

# CAROLINA BEACH

Board of Adjustment Meeting

Monday, September 15, 2025 – 6:00 PM

Council Chambers, 1121 N. Lake Park Boulevard, Carolina Beach, NC



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## AGENDA

### CALL TO ORDER

### APPROVAL OF MINUTES

1. May 22, 2025 – BOA Minutes

### PUBLIC HEARING

2. To consider an appeal from a violation issued for materials placed in the town right-of-way pertaining to Section 34-8 of the Town Ordinance. Applicant: Willis and Nancy Cohoon

### ITEMS OF BUSINESS

3. Appoint a Chair and Co-chair of the Board of Adjustment

### ADJOURNMENT



## AGENDA ITEM COVERSHEET

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**PREPARED BY:** Gloria Abbotts, Senior Planner

**DEPARTMENT:** Community  
Development

**MEETING:** Board of Adjustment – September 15, 2025

**SUBJECT:** May 22, 2025 – BOA Minutes

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**Action:**

Approve the May 22, 2025 minutes

# CAROLINA BEACH

Board of Adjustment Meeting

Thursday, May 22, 2025 - 6:00 PM

Council Chambers, 1121 N. Lake Park Boulevard, Carolina Beach, NC



## MINUTES

### CALL TO ORDER

Chairman Thompson called the meeting to order at 6:00 PM.

### PRESENT

Chairman Ken Thompson  
Vice Chairman Wayne Rouse  
Board Member Patrick Boykin  
Board Member Dana White  
Board Member Dan Adams

### ABSENT

Board Member Wayne Hartsell

### ALSO PRESENT

Community Development Director Jeremy Hardison  
Senior Planner Gloria Abbotts  
Planner Haley Anderson  
Board Attorney Matthew A. Nichols

Chairman Thompson introduced new Board Member White.

### APPROVAL OF MINUTES

1. March 3, 2025, and March 17, 2025 – BOA Minutes

**ACTION:** Motion to approve the minutes as written

Motion made by Vice Chairman Rouse, seconded by Board Member Boykin

Voting Yea: Chairman Thompson, Vice Chairman Rouse, Board Member Boykin, Board Member White, Board Member Adams

*Motion passed unanimously*

### PUBLIC HEARING

2. Variance to Section 3.13 Dimensional Requirements for Minimum Setbacks, Maximum Lot Coverage, and Maximum Impervious Coverage at 817 Canal Drive in the R-1 Zoning District  
Applicant: Pamela Capel and Martha Breslin

The applicant is requesting a variance from Section 3.13 of the Unified Development Ordinance (UDO) to setbacks, lot coverage, and impervious surface regulations. The property is located at 817 Canal

Drive and is in the R-1 zoning district. The property consists of 1,571 square feet of upland area directly adjacent to the Town yacht basin. The property lines of the lot extend past the bulkhead over water because the lot was created from dredge spoils from dredging the yacht basin in 1939. The property lines that were created were not based on the existing land area. The property was bulkheaded in 2023, so the upland area is 25 feet wide and 61.5 feet long up to the bulkhead. Lot coverage and impervious surface coverage limits are based on the amount of upland area that is landward of the high-water line (HWL). The existing lot is nonconforming to R-1 dimensional standards, which require a lot be at least 50 feet wide and 5,000 square feet. The property is located in a Federal Emergency Management Agency (FEMA) flood zone and would be required to meet FEMA flood regulations. It is also located in a Coastal Area Management Act (CAMA) Area of Environmental Concern and would need to meet all CAMA regulations due to its proximity to estuarine waters.

If the applicant utilized the minimum setbacks to build a new structure to meet the ordinance, the maximum size the structure could be is 10 feet wide x 51.5 feet long. Meeting all setbacks would leave the applicant with a maximum footprint of 515 square feet. The 40% lot coverage would allow up to 628.4 square feet of building (but this is more limited by the required setbacks), and the 65% maximum impervious coverage would allow up to 1,021.15 square feet of coverage.

