Adjustments meeting will be held in the Weber County Commission Chambers, in the Weber Center, 1st Floor, 2380 Washington Blvd., Ogden, Utah.

Weber County Planning Division Zoom meeting-- Zoom Meeting
<https://webercountyutah.zoom.us/j/83084876966>

In compliance with the Americans with Disabilities Act, persons needing auxiliary services for these meetings should call the Weber County Planning Commission at 801-399-8374

September 22, 2022

Minutes of the Board of Adjustments meeting of September 22, 2022, held in the Weber County Commission Chamber, 2380 Washington Blvd. Floor 1, Ogden UT at 4:30 pm & via Zoom Video Conferencing.

Member Present Rex Mumford
 Laura Warburton
 Joe Paustenbaugh

Staff Present: Rick Grover, Planning Director; Steve Burton, Principal Planner; Brandon Quinney, Legal Counsel; June Nelson, Secretary

- Pledge of Allegiance
- Roll Call

There was no chair or vice chair in attendance. Laura Warburton motioned to have Rex Mumford serve as temporary chair. Joe Paustenbaugh seconded the motion. Motion was unanimous. 3-0

1. Minutes: July 21, 2022 approved

2. Voting for new Chair and Vice Chair for the year 2022

Laura Warburton motioned for Rex Mumford to serve as Chair. Joe Paustenbaugh seconded the motion. Motion carries 3-0
Joe Paustenbaugh motioned for Laura Warburton to serve as Vice Chair. Rex Mumford seconded the motion. Motion carries 3-0.

The new Chair is Rex Mumford. The new Vice Chair is Laura Warburton.

3. **BOA 2022-04:** An appeal of two land use decisions made by the Planning Division regarding a residential development known as The Barn at Terakee Farms. Appellant is Heritage Land Development. **Planner: Steven Burton**

Liam Keogh, acting as attorney for the County Planning Office, spoke on behalf of the County.
We have determined that the conditional use permit (CUP 2017-02) has expired, and that phase 2 as proposed, does not meet today's zoning, therefore it cannot be approved unless a rezoning occurs. This determination is based off of the county's nonconforming use code (108-12-7) which says, "Wherever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be re-established, and any future use shall be in conformance with the current provisions of the Weber County Land Use Code."

This appeal was submitted on August 9, 2022. Heritage Land Development is appealing two decisions made by the Planning Division. The first decision was made by the Planning Division, who determined that a conditional use permit (CUP 2017—02) expired. The second decision of the Planning Division was to require both owners of the Barn at Terakee Farms subdivision to sign the appeal application. The following is an explanation of why the two decisions were made.

Planning Division Decision #1: On July 19, 2022, The Planning office informed the owners of the Barn at Terakee Farm Subdivision that their conditional use permit for the Barn at Terakee Farm PRUD (Planned Residential Unit Development) expired. The conditional use permit was originally issued on May 16, 2017. The conditional use permit was granted so that the developer could plat and construct a multi-phased, 79 unit residential subdivision.

In **March of 2021**, the land use code regarding PRUDs was amended, and the following language from the ordinance made the developer's previous approvals non-conforming:

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Sec 104-27-2 Applicability

(c) Nonconforming PRUD. The adoption of this ordinance also repeals an ordinance governing the creation of a planned residential unit development (PRUD). A planned residential unit development for which an application was submitted prior to the date specified in Subsection (a) of this section is hereby a nonconforming planned residential unit development, provided the County has not adopted new regulations governing a planned residential unit development after this effective date.

The change to the PRUD ordinance meant that the conditional use permit which governed the approval for the Barn at Terakee Farms was now considered non-conforming. The county land use code has the following provision in the non-conforming use chapter:

Sec 108-12-7 One-year vacancy or abandonment

(a) A legal structure, or portion thereof, which is occupied by a nonconforming use, and which is or hereafter becomes vacant and remains unoccupied for a continuous period of one year, except for dwellings and structures to house animals and fowl, shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located. Wherever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be re-established and any future use shall be in conformance with the current provisions of the Weber County Land Use Code.

