



**Board of Adjustment  
Agenda for Regular Meeting of November 7, 2024  
Assembly Hall  
395 Magnolia Road, Pinehurst, NC 28374  
Pinehurst, North Carolina  
4:00 PM**

1. Call to Order
2. Approval of Minutes
  - A. Approval of 10-03-2024 Regular Meeting Minutes
3. Regular Business
  - A. Review and Approval of the 2025 P&Z/BOA Meeting Schedule
  - B. Board Organizational Items
4. Next Meeting Date
  - A. 12-05-2024 Regular Meeting
5. Motion to Adjourn

Vision: The Village of Pinehurst is a charming, vibrant community which reflects our rich history and traditions.

Mission: Promote, enhance, and sustain the quality of life for residents, businesses, and visitors.

Values: Service, Initiative, Teamwork, and Improvement.



**Approval of 10-03-2024 Regular Meeting Minutes**  
**ADDITIONAL AGENDA DETAILS:**

**FROM:** Jeanann Dawson, Administrative Specialist  
**CC:** Board of Adjustment; Alex Cameron, Michael Mandeville, Maria Carpenter  
**DATE OF MEMO:** 10/29/2024

**MEMO DETAILS**

Attached is a draft copy of the 10-03-2024 Regular Meeting Minutes

**ATTACHMENTS**

1. 10-03-2024 BOA Draft Minutes - Copy



**BOARD OF ADJUSTMENT  
REGULAR MEETING  
THURSDAY, October 3rd, 2024  
ASSEMBLY HALL  
395 MAGNOLIA ROAD  
PINEHURST, NORTH CAROLINA**

**04:00 PM or IMMEDIATELY FOLLOWING THE P&Z MEETING**

<b>Board Members Present:</b>	<b>Board Members Absent:</b>	<b>Staff Present:</b>
Thomas Schroeder, Chair	Sonja Rothstein	Alex Cameron, Planning Director
Jeremy Hooper	Paul Roberts	Michael Mandeville, Senior Planner
Matt Jones Vice-Chair	Jimmy Duncan, Alt.	Maria Carpenter, Planner
Bruce Hironimus, Alt	Carol Henry	Kim Stepnoski, P&Z Specialist
Louise Mercuro, Alt		

Approximately 5 member(s) of the public were in attendance.

**I. Call to Order**

Mr. Schroeder called the October 3rd, 2024, Regular Meeting to order at 04:10 PM.

Mr. Jones moved to seat Ms. Mercuro and Mr. Hironimus as a voting member of the Board of Adjustment for the Regular Meeting of August 1<sup>st</sup>, 2024. Seconded by Mr. Hooper. Approved by a vote of 3-0.

Mr. Schroeder introduced the Staff and the Board Members.

Mr. Schroeder gave a brief introduction to the procedures and requirements of a quasi-judicial hearing.

Mr. Cameron and Mr. Mandeville were sworn in for the Public Hearing.

**II. Approval of Minutes**

**a. 08-01-2024 Regular Meeting Minutes**

Mr. Hooper moved to approve the minutes of the August 1st, 2024, Regular Meeting. Seconded by Mr. Jones. Approved by a vote of 5-0.

**III. Public Hearing**

Ms. Mercuro moved to recess the Regular Meeting and enter the Public Hearing. Seconded by Mr. Hooper. Approved by a vote of 5-0

**a. PLN-2024-00105 (55 Statler Variance Request)**

*The purpose of the public hearing is to receive testimony for a variance request from Pinehurst Development Ordinance Section 9.2a Table of Dimensional Requirements for the property addressed as 55 Statler Lane, further identified by Moore County PID # 00029860. This property is located within the R-10 Zoning District. Specifically, the applicant is requesting a variance to allow an attached carport that encroaches the minimum 15' side yard setback of the R-10 Zoning District.*

Mr. Schroeder verified with the board members that they had no ex parte communication and no questions regarding the case.

Mr. Garvin Few, the applicant residing at 55 Statler Ln, was sworn into the public hearing.

Mr. Mandeville discussed the proposed work and submitted into evidence the Staff Report with attachments / exhibits, Presentation, Application and Applicant's materials / exhibits.

Mr. Schroeder asked if any of the board members had questions for Mr. Mandeville.

Mr. Hironimus asked if the carport had been completed and when was the complaint filed. Mr. Mandeville confirmed the carport was complete and the date of complaint was April 15, 2024.

