

AT A REGULAR MEETING OF THE GLOUCESTER COUNTY BOARD OF ZONING APPEALS HELD ON TUESDAY, OCTOBER 22, 2013 AT 7:00 P.M. IN THE COLONIAL COURTHOUSE, 6504 MAIN STREET, GLOUCESTER, VIRGINIA: ON A MOTION DULY MADE BY MS. EMERSON AND SECONDED BY MR. FOELL, THE FOLLOWING RESOLUTION TO ADOPT THE REVISED RULES OF PROCEDURE WAS APPROVED BY THE FOLLOWING VOTE:

Charles W. Davis, Jr., yes;
Bonnie Emerson, Vice-Chairperson, yes;
Eric Foell, yes;
Clayton James, yes;
James S. Leigh, yes;
James Newton, yes;
J. Wayne Horsley, Chairman, yes;

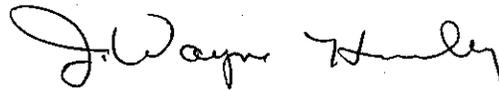
A RESOLUTION TO ADOPT REVISED RULES OF PROCEDURE

WHEREAS, the Gloucester County Board of Zoning Appeals has been presented with revised Rules of Procedure; and

WHEREAS, the Gloucester County Board of Zoning Appeals has reviewed and discussed these rules and believes them important to the operation of the Board; and

NOW, THEREFORE BE IT RESOLVED, by the Gloucester County Board of Zoning Appeals, this 22nd day of October 2013, that the Rules of Procedure, as amended, are hereby adopted.

A Copy Teste:



J. Wayne Horsley, Chairman

RULES OF PROCEDURE

BOARD OF ZONING APPEALS OF GLOUCESTER COUNTY

ARTICLE I – OBJECTIVES

1-1. The Board of Zoning Appeals of Gloucester County (hereinafter “Board” or “BZA”), established pursuant to Section 13-4 of Appendix “B” of the Gloucester County Code of Ordinances (Zoning Ordinance) and §15.2-2308 of the Code of Virginia, as amended, has adopted these rules of procedure in order to properly exercise its powers and fulfill its duties in accordance with Section 13-6 of the Zoning Ordinance and §15.2-2309 of the Code of Virginia, as amended.

ARTICLE II – OFFICERS

2-1. *Chair.* At its annual meeting, the BZA shall elect a Chair who, if present, shall preside at all meetings and hearings of the Board; he or she shall decide all points of order or procedure and shall appoint any committees that are found to be necessary. On any application or appeal, the Chair may administer oaths and compel the attendance of witnesses.

2-2. *Vice-Chair.* At its annual meeting, the BZA shall elect a Vice-Chair who, if present, shall assume the duties of the Chair in his or her absence or disability.

2-3. *Secretary.* At its annual meeting, the BZA shall elect a Secretary. The Secretary, who need not be a member of the Board, shall handle all official correspondence necessary for the execution of the duties and functions of the BZA. The Secretary shall keep the minutes of the Board’s proceedings, shall keep a file on each case which comes before the Board, and perform other such duties as these rules may provide and the BZA may, from time to time, assign.

The Secretary of the Board shall notify the court at least thirty (30) days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs.

2-4. *Term of Office.* The Chair and Vice-Chair shall be elected for one-year terms, and shall serve until their respective successors take office. Either or both officers may be elected to one or more successive terms.

- 2-5. *Vacancies in Office.* Vacancies in office shall be filled as soon as practicable using the election procedures as set forth in this Article.
- 2-6. *Absence of Chair and Vice-Chair.* In the event that the Chair and Vice-Chair are both absent from any meeting, a member present shall be chosen to act as Chair.
- 2-7. Technical assistance shall be provided by County staff as designated by the Director of Planning and Zoning.

