

BYLAWS  
BOARD OF ZONING APPEALS  
SPOTSYLVANIA COUNTY, VIRGINIA

The Spotsylvania County Board of Zoning Appeals shall be governed by these Bylaws. A copy of these Bylaws shall be available to the public at the Board of Zoning Appeals' office located at 9019 Old Battlefield Boulevard, Suite 3020, Spotsylvania, Virginia 22553.

**ARTICLE I. MEMBERSHIP AND POWERS**

The Board of Zoning Appeals (hereinafter "the BZA") shall consist of seven (7) members appointed in accordance with Section 15.2-2308 of the Code of Virginia.

The BZA shall have all and only such powers as are designated to it by the Code of Virginia and by the Code of Spotsylvania County and shall exercise such powers only in the manner, for the purpose, and in accordance with the procedures set forth above.

**ARTICLE II. OFFICERS**

1. The BZA shall elect a Chairman, a Vice-Chairman, and a Secretary at its first regular meeting in June. The Secretary shall be a member of the BZA. If such regular meeting is cancelled or a quorum is lacking, the election shall be held within thirty-six (36) days thereafter at a regular or special meeting. The officers shall hold their respective offices for a term of one (1) year. The prior Chairman, Vice-Chairman, and Secretary shall remain in office until their successors take office immediately upon their election. No officer shall serve more than two consecutive terms in any one office.
2. If the Chairman resigns his/her office or becomes ineligible to serve as a member of the BZA, the Vice-Chairman shall succeed him or her in office for the remainder of the term. In the event any other officer's position becomes vacant at any time during the year, an election shall be held at the earliest opportunity to fill the vacancy.
3. The Chairman shall preside at all meetings and hearings of the BZA. The Chairman shall decide all points of order and procedure and shall appoint any committees and committee chairpersons that may be found necessary. The Chairman may designate members of the BZA to make personal inspections of parcels of land when necessary for the proper consideration of cases. The Chairman shall direct the official business of the BZA and exercise general managerial power to conduct the BZA's business. The Chairman may delegate specific duties to the Vice-Chairman or may authorize the Vice-Chairman to perform specific duties during the Chairman's absence from the jurisdiction or in case of other disability to perform necessary BZA functions in a timely manner.

4. The Vice-Chairman shall assume the duties of the Chairman in the Chairman's absence. In the absence of both the Chairman and Vice-Chairman, an acting Chairman shall be selected by the members of the BZA present to preside over the meeting.

### **ARTICLE III. MEETINGS, QUORUM AND VOTING**

1. The regular meeting of the BZA shall be held on the third ~~Monday-Tuesday~~ of each month. Each regular meeting shall begin at 7:30 P.M. in the Board of Supervisors' meeting room at the Holbert Building located at 9104 Courthouse Road, Spotsylvania, Virginia, -22553. If a regular meeting date falls on a Spotsylvania County holiday or if no business is scheduled before the BZA, or if it is apparent to the Chairman that a quorum will not be available, or if other good cause exists, any meeting may be cancelled or postponed to a more convenient date by the Chairman by giving notice to all members before the time set for such meeting. Notice of such cancellation or postponement shall also be given to any citizen who requests notification of a Board meeting. A notice of cancellation shall also be posted at the Holbert Building.
2. Special meetings may be called by the Chairman and/or such other times as a quorum of the BZA shall determine provided at least a five-day (5-day) notice of such hearing is given to each member in writing.
3. All meetings shall be open to the public unless a closed meeting is held pursuant to the Virginia Freedom of Information Act.
4. Quorum.
  - a. A quorum shall be necessary to transact any BZA business or for the BZA to hold a meeting.
  - b. A quorum shall consist of four (4) members (i.e., a majority) of the BZA.
5. Voting.
  - a. The concurring vote of four (4) members (a simple majority of the membership) shall be required to:
    - i. grant variances;
    - ii. reverse decisions or determinations of the Zoning Administrator or any other administrative officer pertaining to the Spotsylvania County Zoning Ordinance or those powers provided to the Zoning Administrator pursuant to the Code of Virginia;

