



**BOARD OF ADJUSTMENT
NOVEMBER 4, 2021
395 MAGNOLIA RD.
ASSEMBLY HALL
PINEHURST, NORTH CAROLINA**

IMMEDIATELY FOLLOWING THE REGULAR PLANNING AND ZONING BOARD MEETING

- I. Call to Order
- II. Approval of Minutes
 - A. 03-04-2021 Regular Meeting Minutes
 - B. 03-11-2021 Special Meeting Minutes
- III. General Business
 - A. 2022 Regular Meeting Calendar
 - B. Board Organizational Matters
- IV. Next Meeting Date
 - C. 12-02-2021 Regular Meeting (If Board Has Business to Conduct)
- V. 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.



**IMMEDIATELY FOLLOWING THE REGULAR PLANNING AND ZONING
BOARD MEETING
ADDITIONAL AGENDA DETAILS:
IMMEDIATELY FOLLOWING THE REGULAR PLANNING AND ZONING BOARD
MEETING**



**03-04-2021 REGULAR MEETING MINUTES
ADDITIONAL AGENDA DETAILS:**

FROM:

Shannon Konstantinou

CC:

Alex Cameron; Darryn Burich

DATE OF MEMO:

10/28/2021

MEMO DETAILS:

Attached is a draft copy of the 03-04-2021 Regular Meeting Minutes for your review.

ATTACHMENTS:

Description

📎 3-4-2021 Regular Meeting Minutes



**BOARD OF ADJUSTMENT
REGULAR MEETING (ELECTRONIC)
THURSDAY, MARCH 4, 2021
ASSEMBLY HALL
395 MAGNOLIA ROAD
PINEHURST, NORTH CAROLINA
IMMEDIATELY FOLLOWING PLANNING & ZONING BOARD**

Board Members Present:

Julia Latham, Chair*
Cyndie Burnett
David Alzamora
Jack Farrell
Phillip Shumaker, Alternate*

Board Members Absent:

Jeramy Hooper

Staff Present:

Alex Cameron, Senior Planner
Peter Hughes, Senior Planner
Kelly Brown, Clerk to the Board

There were no public attendees.

I. Call to Order

Ms. Latham called the meeting to order at 4:30 pm and confirmed a quorum was present. *Ms. Latham and Mr. Shumaker participated remotely via Zoom meeting platform.

Ms. Burnett moved to seat Mr. Shumaker as a voting member of the Board. Seconded by Mr. Alzamora. Approved by a vote of 4-0.

II. Approval of Minutes

A. 02-04-2021 Regular Meeting Minutes

Ms. Burnett moved to approve the minutes of the February 4, 2021 regular meeting minutes. Seconded by Mr. Farrell. Approved by a vote of 5-0.

III. Public Hearing

A. Public Hearing No. 1

Mr. Alzamora moved to recess the regular meeting and move into Public Hearing No. 1. Seconded by Mr. Farrell. Approved by a vote of 5-0.

Senior Planner Peter Hughes was sworn into the public hearing. Mr. Farrell, Ms. Burnett, and Ms. Latham disclosed they conducted a site visit.

Mr. Hughes stated the purpose of the public hearing was to receive testimony for a variance request from Section 9.2a Tables of Dimensional Requirements for the property addressed as 70 Maple Road, further identified by Moore County PID # 00018218. This property is located within the R-10 (High Density Residential) Zoning District and the Local Historic Preservation Overlay District. Specifically, the applicant and owner, Jason Tanner, is requesting a variance from the 30' Minimum Front Yard Setback. Mr. Hughes provided background on the property from the staff report. He entered the following evidence into the record: staff report, presentation, application, applicant's materials, photos/site plans, and findings of fact.

Applicant Dan Degree of Step One Design was sworn into the public hearing. He stated according to the surveyor, the existing porch is 22.73' setback from the front property line and the proposed

porch is 22.6' setback from the front property line, which he believes is a mistake. The difference between the existing porch and proposed is 16" according to the architectural drawings submitted. Therefore, the surveyor setback should read 21.6' setback from the front property line for the proposed porch.

