



Town of Beaufort, NC

701 Front St. - P.O. Box 390 - Beaufort, N.C. 28516
252-728-2141 - 252-728-3982 fax - www.beaufortnc.org

Town of Beaufort Board of Adjustment Regular Meeting 4:00 PM Tuesday, July 22, 2025 - Train Depot, 614 Broad Street, Beaufort, NC 28516 Monthly Meeting

Call to Order

Roll Call

Agenda Approval

Minutes Approval

- [1.](#) BOA Draft Minutes for 052825

Items of Consent

- [1.](#) Approval of the Order to Deny an Appeal for 312 Moore Street

Commission / Board Comments

Staff Comments

Adjourn



Town of Beaufort, NC

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**Town of Beaufort Board of Adjustment Regular Meeting
4:00 PM Wednesday, May 28, 2025
Minutes**

Call to Order

Chair Reeve called the May 28, 2025 Board of Adjustment regular meeting to order at 4:00 pm.

Roll Call

Members Present: Cathy Reeve, Chair; Clark Patton, Vice-Chair; Wendi Oliver, Joseph Provenzano, and Bruce Sheldon

Members Absent: Charles Harrell

A quorum was declared with five members present.

Staff Present: Mr. Kyle Garner, Planning Director, Mr. Brad Fockler, Code Enforcement Officer; Mr. Arey Grady, Town Attorney

Attorneys Present:

Brett DeSelms, representing Town of Beaufort

Jill Quattlebaum, representing Town of Beaufort staff

Noel McDevitt, representing appellant Laura Holland

Wesley Collins, representing property owner Kyle McLaughlin

Agenda Approval

Vice-Chair Patton made the motion to approve the Agenda and Member Oliver made the second. Chair Reeve took a vote that was unanimous.

Voting yea: Chair Reeve, Vice-Chair Patton, Member Oliver, Member Provenzano, Member Sheldon

Minutes Approval

1. BOA Draft Minutes for 022525

Member Oliver made the motion to approve the Minutes and Vice-Chair Patton made the second. Chair Reeve took a vote that was unanimous.

Voting yea: Chair Reeve, Vice-Chair Patton, Member Oliver, Member Provenzano, Member Sheldon

New Business

1. Appeal of an Administrative Decision

Brett DeSelms explained that there are three parts to the hearing regarding a Certificate of Appropriateness and if each part is passed it will move on to the next part. The first issue is whether the appellant, represented by Noel McDevitt, waived the ability to appeal as she did not participate in the underlying hearing. He then called Mr. McDevitt to the stand.

Mr. McDevitt gave an overview of his client’s position, the first of which was that a town official acting alone does not have the authority to make a decision to rule on a question of law – in this case the question of standing. The second position is the one of waiver and it is their position that standing cannot be waived as it is a subject matter issue. He argued that the town official's decision denying the right to appeal should be reversed because it concerned a matter of law, which is the purview of the board. He cited specific North Carolina statute 160D, including sections 1402 and 947, to support his claim that standing is conferred by statute and cannot be waived.

Jill Quattelbaum, representing the town, argued that the appellant had waived her right to appeal by not participating in the initial hearing. She countered that the administrative decision was based on waiver, not standing, and that Ms. Holland had waived her rights by not attending the original hearing. Ms. Holland has stipulated that she did receive actual notice of the hearing which she did not attend and therefore did not request the Historic Preservation Commission to determine if she was a party with standing in the matter. Ms. Quattlebaum argued that allowing non-parties to appeal would open the floodgates to potential appeals and undermine the effectiveness of quasi-judicial hearings.

Wesley Collins, representing the property owner, supported and adopted the town's arguments, emphasizing that the board was acting as a court of appeals and should only consider the existing record. He argued that the board's review should be limited to the record from the quasi-judicial hearing, which contained no evidence that the appellant was aggrieved. He asserted that the board's role is akin to that of the North Carolina Court of Appeals, which cannot consider new evidence or parties not involved in the original lawsuit.

After deliberation the Board determined that Ms. Holland had waived her right to appeal.