- iii. ~~to~~ decide interpretations of district maps where there is any uncertainty as to the location of a district boundary;
  - iv. grant a rehearing; and
  - v. amend these bylaws.
- b. The concurring vote of a majority of all members present and voting, or such other greater number as may be required by the Code of Virginia or the Zoning Ordinance, shall be required to effect all other actions of the Board.
- c. Disclosure by a BZA member. ~~1.)~~
- i. A member shall make a disclosure of the member's interest in a specific matter before the BZA when required by the Virginia Conflict of Interest Act or other law or ordinance. ~~2.)~~
  - e-ii. Any disclosure shall be announced and made part of the record of the BZA prior to a case being heard or as soon as a basis for disclosure is discovered.
- d. Disqualification of a BZA member. ~~1.)~~
- i. A member shall be disqualified to act on a specific matter before the BZA when required by law. The reason for disqualification shall be made part of the record of the BZA.
  - ii. ~~2.)~~A member may be disqualified under any circumstance, which in the opinion of the individual member, would create an appearance of impropriety or unfairness. The decision to be disqualified shall be entered into the record of the BZA, but a member need not state the reasons for disqualification.
  - iii. ~~3.)~~Any disqualification shall be announced and made part of the record of the BZA prior to a case being heard or as soon as a basis for disqualification is discovered.
  - iv. ~~4.)~~Any board member may consult the Commonwealth's Attorney or the County Attorney as to whether an actual conflict of interests exists.
  - e-v. ~~5.)~~It is recommended that any BZA member not present at a public hearing either carefully review the complete record of the public hearing before voting or abstain from voting.
6. The order of business at all regular meetings of the BZA shall be as follows:
- a. Call to order and roll call with recordation of members present and absent
  - b. Action on minutes of previous meeting(s)
  - c. Continued hearings with consideration and determination on cases as heard
  - d. New hearings with consideration and determination on cases as heard
  - e. Old business
  - f. New business
  - g. Adjournment
7. The BZA may adjourn and continue a regular meeting if all applications or other matters scheduled for hearing cannot be disposed of on the day set.

Formatted

Formatted

#### **ARTICLE IV. DUTIES**

It shall be the duty of the BZA, in accordance with the provisions of Section 15.2-2309 of the Code of Virginia to hear and decide cases involving the following:

1. Variances to the strict application of the requirements of the Zoning Ordinance.
2. Appeals from a decision of the Zoning Administrator, or other administrative officer, in accordance with the provisions of the Spotsylvania County Zoning Ordinance.
3. Applications for the interpretation of the district map where there is any uncertainty as to the location of the district boundary.

#### **ARTICLE V. APPLICATIONS TO THE BZA**

1. All applications to the BZA for appeals, variances, and special permits shall be made on forms supplied by the Department of Planning & Zoning. All other applications or requests, for which there is no required form, shall be made in writing. No application for action before the BZA shall be accepted nor forwarded by the Zoning Administrator to the BZA for consideration until all application fees ~~in effect~~ are paid, including any fees past due and owing.
2. All applications shall include all of the information required by the Spotsylvania County Zoning Ordinance before being scheduled for a public hearing.

#### **ARTICLE VI. PROCESSING OF APPLICATION**

1. All applications shall be filed with the Department of Planning & Zoning. The processing and scheduling of applications shall comply with the requirements of the Spotsylvania County Zoning Ordinance and the Code of Virginia.
2. The Department of Planning & Zoning staff of the BZA shall notify the applicants in writing of the date, time, and place of the scheduled public hearing.
3. The Department of Planning & Zoning staff shall, in accordance with the Code of Virginia cause to be advertised by publication, in a newspaper of general circulation in the area of the application, the required legal notice of the application.
4. The Department of Planning & Zoning shall be responsible for fulfilling all applicable notice requirements to abutting and other property owners. Planning & Zoning staff shall send This notice shall be by regular mail and shall make affidavit that such mailings have been made ~~and file such affidavit with the paper in the case.~~
5. The Department of Planning & Zoning staff shall prepare and distribute a staff report and any pertinent information to the BZA at or before the scheduled public hearing.

**Formatted:** Font: (Default) Times New Roman, 12 pt

**Formatted:** Left, Indent: Left: 0.5", Line spacing: Multiple 1.15 li, No bullets or numbering

~~5-6.~~ Supplemental information provided by the applicant or other affected parties shall be submitted to Planning & Zoning staff no later than seven (7) business days prior to the scheduled public hearing.