Upon questioning by Mr. Farrell, Mr. Hughes stated the existing non-conformity of the porch would be eliminated if the Board were to grant the variance. He stated the porch would no longer be non-conforming as it would not be encroaching with the newly approved setback.

Mr. Degre stated the homeowners are proposing to remove existing material from the front porch to expose original material – including cedar shingles, pine trim, and wood windows. He stated the homeowners would like to use new materials that match original materials. Mr. Degre stated they are proposing to add a small roof over the porch in order to make it usable.

Mr. Degre stated based on the architectural drawings submitted, the difference between the historic porch and the currently existing porch is 16 inches in depth, steps not included. Sixteen inches is the variance being requested, not 4'.

Mr. Farrell referred to Exhibit K and stated the photograph was taken from an angle and is misleading. Ms. Latham noted that there was no one present to authenticate Exhibit K. Property owner Jason Tanner, and girlfriend Rebecca Carpenter, were sworn into the public hearing. Ms. Carpenter stated she visited the Tufts Archive to investigate the history of the property, and took a picture of the photograph that was provided to her as Idlewild Cottage by the Archives. The Board agreed to allow Exhibit K as part of the evidence for the record.

Mr. Farrell and Ms. Burnett questioned the reference of lot 1604 in Exhibit B. Referring to Exhibit B, Mr. Hughes stated that lot 1604 is the subject property (prior to subdivision). Mr. Degre stated the subject property is lot 1603. Ms. Latham stated more evidence showing the outline of the property demonstrating the historic or original porch would be useful.

The Board and Staff discussed discrepancies in the dimensions of the variance request found in the evidence submitted and the lack of historical evidence supporting the fact that the proposed changes would return the property to a more original state.

Mr. Degre stated the hardship is to get the depth of porch back to the existing size. Mr. Farrell corrected Mr. Degre's statement to reflect the "original size". Mr. Degre agreed. Mr. Tanner stated the hardship is that the home is 115 years old. He stated today's standards are being imposed on a historic property. He stated they would like to make it a usable porch and make the home beautiful, doing justice to the home and neighborhood.

Ms. Burnett asked about the side porch, which, also, overlooks the street. Ms. Burnett questioned whether the owners have considered using the side porch. Mr. Tanner stated they will be removing the side porch as it is located in the driveway.

Upon questioning by Mr. Farrell, Mr. Hughes stated the porch could be expanded to the north without expanding the non-conformity. Mr. Degre stated there were two issues with this – it cannot be structurally attached in that way and it would still be too shallow to be comfortable. He stated it needed to be deeper in order to function.

Upon questioning by the Board, Mr. Hughes confirmed there are other lots in the Historic District that have non-conformities and are subject to current setback regulations.

Ms. Burnett asked if there were any other historical photographs of the property. Mr. Tanner stated they did not have any. The Board stated they could not consider other expansions of non-conformities as each variance is based on the individual property and request before them.

The Board discussed needing clarification as to the request and the current and proposed setbacks.

Mr. Shumaker moved to continue Public Hearing No. 1 until March 11th, 2021 at 04:00 PM to amend the application for the variance. Seconded by Mr. Farrell. Approved by a vote of 5-0.

IV. Next Meeting Date

A. Regular Meeting on April 8, 2021 (If the Board has business to conduct)

V. Motion to Adjourn

Mr. Hooper moved to adjourn the meeting. Seconded by Mr. Alzamora. Approved by a vote of 5-0 at 6:10 pm.

Respectfully Submitted,

Kelly Brown
Clerk to the Board &
Planning Administrative Specialist
Village of Pinehurst

A recording and videotape of this meeting are located on the Village website: www.vopnc.org.

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.



