



## BOARD OF ZONING APPEALS MEETING

Tuesday, December 05, 2023 at 5:00 PM

### AGENDA

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**CALL TO ORDER.**

**DETERMINATION OF A QUORUM.**

**APPROVAL OF MINUTES.**

1. Draft Board Minutes - October 3, 2023

**UPDATES.**

2. The Board of Zoning Appeals by-laws were adopted on November 6, 1996. Per Article 8 - Amendments, Section 8-1 of the by-laws, the by-laws may be amended by vote of a majority of members at a regularly scheduled meeting, provided that the by-laws are delivered to members of the Board at least 30 days prior to the meeting at which the vote on the amendment is to be taken. The Board may consider the current by-laws and propose changes that can be acted upon at future meeting.

**UPDATES.**

**ADJOURN.**



**BOARD OF ZONING APPEALS OF THE TOWN OF WARRENTON  
TOWN HALL  
21 MAIN STREET  
WARRENTON, VIRGINIA 20186**

**MINUTES**

**A REGULAR MEETING OF THE BOARD OF ZONING APPEALS WAS HELD ON OCTOBER 3, 2023, AT 5:00 P.M. IN WARRENTON, VIRGINIA**

**PRESENT** Mr. Larry Kovalik; Ms. Melea Maybach; Mr. Amos Crosgrove; Ms. Heather Jenkins, Zoning Administrator; Ms. Amber Heflin, Zoning Official; Mr. Martin Crim, Town Attorney

**PRESENT VIA ZOOM**

**ABSENT** Ms. Betsy Sullivan

**CALL TO ORDER AND DETERMINATION OF A QUORUM**

The meeting was called to order at 5:00pm. There was a quorum of members present.

**APPROVAL OF MINUTES**

Draft Minutes – September 9, 2023 Meeting

Ms. Maybach motioned to approve the minutes, and Mr. Crosgrove seconded. All in favor. The vote was as follows:

**Ayes:** Mr. Larry Kovalik, Chair; Ms. Melea Maybach; Mr. Amos Crosgrove

**Nays:**  
**Absent During Vote:** Ms. Betsy Sullivan

**UPDATES**

Remote Participation Policy

Ms. Jenkins gave a brief overview of the remote participation policy and advised the Board did not currently have this policy in place but had previously expressed interest in remote participation at prior meetings.

Mr. Kovalik pondered if this policy was similar to those used by the Town Council and Planning Commission.

Ms. Jenkins confirmed the policy was the same.

Mr. Kovalik asked if Section Two of the policy requiring a reason for remote participation be publicly disclosed was HIPPA compliant.

Mr. Crim advised the reasoning for remote participation does not necessarily need to be specific, but noted the Board can deny a remote participation request if they are not in agreement.

There were no further questions.

Mr. Crosgrove Motioned to approve the remote participation policy as presented, Seconded by Ms. Maybach. All in favor. The vote was as follows:

- Ayes:** *Mr. Larry Kovalik, Chair; Ms. Melea Maybach, Vice Chair; Mr. Amos Crosgrove*
- Nays:**
- Abstention:**
- Absent During Vote:** *Ms. Betsy Sullivan*

Board of Zoning Appeals- By-Laws Update

Ms. Jenkins gave a brief overview of the By-Laws the Board currently has in draft form. She added the last time these were adopted was in November of 1996, and these documents were provided to the Board to review at last month’s meeting.

The Board discussed changes to Article 2 of the By-Laws which states, “one of the five members of the Board shall be an active member of the Planning Commission.” The Board requested this be updated to say, “may also be an active member of the Planning Commission”.

Mr. Crim advised he is not the Board of Zoning Appeals legal counsel, he represents the Town of Warrenton only.

Mr. Kovalik pondered what protections the board has against legal proceedings.

Ms. Heflin and Ms. Jenkins advised they would research this matter and bring their findings to the next meeting of the Board.

Discussion ensued regarding the granting of several variances for fencing and when the Zoning Ordinance text amendment process is triggered.

Mr. Crim stated the Planning Commission should be notified in some way that a text amendment may be required due to the increasing number of variances granted for the same request.