On **May 11, 2021**, the developer recorded the first phase of the Barn at Terakee Farms consisting of 36 lots. Under the non-conforming chapter above, the developer had until May 11, 2022 to record a subsequent phase, otherwise the use of the property as an approved PRUD would expire. When the developer inquired about submitting a subdivision application for phase 2 in July of 2022, the Planning Division issued the following statement in an email to the owners of the subdivision:

After meeting with our attorney we have determined that the conditional use permit (CUP 2017-02) has expired, and that phase 2 as proposed, does not meet today's zoning, therefore it cannot be approved unless a rezoning occurs. This determination is based off of the county's nonconforming use code (108-12-7) which says "Wherever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be re-established and any future use shall be in conformance with the current provisions of the Weber County Land Use Code."

This decision can be appealed. I noticed an application for the Barn phase 2 that was submitted last week. Since the conditional use permit expired, we will not be able to entitle phase 2 because it no longer meets zoning. If you have any questions or concerns about this or Terakee Farms please address them to me.

Planning Division Decision #2: On July 19, 2022, The Planning office informed the owners of the Barn at Terakee Farms Subdivision that, in order to appeal the Planning Division's decision to deem the conditional use permit expired, that both owners needed to sign the appeal application.

This decision came about because the Barn at Terakee Farms is owned by two entities. One entity, Heritage

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Land Development, owns the lots on which homes were proposed to be built. The other entity, Terakee Properties LP, owns the open space that was required to be included in the development.

Since the time that the Planning division informed the owners that they would both need to sign the appeal application, the Planning division's legal counsel advised us to move the appeal forward, regardless of whether or not both signatures were received on the appeal form. Both signatures were not received and the appeal has been filed only by Heritage Land Development. Since the proposal will be considered by the Board, this planning division decision has become irrelevant.

A representative for Heritage Land Development, Aaron Robinson, spoke on behalf of the applicant. On July 19, 2022 Heritage Land Development received an email from Steve Burton, stating that the conditional use permit for The Barn PH 2 subdivision located at approx. 900 S 4700 W, Ogden UT had expired. The explanation from Steve was as follows:

"After meeting with our attorney, we have determined that the conditional use permit (CUP 2017-02) has expired, and that phase 2 as proposed, does not meet today's zoning, therefore it cannot be approved unless a rezoning occurs. This determination is based off of the county's nonconforming use code (108-12-7) which says, "Wherever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be re-established, and any future use shall be in conformance with the current provisions of the Weber County Land Use Code."

Heritage Land Development was also told in an email by Steve Burton on July 19, 2022 that both Heritage Land Development and Brad Blanch would need to be included on an appeal application.

Heritage Land Development hereby appeals the requirement to have Brad Blanch included on this appeal application. Heritage Land Development LLC is the sole owner of this property.

Heritage Land Development, also hereby appeals the decision regarding the expiration of the conditional use permit for phase 2 of The Barn and requests a hearing with the Board of Adjustment.

Permit number: CUP 2017-02, the approved conditional use permit for Terakee Village states the following as "The purpose of conditional use",

"A conditional use for Terakee Village, a planned residential unit development consisting of 79 residential units, one lot for an assisted living center, and four accessory dwelling units for a total of 84 units"

In addition, line item 12 of the approved CUP states,

"This CUP is for parcel numbers 15-515-0001, 15-515-0002 and 15-048-0037 and does not include Phase 2/the 14-acre parcel number 15-059-0026 that is not contiguous."

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As stated above, this CUP was approved for 79 residential units which ended up being platted over 2 phases, however both phases are located on the above listed parcel number, 15- 048- 0037. We have only developed 36 of the 79 approved units. The phase 2, 14 acre parcel that is mentioned above is NOT part of The Barn or the 79 approved units.

We would also like to point out the following codes,

Weber county code section 108-4-8(b) states:

"Unless there is substantial action under a conditional use permit within a maximum period of one year of its approval from the land use authority, the conditional use permit shall expire."

Weber County Code Section 108-4-9 states:

"When an approved conditional use has been discontinued and/or abandoned for a period of one year, the conditional use permit becomes null and void."

According to the above codes, the one-year timeline only applies if there is no substantial action or if the conditional use has been abandoned for a period of one year. Heritage Land Development has taken substantial actions towards completing the improvements on the first 36 lots of the CUP and has been diligently working towards finalizing the construction edits on the remaining 43 lots. Heritage has been to numerous meetings with the county, reviewed plans, and worked with utility companies to make sure that this project continues to progress. Again, although the 79 lots have been constructed into two phases, our initial approved CUP has always and continues to be advancing in significant ways.

Thank you for your time and consideration. We look forward to completing this subdivision as it was originally approved. It is our pleasure to provide a beautiful subdivision for future and current residents of Weber County to call home.