The applicant would like to build a new single-family home that would meet all flood, parking, building code, and CAMA requirements. A three-bedroom three-story home on pilings is proposed. The proposed structure would be approximately 19 feet x 51 feet. Three parking spaces are required, and will be provided underneath and in front of the home. The structure is within the AE11 flood zone. All living space in the new structure must be elevated  $11+2=13$  feet Design Flood Elevation. The maximum height limit in R-1 is 50 feet. The proposed structure will be approximately 42 feet tall. The HVAC and utilities will be placed at the rear of the house and will meet the required setbacks. CAMA will require an engineered stormwater system that captures 100% of the impervious surface runoff. The applicant does not have this system engineered yet, but Town staff will require it for the building permit application.

#### Setbacks:

The proposed structure meets the 10-foot front and 10-foot rear building setbacks from the front and rear property lines as required by Town ordinance. CAMA would allow the building to be built up to the bulkhead. The applicant proposes a variance to encroach into the side setbacks. These side setbacks are required by Town ordinance to be 7.5 feet. The applicant proposes a 3-foot side setback on both sides of the building to the side property lines.

#### Lot coverage:

The Town ordinance requires no more than 40% of the lot to be covered by the footprint of the building, elevated decks, covered decks, and staircases. Because the buildable area of the lot is 1,571 square feet, 40% of this area would be 628.4 square feet. The applicant is requesting a variance to the 40% allowed lot coverage, proposing a lot coverage amount of 59.3% (932 square feet).

#### Impervious surface:

The Town ordinance requires the impervious surface on a lot to be limited to 65% coverage. This would allow only up to 1,021.15 square feet to be covered by impervious surface. The applicant is requesting

a variance to the impervious surface limit to allow a total impervious surface limit of up to 77.6% (1,219 square feet).

To resolve the situation, the applicant requests the following:

- A 4.5-foot variance to the required 7.5-foot side setbacks
- A 19% increase in maximum lot coverage
- Up to a 12.6% increase in maximum impervious coverage

Ms. Anderson presented the details. She reviewed the four required criteria the Board must consider in the decision-making process:

1. Unnecessary hardship would result from the strict application of the ordinance.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography.
3. The hardship did not result from actions taken by the applicant or property owner.
4. 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.

In granting any variance, the Board may prescribe reasonable and appropriate conditions and safeguards in conformity with this ordinance. Violation of any such conditions or safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under the UDO.

**ACTION:** Motion to open the public hearing

Motion made by Vice Chairman Rouse, seconded by Board Member Adams

Voting Yea: Chairman Thompson, Vice Chairman Rouse, Board Member Boykin, Board Member White, Board Member Adams

*Motion passed unanimously*

Amanda Capel of 817 Carolina Beach Avenue North, daughter and niece of the property owners, said they want to sell the property, and when her grandmother bought it in the 1950s there were different setbacks and they didn't foresee these problems. She said throughout the years, her late father granted encroachments and variances requested by neighbors, and these same neighbors will likely oppose this request today. Ms. Capel said her family needs to sell this property so they can have money to fix things at their own homes, and under the current setbacks nothing can be built on that lot. She said because they have allowed encroachment by neighbors, they cannot put a dock on the property.

Jenne Kendziora of 1218 Mackerel Lane, a real estate agent who works with the family who owns the property, said they never planned to sell this property, but they need to do so for their financial future. She said without being able to build a home on the property, the value goes down significantly.

Pamela Capel of 817 Carolina Beach Avenue said she wants to be able to keep her home, but taxes and insurance are going up and she is a retired teacher, so she is looking at assets that can be sold and wants to sell this property to someone who can build a nice house on it and enjoy it.

Mr. Nichols clarified for the record that the property is currently owned by the Martha C. Breslin Trust.

Paul Groff of 815 Canal Drive said he bought his house with the understanding that the setbacks were what they were, and he paid a premium because he knew any structure built next door would be of a limited size. He expressed concerns about emergency vehicle access and what would happen to his three palm trees on the property line. Mr. Groff said this is basically giving a financial advantage to the applicant at a disadvantage to neighbors. He said the property has had a low tax value of \$36,000 up until this year because of its limited development capabilities, and the proposal will add to runoff and exacerbate flooding problems on Canal Drive. He asked if he could read an email from a neighbor, but Mr. Nichols said anyone who wishes to speak on this matter would need to be present and sworn in, otherwise it would be considered hearsay.

