

MATHEWS COUNTY BOARD OF ZONING APPEALS

BY-LAWS

ARTICLE 1: PURPOSE AND DUTIES

- 1-1 This Board, established in conformance with Title 15.2, Chapter 22, Article 7, Section 15.2-2308 of the Code of Virginia, 1950, as amended and the Zoning Ordinance of Mathews County, Virginia, adopted by the Board of Zoning Appeals of Mathews County, Virginia, on January 29, 1987, and effective on and after 12:01 a.m., January 30, 1987, has adopted the following Articles in order to facilitate its purpose, powers and duties in accordance with the provisions of Title 15.2, Chapter 22, Article 7, Section 15.2-2309 of the Code of Virginia, 1950, as amended and the provisions of the Zoning Ordinance of Mathews County.
- 1-2 The official title of this Board shall be the "Mathews County Board of Zoning Appeals."

ARTICLE 2: MEMBERS

- 2-1 The Board shall consist of five (5) members, all of whom shall be appointed by the Circuit Court of Mathews County. The governing body may provide a list of eligible candidates, which the court may consider in making its selection. The members shall be citizens and residents of Mathews County. One member of the Board may be a member of the Planning Commission.
- 2-2 Terms of office shall be for five (5) years except that the original appointments shall be made so that the term of one (1) member shall expire each year. Members may be reappointed to succeed themselves.
- 2-3 Members shall give thirty (30) days prior written notice to the secretary of the Board of their intention to not be reappointed to the Board for a subsequent term or to resign during their current term thereby creating a vacancy.
- 2-4 The Secretary shall notify the Court at least thirty (30) days prior to the expiration or vacation of any term of office. Any expiration or vacancy in membership shall be filled by appointment by the Circuit Court of Mathews County for the new term or unexpired portion of the vacated term.

Any appointed member may be removed by the Circuit Court of Mathews County for malfeasance, misfeasance or nonfeasance in office, or for other just cause, after hearing held after fifteen (15) days' notice.

ARTICLE 3: OFFICERS

- 3-1 The Board shall organize; and annually elect a chairman, vice-chairman, and secretary in the month of *April (or the first meeting following that if the board does not meet in April)* for a term of one (1) year. The chairman shall appoint in March preceding the April election a nominating committee who shall report a slate of officers in April.
- 3-2 The chairman shall preside at all meetings and hearings of the Board; he shall decide all points of order or procedure and shall appoint any committees that are found to be necessary.
- 3-3 The vice-chairman shall assume the duties of the chairman in his absence.
- 3-4 The secretary shall handle all official correspondence subject to these rules at the direction of the Board; shall send out all notices required by these rules of procedure; shall keep the minutes of the Board's proceedings; and shall keep a file on each case which comes before the Board.
- 3-5 In the event a vacancy occurs in office, at the Board's next regular meeting following the vacancy, the acting chairman shall entertain motions to nominate and elect a board member to fill the vacancy. Elections shall be conducted until all offices are filled.

ARTICLE 4: MEETINGS

- 4-1 A regular meeting of the Board of Zoning Appeals for the hearing of cases and the conduct of other business shall be held on the third Wednesday of each month at 7:00 p.m., unless no cases or business are pending, in which instance no meeting shall be held.
- 4-2 Special meetings may be called by the chairman, provided that at least five (5) days' prior notice of such meeting is given to each member.
- 4-3 A quorum shall consist of a majority of the Board.
- 4-4 The order of business at all regular meetings of the Board shall follow Robert's Rules of Order.
- 4-5 The Board may adjourn a regular meeting if all applications or appeals cannot be disposed of on the day set, and no further public notice shall be necessary for a continuation of such meeting.

ARTICLE 5: PROCEDURE FOR HEARING CASES

- 5.1 The Board has jurisdiction to hear three types of matters:
 - 5.1.1 Application for Variance. To authorize upon appeal or original application in specific cases such variance as defined in § 15.2-2201 of the 1950 Code of Virginia, as amended, from the terms of the County zoning

ordinance as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the County zoning ordinance shall be observed, and substantial justice done.

