



**TOWN OF HARRISBURG, NORTH CAROLINA
HARRISBURG TOWN HALL
BOARD OF ADJUSTMENT MEETING**

**July 1, 2025
6:00 PM**

AGENDA

1. CALL TO ORDER

A. PUBLIC ACCESS TO LIVE MEETING VIA YOUTUBE

The public has the option to watch the meeting virtually via the YouTube platform using the link below or attend in person.

All persons wishing to address the Board on a specific agenda item must be present in person.

<https://www.youtube.com/@HarrisburgNC/streams>

B. SPECIAL PRESENTATIONS

2. CONSENT AGENDA

A. Approve draft minutes from the June 3, 2025 public hearing.

3. PUBLIC HEARINGS - NONE

4. OLD BUSINESS - NONE

5. NEW BUSINESS

A. Swear in New and Reappointed Board Members

B. Elect Chairperson and Vice Chairperson

C. Staff Reviewing Board of Adjustment procedures and Board member duties.

6. ADJOURNMENT

Vision Statement

Harrisburg will be a distinctive, family-focused community where memories are made.

Mission Statement

Together, we enhance our quality of life by collaborating, planning, and investing to create our community of choice.



TOWN OF HARRISBURG

Agenda Item Details

Title:

Approve draft minutes from the June 3, 2025 public hearing.

Presenting Personnel:

Carly Bedgood, Planning Support Specialist

Suggested Motion or Action:

Motion to approve minutes of June 3, 2025 as presented.

Description/Background:

Attached are the minutes from the June 3, 2025, Board of Adjustment meeting.

Recommendation:

Approve as presented.

Fiscal Impact:

Attachments:

1. 6-3-25 BOA

**TOWN OF HARRISBURG, NORTH CAROLINA
BOARD OF ADJUSTMENT MEETING
June 3rd, 2025
6:00 PM**

MINUTES

PRESENT: Ian Patrick (Chair), Michael Branham (Vice Chair), Kevin Schaffner (ALT 1), Steven Larson (ETJ)

ABSENT: Monica Long, Brandon Ross, Sonya Rorie (ALT 2)

STAFF: Shelley Dehart, Carly Bedgood, Zac Gordon, Emmilyn Potts, Rich Koch (Legal Counsel)

1. CALL TO ORDER

Chairperson Ian Patrick called the meeting to order.

A. SPECIAL PRESENTATIONS – NONE.

2. CONSENT AGENDA

Board member Kevin Schaffner made a motion to approve the March 4, 2025, meeting minutes. Michael Branham seconded the motion.

The motion passed 4-0.

3. PUBLIC HEARINGS- CONTINUED ITEM

A. H-2025-01-SUP Royal Empire Tattoo Studio

Ian Patrick- Chair

Chairman Patrick informed the applicant that a full board was not present to hear the case; as such, the request would need three out of four votes to receive approval. He then gave the applicant the opportunity to either continue with these proceedings or continue to a future meeting when a full board is present.

Hilda Ramirez- Applicant

Mrs. Ramirez stated they understood and requested to continue with the hearing.

Shelley DeHart- Assistant Planning Director

Ms. DeHart presented the Special Use Permit outlining the facts of the case. This special use permit request would authorize the establishment of a tattoo business within an existing commercial strip center located at 112 Morris Drive. The strip center is 6,000 sq ft and was built around 1987. Based on the ordinances and development regulations in effect at that time the site is considered non-conforming as it pertains to the site such as landscaping, buffers around the site as well as the trash enclosure that would typically be required if

developing today. All special use permits when considered by the board of adjustment must be evaluated by the decision criteria outlined in certain sections of the UDO. The proposed use is consistent with the permitted uses allowed in the GC zone, and those uses envisioned under the mixed-use designation of the HALUP. Review criteria to be satisfied for granting a special use permit include the provision of adequate ingress and egress to the site as seen in the site plan. Regarding nuisances, the operation of a tattoo facility is required to follow state regulations outlined by the North Carolina Department of Health and Human Services, Division of Public Health, and Environmental Sections. The applicant will be required to have their site inspected and be in compliance with the UDO, as well as state regulations. The proposed use is consistent with other uses found in the area. This commercial center has operated quietly and is very well maintained within that area across from the existing single-family residential area on the other side of Morris Drive. Staff did evaluate the site with regard to non-conforming attributes and find that due to the current site layout, there really is not any area for additional landscaping or buffers without losing parking. Regarding the trash enclosure, staff is proposing to include a condition that would require a trash enclosure to be built on the existing concrete and that an effort be made to screen the existing trash bin.

Michael Branham

Have there been any complaints filed by the neighbors with the Cabarrus County Sheriff's Department?

Shelley DeHart

I am unaware of any reported complaints, nor have I investigated that issue. Ms. DeHart concluded her presentation by noting that if the Board finds that the proposed use meets the applicable criteria for granting the special use permit, staff would recommend the following conditions of approval:

- The applicant will be required to obtain permit approval from all state, local, or federal agencies.
- A trash enclosure shall be constructed to house the commercial trash bin on site.
- The applicant has two (2) years from the date of approval to obtain all necessary permits and to implement this special use permit.