## **ARTICLE VII. THE PUBLIC HEARING**

1. The Chairman of the BZA ~~calls-will call~~ the meeting to order and announces the public hearing, rules, and procedures for the meeting.
2. The Chairman ~~goes-will go~~ over the procedures for the public hearing.
  - a. The BZA may question the applicant, ~~his-their~~ representative, or staff on comments offered.
  - b. No cross-examination or questions of speakers testifying shall be permitted, except by members of the BZA.
  - c. ~~The-A Planning & Zoning~~ staff representative will reads the public hearing advertisement ~~and present the case~~.
  - d. The Chairman ~~calls-will call~~ for the applicant and/or their authorized agent or attorney to come forward and state their case.
  - e. The Chairman ~~calls-will call~~ for comments from the public and has the option of limiting speaking time when comments become repetitive.
  - f. The BZA may ask final questions of any party before ~~the Chairman~~ ~~closings~~ the public hearing.
  - g. The BZA shall not be bound by strict rules of evidence, nor shall it be limited to consideration of such evidence as would be admissible in a court of law, but it may exclude irrelevant, immaterial, incompetent, or unduly repetitious testimony or evidence.
  - h. The BZA Chairman shall have the authority to rule on all matters of evidence and conduct at BZA meetings. The BZA Chairman shall maintain decorum at all public hearings and shall have the authority to expel anyone who unduly interrupts the conduct of a public hearing.
3. The BZA may discuss the matter and take action in the form of a motion that requires 4 affirmative votes to pass.
4. The BZA decision is final unless appealed to the Circuit Court within thirty (30) days of the decision filed at the time of the BZA's vote. The vote shall be certified by the signature of the BZA Secretary on the final decision form. This form is retained in the permanent case file by the zoning office staff. Such written decision shall be promptly provided in the next available U.S. mail to the applicant.
5. BZA public hearings shall be in accordance with the written by-laws and the desk copy of Robert's Rules of Order in the Board chambers.

## **ARTICLE VIII. REQUEST FOR RE-HEARING AND RE-CONSIDERATION**

1. The BZA may grant a re-hearing of ~~the a~~ variance matter when the applicant requests such in writing ~~no longer than thirty six~~ within (36) days from the BZA final decision form being signed. The following criteria apply to re-hearings:
  - a. The re-hearing request may be based on new information coming to light not previously reviewed by the BZA and relevant to the matter.
  - b. The re-hearing request may be based on a legal basis or new material fact.
  - c. ~~The R~~re-hearing requests shall be considered at the next available scheduled meeting on the BZA meeting calendar.
  - d. The motion ~~for to grant~~ a re-hearing request must be made by a BZA member in the previous decision making majority on the matter.
2. ~~If granted. T~~he BZA will set the date for re-hearing and notice of such hearing date will be given to the applicant by the Department of Planning & Zoning ~~staff to the applicants of such hearing date~~. The case will be re-advertised by the Department of Planning & Zoning staff, and will proceed in the same manner as a regular public hearing.
3. Re-hearing the matter will not change the original deadline for appeal of BZA decisions to the Circuit Court.

## **ARTICLE IX. RECORDS**

BZA files shall be permanent records maintained in the Department of the Zoning Administrator. All such records shall be public records, unless exempt from Freedom of Information, (FOIA), rules and regulations.

## **ARTICLE X. SEVERABILITY**

If any word, clause, sentence, article, section, sub-section or other part or parts of these By-laws shall be held by a Court of Spotsylvania or of competent jurisdiction, to be unconstitutional or otherwise invalid, such shall not affect any of the remaining parts of these By-laws, nor shall it affect any application of these By-laws that may be given effect without unconstitutional or invalid parts. To this end, all provisions of these By-laws are hereby declared to be severable.

## **ARTICLE XI. AMENDING RULES**

1. These rules may be amended by a four (4) member majority of the BZA, except where such amendment would be contrary to requirements of the Code of Virginia or Spotsylvania County Zoning Ordinance.
2. Any particular rule of procedure may be suspended or waived at any meeting by unanimous vote of the BZA members present unless such rule is set by the Code of Virginia or the Spotsylvania County Zoning Ordinance.

**Adoption Certification**

Adopted the \_\_\_\_\_ day of \_\_\_\_\_, ~~2013~~2020,  
to be effective immediately upon adoption and duly recorded in the Office of  
the Zoning Administrator.

Approved as to form by, \_\_\_\_\_,  
Chairman

Peter Kolakowski~~Dennis Buchanan~~,

**BZA Chairman**