- 5.1.2 Appeals. Appeals from any order, requirement, decision or determination made by the Zoning Administrator in the administration or enforcement of Title 15.2, Chapter 22 of the 1950 Code of Virginia, as amended, or of any ordinance adopted pursuant thereto.
- 5.1.3 Application for Zoning Map Interpretation. To hear and decide applications for interpretation of the County zoning district map where there is any uncertainty as to the location of a district boundary. The Board may interpret the map in such way as to carry out the intent and purpose of the ordinance for the particular section or zoning district in question. The Board shall not have the power to change substantially the locations of district boundaries as established by the County zoning ordinance
- 5-2 The applicant shall provide the secretary with all information requested on the form provided by the Board of Zoning Appeals, and any such additional information and data as may be required to advise the Board fully with reference to the application. Applications for an appeal or variance request must be made on the proper form and be accompanied by required additional information and a fee.
- 5-3 An application for appeal/variance filed according to the above procedures shall be given a case number within five (5) days. Applications for appeals/variance requests will be assigned for hearing in the order in which they are received.
- 5-4 The secretary of the Board shall notify all interested parties of the time scheduled for the public hearing of the case and give public notice in accordance with Section 15.2-2204, Code of Virginia, 1950, as amended.
- 5-5 The applicant/appellant may appear in his own behalf at the public hearing or be represented by counsel or an agent.

Both the applicant/appellant and zoning administrator may speak to the appeal/variance request and any private citizen may speak for or against the issue. The applicant/appellant shall be given an opportunity for a final rebuttal.
- 5-6 The final decision on any appeal/variance request to the Board of Zoning Appeals shall be in the form of a motion approved by a quorum of the membership of the Board.
- 5-7 Within thirty (30) days after the hearing, the Board shall notify the parties in interest and the zoning administrator of the decision.

ARTICLE 6: INSPECTIONS

6-1 By submitting an application for a case to be heard before the Board, an applicant or appellant grants permission for Board members to conduct a site visit of any property that is the subject of such case.

ARTICLE 7: EX PARTE CONTACT PROHIBITED

7-1 No applicant or other party of interest, and no attorney for an applicant or party in interest, shall initiate any contact with a member of the Board for the purpose of conducting a private discussion, in person, by telephone or by electronic mail, concerning the merits of an application, appeal, or other matter pending before the Board.

7-2 No member of the Board shall participate in any such private discussion.

7-3 Site visits or similar contacts initiated by members of the Board shall not constitute such ex parte contacts.

7-4 If any member of the Board is contacted by a party in interest, or attorney for such party, with reference to a matter pending before the Board, the Board member shall respectfully inform the party or attorney of the restrictions which the Rule imposes, and of the right of the party to make a full presentation to the entire Board at a Public Hearing and promptly discontinue the discussion.

ARTICLE 8: RECORDS

8-1 A complete file on each appeal 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 a public record.

ARTICLE 9: AMENDMENTS

9-1 These rules may be changed by a recorded three-fifths (3/5) vote of the entire membership after thirty (30) days prior notice to the members of the intent to consider such changes.

ARTICLE 10: ELECTRONIC PARTICIPATION

10-1 Pursuant to §2.2-3708.3 of the Code of Virginia, 1950, as amended, the following policy is established for members' remote electronic participation in Board of Zoning Appeals' meetings due to a personal matter or disability. This policy shall be applied strictly and uniformly, without exception, to the entire Board 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.

A Board member may participate in a meeting by electronic means pursuant to this section only when the Board makes arrangements for the voice of the remote participant(s) to be heard by all persons at the primary or central meeting location.

Individual members of the Board may elect, without further vote of the Board, to use remote participation instead of attending a public meeting in person, if the member, on or before the day of the meeting, notifies the Board Chair or County Administrator 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 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 a Board member elects to participate in a meeting through electronic communication, the Board member shall be considered present for purposes of establishing a quorum and the minutes of the meeting shall record 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 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 this policy, such disapproval shall be recorded in the minutes with specificity.

Amended September 18th, 2024