Michael Branham

Does this special use permit only apply to this address?

Shelley DeHart

Ms. DeHart confirmed that the SUP would only apply to this address.

Michael Branham

I have not heard anything about signage; can you provide any information?

Shelley DeHart

Ms. DeHart replied that proposed signage would follow the current Unified Development Ordinance sign regulations, which would allow them to have a wall sign above their suite.

Steve Larson

Mr. Larson asked if this facility provides purely tattoo design or provides tattoo removal as well. He also asked if any services involve medical procedures or the need for special equipment?

Hilda Ramirez- Applicant

Ms. Ramirez replied that services are limited to designing tattoos and no tattoo removal. She also stated that their business model includes additional tattoo artists and piercings in the future.

Ian Patrick- Chair

The Chairman asked the applicant to state how their request compiles with the special use permit criteria.

Hilda Ramirez- Applicant

Our tattoo shop will be a private studio. With being a private studio, I do not see where we will be bringing too many people in at a time or overflowing with the parking lot. Most all our appointments are pre-booked through social media or phone calls. We have spoken to our adjoining neighbors and have a good relationship with them.

Shelley DeHart

Ms. Dehart pointed out that page 14 of the packet submitted by the applicant contains their justification for SUP criteria.

Hilda Ramirez and Fernando Arredondo- Applicants

Ms. Ramirez stated that they intend to be more of a luxury and private tattoo shop. We do respect the fact that we have other spaces next to us that provide services also, and we would like to create an environment where everyone is going to be successful.

Ian Patrick- Chair

The chairman asked: Do you know what your hours of operation will be?

Hilda Ramirez and Fernando Arredondo- Applicants

Hours of operation could vary, but it would be around 11am-7pm.

Ian Patrick- Chair

Monday through Friday?

Hilda Ramirez and Fernando Arredondo- Applicants

We would be open Monday through Sunday, 7 days a week.

Ian Patrick- Chair

Have you discussed the signage since you are facing a residential development?

Hilda Ramirez and Fernando Arredondo- Applicants

We are trying to base it on what our suite neighbors have, and it will be like theirs.

Ian Patrick- Chair

Shelley, is there anything in our UDO about blinking signs or light signs?

Shelley DeHart

Yes, blinking signs are not permissible, but an illuminated sign would be allowed.

Ian Patrick- Chair

Is there anything in the UDO that states what time a sign can be on?

Shelley DeHart

I cannot repeat the exact regulations; I will be glad to check but there are regulations that prohibit blinking signs.

Michael Branham

Mr. Branham stated that the Town would likely want their signs off during closing hours.

Hilda Ramirez and Fernando Arredondo- Applicants

The applicant stated that they are not looking for signage to bring people's attention to our business due to the fact that we do not accept walk-ins.

Kevin Schaffner

Who is responsible for the dumpster enclosure?

Shelley DeHart

Ms. DeHart stated that will be worked out with the applicant and the property owner, however, it will need to be installed prior to operation of the tattoo studio.

Ian Patric- Chair

The chairman asked the applicant if they have any more information for the board this evening?

Hilda Ramirez and Fernando Arredondo- Applicants

We have been putting our hearts, family time and everything we have into this project, and this is the first time for us to try to build a business. We would like everything to be considered, and we thank you for being here.

Ian Patrick- Chair

The Chairman called Mr. Knorr to the podium.

Dave Knorr

Mr. Knorr, the property owner, stated he has been a resident here since the 90's and I rented space from this building for 17 years and was given the opportunity to purchase it from Howard Stafford about six or seven years ago. We have put a lot of time and money into trying to enhance this location and we do not allow for any type of business. What sold me

on them was the private studio they are trying to implement; there are no walk-ins allowed. I would invite you to see the inside and see how much they have done; it is the nicest unit that I currently have.

Steven Larson

Are there any specifics in the lease that you would like to share for this use?

Dave Knorr

No, we do not allow any types of signs that light up so that will not be a problem.

Ian Patrick- Chair

Our decision should rely on common decision criteria. Based on this review, the board made the following findings.

- The request complies with the applicable standards of this UDO and the Town Code, and the applicant has provided proof of compliance with any preceding and applicable county, state, or federal requirements.
MOTION: Steven Larson made a motion to approve, it was seconded by Kevin Schaffner. Motion passed 4-0.
- The request substantially conforms to any associated prior approval for the development, including, but not limited to: Special Use Permit, Conditional Zoning, Site Development Plan, etc.
MOTION: Kevin Schaffner made a motion to approve with conditions. The motion was seconded by Steven Larson. Motion passed 4-0.
- The request promotes the purposes of this UDO as established in 144.01.02, *Purposes*, and in other applicable purpose statements in this UDO.
MOTION: Kevin Schaffner made a motion to approve with no illuminated signs and all operations are by appointment only seconded by Steven Larson. Motion passed 4-0.
- The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare
MOTION: Steven Larson made a motion to approve, and it was seconded by Kevin Schaffner. Motion passed 4-0.
- The administrative body has considered the recommendation of Staff in the public meeting or hearing.
MOTION: Kevin Schaffner made a motion to approve, and it was seconded by Steven Larson. Motion passed 4-0.
- The request is consistent with applicable policies of the most recently adopted HALUP, any applicable utility plans, and adopted capital improvements plans; or, if it addresses a topic that is not contained or not fully

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developed in the HALUP, the request does not impair the implementation of the HALUP.

