

**RULES AND REGULATIONS OF
THE BOARD OF ZONING APPEALS
HENRICO COUNTY, VIRGINIA**

ARTICLE I - NAME

The name of the Board shall be the Henrico County Board of Zoning Appeals.

ARTICLE II – POWERS AND DUTIES

The powers and duties of the Board shall be as set forth in § 15.2-2309 of the Code of Virginia:

1. To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of the zoning ordinance.
2. To grant upon appeal or original application in specific cases a variance as defined in § 15.2-2201.
3. To hear and decide appeals from decisions of the director of planning, including applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary.
4. To hear and decide applications for conditional use permits (also known as special exceptions) as may be authorized in Chapter 24 of the County Code.
5. To revoke a conditional use permit (also known as a special exception) previously granted by the Board if the Board determines that there has not been compliance with the terms or conditions of the permit.

ARTICLE III. MEMBERSHIP

1. The Board shall consist of five residents of the locality, appointed by the circuit court for the locality.
2. Their terms of office shall be for five years each. The secretary of the Board shall notify the court at least 30 days in advance of the expiration of any term of office, and shall also notify the court promptly if any vacancy occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members may be reappointed to succeed themselves. A member whose term expires shall continue to serve until his successor is appointed and qualifies.
3. Members of the Board shall hold no other public office in the locality except that one may be a member of the local planning commission.

ARTICLE IV. OFFICERS

1. The Board shall elect a Chair and a Vice Chair annually in the month of August.
2. For the purpose of these rules, the term Chair shall include Vice Chair and the term Secretary shall include Acting Secretary.
3. The Chair shall preside at all meetings and hearings of the Board and shall decide all points of order. The Chair may administer oaths and compel the attendance of witnesses.
4. The Secretary shall be a salaried county employee appointed by the County Manager who shall conduct all official correspondence of the Board, send out all required notices, attend all meetings and hearings of the Board, scrutinize all appeals and applications to see that these rules and all pertinent requirements of the County Code are complied with, keep the agendas and the minutes of the Board's proceedings, keep the necessary files and indexes on each case which comes before the Board, and generally supervise all the clerical work for the Board, including notifying each applicant of the final action of the Board. The Secretary shall see that all maps and plats are properly and adequately prepared so as to convey all the information necessary to the making of a fully informed decision. The Secretary shall be responsible for keeping a minute book which shall record the resolution of each case, together with the vote of each member of the Board, those absent being so marked, and the date the decision was filed.

ARTICLE V. MEETINGS

1. Regular meetings of the Board shall be held on the fourth Thursday of each month, January through October, and the third Thursday of November and December, unless a majority of the Board agrees on another date at least one month in advance.
2. If the Chair finds and declares that the weather or other conditions are such that it is hazardous for members to attend a regular meeting, the meeting shall be postponed until the following Thursday. If the following Thursday falls on a County holiday the meeting shall be postponed to the next Thursday that is not a County holiday. Members and the press will be notified as promptly as possible, and notice will be posted on the front doors of the Board's meeting room and the courthouse. All hearings and other matters previously advertised will be conducted at the continued meeting, and no further advertisement or notice is required.
3. Special meetings may be called by the Chair, provided each member is given at least seven days' notice of such meeting.
4. A quorum shall be three of the five members.

5. Meetings shall be held in the Board Room of the County Administration Building in the Government Center at 4301 E Parham Road unless a majority of the Board agrees on an alternative location.
6. Meetings shall be open to the public unless a closed meeting is authorized by the Virginia Freedom of Information Act.
7. The order of business at all regular meetings of the Board shall be as follows:
 - (a) Call to order.
 - (b) Hearing and consideration of cases on the agenda.
 - (c) Approval of minutes of previous meeting.
 - (d) Other business.