Ashley Mann of 819 Canal Drive said he built his property six years ago and had to abide by the setbacks, including having to make changes to the tune of \$12,000 due to being 6 inches over. He said he thinks the impervious surface coverage rules are important because of flooding and the liability that the Town would be accepting, and he contended it's a bad idea to go over the impervious surface and setback limits. Mr. Mann said this lot is one of the lowest on Canal Drive in that area, and he understood that a house of this size could not be built and therefore he paid more for his property.

Joe Hinkle of 900 Carolina Beach Avenue North expressed concerns about flooding and said he doesn't think it's wise to change regulations and requirements that have been in existence for a long time. He said he wishes the property owners well but hopes the Board will make the right decision for everyone.

Ms. Kendziora pointed out that the plan for the proposed house came from an approved house on Georgia Avenue that was 28 feet wide, and the variance was approved to build this home on a lot that has 3 more feet. She said the owners are selling the property to someone who wants to build a house, and it is under contract. Ms. Kendziora said the property would be worth a lot more with a dock, but when the owners asked neighbors if they would sign off saying they could build within 15 feet to keep within the rules allowed, they were turned down, even though they gave those neighbors permission to build their docks closer. She said the property owners moved past that and found potential buyers who were OK with building a small house, but they just need a little more room so the property isn't so narrow that someone can lie down and touch the wall on both sides.

Amanda Capel said while Canal Drive has a massive flooding problem, this particular lot does not typically flood during a normal tide.

Mr. Groff said his house is slightly elevated from that property and it's been flooded before, so to say that lot doesn't flood is not true.

**ACTION:** Motion to close the public hearing

Motion made by Vice Chairman Rouse, seconded by Board Member Adams

Voting Yea: Chairman Thompson, Vice Chairman Rouse, Board Member Boykin, Board Member White, Board Member Adams

*Motion passed unanimously*

Vice Chairman Rouse asked if the property on Georgia Avenue referenced previously was an existing structure. Ms. Anderson said yes, this was an existing duplex or townhouse and one half was torn down and rebuilt, so that's where these plans originated.

Mr. Hardison said that structure did meet the front, side, and rear setbacks before and after completion.

Vice Chairman Rouse said the Planning and Zoning Commission is going to be working on rules for 41 lots in the Town that are 2,500 square feet or less and 366 that are less than 5,000 square feet.

Mr. Hardison said the Commission has directed staff to bring back this matter to possibly provide some relief for those nonconforming lots for setbacks.

Vice Chairman Rouse said coming up with an ordinance for these 407 lots will go through the Commission and then Council, and this could result in rules becoming looser or tighter. He said he's a little uncomfortable making a rule for one lot when there are another 406 that could potentially be heard, knowing in the short run that the Town is going to address this through the proper ordinance and text amendment changes.

Chairman Thompson asked if the Board makes a decision on this tonight and the Town deals with the rest of the lots through another mechanism later whether that would affect this property in the future.

Mr. Nichols said the Board should evaluate this application based on the ordinance in effect now. He said if the ordinance changes in the future, which is not uncommon, then it would apply to any property in the applicable district. Mr. Nichols said if the Board turns down a variance and the ordinance changes later, that makes the variance no longer necessary and the applicant can do what the ordinance allows without having a strike against them. He suggested that the Board evaluate the application tonight based on the facts heard this evening, the ordinance currently in effect, and the four criteria required for evaluating all variances.

**Board Members went through each required finding for the variance request.**

Regarding finding 1, the following disagreed: Chairman Thompson, Vice Chairman Rouse, Board Member White, Board Member Boykin, and Board Member Adams. Therefore, finding 1 failed 0-5.

Regarding finding 2, the following agreed: Chairman Thompson, Vice Chairman Rouse, Board Member White, Board Member Boykin, and Board Member Adams. Therefore, finding 2 passed 5-0.

Regarding finding 3, the following disagreed: Chairman Thompson, Vice Chairman Rouse, Board Member White, Board Member Boykin, and Board Member Adams. Therefore, finding 3 failed 0-5.

Regarding finding 4, the following disagreed: Chairman Thompson, Vice Chairman Rouse, Board Member White, Board Member Boykin, and Board Member Adams. Therefore, finding 4 failed 0-5.