MOTION: Kevin Schaffner made a motion to approve and it was seconded by Steven Larson. Motion passed 4-0.

- Adequate facilities, including public or private utilities, solid waste service, roads, drainage, and other improvements are present or are planned to be provided.

MOTION: Steven Larson made a motion to approve, and it was seconded by Kevin Schaffner. Motion passed 4-0.

Ian Patrick- Chair

Having gone through all the common decision criteria items, I would accept a motion to either approve or deny with the three (3) conditions recommended by staff, and the two that the board recommended, including no illuminated signage and business by appointment only.

MOTION:

Kevin Schaffner made a motion to approve H-2025-01-SUP with a second by Steven Larson. **The motion passed 4-0.**

Final Conditions of approval:

1. The applicant shall obtain permit approval from all state, local, or federal agencies.
2. A trash enclosure shall be constructed to house the commercial trash bin on the site.
3. Business operations shall be by appointment only.
4. No illuminated signs are permissible.
5. The applicant has two (2) years from the date of approval to obtain all necessary permits.

4. OLD BUSINESS - NONE

5. NEW BUSINESS - NONE

6. ADJOURNMENT

There being no further business, Michael Branham made a motion to adjourn with a second from Kevin Schaffner. **The motion was unanimously approved (4-0).**

Adopted on the 1st of July 2025

Ian Patrick, Chairperson

Carly Bedgood, Secretary

Application Number H-2025-01-SUP
PIN: 5507-46-9285

COUNTY OF CABARRUS
STATE OF NORTH CAROLINA

ORDER GRANTING A SPECIAL USE PERMIT

The Board of Adjustment for the Town of Harrisburg, having held a public hearing on June 3, 2025 to consider application number H-2025-01-SUP, submitted by Fernando Arredondo in behalf of Royal Empire Private Tattoo Studio, LLC, Applicant and David and Stephen Knorr in behalf of Harrisburg Investment Group, Property Owners, and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

1. The Board makes and adopts the Findings of Fact contained in the attached Exhibit 1 labeled Findings of Fact.
2. It is the Board's CONCLUSION that the proposed use does satisfy the first Special Use Standards listed in Section 145.04.06 of the Town of Harrisburg Unified Development Ordinance ("Ordinance"); namely, that the proposed special use will be in harmony with the area in which it is to be located and in general conformance with the Harrisburg Area Land Use Plan (HALUP).
3. It is the Board's CONCLUSION that the proposed use does satisfy the second Special Use Standards listed in the Ordinance; namely, adequate measures will be taken to provide ingress and egress to minimize traffic hazards and traffic congestion on the public roads.
4. It is the Board's CONCLUSION that the proposed use does satisfy the third Special Use Standards listed in the Ordinance; namely, that the proposed use will not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.
5. It is the Board's CONCLUSION that the proposed use does satisfy the fourth Special Use Standards listed in the Ordinance; namely, the establishment of the proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.

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6. It is the Board’s CONCLUSION that the proposed use does satisfy the fifth Special Use Standards listed in the Ordinance; namely, the establishment, maintenance, and operation of the proposed use will not be detrimental to or endanger the public health, safety, or general welfare.
7. It is the Board’s CONCLUSION that the proposed use does satisfy the sixth Special Use Standards listed in the Ordinance; namely, that the proposed use complies with all other applicable sections of the Ordinance.
8. It is the Board’s CONCLUSION that the proposed use does satisfy all of the Common Decision Criteria listed in Section 145.01.07 of the Ordinance for this use.

Therefore, because the Board concludes that all of the general and specific conditions precedent to the issuance of a SPECIAL USE PERMIT have been satisfied, it is ORDERED that the application for the issuance of a SPECIAL USE PERMIT be GRANTED, based on the Findings of Fact attached as Exhibit 1 and the Conclusions of Law. This SPECIAL USE PERMIT is limited by the conditions contained in the attached Exhibit 2. The applicant shall fully comply with all the applicable, specific requirements in the Ordinance and must develop the property in accordance with the site plan submitted and approved. If any of the requirements shall be held invalid, this permit shall become void and of no effect.

Ordered this ____ day of June, 2025, *nunc pro tunc* to June 3, 2025.

CHAIR of the TOWN OF HARRISBURG
BOARD OF ADJUSTMENT

I, _____, Notary for Cabarrus County, North Carolina certify that Ian Patrick, Chair of the Town of Harrisburg Board of Adjustment appeared before me on the above day and signed the foregoing document.

_____, Notary Public
My Commission expires: _____

NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Cabarrus County within thirty (30) days after the date of this order.