**03-11-2021 SPECIAL MEETING MINUTES
ADDITIONAL AGENDA DETAILS:**

FROM:

Shannon Konstantinou

CC:

Alex Cameron; Darryn Burich

DATE OF MEMO:

10/28/2021

MEMO DETAILS:

Attached is a draft copy of the 03-11-2021 Special Meeting Minutes for your review.

ATTACHMENTS:

Description

▣ 3-11-2021 Special Meeting Minutes



**BOARD OF ADJUSTMENT
REGULAR MEETING (ELECTRONIC)
THURSDAY, MARCH 11, 2021
ASSEMBLY HALL
395 MAGNOLIA ROAD
PINEHURST, NORTH CAROLINA
4:00 PM**

Board Members Present:

Julia Latham, Chair*
Cyndie Burnett, Vice-Chair
David Alzamora
Jack Farrell
Phillip Shumaker, Alternate*

Board Members Absent:

Jeramy Hooper

Staff Present:

Peter Hughes, Senior Planner
Kelly Brown, Clerk to the Board

There were no public attendees.

I. Call to Order

Ms. Latham called the meeting to order at 4:01 pm and confirmed a quorum was present. *Ms. Latham and Mr. Shumaker participated remotely via Zoom meeting platform.

II. Public Hearing

A. Public Hearing No. 1

Ms. Latham stated this meeting was a continuation of Public Hearing No. 1 held March 4, 2021 at the regular scheduled BOA meeting. She stated new exhibits and documentation had been submitted to the Board.

Mr. Hughes stated the purpose of the public hearing was to receive testimony for a variance request from Section 9.2a Tables of Dimensional Requirements for the property addressed as 70 Maple Road, further identified by Moore County PID # 00018218. This property is located within the R-10 (High Density Residential) Zoning District and the Local Historic Preservation Overlay District. Specifically, the applicant and owner, Jason Tanner, is requesting a variance from the 30' Minimum Front Yard Setback.

Upon questioning by the Board, Mr. Hughes stated setbacks are usually regulated according to the size of property and sustainability of the location of the property.

Mr. Tanner stated the property was built prior to the current setback requirements and the variance is being requested as a relief from the hardship of the setbacks being applied to a historic property.

Mr. Degre stated they are asking for an additional 16 inches in depth for the front porch. He stated the porch length could not be widened due to aesthetic and structural reasons.

Mr. Farrell referenced Exhibit X stating the facts in the 65 Cherokee Road case were substantially different than the case before the Board. Ms. Latham agreed stating prior variance cases do not set precedent.

Ms. Latham stated Exhibits U (the letter from neighbor Bart Boudreaux and the e-mail from the Thompsons) cannot be considered competent evidence as they were not present to verify and be cross-examined, nor is it material evidence.

Since the meeting was held virtually, the Board took a five minute recess at 4:36 pm to allow witnesses to contact the Clerk to the Board to provide testimony or evidence. No persons contacted the Clerk to speak.

The hearing reconvened at 04:41 pm.

Mr. Alzamora discussed the hardship resulting from the porch not being usable. Mr. Farrell noted the setbacks are common to the neighborhood. Ms. Latham stated the hardship results from not being able to use the porch and interact with the community as desired by the applicant. Ms. Burnett stated a hardship would be not having a front porch, but there is a front porch. Mr. Shumaker discussed Exhibit L, a photograph, was subjective and could be altered, but agreed there was a hardship.

Ms. Burnett moved to close the Public Hearing No. 1 and re-enter the regular meeting. Seconded by Mr. Farrell. Approved by a vote of 5-0.

Ms. Latham moved:

- 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;

Homeowners will not be able to fully enjoy the front porch of their new residence and the community of old town Pinehurst.

- B. The hardship results 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 angle and orientation of the home as it's currently sited did not result from any actions taken by the applicant.

- C. The hardship did 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 home was sited historically in 1919 and did not result from any actions taken by the applicant.

- 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.

It fits the spirit of old town community and allowed it to be restored in a way in accordance with the historical nature of old town as will be reviewed by our Historic Preservation Commission.