**The variance request was denied.**

## NON-AGENDA ITEMS

None

## ADJOURNMENT

**ACTION:** Motion to adjourn

Motion made by Vice Chairman Rouse, seconded by Board Member Adams

Voting Yea: Chairman Thompson, Vice Chairman Rouse, Board Member Boykin, Board Member White,  
Board Member Adams

*Motion passed unanimously*

The meeting adjourned at 6:50 PM.





## AGENDA ITEM COVERSHEET

**PREPARED BY:** Haley Anderson, Planner

**DEPARTMENT:** Community Development

**MEETING:** Board of Adjustment – 9/15/2025

**SUBJECT:** To consider an appeal from a violation issued for materials placed in the town right-of-way pertaining to Section 34-8 of the Town Ordinance.

### BACKGROUND:

One of the roles for The Board of Adjustment is to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by staff. Staff has made a decision based on the Town ordinance and the applicant is appealing staff's administrative decision. This is not a variance.

The applicant, Willis (Bill) & Nancy Cahoon, submitted an appeal application dated August 15<sup>th</sup>, 2025 (attachment 1). The appeal was submitted after a violation letter was issued on July 18<sup>th</sup>, 2025, regarding 4x4 wood timber boards held in place by 10" spikes that were installed in the town right-of-way on both Delaware Ave and Florida Ave – Approximately 160 linear feet – (see attachment 2). Per Chapter 34, Section 8: Right-of-way maintenance:

(b) Plantings in the right-of-way. No person shall place structures, materials, plantings, trees or shrubs in the right-of-way, unless associated with chapter 26, section 26-11, placement, collection, quantity and cost for pick-up of acceptable materials.

The violation was first discovered by Daniel Keating, the Stormwater System Manager for the Town. On January 29<sup>th</sup>, 2025, Daniel found the property owner at 101 Delaware Ave had a landscape crew preparing to install timbers lining the property at the street edge. Daniel advised the contractors they could not install permanent structures in the town right-of-way. Bill Cohoon, the property owner, called the town and spoke with Daniel. Daniel Explained the town ordinance to him and told him to speak with Jeremy Hardison in the Community Development Department to discuss ordinance requirements and to see if there was any flexibility in the ordinance for the timbers to be placed

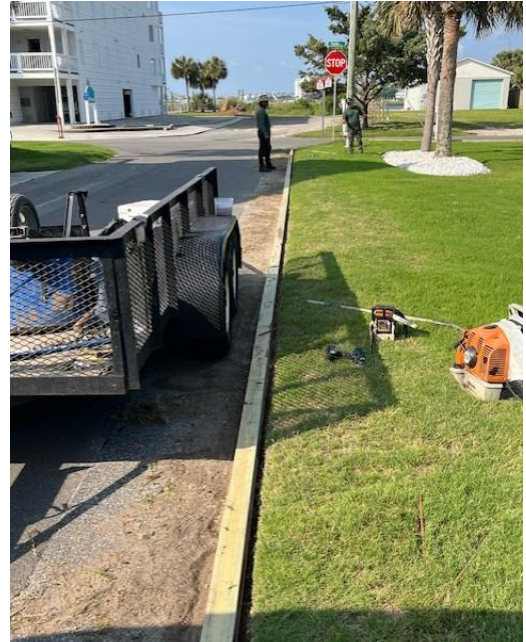


*Picture taken by Daniel Keating 1/29/25 showing the timbers being prepped to be installed by landscapers.*

in the right-of-way. Jeremy was not contacted by Bill. Jeremy sent the town Code Enforcement Officer, Ashley Martin, to the site to check if the timbers were installed. Upon her site visit, there were no timbers installed, and the property owner never contacted Jeremy to discuss it, so Jeremy thought the issue was resolved.

On June 5<sup>th</sup>, 2025, Daniel Keating was checking storm drains on Florida Ave, when he again found a landscaping company installing the timbers. Daniel spoke with Eion Dockery, the Public Works Services Coordinator, who confirmed the timbers were not permitted to be installed. Daniel spoke with homeowner, and Bill stated he received a permit to install them from the Community Development department. The only permit on file for this address was a fence permit from 2021, and no record of the owner speaking to someone in the Community Development Department. After Daniel spoke with them, the landscapers continued their work.