The Board requested deletion of Article 3-8 of the By-Laws which discusses vacancies occurring within the Board. The Board felt that Article 3-7 of the By-Laws covered this topic in its entirety.

Mr. Kovalik questioned the yearly report requirement under Article 5-10 of the By-Laws.

Mr. Crim advised the report is a statutory requirement and must be provided.

The Board discussed Article 7 of the By-Laws relating to procedures for hearing cases and questioned when discussion on a motion is appropriate.

Ms. Heflin recalled last month's Board meeting, where a second was not received for an active motion and discussion ensued on the active motion.

Mr. Crim advised no second on an active motion is required to have discussion on the motion.

Ms. Heflin asked if the Board had any further questions for Mr. Crim.

There were no further questions.

Ms. Heflin stated staff would revise the By-Laws for Board consideration, and requested if the Board felt they needed input from the Town Attorney, to let staff know as far in advance as possible.

The board agreed and there was no further discussion.

**ADJOURNMENT**

Mr. Crosgrove motioned to adjourn. Ms. Maybach seconded, all in favor. No discussion. The vote was as follows:

**Ayes:** *Mr. Larry Kovalik, Chair; Ms. Melea Maybach; Mr. Amos Crosgrove*

**Nays:**  
**Absent During Vote:** *Ms. Betsy Sullivan*

The meeting was adjourned at 5:45pm.

**TOWN OF WARRENTON, VIRGINIA**  
**BOARD OF ZONING APPEALS**  
**BY-LAWS**

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**ARTICLE 1 – OBJECTIVES**

- 1-1 The Board of Zoning appeals of the Town of Warrenton, known hereafter as The Board, adopts the subsequent articles in order to facilitate its powers and duties in accordance with Article 15-2, Section 2308 of the 1950 Code of Virginia as amended and Article 11-2 Board of Zoning Appeals of the Town of Warrenton Zoning Ordinance.
- 1-2 The official title of this Board shall be the Town of Warrenton Board of Zoning Appeals.

**ARTICLE 2 – MEMBERSHIP**

- 2-1 The Board of Zoning Appeals, shall consist of five members who are residents of the Town and who shall be appointed by the Circuit Court of Fauquier County. The term of office shall be for five years. One of the five members appointed shall be an active member of the Planning Commission. Members may be removed for just cause by the appointing authority upon written charges and a public hearing.

**ARTICLE 3 - OFFICERS AND THEIR SELECTION**

- 3-1 The members of the Board shall annually elect a Chairman and a Vice-Chairman.
- 3-2 The Town Manager shall appoint a secretary to the Board.
- 3-3 Nomination of officers shall be made from the floor at an annual meeting to be held the first Tuesday in January of each year or the next scheduled meeting if no items are to be considered in January.
- 3-4 Each candidate for office shall be nominated and seconded by two members of the Board. Election of Officers shall follow immediately thereafter.
- 3-5 A majority vote of members shall be required to be elected to office.
- 3-6 A candidate for an office of the Board receiving an majority vote of the members shall be declared elected and shall take office immediately upon the conclusion of regular meeting and serve for one year or until his successor shall take office.
- 3-7 Vacancies in office prior to term expiration shall be filled immediately by regular election procedures as in 3-4.

**Commented [KM1]:** The board may elect as its secretary either one of its members or a qualified individual who is not a member of the board, excluding the alternate members. A secretary who is not a member of the board shall not be entitled to vote on matters before the board.

- 3-8 Vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term in office.

**ARTICLE 4 – DUTIES OF OFFICERS**

- 4-1 The chairman shall be a member of the Board and shall:
  - 4-1.1 Preside at all meetings and call the meeting to order at the appointed time;
  - 4-1.2 Announce the business before the assembly in its proper order;
  - 4-1.3 Preserve order and decorum;
  - 4-1.4 State and put all questions properly before the assembly;
  - 4-1.5 Rule on all procedural questions;
  - 4-1.6 Be informed immediately of any official communication and report same at the next regular meeting;
  - 4-1.7 Affix his signature to all orders issued by the Board of Zoning Appeals as evidence of such approve; and
  - 4-1.8 Appoint such committees as deemed necessary.
- 4-2 The vice chairman shall be a member of the Board and shall:
  - 4-2.1 Assume duties of the Chair in the Chairman’s absence or in the Chairman’s inability to act.
- 4-3 The Secretary shall:
  - 4-3.1 Keep a written record of all business transacted by the Board;
  - 4-3.2 Notify all members of all meetings;
  - 4-3.3 Keep a file of all official records and reports of the Board;
  - 4-3.4 Certify all records and reports and public meetings;
  - 4-3.5 Serve notice of all hearings and public meetings;
  - 4-3.6 Attend to correspondence of the Board;
  - 4-3.7 Keep a set of minutes of all meetings which shall become a public record; and
  - 4-3.8 Prepare and be responsible for publishing of advertisements relating to public hearings.

