



## BOARD OF ZONING APPEALS MEETING

Tuesday, October 03, 2023 at 5:00 PM

### AGENDA

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#### CALL TO ORDER.

#### DETERMINATION OF A QUORUM.

#### APPROVAL OF MINUTES.

1. Draft Board Minutes- September 9, 2023

#### UPDATES.

2. Town of Warrenton Board of Zoning Appeals Policy on Remote Participation. The BZA does not currently have an adopted policy to allow a member to participate remotely, as allowed by the Code of Virginia Section 2.2-3708.3. Should the BZA wish to adopt such a policy, this would permit a member to attend a meeting virtually if they meet the standards laid out in the policy.
3. 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.

#### 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  
SEPTEMBER 5, 2023, AT 5:00 P.M. IN WARRENTON, VIRGINIA**

PRESENT Mr. Larry Kovalik; Ms. Melea Maybach; Mr. Amos Crosgrove; Ms. Betsy Sullivan; Mr. Rob Walton, Director of Community Development; Ms. Heather Jenkins, Zoning Administrator.

PRESENT VIA ZOOM

ABSENT

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

The meeting was called to order at 5:05pm. There was a quorum of members present.

**APPROVAL OF MINUTES**

Draft Minutes – August 1, 2023 Meeting

Ms. Maybach motioned to approve the minutes, and Mr. Kovalik seconded with a correction to the Capitalization of “Galina Way” on page 3 of the minutes. All in favor. The vote was as follows:

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

**Nays:**

**Absent During Vote:**

**PUBLIC HEARING**

BZA 2023-3 – 57 N Fourth Street

Ms. Jenkins gave a brief presentation of the application to the board citing staff concerns regarding line-of-sight. She added there were not many details contained within the application materials to allow staff to do an in-depth analysis of the variance request.

Mr. Kovalik asked Ms. Jenkins if the applicant was present.

Ms. Jenkins indicated she was told yes, but the applicant, Ms. Melanie Burch, Fauquier Habitat for Humanity CEO was not currently present.

Several board members questioned visibility issues due to the property being a corner lot.

Ms. Maybach asked where the proposed location of the fencing was on the property.

Ms. Jenkins stated it was not clearly presented to staff and she was unsure due to many revisions to the proposed fence location prior to the board meeting.

There were no further questions.

Mr. Kovalik opened the public hearing at 5:15pm.

No one spoke.

Mr. Kovalik stated he would like to leave the public hearing open to allow the public to speak on the application should they wish to.

Mr. Crosgrove Motioned to defer for 30 days until the October 3<sup>rd</sup> meeting, Seconded by Mr. Kovalik. All in favor.

Mr. Kovalik clarified the board's request for more details regarding the location of the proposed 6-foot fencing and a line-of-sight survey to aid in their review of the variance request. The vote was as follows:

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

**UPDATES**

Ms. Jenkins advised there was not currently a remote participation policy in place for the Board members to participate virtually if needed. The Town Attorney has drafted a policy for the board's consideration.

Ms. Jenkins stated the policy would allow one member of the board to participate virtually if they met the criteria as outlined in the policy so long as a quorum of members was present at the meeting location.

Ms. Heflin added the board can defer decision on this policy until the October meeting, at which

time the Town Attorney will be present for questions.

Ms. Heflin stated the Town Attorney will join the board meeting next month to do a briefing on policies and parliamentary procedures for the board.

Ms. Maybach motioned to defer adoption of the remote participation policy until the October meeting to allow the board additional time to review the document. Mr. Kovalik seconded. All in favor. The vote was as follows:

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

**Nays:**

**Absent During Vote:**

**ADJOURNMENT**

Mr. Kovalik 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; Ms. Betsy Sullivan*

**Nays:**

**Absent During Vote:**

The meeting was adjourned at 5:25pm.

TOWN OF WARRENTON BOARD OF ZONING APPEALS  
POLICY ON REMOTE PARTICIPATION OF MEMBERS

1. Members of the Town of Warrenton Board of Zoning Appeals (“BZA”) may participate from remote locations in meetings where a quorum is physically assembled at a single meeting place when consistent with Virginia law and this policy. (The BZA may hold a virtual meeting, where members of the BZA participate from remote locations without a quorum physically assembled at a single meeting place, only when authorized under Virginia law; this policy applies to such virtual meetings to the extent its provisions are consistent with such law.)
2. The Chair of the BZA is responsible for implementing this policy on remote participation meetings.
3. This policy must be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.
4. Remote participation is subject to the approval of the Chair, appealable to the body as a whole in accordance with Robert’s Rules of Order.
5. On or before the day of a meeting, a member of the BZA wishing to participate remotely must notify the Chair that such member is unable to attend the meeting due to:
  - a. a temporary or permanent disability or other medical condition that prevents physical attendance,
  - b. a medical condition of a member of the member's family requiring the member to provide care that prevents the member's physical attendance;
  - c. the member's principal residence being more than 60 miles from the meeting location identified in the required notice for such meeting; or
  - d. the member being unable to attend the meeting due to personal reasons, in which case the member must identify with specificity the nature of the personal reason.
6. A member’s participation from a remote location will only be approved if the member’s voice is clearly audible to BZA members and citizens at the BZA’s central meeting location and if the member can hear persons speaking into the microphones at that location.
7. If a member’s participation from a remote location is disapproved because such participation would violate this policy, such disapproval must be recorded in the minutes with specificity.