On July 18<sup>th</sup>, 2025, Ashley Martin issued a violation warning letter which was mailed to the owners of 101 Delaware Ave.



*Picture taken by Daniel Keating 6/5/25 showing the timbers installed by landscapers.*

#### REASONS FOR LIMITING MATERIALS IN RIGHT-OF-WAY:

- Limits stormwater infiltration and drainage
- Improperly constructed curb
- Impedes right-of-way maintenance

#### **BOARD ACTION:**

The board of adjustment shall hear and decide appeals decisions of administrative officials charged with enforcement of the town ordinance.

The board can agree or deny staff interpretation on the ordinance referenced.

#### **ATTACHMENTS:**

1. Appeal Application
2. Violation Letter
3. Ordinance Language



Application for Appeal  
**TOWN OF CAROLINA BEACH, N.C.**

Item 2.

Permit Number: 25A-03

Each application must be printed or typewritten and have all information answered. **It is strongly recommended that the applicant set up a meeting with Planning Staff prior to the submission deadline to ensure the application is complete.** The Town of Carolina Beach requires a licensed attorney to appear in a representative capacity to advocate the legal position of another person, firm, or corporation who is the applicant/owner of record.

Fee: to be submitted with application in accordance with the Town's annually adopted Rates and Fee Schedule

This petition will be scheduled for the next possible regular Board of Adjustment meeting. The applicant or a representative should be present at the meeting to answer any questions the Board may have. Board of Adjustment meetings are held on the third (3<sup>rd</sup>) Monday of each month at 6:00 P.M. in the Council Room at the Municipal Administration Building, 1121 N. Lake Park Boulevard, Carolina Beach, NC 28428. Applicants will be informed of any changes in date, time, or location of meetings. Applications and supplementary time for processing and postings are required by the General Statutes of North Carolina. **Application Deadline: 25 days prior to next scheduled meeting.**

Applicant

Name: Willis & Nancy Cohoon

Applicant Mailing Address:

101 Delaware Ave Carolina Beach, NC 28428

Street Address

City

State

Zip

Applicant Phone Number:    mobile/work/home (circle one): 804-659-6698    mobile/work/home  
(circle one): \_\_\_\_\_

Applicant Email Address:

billcohoon@gmail.com

Property Owner Name: Willis & Nancy Cohoon

Property Owner Mailing Address:

106 Paradise Pt Macon, NC 27551

Street Address

City

State

Zip

Section(s) of ordinance being appealed:

34-8

Please give a brief description of the interpretation:

below

Applicant Signature:

*Willis*

Date: 08 / 15 / 2025

Applicant Printed Name:

Willis & Nancy Cohoon

#### Background:

On January 30, 2025, my contractor installed a landscape timber border along Florida & Delaware. Dale Keating happened to be in the area during the install, and informed me that I could not install the border as it violated an ordinance. I halted the work, and had the contractor remove the "improvement". Mr. Keating suggested I contact Community Development, which I did. I was asked by Community Development to submit specifications and drawings for the border improvement, which I did.

When I arranged for another install on June, 7 2025, Dale Keating, again, happened to be in the area, and informed me that I was not allowed to install the border. I told him that I had submitted specifications with drawings to Community Development. He stated that Community Development, which he described as Arts & Crafts, was not authorized to rule on my improvement, even though he had suggested I contact them in February.

#### My Appeal:

1. My landscaping border consists of 4X4 timbers, held in place by 10" spikes (6 inches in the ground). They are in no way onerous and permanent, as they can easily be removed/popped up with a shovel to allow the city to do repairs, should they be necessary.
2. I feel that my border will improve runoff issues by containing dirt, sand, grass clippings, pesticides, etc. within my border, thus not washing into the street and storm drains. Subjectively, the border also enhances the look of the property and the neighborhood (The Community). I have the support of my neighbors on that assertion.
3. I feel there is selective enforcement of this ordinance. When I asked Mr. Keating about other encroachments on my street, he said that he was only concerned with my property. When I asked about a recent, invasive encroachment that my neighbor at Canal & Florida installed in March, he said he had no knowledge. This aforementioned property owner sunk several 6X6 posts in your right of way, likely in concrete, and has not been cited. Also, I have 10 other examples, in my neighborhood, of street border improvements that have not been cited. Only my property.
4. Finally, should I not prevail, I only received the certified "removal" letter on July 31st, at which time, I'd already exceeded the deadline. I hope that you will accommodate a delay in the removal, if necessary, as it requires obtaining someone to remove the violation. I have been a part of the Carolina Beach community for 20 years, so perhaps you'll consider giving me some "good-faith" latitude on the deadline.
5. I feel I have a compelling argument to receive City approval. I ask that the decision makers make an on-site assessment to inform their decision.