Mr. Jones asked if the slab only would be considered encroachment of setback. Mr. Cameron confirmed the slab would be encroachment.

Mr. Hooper asked if during the online permitting process, would the applicant have been aware of the setback restrictions. Mr. Mandeville explained, staff would have caught the encroachment during the review process.

Ms. Mercuro asked if it was just one complaint and if the complainant was satisfied with the explanation. Mr. Mandeville explained was unsure, he was not the one that received complaint.

Mr. Schroeder confirmed with the board that there were no further questions and accepted the materials by Mr. Mandeville into evidence.

Mr. Schroeder asked Mr. Few, if he had reviewed the evidence presented by staff and was ready for testimony. Mr. Few confirmed he had reviewed evidence.

Mr. Few began his testimony by presenting a picture on this phone of the property from when he and his wife first bought the property. Mr. Schroeder advised he needs to submit the photo to Mr. Mandeville to enter into evidence. Mr. Few explained to the board, he wanted to show his commitment of maintaining the appeal of the home. Mr. Few advised when those building and landscaping plans were made the contractor was responsible for obtaining permits. Mr. Few explained the reason the carport addition was to increase storage space. Mr. Few

felt due to the location of the HVAC unit, this was the only option for the addition. Mr. Few explained the reason for neglecting to obtain a permit, was he assumed the contractors were going to obtain the permit. Mr. Few advised he went out of town when the work was done. Mr. Few advised once he was contacted by building inspector, he came to Village Hall to rectify the situation and was advised of the variance process.

Mr. Schroeder asked if any members of the board had questions for the applicant.

Mr. Hooper asked if Mr. Few had any documentation from the HVAC company stating the unit could not be moved to help support his claim of hardship. Mr. Few advised he did not have a statement from the company.

Mr. Few requested to have photo added into evidence. The photo was entered into evidence as Exhibit A-3.5

Mr. Jones questioned the purpose of the concrete pad that extends in the rear set back on the survey map. Mr. Few explained it is a patio separate from the house.

The board did not have any further questions. Mr. Schroeder asked for public comments.

Ms. Jane Motyka, resident of 25 Statler came forward with comments. Ms. Motyka was sworn in.

Ms. Motyka explained she owned the vacant lot beside Mr. Few and was concerned her property value would decline due to the encroachment. Mr. Schroeder explained the board does not have the ability to access property value.

Mr. Jones moved to adjourn the Public Hearing and re-enter the Regular Meeting. Seconded by Mr. Hironimus. Approved vote of 5-0.0

The Board had no deliberation.

***Mr. Hironimus moved the Board of Adjustment to approve the variance request for 55 Statler Lane and adopt the following Findings of Fact:***

- A. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;  
The demolition of already existing carport would constitute hardship.***
- B. The hardship would result from conditions that are peculiar to the property. Such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance;***

*The western utility easement restricts the location of the carport.*

- C. The hardship did not result from actions taken from the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.*
- D. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.*

Mr. Hironimus withdrew his motion.

The board deliberated whether the testimony provided the by Applicant was enough to justify the argument of hardship and peculiarity of the property in relation to other properties in the surrounding area and the community. Mr. Schroeder asked if anyone else was prepared to make a motion and reminded the Board to specify the findings on each of the standards.

*Mr. Hooper moved the Board of Adjustment deny the variance request for 55 Statler Ln and adopt the Findings of Fact:*

- A. Unnecessary hardship would not result from the strict application of the ordinance. Its shall not be necessary to demonstrate that, in absence of the variance, no reasonable use can be made of the property;  
Removal of the carport does not demonstrate an unnecessary hardship.*
- B. The hardship does not result from conditions that are peculiar to the property. Such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance;  
There are no peculiar conditions to the property.*
- C. The hardship did not result from actions taken by the applicant or the property owners. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship;  
The homeowners hired contractors that did not apply for proper permits.*
- D. The requested variance is not consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured, and substantial justice is achieved;  
Allowing encroachment could have a negative impact on the adjacent vacant property.*

Motion was not seconded. Mr. Schroeder asked for another motion.