Roll Call

Mr. Shumaker	<i>Approve</i>
Mr. Alzamora	<i>Approve</i>
Mr. Farrell	<i>Deny</i>
Ms. Burnett	<i>Deny</i>
Ms. Latham	<i>Approve</i>

The variance was not approved as a variance required 4 of 5 BOA members.

The Board debated making a motion requiring conditions be applied to the variance. The decision was made to move forward without making a new motion.

III. Next Meeting Date

A. Regular Meeting on April 8, 2021 (If the Board has business to conduct)

IV. Motion to Adjourn

Mr. Farrell moved to adjourn the meeting. Seconded by Mr. Alzamora. Approved by a vote of 5-0 at 5:16 pm.

Respectfully Submitted,

Kelly Brown
Clerk to the Board &
Planning Administrative Specialist
Village of Pinehurst

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**2022 REGULAR MEETING CALENDAR
ADDITIONAL AGENDA DETAILS:**

FROM:

Alex Cameron

CC:

Darryn Burich & Shannon Konstantinou

DATE OF MEMO:

10/28/2021

MEMO DETAILS:

Attached is a draft copy of the 2022 Regular Meeting Calendar for the Board's consideration.

ATTACHMENTS:

Description

📎 2022 Meeting Calendar



2022 PLANNING AND ZONING BOARD / BOARD OF ADJUSTMENTS SCHEDULE

BOARD/COMMITTEE	FREQUENCY	LOCATION	TIME	DATES	
PLANNING AND ZONING BOARD BOARD OF ADJUSTMENTS (FOLLOWING P&Z AS NEEDED)	1 st Thursday	Assembly Hall	4:00 PM	1/6/22 2/3/22 3/3/22 4/7/22 5/5/22 6/2/22	7/7/22 8/4/22 9/1/22 10/6/22 11/3/22 12/1/22



**BOARD ORGANIZATIONAL MATTERS
ADDITIONAL AGENDA DETAILS:**

FROM:

Alex Cameron

CC:

Darryn Burich & Shannon Konstantinou

DATE OF MEMO:

10/28/2021

MEMO DETAILS:

Per the Board's Rules of Procedure, every year the Board is to hold an organization meeting where a Vice Chair can be nominated and elected and any other governance/protocol matters be considered. Also, annually all Board members are to review and acknowledge the Village's Ethics Policy.

Attached are the adopted Rules of Procedure, Ethics Policy and Ethics Policy Acknowledgement form.

ATTACHMENTS:

Description

- ☐ Adopted Rules of Procedure
- ☐ Ethics Policy
- ☐ Ethics Policy Acknowledgement

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

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VILLAGE OF PINEHURST BOARD OF ADJUSTMENT



, Chairman



, Director, Planning and Inspections

	VILLAGE OF PINEHURST STANDARD PROCEDURE	
SUBJECT: Ethics Policy	Effective Date: August 1, 2013	
Department: Administration	Policy No.: AD - 150	
Prepared by: Administration	Revised: November 1, 2015	
Approved by: Village Manager	# of Pages: 7	

I. **PURPOSE**

This purpose of this Ethics Policy is to establish a policy to promote and demand the highest standards of ethics from the Village of Pinehurst workforce and to provide guidance on specific ethical topics.

The foundation of government depends upon public trust and confidence. It is the responsibility of government officials and employees to perform their job in a manner that fosters this public trust by providing quality service, selfless loyalty, and fair dealing. Municipal government requires its workforce to be respectful, impartial and accountable to its citizens and avoid conflicts of interest or use of position for personal gain.

To ensure Village of Pinehurst citizens can have complete confidence in the integrity of Village government, each Village employee and volunteer shall respect and adhere to these standards of ethical conduct.

II. **DEFINITIONS**

As used in this code of ethics, the following terms have the meanings indicated unless the context clearly requires a different meaning or a different definition is adopted for a particular provision.