Thank you for your consideration.

Lynn Barbee  
Mayor

Joe Benson  
Council Member

Jay Healy  
Council Member



Deb LeCompte  
Mayor Pro Team

Mike Hoffer  
Council Member

Bruce Oakley  
Town Manager

Item 2.

## Notice of Violation

**Attn to: Nancy and Willis Cohoon**  
**Street Address: 106 Paradise Pt**  
**City, State & Zip: Macon, NC 27551**

**Date: July 18<sup>th</sup>, 2025**

**REFERENCE: 101 Delaware Ave, Carolina Beach NC 28428**

To whom it may concern:

A concern was brought to the attention of town staff that a wooden barrier has been placed in the town's right-of way. This letter is to notify you that the referenced property is in violation of town ordinances.

**Reference of Section & Chapter& Ordinance: Chapter 34, Section 8: Right-of-way maintenance.**

(b) Plantings in the right-of-way. **No person shall place structures, materials, plantings, trees or shrubs in the right-of-way**, unless associated with chapter 26, section 26-11, placement, collection, quantity and cost for pick-up of acceptable materials.

**For compliance to be met the wood shall be removed.**

The Violation shall be abated in accordance to *Section 18-38* of the Town Municipal Code, compliance must be met within 10 business days of the date of this written notice or posting of said property. Failure to meet compliance will result in further action to remove or remediate the condition at the owners' expense.

The owner has 30 days from receipt of the written notice of the determination within which to file an appeal. Appeals of administrative decisions made by the staff shall be made to the board of adjustment. An appeal is taken by filing a notice of appeal with the local government clerk or a local government official designated by ordinance. The notice of appeal shall state the grounds for the appeal (G.S. 160D-405).

Please contact me at 910-458-8492 with any questions or concerns.

**Ashley Martin**

**07/18/2025**

Date:

Code Enforcement Officer

**TOWN OF CAROLINA BEACH**  
1121 N. Lake Park Boulevard



Carolina Beach, North Carolina 28428

910 458 8492

FAX 910 458 2997

Item 2.

ENCLOSURE:





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**Sec. 34-8. Right-of-way maintenance.**

- (a) *Landscape maintenance.* Property owners shall conduct landscape maintenance only on the portion of the right-of-way immediately adjacent to their property from the street to their property line. Conducting maintenance outside of this area is prohibited. Landscape maintenance shall include any means used to keep a landscape healthy, clean, safe and attractive.
- (b) *Plantings in the right-of-way.* No person shall place structures, materials, plantings, trees or shrubs in the right-of-way, unless associated with chapter 26, section 26-11, placement, collection, quantity and cost for pick-up of acceptable materials.

(Ord. No. 16-1039, 12-13-2016)

*Public space* means an interest in land to the town which provides for the perpetual right and privilege of the town, its agents, franchise holders, successors, and assigns to construct, install, improve, reconstruct, remove, replace, inspect, repair, maintain, and use a public street, including related and customary uses of street rights-of-way such as sidewalks, bike paths, landscaping, mass transit facilities, traffic control devices and signage, sanitary sewer, stormwater drainage, water supply, cable television, electric power, gas, and telephone transmission and related purposes in, upon, over, below, and across the rights-of-way. The town is authorized to remove, and keep removed from the rights-of-way all trees, vegetation, and other obstructions as is determined to be necessary by the town to maintain, repair, and protect facilities located in the realm.





## AGENDA ITEM COVERSHEET

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**PREPARED BY:** Gloria Abbotts, Senior Planner

**DEPARTMENT:** Community  
Development

**MEETING:** Board of Adjustment – September 15, 2025

**SUBJECT:** Appoint a Chair and Co-chair of the Board of Adjustment

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**Action:**

The Board will need to appoint a Chair and Co-chair.