



**TOWN OF FRONT ROYAL, VIRGINIA
BOARD OF ZONING APPEALS REGULAR MEETING**

Tuesday, November 19, 2024 @ 7:00 PM
Front Royal Town Hall, 2nd Floor East Conference Room

AGENDA

1. Call to Order
2. Roll Call of Members Present
3. Business Item
 - By-Laws
4. Adjournment

Comments From Town Attorney

Connie Potter

From: George Sonnett
Sent: Monday, October 28, 2024 11:31 AM
To: Connie Potter; Amanda Wiseley
Cc: Lauren Kopishke; John Ware
Subject: RE: BZA ByLaws 03-07-2024 LK FINAL Edits

Follow Up Flag: Follow up
Flag Status: Flagged

Connie,

Below are my suggested edits to the proposed changes. Amanda may have different/other suggestions.

George

5. Sixty days prior to a term expiration, or upon such time that an immediate vacancy occurs, the Secretary to the BZA shall notify Town administration that the need exists to fill a vacancy or upcoming term expiration.

5. Sixty days prior to a term expiration, or upon such time that an immediate vacancy occurs, the Secretary to the BZA shall notify **the Clerk of Council** that the need exists to fill a vacancy or upcoming term expiration.

9. A member shall be disqualified to act on a specific matter before the BZA when required by law.

- a. A member may be disqualified under any circumstances, which in the opinion of the individual member, would create an appearance of impropriety or unfairness, but a member need not state the reasons for disqualification.
- b. The decision to be disqualified shall be entered into the record of the BZA, prior to a case being heard or as soon as a basis for disqualification is discovered.

9. a. A member shall **be-disqualify themselves from acting** on a specific matter before the BZA when required by law.
- b. A member may **be-disqualify themselves from acting** under any circumstances, which in the opinion of the individual member, would create an appearance of impropriety or unfairness, but a member need not state the reasons for disqualification.
- c. The **disqualification** shall be entered into the record of the BZA, prior to a case being heard or as soon as a basis for disqualification is discovered, **and the disqualified member shall sit with the public for the duration of that specific matter.**

6. The BZA, Town staff, and applicants must comply with the Code of Virginia with respect to ex parte communications.
6. The BZA, Town staff, and applicants must comply with the Code of Virginia with respect to *ex parte* communications.

From: Connie Potter <cpotter@frontroyalva.com>

Sent: Monday, October 28, 2024 10:49 AM

To: George Sonnett <gsonnett@frontroyalva.com>; Amanda Wiseley <awiseley@frontroyalva.com>

Cc: Lauren Kopishke <lkopishke@frontroyalva.com>; John Ware <jware@frontroyalva.com>

Subject: FW: BZA ByLaws 03-07-2024 LK FINAL Edits

Good morning,

Attached are revised BZA by-laws that the Board would like to vote on at their November 19th meeting.

Could you please review the attached by-laws before we forward to the BZA for a vote.

Thank you,
Connie



Connie L. Potter

Executive Assistant

Town of Front Royal

Dept. of Planning and Zoning

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Front Royal, VA 22630

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FRONT ROYAL BOARD OF ZONING APPEALS BY-LAWS

ARTICLE I. MEMBERSHIP

The Board of Zoning Appeals, herein also referred to as the "BZA" or "Board", shall consist of five (5) members appointed in accordance with §15.2-2308 VA Code Ann, and Section 175-138 of the Town Code.

ARTICLE II. OFFICERS

1. The Board of Zoning Appeals (BZA) shall organize and annually elect a Chair, Vice-Chair, and Secretary. Elections should take place the first meeting held during the calendar year. *In the event any officer's position becomes vacant at any time during the year, an election must be held at the next regular meeting to fill the vacancy.*
2. The Chair shall preside at the meetings and hearings of the BZA, and shall decide all points of order and/or procedure, appoint any committees that are found to be needed, and set any desired time limitations for speakers.
3. The Vice-Chair shall assume the duties of the Chair in his or her absence. In the absence of both the Chair and Vice-Chair, and a quorum exists, an acting Chair shall be selected by the members present to preside over the meeting.
4. Town Planning & Zoning Staff shall serve as the Secretary of the Board unless otherwise specified by the Board during annual elections. The general duties of the Secretary include the following:
 - a. prepare official correspondence at the direction of the BZA;
 - b. send out required notices;
 - c. keep the minutes and records of the BZA's proceedings;
 - d. send copies of appeals and applications to the Planning Commission as required;
 - e. maintain other BZA records;
 - f. in response to Writs of Certiorari served upon the BZA, prepare and file with the court, in a timely fashion, certified copies of the record of any BZA decision that has been appealed;
 - g. prepare and file an annual report of the BZA with Town Council;
 - h. notify the circuit court of any vacancies on the BZA; and
 - i. perform other clerical duties as assigned by the Board.