EXHIBIT 1

**FINDINGS OF FACT
SPECIAL USE PERMIT APPLICATION
APPLICANT: FERNANDO ARREDONDO, ROYAL EMPIRE PRIVATE TATTOO
STUDIO, LLC
PROPERTY OWNERS: DAVID AND STEPHEN KNORR, HARRISBURG
INVESTMENT GROUP
112 MORRIS DRIVE, #6, HARRISBURG, NC 28075
PIN 5507-46-9285
H-2025-01-SUP**

FINDINGS OF FACT

1. The request complies with the applicable standards of the UDO and the Town Code, and the applicant has provided proof of compliance with any preceding and applicable county, state, or federal requirements.

a) See applicant's response to this requirement in its application , which is incorporated by reference as a Finding of Fact.

b) See staff report discussion of this requirement, which is incorporated by reference as a Finding of Fact.

c) The Board specifically finds that this proposed use is compatible with the surrounding uses of the property in that area and is in harmony with the character of that section of Morris Drive, with the conditions set by the Board.

2. The request substantially conforms to any associated prior approval for the development, including, but not limited to: Special Use Permit, Conditional Zoning, Site Development Plan, etc.

a) See applicant's response to this requirement in its application, which is incorporated by reference as a Finding of Fact.

b) See staff report discussion of this requirement, which is incorporated by reference as a Finding of Fact.

3. The request promotes the purposes of the UDO as established in 144.01.02, Purposes, and in other applicable purpose statements in the UDO.

a) See applicant's response to this requirement in its application, which is incorporated by reference as a Finding of Fact.

b) See staff report discussion of this requirement, which is incorporated by reference as a Finding of Fact.

4. The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.

a) See applicant's response to this requirement in its application, which is incorporated by reference as a Finding of Fact.

b) See staff report discussion of this requirement, which is incorporated by reference as a Finding of Fact.

c) The Board specifically finds that this proposed use meets this criterion, with the conditions set by the Board.

5. The administrative body has considered the recommendation of Staff in the public meeting or hearing.

a) See applicant's response to this requirement in its application, which is incorporated by reference as a Finding of Fact.

b) See staff report discussion of this requirement, which is incorporated by reference as a Finding of Fact.

6. The request is consistent with applicable policies of the most recently adopted HALUP, any applicable utility plans, and adopted capital improvements plans; or, if it addresses a topic that is not contained or not fully developed in the HALUP, the request does not impair the implementation of the HALUP.

a) See applicant's response to this requirement in its application, which is incorporated by reference as a Finding of Fact.

b) See staff report discussion of this requirement, which is incorporated by reference as a Finding of Fact.

7. Adequate facilities, including public or private utilities, solid waste service roads, drainage and other improvements are present or are planned to be provided.

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a) See applicant's response to this requirement in its application, which is incorporated by reference as a Finding of Fact.

b) See staff report discussion of this requirement, which is incorporated by reference as a Finding of Fact.

c) The Board specifically finds that this proposed use meets this criterion, with the conditions set by the Board.

8. The request demonstrates compatibility with surrounding conforming and permitted land uses and structures and with the essential character of the general vicinity of design, facade treatment, setbacks, building materials and reasonably anticipated negative impacts.

a) See applicant's response to this requirement in its application, which is incorporated by reference as a Finding of Fact.

b) See staff report discussion of this requirement, which is incorporated by reference as a Finding of Fact.

EXHIBIT 2

CONDITIONS

SPECIAL USE PERMIT APPLICATION

**APPLICANT: FERNANDO ARREDONDO, ROYAL EMPIRE PRIVATE TATTOO
STUDIO, LLC**

**PROPERTY OWNERS: DAVID AND STEPHEN KNORR, HARRISBURG
INVESTMENT GROUP**

112 MORRIS DRIVE, #6, HARRISBURG, NC 28075

PIN 5507-46-9285

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1. The applicant shall obtain permit approval from all state, local, or federal agencies.
2. A trash enclosure shall be constructed to house the commercial trash bin on the site.
3. Business operations shall be by appointment only.
4. No illuminated signs are permissible.
5. The applicant has two (2) years from the date of approval to obtain all necessary permits.



TOWN OF HARRISBURG

Agenda Item Details

Title:

Staff Reviewing Board of Adjustment procedures and Board member duties.

Presenting Personnel:

Zachary Gordon, Planning Director

Suggested Motion or Action:

Receive presentation by Planning staff

Description/Background:

Planning staff will provide the Board with an overview of Board of Adjustment procedures and Board member duties.

Recommendation:

Receive presentation by Planning Staff on Board of Adjustment procedures and Board member duties.

Fiscal Impact:

None

Attachments:

1. BOA Rules of Procedure Final



RULES OF PROCEDURE HARRISBURG BOARD OF ADJUSTMENT

Section 1. General Rules

The function of the Board of Adjustment (referred to as the "Board") is to hear and determine certain quasi-judicial matters under the development regulations of the Town of Harrisburg. The Board shall be governed by the terms of Chapter 160A, Article 19, Part 3 and Chapter 160D of the General Statutes of North Carolina and by the Unified Development Ordinance of the Town of Harrisburg (referred to as the "UDO"). The Board shall exercise such additional authority as may be given it under general law, special act and local ordinance. These Rules of Procedure are intended to supplement and explain procedural provisions and requirements set out in the applicable provisions of law and ordinance.

These Rules of Procedure are adopted by the Board and the Town Council.

