13 NCAC 07A .0716 HEARINGS

(a) Order of Proceeding. Except as may be ordered otherwise by the presiding hearing officer, the party applying for a variance shall proceed first at a hearing.

(b) Burden of Proof. The party applicant shall have the burden of proof.

(c) Evidence

(1) Admissibility. A party shall be entitled to present his case or defense by oral or documentary evidence to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received, but a presiding hearing officer shall exclude evidence which is irrelevant, immaterial, or unduly repetitious.

(2) Testimony of Witnesses. The testimony of a witness shall be upon oath or affirmation administered by the presiding hearing officer.

(3) Objections. If a party objects to the admission or rejection of any evidence, or to the limitation of the scope of any examination or cross examination, or to the failure to limit such, he shall state briefly the grounds for such objection. Rulings on all objections shall appear in the record. Only objections made before the presiding hearing officer may be relied upon subsequently in a proceeding.

(4) Exceptions. Formal exception to an adverse ruling is not required.

(d) Official Notice. Official notice may be taken of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice or concerning which the Department of Labor by reason of its functions is presumed to be expert: provided, that the parties shall be given adequate notice, at the hearing or by reference in the presiding hearing officer's decision, of the matters so noticed, and shall be given adequate opportunity to show the contrary.

(e) Transcript. Hearings shall be stenographically reported. Copies of the transcript may be obtained by the parties upon written application filed with the reporter, and upon the payment of fees at the rate provided in the agreement with the reporter.

History Note: *Authority G.S. 95-132;*
Eff. February 1, 1976;
Amended Eff. September 20, 1976;
Readopted Eff. September 30, 1977;
Pursuant to G.S. 150B-21.3A rule is necessary without substantive public interest Eff. March 1, 2016.