1. Citizen - Any member of the general public not employed by the Village of Pinehurst.
2. Employee - Any paid or reserve employee of the Village who is not an elected official.
3. Gift – Anything that has monetary value (e.g. gratuity, discount, entertainment, hospitality) given by or received from a prohibited source.

4. Harassment - Includes, but is not limited to, slurs, jokes, derogatory comments, cartoons, pranks and other verbal, graphic or physical conduct relating to an individual's race, color, disability, religion, sex, national origin, age, veteran's status or other protected characteristic.
5. Outside employment – Any employment external to the Village, including self-employment
6. Supervisor - Any employee who has been granted, by the Village, authority to oversee the activities of other employees.
7. Volunteer - Any individual appointed by the Village Council to serve on a board, commission, or committee.

III. POLICY

This policy applies to all individuals employed by the Village of Pinehurst and volunteers (as defined above), unless otherwise addressed by a more restrictive federal, state, or departmental policy.

Standards of Conduct

These standards are established pursuant to the Village of Pinehurst's Employee Handbook and should be referred to for any applicable employee guidelines. Employees should also rely on ethics policies of their individual professional organization when applicable.

1. **Conflicts of Interest** Village employees and volunteers are prohibited from engaging in any conduct that could reflect unfavorably upon the Village of Pinehurst. Employees and volunteers must avoid any action that may result in or create the impression of using public office or position for private gain, giving preferential treatment to any person, or losing impartiality in conducting Village business.

Conflicts of interest involve:

- (a) **Gifts, gratuities, and rebates.** Employees and volunteers are expected to make decisions which are in the best interests of the Village. To prevent a potential or perceived conflict of interest, no employee, volunteer, nor members of their family, may solicit or accept any gift, favor, or thing of value that may tend to influence the workforce in the discharge of official duties or influence an employee or volunteer to grant an improper favor, service, or thing of value. This is not intended to prevent a gift to an employee who would be permitted to accept such gift under G.S. 138A-32, or the gift and receipt of honorariums for participating in meetings, advertising items or souvenirs of nominal value, or meals furnished at banquets.

Employees and volunteers, or their family members, should not offer or accept any kickbacks, rebates, cash or anything of value to or from any representative of a vendor, customer or potential customer, supplier, financial institution or similar entity. Such practices are not only unethical but are, in many cases, illegal and considered taxable income. If a rebate is issued by a vendor, it should be used to offset the cost of future Village purchases from that vendor.

If a gift is received and impossible to return, the gift should be given to the Human Resources office for disposal as anonymous door prizes at an employee picnic, party, or other employee function; provided, however, on occasion, citizens make gifts to groups of employees in gratitude for service. Such gifts are not deemed to be of the nature that would impact or appear to impact discretion and may be accepted by such groups of employees so long as they are collectively shared. The appropriate Department Head shall file, within ten (10) days of receipt of any such group gift, a written statement with the Human Resources Director identifying the gift and donor.

- (b) Extraneous Fees. Village employees or volunteers will not accept any extraneous fee for work performed on behalf of the Village.
- (c) Outside Employment. Employees may not engage in other outside employment that interferes with proper and effective job performance as a Village employee or that may be considered a conflict of interest, or may subject the Village, in the opinion of the Village Manager, to any form of public criticism or embarrassment. Employees may not use their jobs with the Village to further their interests on the second job. No employee shall engage in any business other than his/her regular duties during working hours.

Upon notification to, at the discretion of, and with written approval of the Department Head, an employee may engage in other outside employment. Employees are required to complete an "OUTSIDE EMPLOYMENT REQUEST" form and secure the appropriate approvals prior to beginning supplemental employment. Police officers are required to complete a "SECONDARY POLICE EMPLOYMENT" form and secure the appropriate approvals prior to beginning supplemental employment.