8. Each member's remote participation due to personal reasons is limited each calendar year to two meetings or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.
9. Members participating in person must be physically assembled at the meeting location that was announced in the notice of the meeting or, if no location was specified, at Town Hall.
10. The BZA must record in its minutes all instances of remote participation, and the remote location from which a member participates. The remote location need not be open to the public and may be identified in the minutes by a general description.
11. If participation is approved pursuant to subdivision 5.a. or 5.b. of this Policy, the BZA must include in its minutes the fact that the member participated through electronic communication means due to a (i) temporary or permanent disability or other medical condition that prevented the member's physical attendance or (ii) a family member's medical condition that required the member to provide care for such family member, thereby preventing the member's physical attendance. If participation is approved pursuant to subdivision 5.c., the BZA must also include in its minutes the fact that the member participated through electronic communication means due to the distance between the member's principal residence and the meeting location. If participation is approved pursuant to subdivision 5.d., the BZA must also include in its minutes the specific nature of the personal matter cited by the member.

Introduced on \_\_\_\_\_  
Approved on \_\_\_\_\_

\_\_\_\_\_  
Secretary, Board of Zoning Appeals  
Town of Warrenton

Code of Virginia  
Title 2.2. Administration of Government  
Subtitle II. Administration of State Government  
Part B. Transaction of Public Business  
Chapter 37. Virginia Freedom of Information Act

## § 2.2-3708.3. Meetings held through electronic communication means; situations other than declared states of emergency

A. Public bodies are encouraged to (i) provide public access, both in person and through electronic communication means, to public meetings and (ii) provide avenues for public comment at public meetings when public comment is customarily received, which may include public comments made in person or by electronic communication means or other methods.

B. Individual members of a public body may use remote participation instead of attending a public meeting in person if, in advance of the public meeting, the public body has adopted a policy as described in subsection D and the member notifies the public body chair that:

1. The member has a temporary or permanent disability or other medical condition that prevents the member's physical attendance;
2. A medical condition of a member of the member's family requires the member to provide care that prevents the member's physical attendance;
3. The member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting; or
4. The member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. However, the member may not use remote participation due to personal matters more than two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

If participation by a member through electronic communication means is approved pursuant to this subsection, the public body holding the meeting shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public and may be identified in the minutes by a general description. If participation is approved pursuant to subdivision 1 or 2, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to a (i) temporary or permanent disability or other medical condition that prevented the member's physical attendance or (ii) family member's medical condition that required the member to provide care for such family member, thereby preventing the member's physical attendance. If participation is approved pursuant to subdivision 3, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to the distance between the member's principal residence and the meeting location. If participation is approved pursuant to subdivision 4, the public body shall also include in its minutes the specific nature of the personal matter cited by the member.

If a member's participation from a remote location pursuant to this subsection is disapproved because such participation would violate the policy adopted pursuant to subsection D, such disapproval shall be recorded in the minutes with specificity.

C. With the exception of local governing bodies, local school boards, planning commissions, architectural review boards, zoning appeals boards, and boards with the authority to deny, revoke, or suspend a professional or occupational license, any public body may hold all-virtual public meetings, provided that the public body follows the other requirements in this chapter for meetings, the public body has adopted a policy as described in subsection D, and:

1. An indication of whether the meeting will be an in-person or all-virtual public meeting is included in the required meeting notice along with a statement notifying the public that the method by which a public body chooses to meet shall not be changed unless the public body provides a new meeting notice in accordance with the provisions of § 2.2-3707;
2. Public access to the all-virtual public meeting is provided via electronic communication means;
3. The electronic communication means used allows the public to hear all members of the public body participating in the all-virtual public meeting and, when audio-visual technology is available, to see the members of the public body as well;
4. A phone number or other live contact information is provided to alert the public body if the audio or video transmission of the meeting provided by the public body fails, the public body monitors such designated means of communication during the meeting, and the public body takes a recess until public access is restored if the transmission fails for the public;
5. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting is made available to the public in electronic format at the same time that such materials are provided to members of the public body;
6. The public is afforded the opportunity to comment through electronic means, including by way of written comments, at those public meetings when public comment is customarily received;
7. No more than two members of the public body are together in any one remote location unless that remote location is open to the public to physically access it;
8. If a closed session is held during an all-virtual public meeting, transmission of the meeting to the public resumes before the public body votes to certify the closed meeting as required by subsection D of § 2.2-3712;
9. The public body does not convene an all-virtual public meeting (i) more than two times per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater, or (ii) consecutively with another all-virtual public meeting; and
10. Minutes of all-virtual public meetings held by electronic communication means are taken as required by § 2.2-3707 and include the fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held. If a member's participation from a remote location pursuant to this subsection is disapproved because such participation would violate the policy adopted pursuant to subsection D, such disapproval shall be recorded in the minutes with specificity.

D. Before a public body uses all-virtual public meetings as described in subsection C or allows members to use remote participation as described in subsection B, the public body shall first adopt a policy, by recorded vote at a public meeting, that shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member



requesting remote participation or the matters that will be considered or voted on at the meeting. The policy shall:

1. Describe the circumstances under which an all-virtual public meeting and remote participation will be allowed and the process the public body will use for making requests to use remote participation, approving or denying such requests, and creating a record of such requests; and
2. Fix the number of times remote participation for personal matters or all-virtual public meetings can be used per calendar year, not to exceed the limitations set forth in subdivisions B 4 and C 9.

Any public body that creates a committee, subcommittee, or other entity however designated of the public body to perform delegated functions of the public body or to advise the public body may also adopt a policy on behalf of its committee, subcommittee, or other entity that shall apply to the committee, subcommittee, or other entity's use of individual remote participation and all-virtual public meetings.

2022, c. [597](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

**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 date 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 amended.
- 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