5. Sixty days prior to a term expiration, or upon such time that an immediate vacancy occurs, the Secretary to the BZA shall notify the Clerk of Council that the need exists to fill a vacancy or upcoming term expiration.

ARTICLE III. MEETINGS, QUORUM, AND VOTING.

1. The regular meeting of the BZA shall be held on the 3rd Tuesday as needed each month. If the BZA is unable to meet on the 3rd Tuesday of the month, the alternative meeting date will be the 4th Tuesday of the month. Each regular meeting shall begin at 7:00 P.M., unless otherwise specified by the Board.
2. Special meetings may be called by the Chair provided that at least five (5) days notice of such meeting 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 §2.2-3700, et seq., Virginia Code Ann.
4. ~~A quorum shall be necessary to conduct any BZA business, other than discussion regarding the next meeting date.~~ A quorum is necessary to transact any BZA business. In the absence of a quorum, the BZA may not vote on any BZA business except adjournment. However, the BZA may engage in discussion of internal matters such as training, procedures, or personnel in open session without a quorum. The Secretary must record such discussion in minutes
5. A quorum shall consist of three (3) members (i.e., a majority) of the BZA.
6. The concurring vote of three (3) members (a simple majority of the membership) shall be required to:
 - a. grant variances;
 - b. reverse decisions or determinations of the Zoning Administrator;
 - c. amend these By-laws
 - d. issuance of a special use or special exception permit, but only if such authority is delegated to the BZA in the future by Town Council.
 - e. Grant a rehearing
7. 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~~ affect all other actions of the Board.

8. A member shall make a disclosure of the member's interest in a specific matter before the BZA when required by law. 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.
9. A member shall be disqualified to act on a specific matter before the BZA when required by law.
 - a. A member shall disqualify themselves from acting on a specific matter before the BZA when required by law.
 - b. A member may disqualify themselves from acting under any circumstances, which in the opinion of the individual member, would create an appearance of impropriety or unfairness, but a member need not state the reasons for disqualification.
 - c. The disqualification shall be entered into the record of the BZA, prior to a case being heard or as soon as a basis for disqualification is discovered, and the disqualified member shall sit with the public for the duration of that specific matter.

~~9. 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.~~

~~10. A member may be disqualified under any circumstances, 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.~~

~~11. 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.~~

10. In the event of inclement weather or other conditions that require closure of Town Hall (or such other location designated for the BZA's meeting in the notice of the meeting), or if the chair (or vice-chair if the chair is unable to act) finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting, all agenda items not yet heard by the time of adjournment must be rescheduled; Town staff is responsible to promptly reschedule such postponed items and to readvertise them if required by law.

11. The order of business at all regular meetings of the BZA may be as follows:

- a. Call to order.
- b. Approval of minutes of previous meetings as received, if applicable.
- c. Business of members of the BZA, if applicable.
- d. Review of BZA Procedure, if applicable.
- e. Public Hearing of scheduled, continued, and deferred for decision items, if applicable.
- f. Unscheduled items, if applicable.
- g. Adjournment.

ARTICLE IV. DUTIES.

It shall be the duty of the BZA, in accordance with the provisions of § 15.2-2309 VA Code Ann., 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 Zoning Ordinance.
3. Applications for interpretation of the district map where there is any uncertainty as to the location of the district boundary.
4. Issuance of special use permits or special exceptions, as may be delegated to the BZA by Town Council (no such authority has been granted to the BZA by Town Council at this time).

ARTICLE V. APPLICATIONS TO THE BZA.

1. All applications to the BZA for variances and appeals shall be made on forms supplied by the Department of Planning and Zoning. The same shall apply for special use or special exception applications if authority is delegated to the BZA in the future for such matters. All other applications or requests, for which there is no required form, shall be made in writing.
2. All applications shall include all of the information required by the 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 and Zoning. The processing and scheduling of applications shall comply with the requirements of the Front Royal Zoning Ordinance and the Code of Virginia.
2. The Secretary of the BZA shall notify the applicants in writing of the date, time, and place of the scheduled public hearing.
3. The Secretary of the BZA shall, in accordance with the Code of Virginia ~~and the Zoning Ordinance~~, 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 applicant shall be responsible for fulfilling all applicable notice requirements to abutting and other property owners. Required notices shall be sent by registered or certified mail, with return receipts by the recipient.
5. The Department of Planning & Zoning shall prepare and distribute a staff report and any pertinent information to the BZA at or before the scheduled public hearing.
6. The BZA, Town staff, and applicants must comply with the Code of Virginia with respect to *ex parte* communications.