All members of the Board shall thoroughly familiarize themselves with the statutes and ordinances specified above and these Rules of Procedure.

Section 2. Officers and Their Duties

- A. Chair. The Chair shall be a regular member elected by a majority vote of the full membership of the Board (including extraterritorial and alternate members). The Chair's term of office shall be one year, or until a successor is elected, beginning on July 1. The Chair shall be eligible for reelection. The Chair shall decide upon all points of order and procedure, subject to these rules. The Chair shall rule on all objections to the presentation of evidence. Rulings of the Chair may be appealed by a member of the Board to the full Board. The Chair shall appoint any committees found necessary to conduct the business of the Board.
- B. Vice Chair. The Vice Chair shall be a regular member of the board elected by the Board in the same manner and for the same term as the Chair. The Vice-Chair shall serve as Acting Chair in the absence of the Chair and at such times the Vice-Chair shall have the same powers and duties as the Chair.
- C. Secretary. The Secretary shall be the appointed Planning and Zoning Planning Technician for the Town of Harrisburg. The Secretary, subject to the direction of the Chair and the Board, shall keep all records, shall conduct all correspondence of the Board, shall arrange for all public notices required to be given, shall notify members of pending meetings and their agenda, shall notify parties to cases before the Board of its decision on such cases, and shall generally supervise clerical work of the Board. The Secretary shall keep in a permanent volume the summary of minutes of every meeting of the Board. These shall show the record of all important facts pertaining each meeting and hearing, every resolution acted upon by the Board and all votes of members of the Board upon the final determination of any question, indicating the names

of the members absent or failing to vote. The Secretary shall not be eligible to vote upon any matter and is not a member of the Board.

The Secretary shall provide to every new member of the Board print or electronic copies of all relevant ordinances, these Rules of Procedure, and such other educational materials deemed appropriate. The Secretary shall arrange for an orientation for new members and shall coordinate provision of continuing education for Board members.

Section 3. Members

- A. Regular Members. There shall be five (5) regular members of the Board, each to be appointed by the Town Council, according to the appointment procedure in Rule 6 of the Rules of Procedure of the Harrisburg Planning & Zoning Board. Such members may also be members of the Harrisburg Planning & Zoning Board during the same term of office, but not required. One of the five regular members shall be the P&Z member residing in the Town's extraterritorial jurisdiction ("ETJ"), who will have been appointed as determined in Rule 1 of the Rules of Procedure of the Harrisburg Planning & Zoning Board.
- B. Alternate Members. There shall be two (2) alternate members of the Board, each appointed by the Town Council in the same manner as provided for regular members. The two alternate members may be the other two members of the Harrisburg Planning & Zoning Board and shall be designated by the Town Council as the alternate members when so appointed. Alternate members are encouraged to attend all meetings of the Board, but shall participate in hearing, deliberating, and deciding a case only when acting in the place of a regular member. On receiving such notice that a regular member will not be participating, the Secretary shall, by the most expeditious means, notify an alternate member to attend. An alternate member shall be called upon by the Chair to participate in an individual case in the place of a member who has a conflict and is ineligible to participate in that case. At any meeting or case upon which they are called upon to participate, alternate members shall have the same powers and duties as regular members. Alternate members who are present and participate in hearing an individual case shall continue to hear, deliberate and vote on that case at any subsequent meeting.
- C. Term. Each regular and alternate member shall be appointed for a three (3) year term. Each such member may be reappointed to a second three (3) year term, after which the member is not eligible for reappointment until four (4) years have elapsed. All terms of appointment shall start on July 1st. Any member that is appointed to fill an unexpired term may still be appointed for two (2) consecutive terms of their own.

Section 4. Rules of Conduct for Members

- A. In accordance with the Unified Development Ordinance, members of the Board may be removed by the Town Council for cause, including violation of the rules stated below. The Chair shall report to the Town Council any violation of these rules of conduct. Where feasible, the Town Council shall notify a member being considered for removal of the reasons for removal and give that member an opportunity to respond.
- B. Faithful attendance at all meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite for continuing membership on the Board. Any regular Board member who is absent for more than three consecutive regular meetings or more than 75% of the regular meetings in a calendar year shall lose his or her status as a Board member. Absence due to sickness, death in the immediate family, or other emergencies of a similar nature shall be

recognized as excused absences and shall not affect a member's status on the Board, except that in the event of a long illness or other such cause for prolonged absence the member shall be replaced. The Secretary to the Board shall keep a record of attendance and shall provide reasonable notice to any member who is in immediate risk of failing to meet these attendance requirements.

- C. Board members should disclose at the hearing any pertinent facts about a pending case of which they have personal knowledge prior to the hearing. Other than this type of disclosure, a board member seated for a hearing should not testify at that hearing. A board member who is recused from a case should avoid testifying as a witness in that hearing if at all feasible.
- D. Board members shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision-maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change; undisclosed ex parte communications; a close, familial, business, or other associational relationship with an affected person; or a financial interest in the outcome of the matter. Board members shall endeavor to avoid the appearance of impropriety. Conflicts of interest are governed by N.C. Gen. Stat. § 160D-109.