ARTICLE III – MEETINGS

- 3-1. *Annual meeting.* The meeting in July of each year shall be known as the annual meeting. At the annual meeting, the BZA shall establish the day, time, and place for regular meetings of the BZA for that year, and shall elect the Chair, Vice-Chair, and Secretary.
- 3-2. *Regular meetings.* A regular meeting of the Board of Zoning Appeals for the hearing of cases shall be held on the 4th Tuesday of each month at the Colonial Courthouse, unless no cases or other matters are pending - in which instance no meeting shall be held. If the Chair, or Vice-Chair in his or her absence, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting, the meeting shall be continued until the 4th Tuesday of the next month. All matters properly advertised to be heard at such meeting shall be conducted at the continued meeting and no further advertisement shall be required.
- 3-3. *Special meetings.* Special meetings may be called by the Chairman, provided that at least five (5) days written notice of such meeting is given each member.
- 3-4. *Quorum.* A quorum shall consist of a majority of the members of the Board. If less than a majority of the members are present, no action can be taken and the meeting shall be adjourned.
- 3-5. *Conduct.* The conduct of business at all regular meetings of the Board shall follow these Rules and the current edition of Robert's Rules of Order.
- 3-6. *Adjournment.* The Board may adjourn a regular meeting once all applications or appeals are duly disposed of and the Chair has called for a motion to adjourn.
- 3-7. *Continuance.* If all applications or appeals cannot be properly disposed of on the date set, the meeting shall be continued. No further public notice shall be necessary for a continuation of such meeting.

ARTICLE IV – ORDER OF BUSINESS

- 4-1. *Agenda.* The agenda for each regular meeting shall be established by the Secretary; the Secretary may consult with the Chair when determining the order of cases to be heard.
- 4-2. *Organization of the Agenda.* The agenda for each regular meeting shall substantially follow the order listed below, unless a change is requested by the Chair and approved by consent of the Board.
- a) Call to order;
 - b) Establish a quorum;
 - c) Review and approval of minutes of previous meeting(s);
 - d) Matters deferred from previous meeting(s);
 - e) Scheduled matters (hearings on special exceptions, variances, and appeals);
 - f) Work sessions;
 - g) Old business;
 - h) New business; and
 - i) Adjournment.

ARTICLE V – QUORUM

- 5-1. A majority of the membership of the BZA shall constitute a quorum for any regular meeting of the Board. A majority of the members present at the time and place established for any regular or special meeting shall constitute a quorum for the purpose of adjourning the meeting.
- 5-2. If, during the course of a meeting, less than a majority of the membership of the BZA remains present, no action may be taken except to adjourn the meeting. If, prior to adjournment, a quorum is again established, the meeting shall continue.
- 5-3. If disqualifications under the State and Local Government Conflict of Interests Act (§2.2-3100, *et seq.*, VA Code) leave less than what would otherwise have been a quorum, the remaining member(s) of the Board shall have the authority to act for the BZA by majority vote.

ARTICLE VI – APPLICATIONS TO THE BZA

- 6-1. The BZA shall establish, and make publicly available, a deadline for receipt of completed applications. The time from the application deadline until the second regular BZA meeting date following the deadline shall not exceed sixty (60) days.

6-2. *Appeals.* Appeals to the BZA may be taken by any person aggrieved, or by any officer, department, board, or bureau of the County affected, by any decision of the Zoning Administrator pursuant to section 14-11 of the Zoning Ordinance. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing a notice of appeal, specifying the grounds thereof, with the Administrator and the BZA.