**ARTICLE 5 – MEETINGS**

- 5-1. When cases are pending, regular meetings of the Board shall be held on the first Tuesday of each month. When a meeting date falls on a legal holiday, the meeting shall be held on the following Tuesday unless otherwise designated by the Chairman. When no case is pending, no meeting shall be held. The meeting shall begin at 5:00 P.M., unless otherwise designated by the Chairman and stated in the Public Notice of the meeting as required in Section 15.1.431 of the Code of Virginia, 1950, as amended.
- 5-2. The regular meeting may be adjourned upon majority vote of the members present if all applications or appeals can not be disposed of on the meeting date set. In

such case, the meeting shall be reconvened at the dated scheduled at the regular meeting.

- 5-3. A majority of the members of the Board shall constitute a quorum and a favorable vote of three members of the Board shall be necessary to reserve any order, requirement, decision or determination of any administrative official or to decide in favor of the applicant on any matter upon which the Board is required to pass.
- 5-4. Motions shall be restated by the Chairman before the vote is taken. The names of the persons making and seconding the motion shall be recorded.
- 5-5. The secretary shall prepare a set of minutes of all regular and special meetings.
- 5-6. Parliamentary procedure and board meeting shall be governed by the Roberts Rules of Order, Revised.
- 5-7. A motion to reconsider any action of the Board must be made as provided in Roberts Rules of Order, Revised, on or before the conclusion of the next regularly scheduled meeting of the Board occurring after the meeting at which the matter to be reconsidered was originally addressed.
- 5-8. The rules of procedure of the Board may be suspended by a vote of four members, all as provided in Roberts Rules of Order, Revised.
- 5-9. All meetings shall be public meetings in accordance with the requirements and exceptions of Title 15.1, Chapter 11 of the 1950 Code of Virginia as mended.
- 5-10. **Yearly Report? Periodic Report – 11-2.3.6 T=20.**

#### **ARTICLE 6 – ORDER OF BUSINESS**

- 6-1. The order of business for a regular meeting shall be:
  - 6-1.1 Call to order by Chairman
  - 6-1.2 Determination of a quorum;
  - 6-1.3 Adoption of minutes;
  - 6-1.4 Public Hearings
    - 6-1.4.1 Unfinished Business;
    - 6-1.4.2 New Business;
  - 6-1.5 Adjournment.

#### **ARTICLE 7 – PROCEDURES FOR HEARING CASES**

##### **7 PUBLIC HEARING PROCEDURES**

- 1. Call to Order
- 2. Chairman calls the item with the starting time of the hearing item
- 3. Comments/Presentations from the Town staff
- 4. Comments/Presentations from the applicant
- 5. Questions on Staff report from Board Members
- 6. Questions of Applicant presentation from Board Members
- 7. Comments from the public. When the last person from the public has finished speaking, the Chairman shall declare the public hearing closed.
- 8. The hearing item reverts back to the Board at this point. No comments from anyone other than the Board and Staff are permitted.
- 9. Discussion and motions are made (Motions should not come the Chairman)

10. Discussion of main motion and amendments, if necessary
11. Chairman repeats motion and question is called
12. Vote on motion

**ARTICLE 8 – AMENDMENTS**

8-1 These by laws may be amended by affirmative vote of the majority of the members of the Board at a regularly scheduled meeting, provided that the proposed amendment to these By-Laws be delivered to members of the Board at least 30 days prior to the meeting at which the vote on the amendment is to be taken.

ADOPTED: November 6, 1996