*Mr. Jones moved the Board of Adjustment to approve the variance request for 55 Statler Ln and adopt the following Finding of Fact:*

- A. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property;  
The demolition of the already existing carport would constitute a hardship.*
- B. The hardship does not result from conditions that are peculiar to the property, such as location, size, topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability;  
The orientation of the house on the lot and the proximity of the house on the east side to the boundary, as well as the west side to a powerline easement.*
- C. The hardship does not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship;  
The setback was already close to the existing structure.*
- D. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such as public safety is secured, and substantial justice is achieved;  
If not allowed, the use of a detached structure could have greater impacts to the setback.*

*Seconded by Mr. Hironimus. Approved by a vote of 4-1.*

**IV. Next Meeting Date**

- A. 11-07-2024 Regular Meeting (If Board Has Business to Conduct)**

**V. Motion to Adjourn**

Mr. Hooper moved to adjourn the Regular Meeting at 5:16 p.m. Seconded by Mr. Jones. Approved by a vote of 5-0.

Respectfully Submitted,

Jeanann Dawson  
Clerk to the Board &  
Planning Administrative Specialist  
Village of Pinehurst

*A videotape of this meeting is located on the Village website: [www.vopnc.org](http://www.vopnc.org).*

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DRAFT



**Review and Approval of the 2025 P&Z/BOA Meeting Schedule**  
**ADDITIONAL AGENDA DETAILS:**

**FROM:** Jeanann Dawson, Administrative Specialist  
**CC:** Board of Adjustment;  
**DATE OF MEMO:** 10/29/2024

**MEMO DETAILS**

**ATTACHMENTS**

1. 2025 P&Z-BOA Meeting Schedule



## 2025 PLANNING AND ZONING BOARD / BOARD OF ADJUSTMENT SCHEDULE

BOARD/COMMITTEE	FREQUENCY	LOCATION	TIME	DATES	
PLANNING AND ZONING BOARD  BOARD OF ADJUSTMENT (FOLLOWING P&Z AS NEEDED)	1 <sup>st</sup> Thursday	Assembly Hall	4:00 PM	01/02/2025 02/06/2025 03/06/2025 04/03/2025 05/01/2025 06/05/2025	07/10/2025* 08/07/2025 09/04/2025 10/02/2025 11/06/2025 12/04/2025

*\*Date has been changed due to a Holiday*



**Board Organizational Items  
ADDITIONAL AGENDA DETAILS:**

**FROM:** Jeanann Dawson, Administrative Specialist  
**CC:** Board of Adjustment;  
**DATE OF MEMO:** 10/29/2024

**MEMO DETAILS**

**ATTACHMENTS**

1. BOA Rules of Procedure 2019

**RULES OF PROCEDURE**  
**BOARD OF ADJUSTMENT**  
**VILLAGE OF PINEHURST, NORTH CAROLINA**

**I. General Rules**

- A. **General Authority.** Under authority of the General Statutes of North Carolina, §160A-388, and the Pinehurst Development Ordinance (hereinafter “PDO”) of the Village of Pinehurst, North Carolina, the Village of Pinehurst Board of Adjustment (hereinafter “Board”) hereby adopts these general rules for the hearing of matters coming before it.
- B. **Specific Authority.** The Board’s specific approval authority is established in Chapter 5 of the PDO, and the Board shall neither have power to vary requirements of any other section of the PDO, nor other local laws or the General Statutes of North Carolina.

**II. Officers and Duties**

- A. **Chairperson** (hereinafter “Chair”). The Chair shall be appointed by the Village of Pinehurst Village Council (hereinafter “Village Council”). The Chair shall decide on all points of order and procedure, subject to the rules herein, unless directed otherwise by a majority of the Board in session at the time. The term of office for the Chair shall be as set by Village Council or until a new Chairperson is named by Village Council.
- B. **Vice Chairperson** (hereinafter “Vice Chair”). A Vice Chairperson shall be elected by the Board from among its members. The term of office for the Vice Chair shall be the same as that of the Chair. The Vice Chair shall serve as Acting Chair in the Chairperson’s absence and at such times shall have the same powers and duties as the Chair.

**III. Board Powers and Duties**

- A. **Powers.** The presiding officer (Chair or Vice Chair) shall have the following powers and duties:
1. With the Board’s informal consent, to append the meeting’s agenda;
  2. To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;
  3. To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;

4. To entertain and answer questions of parliamentary law or procedure;
5. To call a brief recess at any time;
6. To continue a meeting to a future date and;
7. To adjourn in an emergency.