Board members asked exactly what work had been done for this phase of the project. Aaron Robinson said that they had installed larger sewer and water lines. We built up the roads and layout of the roads with some structure filling that we had access to in our phase 2 in anticipation of phase 2. Mr Mumford compared this to getting a building permit. He would then be expected to report to the County what progress he had made within a certain time period or the permit would expire. Mr Burton agreed that this was a good analogy. Mr Mumford asked if this was considered a new subdivision. Mr Burton said yes. This is basically a new subdivision.

Brad Blanche, West Weber. I completely support Heritage in building this development. The County has been supportive. We retain ownership of the private right of ways and open space. We have landscape planned. This has been a long journey. I want to see it come to fruition.

Mr. Roberts, 900 South. I live directly across from this development. I have been watching. You have to make your deadlines. I am not saying that I am for or against.

Doug, 664 S 4700 W. Directly north. IF this development has to be reapplied for will there still be the public utility easement? Ms Warburton states that it is not germane to our hearing. Call the County Planning Office.

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Mr Mumford asked Mr Aaron Robinson if he wanted to comment on anything that has been said. Mr Robinson stated that they had watched the original property owners struggle to get this complete. We were making sure that we were still working on the project.

Mr Mumford asked if there were any other comments from staff. No there was not. Since there were no other comments, Laura Warburton motioned to go into a closed session. Joe Paustenbaugh seconded the motion. All voted in favor.

Closed Session

Laura Warburton motions to go back into open session. Joe Paustenbaugh seconds the motion. We are now back to an open session.

Chair Mumford calls for a motion. Board Member Joe Paustenbaugh motions the following:

I motion that we deny the BOA 2022-04 appeal for the Conditional Use Permit because the burden of proof that substantial action on phase 2 was not met by the applicant. The applicant needed to provide evidence of substantial action on phase 2 after May 11, 2021, which was not provided.

Laura Warburton seconded the motion. All voted in favor of the motion. Motion passes 3-0.

Chair Mumford ask Director Grover and Attorney Quinney if they have any comments. Both said no. Laura Warburton motions to adjourn the meeting. Joe Paustenbaugh seconds the motion. Motion passes 3-0.

Adjourn

Respectfully Submitted,
June Nelson
Lead Office Specialist



Staff Report to the Weber County Board of Adjustment

Weber County Planning Division

Synopsis

Application Information

Application Request: Consideration and action on a request for a 5 foot variance to the front yard setback and a 10 foot variance to the rear yard setback to facilitate the construction of a single-family residence at 6743 Chaparral Drive, Eden

Agenda Date: Thursday, April 25, 2024

Applicant: Joseph Draves

File Number: BOA 2024-02

Property Information

Approximate Address: 6743 Chaparral Drive, Eden (Powder Mountain West)

Project Area: .15 acres

Zoning: Forest Residential (FR-3)

Existing Land Use: Vacant

Proposed Land Use: Residential

Parcel ID: 23-086-0010

Township, Range, Section: T8N, R1E, Section 36, SE 1/4

Adjacent Land Use

North:	Residential	South:	Residential
East:	Residential	West:	Forest

Staff Information

Report Presenter: Tammy Aydelotte
tayelotte@webercountyutah.gov
801-399-8794

Report Reviewer: RG

Applicable Codes

- Title 102 (Administration) Chapter 3 (Board of Adjustment)
- Title 104 (Zones) Chapter 17 (Forest Residential Zone FR-3)

Background

The applicant is requesting a 5 foot variance to the minimum front yard setback required in the FR-3 Zone (25 feet) leaving a 20 foot setback from the front lot line. The applicant is also requesting a 10 foot variance to the rear yard setback (30 feet) leaving a 20 foot setback to the rear lot line. The applicant feels that a variance is necessary to build their desired home. The applicant explains that the current zoning setbacks create a small buildable triangle with a potential of constructing an 850 square foot home with a less than ideal garage orientation. The applicant's narrative is included as **Exhibit A**.

The applicant has provided several site plan exhibits to help visualize applicable setbacks and encumbrances to the property. The first page of **Exhibit B** shows a triangle with the required rear setback of 30 feet, side setback of 8 feet, side adjacent to a street of 20 feet, and a front setback of 20 feet. It should be noted that on the first page of Exhibit B, the front setback should be shown at 25 feet, further reducing the area within the triangle. Pages 3 and 5 of Exhibit B show where a 1050 square foot house could be located on the lot, should the BOA grant the variance.