Vice-Chair Patton made the motion that Ms. Holland had waived her right to appeal and Member Sheldon made the second. Chair Reeve took a vote that was unanimous.

Voting yea: Chair Reeve, Vice-Chair Patton, Member Oliver, Member Provenzano, Member Sheldon

Commission / Board Comments

There were no comments.

Staff Comments

There were no comments.

Adjourn

DRAFT

DRA

1.

Member Oliver made the motion to adjourn and Member Provenzano made the second. Chair Reeve took a vote that was unanimous.

Voting yea: Chair Reeve, Vice-Chair Patton, Member Oliver, Member Provenzano, Member Sheldon

Clark Patton, Vice-Chair

Laurel Anderson, Board Secretary



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**Town of Beaufort Board of Adjustment Regular Meeting
4:00 P.M. July 22, 2025 – 614 Broad Street – Train Depot**

AGENDA CATEGORY: Consent
SUBJECT: Approval of the Order to Deny an Appeal for 312 Moore Street

BRIEF SUMMARY:

As part of the new General Statutes (160D), prior to Evidentiary Hearing Orders being signed and sent to the applicant/property owners, the Board in which conducted the hearing is to review the order for accuracy.

Staff has consulted with the Board of Adjustments Attorney, Mr. Brett J. DeSelms, and now asks that the Board of Adjustment Members review the order for such accuracy and be prepared to make a motion to recommend approval of the Order or to approve with Board recommend changes.

REQUESTED ACTION:

Review the order for such accuracy and be prepared to make a motion to recommend approval of the Order or to approve with Board recommend changes

EXPECTED LENGTH OF PRESENTATION:

0 Minutes

SUBMITTED BY:

Kyle Garner, AICP Planning Director

BUDGET AMENDMENT REQUIRED:

N/A

APPEALS OF BEAUFORT HISTORIC
PRESERVATION COMMISSION
CASE NO. 24-23
CERTIFICATE OF APPROPRIATENESS DATED 7 JAN 2025 AND ADMINSTRATIVE
DECISION OF FEBRUARY 18, 2025

SOUTHGATE MANAGEMENT, LLC,)
and LAURA HOLLAND,)
)
Appellants,)
)
v.)
)
TOWN OF BEAUFORT, and KYLE)
McLAUGHLIN,)
)
Respondents.)

ORDER DISMISSING APPEALS

DECISION

THIS MATTER came before the Town of Beaufort Board of Adjustment (hereinafter “the Board”) on May 28, 2025, on the Petitions of Southgate Management, LLC and Laura Holland (hereinafter collectively referred to as “Appellants”) on two separate appeals, namely (i) an appeal from the Beaufort Historic Preservation Commission’s January 7, 2025 issuance of a written Certificate of Appropriateness Order in Case No. 24-23, the application for which was filed by Kyle McLaughlin concerning his property located at 312 Moore Street (hereinafter “COA Order”); and, (ii) an appeal from the February 18, 2025 Administrative Decision of Kyle Garner, Planning and Inspections Director, in which Mr. Garner administratively determined that Appellants had waived their right to appeal the COA Order (hereinafter “Administrative Order”) due to their failure to attempt to be deemed parties to the quasi-judicial evidentiary hearing. The COA Order’s appeal and the Administrative Order’s appeal were consolidated for the hearing of this matter. The Appellants were represented by Noel McDevitt, the Town was represented by Jill Quattlebaum, and Kyle McLaughlin was represented by Wesley Collins. The Board accepted into the record a bound paginated notebook containing 225 pages which contained, *inter alia*, the record from the Beaufort Historic Preservation Commission’s original proceeding, the briefing of the parties, and various statutes and case law cited by the parties in their briefing. Having considered the record, the briefing of the parties, the arguments of counsel, and the applicable law, the Board finds and concludes as follows:

FINDINGS OF FACT¹

1. The Board has jurisdiction over the parties and the subject matter².
2. The Beaufort Historic Preservation Commission (“BHPC”) held a quasi-judicial evidentiary hearing on December 3, 2024 to consider Kyle McLaughlin’s application for a Certificate of Appropriateness regarding 312 Moore Street, which was assigned the Case Number 24-23.
3. The December 3, 2024 BHPC’s quasi-judicial evidentiary hearing was appropriately and legally noticed.
4. There is no dispute that the Appellants, in advance of the BHPC quasi-judicial hearing, received actual notice of the BHPC’s December 3, 2024 quasi-judicial hearing and the parties stipulated to such at the March 28, 2025 hearing before the Board.
5. The Appellants did not appear at the BHPC’s December 3, 2024 quasi-judicial evidentiary hearing whether by representative or otherwise.
6. The Appellants did not attempt to submit any objection, motion, testimony or other evidence for the BHPC to consider at the quasi-judicial hearing.
7. The Appellants never sought to either intervene as a party or participate as a witness at the BHPC’s December 3, 2024 quasi-judicial hearing.
8. At no time following the quasi-judicial hearing, and prior to the entry of the COA Order, did the Appellants voice and/or lodge any objections to the BHPC regarding the COA Order being issued.
9. Without objection, and based upon the evidenced received at the December 3, 2024 quasi-judicial hearing, on January 7, 2025 the Beaufort Historic Preservation Commission voted to approve the certificate of appropriateness that was verbally approved at the BHPC’s December 3, 2024 quasi-judicial evidentiary hearing, and issued the written COA Order.
10. On February 4, 2025 the Appellants filed a Notice of Appeal and Petition for Certiorari with reference to the COA Order.
11. On February 18, 2025 the Town’s Planning and Inspections Director, Kyle Garner, sent a letter to the Appellants in which he acknowledged that the Town was in receipt of the Appellant’s Notice of Appeal; however, he indicated that the appeal would not be considered due to the fact that the Appellants did not attempt to participate as parties in the underlying quasi-judicial hearing before the Beaufort Historic Preservation Commission therefore waiving any appeal rights they would have had as parties.
12. The Appellants appealed the Administrative Order.
13. This Board finds that the Appellants’ failure to participate in any fashion at the BHPC’s quasi-judicial evidentiary hearing was without excuse.
14. This Board finds that the Appellants’ failure to participate in any fashion and failure to seek to be deemed a party at the BHPC’s quasi-judicial hearing waived their right to any appeal from an order issued as a result of said hearing, and thus Appellants’ waived their right to appeal the COA Order.

Based on the foregoing findings of fact, the Court makes the following conclusions of laws:

CONCLUSIONS OF LAW

¹ Any findings of fact in this Order that are more appropriately designated as conclusions of law are hereby so designated, and any conclusions of law more properly designated as findings of fact are hereby so designated.

² As set forth below, the Board determines that it does not have subject matter jurisdiction over Appellants’ request for attorneys’ fees. On all other issues, the Board determines it has subject matter jurisdiction.

1. The Appellants’ failure to participate in the BHPC’s December 3, 2024 quasi-judicial hearing whether by representative or otherwise, and without excuse, constitutes a legal waiver of any right they may have had to appeal the COA Order, as they were not deemed parties at the quasi-judicial evidentiary hearing, nor did they attempt to be deemed parties.
2. In light of the Board’s conclusion that the Appellants waived their right to any appeal rights they may have had as set forth in Conclusion of Law Paragraph 1, it is not necessary to determine whether the Administrative Decision was procedurally appropriate or not, as that matter is legally moot.
3. It is not necessary to determine whether the Appellants have standing to appeal, or the substance of the appeal itself, as the Board has deemed that Appellants have waived any right they may have had to appeal.
4. The Board determines that it does not have the legal authority to consider Appellants’ request for attorney fees, and even if it did so, the Board would not award attorneys’ fees to the Appellants after applying the required legal standard.

Accordingly, after applying the requisite legal standard, the Board hereby **ORDERS, ADJUDGES, and DECREES** as follows:

1. That the Appellants’ appeal of the COA Order is dismissed.
2. That the Appellants’ appeal of the Administrative Order is dismissed.
3. That the Appellants’ request for attorneys’ fees is dismissed.

This the ____ day of _____ 2025.

Town of Beaufort Board of Adjustment

Cathy Reeve, Chairman

ATTEST:

Laurel Simpson Anderson, Clerk to the Board