ARTICLE VII. THE HEARING

The following procedures should be followed when the BZA conducts a public hearing:

1. Chair announces the public hearing and the subject matter.
 - a. If the hearing is for a variance, appeal, special use permit or special exception the Chair should remind all parties present that the Zoning Ordinance requires a concurring vote of three (3) members of the BZA to approve a variance.
 - b. No cross-examination or questions of speakers testifying may be permitted, except by members of the BZA, without the permission of the Chair.
 - c. The Chair or the Secretary may swear in all staff and speakers wishing to testify.
2. Chair calls on the staff of the Department of Planning and Zoning to present Staff's position and the background of the case, the staff member may then identify the details of the property and briefly describe the application.

3. BZA members may pose questions to Staff.
4. Chair calls on the applicant or appellant and/or their authorized agent or attorney to present the applicant's or appellant's position.
5. BZA members may pose questions to the applicant or appellant and/or their authorized agent or attorney.
6. Chair calls for testimony from any person present, stressing that the testimony needs to be relevant and limited to the precise issue that is the subject of the hearing.
7. Chair calls on Staff to offer a rebuttal or additional remarks, if desired.
8. Chair calls on applicant or appellant and/or their authorized agent or attorney to rebut or for additional remarks, if desired.
9. BZA members may pose final questions to the applicant or appellant, and/or their authorized agent or attorney, or Staff.
10. Chair closes the public hearing.
11. The BZA may discuss the matter and take action. Decisions and other actions or orders of the BZA should be taken in the form of a motion or resolution. The form and scope of BZA decisions should be as set forth in §15.2-2309 VA Code Ann.
12. A decision of the BZA is considered a "final decision" for the purposes of appeal when the BZA has made a decision that: (i) resolves the merits of the action before the BZA, or (ii) effects a dismissal of the case with prejudice. The thirty (30) day appeal period to the Circuit Court shall commence upon the final decision of the BZA.
13. The final decision of the BZA shall be promptly filed with the Secretary and become part of the BZA's public record. The Secretary shall promptly prepare and provide to the applicant or appellant the BZA's final decision on the application.
14. All meetings shall be conducted in accordance with these By-laws, the Front Royal Zoning Ordinance, the Code of Virginia, and if needed, Robert's Rules of Order.

ARTICLE VIII. REQUEST FOR REHEARING AND RECONSIDERATION.

1. A party may request a rehearing by filing said request in writing with the Secretary within seven (7) days of date of the decision sought to be reheard and reconsidered. A decision will not be reheard or reconsidered at the original meeting where it was made.
2. Any request for rehearing must establish one or more of the following:
 - a. The BZA overlooked or misunderstood a material fact or legal issue which would change the decision sought to be reheard.
 - b. The existence of new and material evidence, which (i) was not previously available, (ii) could not have been reasonably discovered previously after diligent investigation, and (iii) could change the decision sought to be reheard.
 - c. A request for rehearing and reconsideration will be considered by the BZA at its next regularly scheduled meeting.
 - d. A motion to grant a rehearing must be made by at least one (1) member who voted in favor of the decision sought to be reheard.
 - e. If a decision is made granting a request for rehearing, the BZA will (1) set a date for rehearing, and (2) notice will be given by the applicants or by the staff of the Department of Planning and Zoning as required by law and these By-laws.
 - f. A rehearing shall proceed in the same manner as a regular BZA hearing.
 - g. A request for rehearing and reconsideration alone will not change the deadlines for appeal under the Code of Virginia and Zoning Ordinance.

ARTICLE IX. RECORDS

1. A file containing all relevant material and decisions, including any final decision, relating to each case shall be kept by the Department of Planning and Zoning as part of the records of the BZA.
2. All records of the BZA shall be public records, unless they are exempted from disclosure under the Virginia Freedom of Information Act, §2.2-3700, et seq., VA Code Ann.

ARTICLE X. SEVERABILITY

If any word, clause, sentence, article, section, subsection, or other part or parts of these By-laws shall be held by a court of competent jurisdiction to be

unconstitutional or otherwise invalid, such unconstitutionality or invalidity 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 the unconstitutional or invalid parts, and to this end, all provisions of these By-laws are hereby declared to be severable.

ARTICLE XI. REVISIONS

These By-laws, adopted by action of the Board of Zoning Appeals, may be amended by an affirmative vote of not less than three (3) members.