ARTICLE VI. PROCEDURE FOR HEARING CASES

1. An application for a variance or conditional use permit may be filed by any property owner, tenant, or government official. An appeal may be filed by any person aggrieved or by any county officer aggrieved by any decision of the director of planning or any order, requirement, decision, or determination made by any other administrative officer in the administration or enforcement of the zoning ordinance. Applications and appeals shall be filed on forms provided by the Secretary. The applicant shall provide all the information required by the form, and the Board may request additional information at the public hearing. Applications shall be accompanied by the fee established by the Board of Supervisors, and shall not be considered to be filed until such fee is paid.
2. Applications and appeals shall be scheduled and advertised, and notification shall be provided, as follows:
 - (a) Cases shall be placed on the agenda as provided by the calendar of hearing dates and application deadlines approved by the Board. A maximum of 12 new cases will be placed on each month's agenda. If the 12-case limit is reached prior to the deadline, any additional cases shall be carried over to the next meeting.
 - (b) The cases for each meeting shall be advertised, and notice provided to owners of adjacent property, in conformance with § 15.2-2204 of the Code of Virginia. The Secretary may give notice to additional persons as he deems advisable.
 - (c) The Secretary or his designee shall place a sign at or near the location of the subject property of each case to inform the occupants of nearby property that a public hearing has been scheduled.
3. Cases shall be heard in the order in which they appear on the agenda, unless the Chair determines that a change in order would improve the efficiency of the meeting.

4. If the applicant or appellant fails to appear at the hearing or send a representative, the Board may defer the public hearing, or may hold the public hearing and defer the decision, or may hold the public hearing and decide the matter in the absence of the applicant or appellant.
5. At the hearing, the order shall be as follows:

For conditional use permits and variances:

- (a) Announcement of the case by the Secretary
- (b) Swearing-in of witnesses
- (c) Report by county planner
- (d) Presentation of the case by the applicant
- (e) Statements of those in favor
- (f) Statements of those in opposition
- (g) Applicant's rebuttal
- (h) Discussion, motion, and decision by the Board

For Appeals and Requests for Revocation:

- (a) Announcement of the case by the Secretary
- (b) Swearing-in of witnesses
- (c) Statement on behalf of the County
- (d) Statement on behalf of the appellant or operator
- (e) Statements of other persons in attendance
- (f) Discussion, motion, and decision by the Board

6. The Board shall offer an equal amount of time to the applicant or appellant and the staff of the County. The Chair may prescribe a time limit of ten minutes, or other reasonable time limit, for each side to present its case. Time to answer questions shall not be included within the allotted time. The Chair may extend the time limits for both sides at its discretion, provided that any extension shall apply equally to the applicant or appellant and the County staff. For anyone other than the applicant or appellant and staff of the County, the Chair may prescribe a time limit of three minutes or other reasonable time limit. Comments shall be directly related to the case under consideration.
7. The decision on an appeal shall be in the form of a motion either sustaining, reversing, or modifying the order, requirement or determination. The decision on an application for a variance or conditional use permit shall be in the form of a motion either approving or denying the request. The motion shall include findings of fact and conclusions of law, and shall include any applicable conditions. The concurring vote of three members shall be necessary to decide in favor of the applicant on a conditional use permit or a variance, or to reverse any order, requirement, ,decision, or determination of an administrative officer. If the vote results in a tie, the matter

may be carried over until the next scheduled meeting at the request of the applicant. The vote of each member present on each motion shall be recorded in the minutes.

8. In any case in which an application has been denied by the Board or withdrawn after a public hearing, substantially the same application shall not be considered by the Board within one year from the date of such denial or withdrawal.

ARTICLE VII. RECONSIDERATION

1. A motion for reconsideration of a decision by the Board may be requested prior to the next regular meeting, provided that new evidence is submitted which could not reasonably have been presented at the original hearing. Such request shall be submitted in writing prior to the next regular meeting, and shall be accompanied by the new evidence.
2. The request to reconsider the decision shall be added to the agenda for the next regular meeting. A motion to reconsider a decision may only be made by a member who originally voted in favor of that decision, and must be carried by at least three affirmative votes.
3. If the request for reconsideration is granted, the matter shall be placed on the agenda for the following meeting. A new public hearing shall be advertised and notification shall be provided as for the original application.

ARTICLE VIII. SUSPENSION OF, AMENDMENTS TO, AND FAILURE TO COMPLY WITH THESE RULES

1. These rules may be suspended in whole or in part upon the unanimous vote of the members of the Board present.
2. These rules may be amended or modified by the affirmative vote of three members of the Board.
3. Any application, appeal, or request for reconsideration may be dismissed for failure of the applicant to comply with these rules.

Adopted 9/23/1965. Revised 4/23/1981, 8/6/1999, 7/26/2001, 5/27/2004, 7/26/2012, 7/24/2014, 8/27/2015, and 4/25/2019.