- a) An application for appeal, filed according to the above procedure, shall be given a case number within five (5) working days. Applications for appeals will be assigned for hearing in the order in which they are received.
- b) The BZA shall fix a reasonable time for the hearing of an applicant's appeal, and decide the same within sixty (60) days. In exercising its powers, the Board may reverse or affirm, wholly or partly, or may modify any order, requirement, decision, or determination appealed from.
- c) The appellant may appear on his own behalf at the hearing, or be represented by counsel or an agent. Both the appellant and Zoning Administrator may speak to the appeal and, at the discretion of the Chair, the appellant and/or Zoning Administrator may be given additional opportunity for rebuttal.
- d) The BZA's decision on any appeal shall be based on the Board's judgment of whether the administrative officer was correct. (§15.2-2309)

6-3. *Special exceptions.* Applications for special exceptions may be made by any property owner, tenant, government official, department, board, or bureau. Such applications shall be made to the Zoning Administrator, who shall promptly transmit the application and accompanying maps, plans, and/or other information to the Secretary of the BZA – who shall in turn place the matter on the Board's docket. The Zoning Administrator shall also transmit a copy of the application to the Planning Commission, which may send a recommendation to the BZA or appear as a party at the hearing.

- a) Within sixty (60) days of receipt of a completed application for a special exception, and after public notice as required by §15.2-2204 of the Code of Virginia, the BZA shall hold a public hearing on the application for special exception.
- b) Procedures for granting a special exception shall be as set forth in Sections 14-17 through 14-20 of the Zoning Ordinance.

6-4. *Variances.* Applications for variances may be made by any property owner, tenant, government official, department, board, or bureau. Such applications shall be made to the Zoning Administrator, who shall promptly transmit the application and accompanying maps, plans, and/or other information to the Secretary of the BZA – who shall in turn place the matter on the Board’s docket. The Zoning Administrator shall also transmit a copy of the application to the Planning Commission, which may send a recommendation to the BZA or appear as a party at the hearing.

a) Within sixty (60) days of receipt of a completed application for a variance, and after public notice as required by §15.2-2204 of the Code of Virginia, the BZA shall hold a public hearing on the application for variance.

b) Within thirty (30) days after the required public hearing, the BZA shall either approve or deny the application for variance.

ARTICLE VII – VOTING PROCEDURES

7-1. *Approval of Motion.* Each decision by the BZA shall be made by approval of a majority of the members present and voting on a motion properly made by member and properly seconded by any other member. Any motion not properly seconded shall not be further considered.

7-2. *Tie vote.* A tie vote shall defeat the motion voted upon.

7-3. *Appeals.* At least four (4) affirmative votes shall be required to reverse any order, requirement, decision, or determination of any administrative officer.

7-4. *Special exceptions.* At least four (4) affirmative votes shall be required to grant a special exception.

7-5. *Variances.* At least four (4) affirmative votes shall be required to grant a variance.

7-6. *Other matters.* At least four (4) affirmative votes shall be required to decide in favor of an applicant on any other matter upon which the BZA is required to act under the Zoning Ordinance.

7-7. Within thirty (30) days after the hearing, the Board shall notify the parties in interest, and the Zoning Administrator, of the decision.

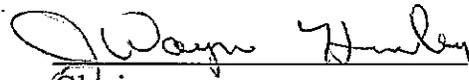
ARTICLE VIII - RECORDS

- 8-1. A complete file on each appeal, special exception, and variance shall be kept by the Secretary as part of the records of the Board of Zoning Appeals.
- 8-2. All records of the Board shall be public records.

ARTICLE IX - RULES

- 9-1. *Amendment.* Any of these Rules of Procedure may be amended by a majority vote of the BZA at the next regular meeting following a regular meeting at which notice of the motion to amend was given.
- 9-2. *Suspension.* These Rules of Procedure may be suspended by a majority vote of the members present and voting. The motion to suspend a rule may be made by any member, and properly seconded, may be discussed and voted upon. The approval of a motion to suspend a rule shall not permit the BZA to act in violation of any requirement mandated by the Code of Virginia, the Constitution of Virginia, the Gloucester County Code of Ordinances, or any other applicable law.
- 9-3. Any rules of procedure not specified in these Rules shall be governed by the current edition of Robert's Rules of Order.

Adopted this 22nd day of October, 2013


Chairman


Secretary