A member with a potential bias or conflict of interest may consult with the Chair or the Town Attorney regarding that potential conflict prior to the hearing. A Board member with a bias or conflict of interest shall declare that at the opening of the hearing on the matter and shall be recused by the Board from all participation in hearing and deciding the case.

If an objection is raised to a member's participation in a case by a party to that case or by another Board member, the remaining members of the Board shall by majority vote rule on the objection. When a member is recused, that member shall absent himself or herself from the hearing room for the duration of the board's hearing, deliberation, and vote on that matter.

- E. Board members shall not discuss any quasi-judicial case with, or receive any information about a case from, any parties to the case, other board members, or from other interested persons outside the evidentiary hearing on that case. No Board member shall conduct an investigation or gather facts about the case outside the evidentiary hearing. A Board member may visit the site of a pending case provided that visit is disclosed at the evidentiary hearing. Board members may seek and receive general information about ordinance and planning provisions pertaining to the case from the Chair, the Town Attorney, or Town Staff (except when a staff member is a party or an adversarial witness), provided any factual queries regarding the pending case itself shall only be made in open session at the evidentiary hearing.
- F. Board members shall not vote on the merits of any quasi-judicial matter unless the Board member has either attended the evidentiary hearing on that matter or has thoroughly reviewed the full hearing record for that matter.
- G. Board members shall not express individual opinions or judgments regarding a pending quasi-judicial case prior to the determination of that case.

Section 5. Meetings

- A. Regular Meeting. Regular meetings of the Board shall be held on the first Tuesday of each month at 6:00 p.m. in the Council Chambers of Town Hall; provided that meetings may be held at any other

convenient place, date or time in the Town if directed by the Chair in advance of the meeting and proper notice is given in accordance with applicable provisions of the Town Code and state law. Typically, meetings of this Board shall either directly precede or be directly after a meeting of the Harrisburg Planning & Zoning Board. The Secretary to the Board shall make the schedule of regular meetings available to the public and shall post a copy of the schedule on the Town web site.

Regular meetings and hearings may be rescheduled by the Planning and Zoning Director if a scheduled meeting or hearing cannot be held because of a holiday, weather, lack of a quorum, or other unusual circumstance. Notice of a rescheduled meeting shall be provided in the same means as required for a special meeting. When an evidentiary hearing will be conducted at a regular or special meeting, all required notices to the parties must be provided within the times set by state law and the UDO.

- B. Special Meetings. Special meetings of the Board may be called at any time by the Planning and Zoning Director pursuant to applicable provisions of the Open Meetings Law, N.C. Gen. Stat. §143-318.12. At least forty-eight (48) hours' written notice of the time and place of a special meeting shall be given by the Secretary to the Board to each member of the Board and to each news organization and person requesting such notice. This notice may be provided by electronic mail. This notice shall also be posted on the Town web site.
- C. Cancellation of Meeting. If there are no quasi-judicial cases to be heard or other business before the Board, if there is a weather emergency or similar situation, or if so many regular and alternate members indicate that they will not be able to attend that a quorum will not be available, the Planning and Zoning Director may cancel a regular meeting by giving written and oral notice to all Board members. If feasible, notice of cancellation shall be made not less than twenty-four (24) hours before the time set for the meeting. The Secretary to the Board shall post a notice of the meeting cancellation at the regular meeting location.
- D. Quorum. A quorum of the Board, necessary to meet, shall consist of three (3) members of the Board, but the Board shall not vote on any questions related to an appeal of a decision or a determination of the Zoning Officer or an application for a variance or special use permit when fewer than four (4) voting members of the Board are present. If fewer than five (5) voting members of the Board are present, a party to a quasi-judicial matter may request that the hearing be continued until five (5) voting members are present. Whenever during a meeting, a quorum ceases to be present, if no objection is raised by a member of the Board, the Board may continue to hear evidence and debate but may not vote on any action except to adjourn.
- E. Hearing Deferrals and Continuances. Once a quasi-judicial case has been noticed for hearing, the Board generally expects the case to be heard at that time. An applicant may make a written request to delay consideration of a case to the next scheduled meeting, provided that the request is received at least twenty-four (24) hours prior to the scheduled meeting. Except for good cause shown, if an applicant fails to appear at a meeting to prosecute his or her application, and the hearing has been continued one (1) time before, the Board may dismiss the application for failure to prosecute. An application that has been dismissed may be resubmitted upon payment of applicable fees.

The Board may in its discretion continue any hearing when the Board deems that to be reasonable in order to receive additional evidence or to further deliberate. In all instances the Board shall decide cases within a reasonable time.

- F. Voting. All regular members shall vote on any issue unless they have been disqualified for one or more of the reasons stated in Rule 4. Alternate members shall vote on any issue for which they are seated in place of regular members unless they have disqualified themselves for one or more of the reasons stated in Rule 4.

The required vote to issue a variance shall be four-fifths of all members eligible to vote on the matter. If a motion to approve a variance does not receive the affirmative vote of four-fifths of those members eligible to vote, the variance shall be deemed denied. When this occurs, members who did not cast an affirmative vote on granting the variance shall state for the record their rationale for casting a negative vote, The required vote to decide any other quasi-judicial matter shall be a simple majority of all members eligible to vote on the matter.

