

MINUTES OF THE  
SUMMERFIELD BOARD OF ADJUSTMENT  
SUMMERFIELD TOWN HALL  
August 25, 2011

The meeting was called to order at 7:07 pm by James Brady.

**2. INTRODUCTIONS:**

Ron Willis  
Michael Stewart  
Jim Brady  
Lewis Nash  
William North

Will Rozell, Town Attorney  
Chris Anderson, Town Planner  
Carrie Spencer, Clerk to the Board

**3. CONSENT AGENDA**

Mr. Brady called the meeting to order. Mr. Willis made a motion to approve the agenda, Mr. North seconded, and the motion passed unanimously. Mr. North made a motion to approve the minutes for the July 28, 2011 meeting with suggested future revision, Mr. Nash seconded, and the motion passed 4 to 0 with Mr. Willis abstaining as he had not attended the meeting.

**4. NEW BUSINESS**

**A. Consideration of board officers**

Mr. Willis made a motion to appoint Mr. Brady as Chair of the Board, Mr. Stewart seconded and the motion passed unanimously. Mr. Brady will fill the position until the end of the year. Mr. Stewart made a motion to appoint Mr. Nash as Vice-Chair and Mr. Willis seconded. Mr. North motioned to close the nomination, Mr. Stewart seconded, the nomination closed, and the motion passed unanimously.

Mr. Anderson opened discussion of the By Laws, explaining that he had used research materials and intended to avoid repeating anything already in the ordinance.

The sentence "Any board member may be removed for cause" was removed.

There was a request to better explain what constitutes a quorum, and it was explained that because of the requirement for a 4/5 majority, at least 4 board members would have to be present and all 4 would have to vote alike. It was clarified that a case would fail for lack of a majority. Mr. Anderson will add language from the ordinance that better explains a quorum.

When asked for an example of when the board would delay a decision for up to 30 days, Mr. Rozell stated that the board could need more time to review evidence.

There was a question about Conflicts of Interest between committees and it was decided to remove that paragraph.

There was discussion about board members stepping down from the board to act as a citizen during a case and it was pointed out that the town could be made vulnerable by such a situation. Mr. North asked about alternates hearing cases as a member of the audience, then sitting at a meeting to vote on the case. Mr. Rozell will discuss the issue with Mr. Hill.

There was discussion about having to sit on a board to make a decision when the case concerns a neighbor's property. Mr. Rozell added that there are particular reasons why a board member can recuse themselves and they are better off staying away from the meeting if they feel a personal conflict.

Mr. Anderson clarified the fact that Special Use Permits for Equestrian Facilities do not have to be renewed annually.

It was clarified that board members should not attend open houses for cases they will hear since they would be hearing evidence ahead of the hearing. Board members may attend events when they are not part of a case they will hear. Board members may consider evidence and ask questions based on their general knowledge of the town.

It was clarified that financial hardship may never be considered as evidence for a BOA case.

It was clarified that the Vice-Chair automatically assumes the position of the Chair if the Chair is not in attendance or resigns.

Mr. Rozell reminded the board that they cannot discuss a case until its final disposition which includes the 30 day appeal period. He added that board members may always discuss cases with the Town Attorney.

There was a question about how cases are appealed and Mr. Rozell stated that appeals are made to Superior Court, who could remand the case back to the board or make their own decision. The Town Attorney is notified in such a case and would notify staff and the board.

Mr. Stewart made a motion to accept the By Laws as amended, Mr. Nash seconded, and the motion passed unanimously.

## **5. OTHER BUSINESS**

Mr. Anderson stated that the town is advertising for new board members in the NW Observer and through announcements at town council meetings. There are no case applications for a Sept agenda right now.

Mr. North made a motion to adjourn, Mr. Nash seconded, and the meeting adjourned at 7:25.