#### **IV. Members**

- A. **Source of Board Members.** Members of the Board shall be drawn from the Village of Pinehurst's Planning and Zoning Board. Membership shall include five named permanent members; the remaining Planning and Zoning members shall serve as alternates.
- B. **Board Member Responsibilities.** Members of the Board shall have the following duties and responsibilities:
  1. Those duties and responsibilities outlined in the General Statutes of North Carolina, §160A-388;
  2. Other such duties as assigned by the Chair.
- C. **Board Member Conduct.**
  1. Members of the Board may be removed for cause, which shall be defined as dishonorable conduct that has compromised the integrity of the Board.
  2. No Board member shall take part in the hearing, consideration, or determination of any case in which he/she is personally or financially interested.
  3. No Board member shall vote on any matter deciding an application or appeal unless he/she shall have attended the public hearing on that application or appeal. If a matter is continued to a subsequent date following a public hearing, a Board member who was not present at the public hearing may vote on the matter only if the member has reviewed the minutes of the proceeding/hearing.
  4. Members of the Board will not express individual opinions on the proper judgment of any case with any parties thereto prior to its determination of that case. Violation of this rule shall be cause for dismissal from the Board.

#### **V. Meetings**

- A. **Organization Meeting.** The regularly scheduled December meeting will serve as the annual organization meeting for the Board of Adjustment. At such meeting a Vice

Chair shall be nominated and elected by the Members. In addition, any other governance/protocol matters will be reviewed and decided upon by the Members.

- B. **Special Meetings.** Special meetings of the Board may be called at any time by the Chairperson. At least 48 hours notice of the time and place of special meetings shall be given by either the Clerk or the Chair to each member of the Board and to anyone who is required to receive notice.
- C. **Quorum.** A quorum shall consist of three Members of the Board at least one of whom should be Chair or Vice Chair. All matters or appeals shall be decided by majority vote of the Members. A concurring vote of four Members of the Board present at the hearing of a particular case shall be necessary to grant a variance.
- D. **Conduct of Meetings.** All meetings shall be open to the public, subject to the provisions of North Carolina General Statutes, § 143-318.11 pertaining to closed sessions of public bodies. The order of business at regular meetings shall be as follows: (a) consideration and approval of Board minutes (b) hearing of cases, beginning first with any unfinished business before moving to new business; and (c) any other matters properly brought before the Board.
- E. **Time and Place.** Regular meetings will be held on the first Thursday of each month at 4:30PM or following the Planning and Zoning Board meeting. Meeting location will be in the Village of Pinehurst Assembly Hall.

## **VI. Appeals and Applications**

### **A. Procedure for Filing Applications.**

1. All applications for hearing shall be filed with the Planning and Inspections Department, which shall act as Clerk for the Board in receiving this notice. All applications shall be made upon the form furnished for that purpose, and all required information shall be provided thereon before an appeal or any application shall be considered as having been filed.
2. Any person with standing may appeal any order or act of the Zoning Administrator or an administrative official pertaining to enforcement of the PDO. Any such appeal of an administrative decision shall be filed with the Village Clerk.
3. No appeal shall be heard by the Board unless notice thereof is filed within 30 days after the interested party or parties receive notice of the order, requirement, decision or determination by an administrative official.
4. No application shall be considered by the Board unless a completed application is received in accordance with Chapter 5 of the PDO.

B. **Fees.** No application or notice of appeal shall be considered as having been completed until there has been paid to the Village of Pinehurst a filing fee to cover the cost of providing notice and such further investigation or verification of the application as is necessary.

C. **Hearings.**

1. **Time.** After receipt by the appropriate Village official of the completed notice of appeal or application, the Clerk to the Board shall schedule the time for a hearing, which shall be either at the next regularly scheduled meeting or at a special meeting.
2. **Notice.** The Board shall give public notice of the hearings by all of the following means:
  - a) By making notification by mail all property owners of parcels of land abutting the parcel of land that is the subject of the hearing and to any other persons entitled to receive notice under the PDO at least 10 days but no more than 25 days prior to the hearing.
  - b) By posting notice of the hearing at a prominent place or places on the property which is the subject of the action at least 10 days but no more than 25 days prior to the hearing.

All such notices shall state the location of the building or lot, the general nature of the question involved, and the time and place of the hearing.