In all other matters the vote of a majority of the voting members present shall decide issues before the Board. The Chair votes as any other Board member.

- G. Conduct of Meetings. All meetings shall be open to the public, except for closed sessions as allowed by law. The order of business at regular meetings shall be as follows:

1. Call to order, roll call and announcements;
2. Action on minutes of previous meetings, including acceptance and correction;
3. Hearing, consideration, and determination of cases;
4. Reports of committees;
5. Unfinished business;
6. New business;
7. Adjournment.

Without objection from a member the Chair, or other member presiding at the meeting, may change the order of business and the order in which cases are heard. Upon objection, the issue shall be put to a vote of the Board. Requests to continue a matter before the Board shall be voted on by the Board.

- H. Agenda and Meeting Materials. An agenda for each meeting and hearing shall be prepared by the Secretary to the Board and shall be distributed to all members of the Board, applicants with cases to be heard, and any other interested person who has made a written request to receive an agenda. The agenda shall be distributed at least one week prior to regular meetings and two days prior to special meetings.

Written briefs, documents, letters, and staff reports may be submitted to Board members by the Secretary to the Board prior to an evidentiary hearing, provided that any such material is also submitted to all parties to that case at the time they are submitted to Board members. Staff may establish reasonable deadlines for submission of any such material to be distributed prior to the hearing. Such materials shall be distributed at the same time the meeting agenda is distributed. Any such material shall be part of the hearing record and introduced as documentary evidence at the evidentiary hearing. Board members shall endeavor to review the materials prior to the hearing.

- I. Meeting Recordings. The Secretary shall make audio or video recordings of each meeting and hearing. Electronic recordings that may be used to generate transcripts for judicial review as needed shall be made of each meeting and shall be held for safekeeping by the Secretary in accordance with record retention policies set by state law and the UDO. Any party to a quasi-judicial proceeding may request a verbatim transcript of the evidentiary hearing, with the cost of preparation of the transcript borne

by the party making that request. Any person may make an audio or video recording of any Board hearing or meeting, provided it is done in a manner that does not disrupt the hearing or meeting.

- J. Oaths. All witnesses presenting testimony in evidentiary hearings shall be sworn in. Oaths may be administered by the Chair or the Secretary to the Board. An affirmation may be made by any witness with a religious objection to swearing.
- K. Subpoenas. Persons with standing on a quasi-judicial matter before the Board may make a written request to subpoena for witnesses or to compel the production of evidence. The Chair shall issue subpoenas determined to be reasonable in nature and scope and not oppressive. The Chair shall rule on any objections or motions to quash subpoenas. The Chair's decisions on subpoenas may be appealed to the full Board.

Section 6. Appeals and Applications

A. Types of Appeals and Applications:

1. The Board shall hear and decide all appeals from final, binding written decisions or determinations made by the Zoning Administrator as provided by the UDO and by state statutes.
2. The Board shall hear and decide petitions for variances from the zoning ordinance and other such ordinances as provided by the UDO.
3. The Board shall hear and decide special use permits as assigned by the UDO.
4. The Board shall make interpretations of the Zoning Map, including disputed questions of zoning district boundary lines and similar questions that may arise from administration of the development regulations of the Town of Harrisburg.
5. The Board shall also hear and decide all matters referred to it or upon which it is required to pass by the UDO and any other matters assigned to it by ordinance or by law.

B. Procedure for Filing Appeals and Applications

1. An appeal of a decision or determination of the Zoning Administrator shall be filed with the Town Clerk, or such other officer as designated by the UDO. The notice of the appeal shall state the grounds for the appeal. No appeal shall be heard by the Board unless the appeal is filed within thirty (30) days of written or constructive notice of the order or determination made by the Zoning Administrator.
2. Applications for variances and special use permits shall be accompanied by a site plan of sufficient size and accuracy to enable the Board to see the precise location and size of the variance and/or nature and location of the special use permit being sought. Such application shall specifically state the type of variance or special use permit sought. Upon submission of an application, the Zoning Administrator shall determine if these requirements are satisfied.
3. All appeals, applications, and any other matter coming before the Board shall be made upon the form for that purpose.
4. All required information required shall be complete and all required fees paid before an appeal, application, or other matter shall be considered as having been filed.

5. An applicant may withdraw any appeal, application, or other matter prior to the start of the evidentiary hearing on that matter. A withdrawal shall be made in writing. Upon withdrawal the case is closed. New application and fee must be submitted if the application is renewed.

C. Evidentiary Hearings.

1. Time. After receipt of an appeal, application, or other matter, the Planning and Zoning Director shall schedule the matter for hearing at the first available regular or special meeting scheduled.
2. Notice. The Board shall give notice of evidentiary hearings on quasi-judicial cases by first-class mail to the person whose appeal or application is the subject of the hearing, to the owner of the affected property if the owner did not initiate the hearing, and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. The notice shall be posted in the mail at least ten (10) but not more than twenty-five (25) days prior to the date of the hearing. A notice of the hearing shall also be prominently posted on the property that is the subject of the hearing (or the adjacent street right-of-way) in this same time period.