Summary of Board of Adjustment Considerations

LUC §102-3 states that one of the duties and powers of the Board of Adjustment is to hear and decide variances from the requirements of the Weber County Land Use Code. For a variance to be granted it must be shown that all of the following criteria have been met:

- a. *Literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the Land Use Code.*
 1. *In determining whether or not literal enforcement of the land-use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship unless the alleged hardship is located on or associated*

with the property for which the variance is sought, and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood. This parcel is one of the smaller parcels in the subdivision, with two lot lines that front a ROW. The shape is unique to this lot only, within the subdivision, which limits the buildable area.

2. *In determining whether or not literal enforcement of the land-use code would cause unreasonable hardship, the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic. Buildable area would increase from the current 1475 to a possible 2283 square feet. This would fit into the average of building footprints in this neighborhood.*
- b. *There are special circumstances attached to the property that do not generally apply to other properties in the same zone.*
 1. *In determining whether or not there are special circumstances attached to the property, the appeal authority may find that special circumstances exist only if the special circumstances relating to the hardship complained of, and deprive the property of privileges granted to other properties in the same zone. Same as a. 2. Above.*
- c. *Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone. The buildable area on this lot is smaller than most (1475 square feet), given the triangular shape of the buildable area because of the unique shape of the lot. Adjacent homes have building footprints of 2572 (to the west) and 1632 (to the east, on a lot that is the same size, but a more workable shape).*
- d. *The variance will not substantially affect the general plan and will not be contrary to the public interest.*
- e. *The spirit of the land use ordinance is observed and substantial justice is done.*

Staff Analysis

The list below are points taken from the applicant's narrative as compared to the above listed point of BOA consideration (see **Exhibit A** for the full narrative):

- a. The applicant's narrative states that literal enforcement of the setbacks creates a small triangular buildable footprint, that would make it difficult to achieve coherent aesthetics and home size standards of other dwellings in the neighborhood.
- b. The applicant states that the special circumstances that exist are the size and shape of this lot.
- c. The applicant's narrative indicates that granting a variance is needed in order to enjoy a substantial property right that is possessed by other properties in the area.
- d. The General Plan indicates that this area should be developed as is planned and zoned. The applicant states that a variance to the setback will allow the construction of a home that is more coherent to the neighborhood.
- e. The applicant is exhausting their remedies, under the land use code, for the potential of a lesser setback and is requesting that substantial justice be done, considering the unique shape of the lot.

Conformance to the General Plan

Single-family dwellings are allowed as a permitted use in the FR-3 zone. If the requested variance is granted, it will not have a negative impact on the goals and policies of the Ogden Valley General Plan.

Exhibits

- A. Applicant-written variance request
- B. Site plans, showing existing and proposed setback
- C. Powder Mountain West Subdivision plat showing lot 16.

**WEBER COUNTY BOARD OF ADJUSTMENT
RULES OF PROCEDURE AND ETHICAL CONDUCT**

A Board of Adjustment shall be governed by the provisions of all applicable Statutes, County Ordinances and these rules.

I

MEMBERS

The Board of Adjustment shall each consist of five voting members, and two alternates, all of whom shall be citizen members appointed by the County Commission in accordance with the provisions of Utah Code Annotated and Weber County Ordinances.

II

OFFICERS AND DUTIES

A. Chair and Vice Chair

The Board of Adjustment shall elect annually, during the first regularly scheduled meeting in January, a Chair and Vice Chair who may be elected to succeed themselves for one additional term only. The Chairman shall be elected from the voting members of the Board of Adjustment by a majority of the total membership. The Chair, or in his/her absence or incapacity, the Vice Chair, shall preside over all meetings and hearings of the Board of Adjustment and shall execute all official documents and letters of the Board of Adjustment.

B. Secretary

The Director of Planning or his/her designated Staff member shall be the Secretary of the Board of Adjustment.

III

MEETINGS

A. Quorum

Three (3) or more members shall constitute a quorum for the transaction of business and the taking of official action; however, in the case of only three members in attendance, a unanimous vote shall be required to approve or deny an application.

B. Time of Meeting

Regular meetings shall be held on the second and fourth Thursdays of each month, as needed, or at the call of the Chair, at a time to be scheduled by Staff in the Weber County Commission Chambers of the Weber Center, 2380 Washington Blvd., Ogden. The date of the regular meeting may be changed by the majority of the total membership of the Board of Adjustment provided at least one week notice is given each member of the new date of a regular meeting.