3. **Conduct of Hearing.** Any party with standing may appear in person or by attorney at the hearing. The order of business for each hearing shall be as follows:
  - a) The Chair shall direct and shall call the case as advertised on the official agenda.
  - b) A member of the Village of Pinehurst Planning and Inspections Department shall make a statement regarding the manner in which the application relates to the PDO.
  - c) Either the applicant or the applicant's attorney shall present the arguments in support of his/her case or application.
  - d) Either persons with standing opposed to granting the application or their attorneys shall present the argument against the application.
  - e) Both sides will be permitted to present rebuttals to opposing testimony, at the discretion of the Chair.

- f) Witnesses may be called and competent evidence may be submitted.
  - g) Any presentation on behalf of either an applicant or a party with standing who are not natural persons must be made by an attorney.
4. Postponement. Requests for postponing or continuing the hearing for good cause on a particular appeal or application may be made either to the Chair or to the Board.
  5. Withdrawal. An application or appeal will be considered to have been withdrawn under the following circumstances: (a) The applicant submits a written request to withdraw the application or appeal; (b) The property owner, if different than the applicant, submits a notarized request to withdraw the application or appeal; (c) The Board requests the applicant to furnish additional information within a specified period of time, and such information is not furnished by the applicant within the time period allowed; (d) Without prior notification to the Chair, applicant does not appear at the scheduled hearing to testify regarding the merits of the application; or (e) The applicant appears at the scheduled hearing and requests that the application be withdrawn. The Chairperson has authority to determine whether an application or appeal has been withdrawn or may be considered withdrawn.
  6. Rehearing. A Motion for a Rehearing may be made by the applicant or any party with standing by filing the appropriate application form with the Planning and Inspections Department within 10 days after the Board votes on the Application and announces its decision in the original case. Only one Motion for Rehearing may be filed for any case.

Upon receipt of a Motion for a Rehearing in proper form, the Clerk will schedule the Motion for consideration by the Board at its next regularly scheduled meeting after proper advertising in accordance with these rules and the PDO. Evidence presented on a Motion for Rehearing shall be limited to only new evidence that was not submitted to the Board during the hearing of the original application. Such evidence may include evidence of changes in circumstances or conditions since the hearing on the original application.

At the conclusion of the presentation of the evidence, the Board will determine whether to grant the rehearing. If the rehearing is granted, the rehearing will ordinarily be held at the same meeting at which the Motion is considered, although the Board may set the rehearing at a later scheduled meeting.

7. Refiling. Except as provided in Section VI.C.6 herein, once the Board has made its decision in a case, any applicant shall be prohibited from

submitting the same request for the subject property for a period of one year from the date of the previous application.

8. Review. A review proceeding will be scheduled when a review proceeding is made a condition of the issuance of a variance.
9. Appeals. An appeal from a decision by the Board of Adjustment must be made to the Superior Court of Moore County within 30 days of the decision, and in accordance with the General Statutes of North Carolina, §160A-388.

#### D. Decisions.

1. Time. Decisions by the Board shall be made as soon as practicable after the hearing. The Board will ordinarily vote on the application and announce its decision at the same meeting at which the hearing takes place. The final decision of the Board is made when the written decision is signed by the Chair and filed with the Board Clerk.
2. Form. Written notice of the decision in a case shall be given to the applicant in accordance with the notification requirements in Chapter 5 of the PDO after the minutes setting out the Board's final decision are approved. The record shall show the reasons for the decision with a summary of the evidence introduced in the findings of facts made by the Board.
  - a) Variances. Where a variance is granted, the record shall state any unnecessary hardship upon which the variance request was based and which the Board finds to exist. The record shall state what, if any, conditions and safeguards are imposed by the Board in connection with a granting of a variance.
  - b) Interpretations. The decision may reverse or affirm wholly or partly or modify the order, requirements, decision, or determination being appealed.

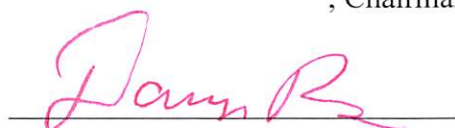
### VII. AMENDMENTS

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than a simple majority of the Board, provided that such amendment be presented in writing at a regular or special meeting before the meeting at which the vote is taken. All such amendments must be reviewed by the Attorney of the Village of Pinehurst prior to their taking effect.

ADOPTED this the 7 day of November, 2019

VILLAGE OF PINEHURST BOARD OF ADJUSTMENT

  
\_\_\_\_\_  
, Chairman

  
\_\_\_\_\_  
, Director, Planning and Inspections