If a hearing is set for a given date and a quorum of the Board is not then present, the hearing shall be continued until the next regular Board meeting by announcement by the Chair without further advertisement. In addition, the Board may, without further advertisement, continue a hearing to a date certain after the hearing has been called to order.

The hearing notice shall include the location of the property subject to the hearing, the general nature of the matter being heard, and the date, time, and location of the hearing.

3. Conduct of Evidentiary Hearing. Any party may appear in person or by agent or by attorney at the hearing. The order of business for hearing shall be as follows:
 - a. The Chair, or such person as the Chair may direct, shall give an opening statement regarding the nature of the hearing and the process that will be followed. The Chair shall poll all Board members participating in the case as to any ex parte communications, bias, or conflicts of interest. Issues regarding standing, participation of Board members in consideration of the case, or other jurisdictional issues shall be addressed. Witnesses to offer testimony may be sworn in.
 - b. The Chair or the staff shall provide a preliminary statement of the case, including a summary of the facts and relevant ordinance provisions. Staff shall present the application, supporting materials, staff report, and any other written materials received and distributed prior to the hearing for introduction into the hearing record.
 - c. The applicant shall present evidence and argument in support of the application or appeal taken.
 - d. Parties opposed to the application, including the staff from whom an appeal is being taken, may present evidence and argument.
 - e. Other persons may present relevant evidence.

f. Staff may make a recommendation to the Board concerning requests for special use permits and variances.

g. Parties may present rebuttal evidence.

h. Closing statements of summaries may be made by parties to the case and staff.

i. The Board shall deliberate on and make a determination of the case.

Witnesses may be called and factual evidence may be submitted. The Chair must recognize witnesses before they are heard and confirm that they are under oath. The Chair shall allow all witnesses to be heard but may limit testimony or evidence that is irrelevant, repetitive, incompetent, hearsay, or inadmissible opinion testimony. The Chair shall allow the parties to the case to make direct and cross examination of witnesses and to present rebuttal evidence. The Chair may establish reasonable procedures to assure that what is done is in a fair, impartial, and efficient manner. Board members may ask questions of any witness.

The Board shall not be limited to consideration of such evidence as would be admissible in a court of law, but all decisions must be based on competent, material, and substantial evidence properly placed in the hearing record. Board members may view the premises before arriving at a decision, but any key facts observed by members shall be disclosed at the hearing and made part of the record.

Upon completion of the presentation of evidence and recommendation by the staff, Board members shall discuss the case among themselves in open session and may recall any witness to ask further questions and otherwise deliberate among themselves. Board members shall not discuss the case or give opinions on the evidence until initial presentation of the case is completed.

4. Rehearings. An application for a rehearing may be made to the Board and shall contain evidence that there has been a substantial change in the facts or conditions of the case. The Board may decide to conduct a full evidentiary hearing to consider such application. The application for rehearing shall be denied by the Board if, from the record, it finds there has been no substantial change in facts or conditions. If the Board finds that there has been a change, it shall thereupon treat the request in the same manner as a new application.

D. Decisions.

1. Time. Decisions by the Board shall be made in a reasonable time from the completion of the evidentiary hearing. A decision may not be continued indefinitely.
2. Motion and Voting. Voting on an appeal, application, or other matter shall be in accordance with the provisions of the UDO and the North Carolina General Statutes. A vote on a request for a variance, special, or conditional use permit or on an appeal of a staff determination shall be in the form of a motion to approve the request, and such motions shall require a second. A motion made to determine a quasi-judicial matter shall state specifically any conditions desired to be made a part of that decision and shall reference, if appropriate, any documents or maps submitted as a part of that application. Any such references made in the motion shall, if

approved, be part of the record and decision in that case. The vote of each member shall be recorded. If a request or application is not approved, the members voting not to approve shall state for the record the factual findings and rationale that support their opposition.

3. Form. All decisions of the Board on quasi-judicial matters shall be reduced to writing as soon as practicable after the case is decided. The written decision shall reflect the Board's determination of contested facts and the application of the pertinent standards to those facts. The written decision shall be signed by the Chair or other duly authorized member of the Board. After signature, the written decision shall be filed with the Secretary to the Board and delivered to the parties.
4. Effective Date and Filing. Decisions of the Board on quasi-judicial matters are effective upon filing the written decision with the Secretary to the Board and the delivery of the decision to the applicant, the property owner if that entity is not the applicant, and to any other person who filed a written request for a copy of the decision at the evidentiary hearing on the matter. The decision may be delivered by personal service, first-class mail, or electronic mail.
5. Public Records of Decisions. The decisions of the Board shall be a public record available for inspection at all reasonable times. All decisions shall be entered into the minutes of the Board. The Secretary to the Board shall maintain copies of all written decisions of the Board.
6. Amendments. These Rules may be amended without prior notice only by the Town Council.

Approved and adopted on this 12th day of June, 2023.

TOWN OF HARRISBURG

Jennifer Teague, Mayor

ATTEST:

Janet Rackley, Town Clerk

ACKNOWLEDGEMENT

I have received a copy of the Harrisburg Board of Adjustment Rules of Procedure and agree to abide by such.

Committee Member Signature

Date

Print Name