C. Meetings Open to the Public

All regular or special meetings of the Board of Adjustment shall be open to the public.

D. Electronic Meeting Option

The Utah Open and Public Meetings Act allows public bodies to hold electronic meetings, subject to certain requirements. The Board of Adjustment hereby adopts the following rules to allow electronic meetings and govern their use. If future changes in state law conflict with these rules, the conflicting provisions of the new state law shall be automatically incorporated into these rules by reference, superseding the conflicting provisions of these rules, until the rules can be amended to conform to the new state law.

1. The Board of Adjustment will only hold an electronic meeting in the following circumstances:
 - a. a matter coming before the Board requires prompt attention;
 - b. the Secretary of the Board determines that there will not be a quorum present for the next meeting unless the Board allows one or more members to attend electronically;
and
 - c. the Chair, or the Vice Chair in the absence of the Chair, determines that all items on the proposed agenda are appropriate for discussion and action in an electronic meeting.
2. Electronic meetings will originate from an "anchor location," as required by state law. The anchor location will be the regular meeting location in the Weber Center, 2380 Washington Blvd., Ogden, Utah. As with regular meetings, interested persons and members of the public may attend and monitor the open portions of the meetings at that location.
3. In accordance with state law, public notice shall be given as required for a regular meeting, including posting written notice in the Weber Center. This public notice shall be given no less than 24 hours before the meeting. Notice of the electronic meeting shall also be given to

members of the Board at least 24 hours before the meeting and shall include a description of how the members will be connected to the electronic meeting.

E. Order of Business

The order of business shall be:

1. Approval of the minutes of previous meeting
2. Petitions for Variance, Special Exceptions or other applicable matters.
3. Other Business
4. Adjournment

The Board of Adjustment may change the order of business or consider matters out of order for the convenience of the applicants or other interested persons.

F. Voting

An affirmative vote of the three (3) or more of the voting members present at the meeting shall decide all matters under consideration by the Board of Adjustment unless otherwise provided for in these rules.

Voting shall be by voice vote. The Chair votes on all questions unless the Chair has declared a conflict of interest on a specific issue under consideration before the Board of Adjustment. No voting member of the Board shall be allowed to abstain from voting on any matter under consideration by the Board, unless that member has declared a conflict of interest on the matter under consideration before the Board of Adjustment.

G. Parliamentary Procedure

Parliamentary procedure in Board of Adjustment meetings shall be governed by Robert's Rules of Order, as revised.

H. Suspension of Rules

The Board of Adjustment may suspend any of these rules by a majority vote of the entire Board.

I. Record of Meetings

The Secretary of the Board of Adjustment shall keep an accurate record of the proceedings and perform other duties as the Board of Adjustment may determine. The Secretary shall also prepare and post written minutes of meetings in accordance with the time requirements set forth in Utah Open and Public Meetings Act. Upon completion of draft minutes, the Secretary shall circulate copies to the members of the Board of Adjustment for review. To expedite the approval of minutes, members of the Board of

Adjustment are authorized to recommended corrections and approve minutes through email correspondence coordinated by the Chair.

J. Meeting Agenda

The Planning Director or his designated Staff member shall review items proposed for the Board of Adjustment meeting agenda to determine whether all requirements necessary for Board of Adjustment consideration have been complied with. The Board shall establish reasonable deadlines for submission of applications and other items for Board of Adjustment consideration prior to a Board of Adjustment meeting to allow sufficient time for staff and agency review.

K. Non Performance or Misconduct - Removal from Office

In the event any member of the Board of Adjustment shall fail to attend more than seventy percent of the Board of Adjustment meetings held during any one year, the member may be removed from office by an affirmative vote of the majority of the County Commission. Any member of the Board of Adjustment may be removed for cause, upon written charges, by an affirmative vote of the majority of the County Commission. The member shall be provided a Public Hearing, if requested.

IV

CONSIDERATION OF APPLICATIONS

A. Hearing Procedure

Any person may appear in person, by agent or attorney at any meeting of the Board of Adjustment. The order of procedure in the hearing of each application shall be as follows:

1. Presentation by the Planning Staff of the application, including staff recommendation.
Presentation shall include the reading of pertinent written comments or reports concerning the application.
2. Additional presentation by applicant or his/her agent.
3. Public comments in favor of application.
4. Public comments against application.
5. Rebuttals by invitation of the Chair.