- (d) Impartiality. Every employee and volunteer shall perform his/her duties with impartiality and without prejudice or bias for the benefit of all citizens of the Village of Pinehurst. No Village employee or volunteer may grant or make available to any person any consideration, treatment, advantage or favor beyond that which is the general practice to grant or make available to all citizens. Village employees and volunteers must refrain from securing special privilege or exemption for themselves or their relatives beyond that which would be available to all citizens.

Village employees and volunteers may not exercise discretion relative to any matter that affects, or that would lead a reasonable person to infer that it affects, a personal interest, defined as any financial, ownership or employment interest, without disclosing the personal interest before the exercise, when possible, to his or her immediate supervisor.

Employees and volunteers are expected to maintain impartial relationships with all vendors and suppliers. Care must be exercised to avoid even the appearance of special influence being exerted on behalf of a vendor or supplier due to personal relationships.

2. **Misuse of Public Assets** Certain employees and volunteers of the Village of Pinehurst are charged with the receipt, safekeeping, transfer or disbursement of public money in the course of their duty. No concise written policy can cover every ethical or legal issue that may arise. A good foundation for ethical behavior consists of individual conscience, common sense, good judgment, and compliance with governmental laws and regulations.
 - (a) **Public Equipment**. All Village owned property and assets are to be used solely for the benefit of the public. No Village employee or volunteer shall request, use or permit the use of any publicly owned property, vehicle, equipment, labor, service, or supplies (new, surplus, scrap, or obsolete) for the personal convenience or advantage of the employee, volunteer, or any other person except for that use which is generally available to the public. Improper or unauthorized use of publicly owned property or removal of equipment, tools, supplies or materials, is not only an ethical violation but may also be a violation of the law.
 - (b) **Public Funds**. No Village employee or volunteer without authority of law, shall appropriate any portion of monies designated to be paid to the Village of Pinehurst or on behalf of the Village of Pinehurst to his own use or to the use of another. Nor shall any Village employee or volunteer knowingly alter, falsify, conceal, destroy, obliterate, or make a false entry or erasure in an account with the intent to defraud or deceive the Village of Pinehurst.
 - (c) **Payroll**. No Village employee shall attempt to defraud the Village of Pinehurst by making false entries to payroll time sheets, cards, or request compensation for time not worked.
 - (d) **Technology Resources**. Employees agree to adhere to the Village's Electronic Communication and Use Policy as it relates to technology resources.
3. **Confidential Information** Members of the public have a right to security and privacy, and information obtained about them must not be improperly divulged. Whenever an employee or volunteer sees, hears, or learns information which

is of a confidential nature, it will be kept secret, unless the performance of duty or legal provision requires otherwise.

The Village of Pinehurst recognizes and makes every effort to comply with federal and state laws. There may be times where certain records or information may need to remain confidential, such as Police, medical, and personnel information, in accordance with federal or state laws.

NC General Statute 133.32 provides that, during a person's employment or service with the Village and for two years thereafter, no Village employee may disclose or use confidential information without appropriate authorization.

Each employee and volunteer is required to adhere to the following:

- (a) A Village employee or volunteer shall not use his/her position to obtain official information about any person or entity for any purpose other than the performance of official duties.
 - (b) No employee or volunteer shall, without proper authorization, disclose confidential information concerning the property, government, or affairs of the Village.
 - (c) Employees or volunteers must not use privileged information for their own financial advantage or to provide friends and acquaintances with financial advantages or with information that could be used for financial advantage.
 - (d) Each employee and volunteer is charged with the responsibility of ensuring that he or she releases only information that should be made available to the general public.
4. **Harassment** It is the Village's policy that employees and volunteers have the right to be free from harassment on the job from co-workers, managers, and others because of the individual's race, color, sex, religion, gender, national origin, age, disability, veteran's status, or other protected class. Harassment, of any employee or volunteer by management, supervisor, employee, volunteer, contractor, vendor, customer or visitor in any form, is prohibited.
- (a) **Sexual Harassment**. While it is not easy to precisely define sexual harassment, examples of prohibited behavior include unwelcome sexual advances, requests for sexual favors, unwelcome or offensive touching and/or other verbal, visual or physical conduct of a sexual nature where:
 - Submission to such conduct is made either explicitly or implicitly as a term or condition of an individual's employment or volunteer service, or
 - Submission to or rejection of such conduct by an individual is used as a basis for employment or appointment decisions affecting such individual, or