B. Decisions

Decisions and/or recommendations of the Board of Adjustment shall be final at the end of the meeting at which the matter is decided. The Board of Adjustment Staff shall send a Letter of Decision to the applicant, his/her attorney or agent.

V

RULES OF ETHICAL CONDUCT FOR A BOARD OF ADJUSTMENT MEMBER

Preamble

1. Ethical practice has special relevance to all people who are charged with responsibilities in public service. Board members, whose decisions and actions have long-range consequences for later generations, must be keenly concerned to adhere to ethical principles.
2. Codes of ethics, as commonly adopted, present a catalog of temptations that are prohibited. It cannot be an exhaustive catalog: human imagination is sufficiently rich to discover new variations of old temptations. The existence of a code simply puts a challenge, to some, to find a gap or loop-hole. Emphasis must be put not on the letter of prohibition but on the spirit of observance. A performance standard of ethical behavior will be superior to a specification standard.

A. Conflict of Interest

A Board of Adjustment member to whom some private benefits may come as the result of a Board of Adjustment action should not be a participant in the action.

1. The private benefit may be direct or indirect, create a material, personal gain or provide a distinct advantage to relations or to friends or to groups and associations which hold some share of a person's loyalty. However, mere membership itself in a group or organization shall not be considered a conflict of interest as to Board of Adjustment action concerning such groups or associations unless a reasonable person would conclude that such membership in itself would prevent an objective consideration of the matter.
2. A Board member experiencing, in his/her opinion, a conflict of interest, should declare his/her interests publicly, abstain from voting on the action, and may excuse himself/herself from the room during consideration of the action. He/she should not discuss the matter privately or with any other Board member. The vote of a Board member experiencing a conflict of interest who fails to disqualify himself shall be disallowed.

3. A conflict of interest may exist under these rules although a Board member may not believe he/she has an actual conflict; therefore, a Board member who has any question as to whether a conflict of interest exists under these rules should raise the matter with the other Board members and the County Attorney's representative in order that a determination may be made as to whether a conflict of interest exists.
4. No Board of Adjustment member should engage in any transaction in which he/she has a financial interest, direct or indirect, with the agency or jurisdiction that he/she serves unless the transaction is disclosed publicly and determined to be lawful.
5. The Board members that the County Commission, in making appointments to the Board of Adjustment, not attempt to exclude whole categories or associations of business, professional, or other persons in anticipation of conflict of interest problems. The service of competent people of good character need not be sacrificed. Their withdrawal from participation in planning matters is necessary only in those specific cases in which a conflict of interest arises.

B. Gifts and Favors

Gifts, favors or advantages must not be accepted if they are offered because the receiver holds a position of public responsibility.

The value of a gift or advantage and the relation of the giver to public business should be considered in determining acceptability. Small gifts that come in the form of business lunches, calendars or office bric-a-brac are often, not always, acceptable. In cases of doubt, refuse. In cases of marginal doubt, refuse.

C. Treatment of Information

It is important to discriminate between information that belongs to the public and information that does not.

1. Reports and official records of a public agency must be open on an equal basis to all inquiries. Advice should not be furnished to some unless it is available to all.
2. Information on private affairs that is learned in the course of performing planning duties must be treated in confidence. Private affairs become public affairs when an official action -- such as an application for Variance or Special Exception -- is requested with respect to them. Only then is a disclosure of relevant information proper.

3. Information contained in studies that are in progress should not be divulged except in accordance with established agency policies on the release of its studies.
4. Prearranged private meetings between a Board of Adjustment member and applicants, their agents, or other interested parties are prohibited. Partisan information on any application received by a Board of Adjustment member whether by mail, telephone, or other communication should be made part of the public record.

D. Political Activity

Membership in a political party and contributions to its finances or activities are matters of individual decision that should neither be required of nor prohibited to Board of Adjustment members.

1. The extent of participation in political activities should be governed by professional judgment as well as limited by any applicable civil service law or regulation.
2. The powers of the Board of Adjustment must not be exercised, nor their duties performed, in any way that will create special advantages for a political party. The special position of a Board of Adjustment member should not be used to obtain contribution or support for a political party and should not be used to obtain partisan favors.
3. Partisan debate of a community's planning program and the consideration of planning in a party's platform is proper. Planning Officials should, however, give political parties equal access to information.

Procedures Approved on: April 22, 2021