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

(b) Hostile Work Environment Harassment. Harassment can also include unwelcome joking, teasing, or other conduct directed toward a person because of a protected characteristic which is sufficiently severe or pervasive to create an unprofessional and hostile working environment and is prohibited. This type of harassment applies to situations where race, color, religion, national origin, age, disability, veteran's status or other protected characteristics are involved.

IV. PROCEDURES

The following procedures will be followed for reporting, investigating, and disciplining violations of this ethics policy:

1. **Reporting Possible Violations**. A Village employee or volunteer who has knowledge of a violation of any of the provisions of this Ethics Policy shall report this violation as provided below within a reasonable time after the person has knowledge of a violation. A Village employee or volunteer shall not delegate to, or rely on, another person to make the report.

To report possible violations, an employee or volunteer may, without fear of retaliation, contact his/her immediate supervisor, Department Head, Director of Human Resources, or the Village Manager. To ensure the matter is properly documented and investigated, the reporting employee or volunteer shall provide as many facts and details as possible in writing.

All reports of violations of this policy must be provided to the Village's Human Resources Director, who is responsible for monitoring and evaluating Village-wide compliance with this policy.

2. **Investigation of Possible Violations**. The Village of Pinehurst will treat each report seriously and any individual who reports or participates in an investigation of a report of a violation shall not be retaliated against. However, knowingly submitting a false complaint will subject an employee to discipline up to and including termination, which will be administered based on guidelines of the Village of Pinehurst Employee Handbook.

(a) Upon receiving a complaint, the Village will promptly conduct a thorough investigation in consultation with the Human Resources Department. It is the obligation of all employees and/or volunteers to cooperate in such an investigation. The Human Resources Director will keep the Village Manager appropriately informed of any investigation regarding possible violations of this policy.

- (b) Those responsible for the investigation will maintain the confidentiality of the allegations of the complaint and the identity of the persons involved, subject to the need to conduct a full and impartial investigation, remedy any violations of the Village's policies, or monitor compliance with or administer the Village's policies.
 - (c) The investigation generally will include, but will not be limited to, discussion with the complaining employee (unless the complaint was submitted on an anonymous basis), or the reporting party.
 - (d) In the event that an investigation establishes that an employee or volunteer has engaged in conduct or actions constituting a violation of this policy, the Village will take immediate and appropriate corrective action up to and including termination of the employee's employment, based on guidelines of the Village of Pinehurst Employee Handbook, or removal from the volunteer board, commission, or committee.
3. **Corrective Action**. In addition to any other penalty as provided by the law, appropriate disciplinary action, up to and including termination, will be administered based on guidelines of the Village of Pinehurst Employee Handbook. Corrective action will be taken against any employee who violated this policy, retaliates against another employee or volunteer for reporting a possible violation of this policy, or deliberately makes a false report against another employee or volunteer. Any volunteer who violates this policy, retaliates against another employee or volunteer for reporting a possible violation of this policy, or deliberately makes a false report against another employee or volunteer is subject to removal from the volunteer role.

V. ACKNOWLEDGEMENT AND AGREEMENT TO ADHERE TO TERMS OF THE POLICY

All Village employees and volunteers will agree to abide by the terms of this Ethics Policy on an annual basis.

Approved by:


Policy Committee Chair

10-29-2015
Date


Village Manager

10/30/15
Date

Village of Pinehurst
Ethics Policy
Employee Acknowledgement

I have read and understand the Village of Pinehurst Ethics Policy and my responsibilities as a volunteer regarding it. I have received a copy of the Ethics Policy.

Signature: _____ Date: _____

Printed name: _____