

ISLE OF WIGHT COUNTY
BOARD OF ZONING APPEALS BY-LAWS

ADOPTED DECEMBER 7, 2015

ARTICLE 1

Section 1-1. Creation.

The Isle of Wight County Board of Zoning Appeals was created by the Board of Supervisors of Isle of Wight County on February 7, 1970 pursuant to Title 15.2, Chapter 22, Section 15.2-2308 of the Code of Virginia (1950, as amended).

Section 1-2. Name.

The official name of the Board is the Isle of Wight County Board of Zoning Appeals hereinafter referred to in these By-Laws as the BZA.

ARTICLE 2

Section 2-1. Appointment.

The BZA shall consist of five (5) members, one (1) from each election district, appointed by the Isle of Wight Circuit Court based upon recommendation of the Isle of Wight County Board of Supervisors.

Section 2-2. Term.

The terms of the members of the BZA shall be five (5) years commencing with the date of the first regular BZA meeting following the appointment by the Circuit Court. A member whose term expires shall continue to serve until his or her successor is appointed and qualifies. Members may be reappointed to succeed themselves. Members of the BZA shall hold no other public office in Isle of Wight County except that one (1) member may be a member of the Isle of Wight County Planning Commission.

ARTICLE 3

Section 3-1. Annual Meeting.

The BZA shall organize and annually elect a chairman, vice-chairman, and the secretary at the first meeting in December, which shall be the BZA's annual meeting. The terms of officers shall run from January 1 to December 31 of the following year. The BZA shall elect from its own membership its officers, except for the Secretary, and each member so elected may succeed themselves. The Secretary may be elected from either the membership of the BZA or some other qualified individual who is not a member of the BZA. A Secretary who is not a member of the BZA shall not be entitled to vote. Nominations of officers shall be made from the floor and a candidate receiving a majority vote of the membership of the BZA in attendance and voting at said meeting shall be declared elected and serve for one (1) year or until his or her successor shall take office. Vacancies in office shall be filled immediately by regular election procedures.

Section 3-2. Duties of Chairman.

The Chairman shall preside at all meetings and hearings of the BZA; he shall decide all points of order or procedure and shall appoint any committees that are found to be necessary. He shall call special meetings of the BZA when required and, in general, shall act as spokesman for the BZA. The Chairman is specifically authorized to cast a vote on all motions made and duly seconded.

Section 3-3. Duties of Vice-Chairman.

The Vice-Chairman shall assume the duties of the Chairman in his absence.

Section 3-4. Duties of Secretary.

The Secretary shall assist the Chairman in the preparation of the agenda for BZA meetings, shall prepare and send out notices for regular and special meetings, shall prepare and distribute minutes of BZA meetings and shall establish and maintain the BZA's files. The Secretary shall notify the Circuit Court at least thirty (30) days in advance of the expiration of any term of office, and shall also notify the Circuit Court promptly if any vacancy occurs.

Section 3-5. Legal Advice; Parliamentarian.

The County Attorney or his designee shall attend all meetings of the BZA and shall provide legal representation to the BZA in the event of a court appeal. However, in the event the actions of the BZA conflict with the legal interests of the Isle of Wight County Board of Supervisors, the County Attorney shall represent the Board of Supervisors in the event of a court appeal. The County Attorney shall serve as the Parliamentarian for the BZA at all of its meetings.

Section 3-6. Technical Assistance.

Technical staff assistance, including the preparation of staff reports for all applications heard by the BZA, shall be provided by the Department of Planning and Zoning.

Section 3-7. Certification Training of Members.

Newly appointed members of the BZA will attend certification within the first year of their term if practicable, or as soon as possible. Each member will attend continuing education annually.

Section 3-8. Qualification with Circuit Court.

Each member, within a reasonable amount of time after receipt of his/her appointment letter to the BZA, shall contact the Clerk of the Isle of Wight Circuit Court and be sworn in as a member of the BZA.

ARTICLE 4

Section 4-1. Regular Meetings.

Regular monthly meetings of the BZA for the hearing of cases shall be held on the first Monday of each month at **6**p.m. in the Board of Supervisors Room, Isle of Wight Courthouse, Isle of Wight Virginia, provided that if this should be a holiday, the meeting will be held at the same time and place on the second Monday of each month. In the event no cases are pending, no monthly meeting shall be held, except in the case of the BZA's organizational meeting in December which shall be held in any event. The BZA 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.

Section 4-2. Special Meetings.

Special meetings of the BZA may be called at any time by the Chairman or in the absence or unavailability of the Chairman, by the Vice-Chairman. The Secretary shall mail to all members, at least five (5) days in advance of a special meeting, a written notice, fixing the time and place of the meeting and the purpose thereof. Written notice of a special meeting is not required if the time of the special meeting has been fixed at a regular meeting.

Section 4-3. Quorum; Majority Vote.

A majority of the members shall constitute a quorum and no action of the BZA shall be valid unless authorized by a majority vote of those present and voting.

Section 4-4. Robert's Rule of Order.

Robert's Rule of Order shall be the final authority for resolving procedural disputes. The Chairman shall decide all points of order as provided in Section 3-2. The BZA may dispense with Robert's Rules of Order by a unanimous vote.

Section 4-5. Meetings and Records Open.

All public meetings and hearings of the BZA shall be recorded. Closed sessions of the BZA will not be recorded. The Secretary will retain such recordings for sixty (60) calendar days from the date of the public meeting or hearing. If after sixty (60) days from the date of the public meeting or hearing the minutes of such meeting are not yet approved, the Secretary will retain the recording until the BZA approves the meeting minutes. On or after the sixty-first (61st) day, or until after the BZA approves the meeting minutes, if there shall have been no appeal of the BZA's action taken on the date of the hearing; the recording may be erased or otherwise disposed of.

ARTICLE 3

Section 3-1. Procedure for Appeals or Applications to the BZA.

Appeals or applications to the BZA may be taken by any person affected by a decision of the Zoning Administrator or by applicants for a variance as authorized by the Isle of Wight County Code. Such appeal or application shall be filed with the Zoning Administrator on the form provided by the Zoning Administrator. The Zoning Administrator shall transmit the appeal or application to the Secretary of the BZA along with all papers constituting the record of action upon which the appeal is based. An application or appeal filed according to the above procedure shall be given a case number within five (5) days. Applications or appeals will be assigned for hearing in the order in which they are received. The Secretary of the BZA shall notify all interested parties of the time schedule for the public hearing of the case and give public notice in accordance with Section 15.2-2204 of the Code of Virginia (1950, as amended), and Appendix B, Article I, Section 1-1019 of the Code of the County of Isle of Wight, (1978) as amended.

Section 3-2. Required Information.

The applicant shall provide the Secretary with all information requested on the form provided by the Zoning Administrator, and any such additional information and data as may be required to advise the BZA fully with reference to the application or appeal. Applications or appeals must be made on the proper form.

ARTICLE 4

Section 4-1. Format for Public Hearings.

(a) The Chairman will make a brief statement identifying the matter to be heard and verify with the secretary that all legal notification requirements have been met.

(b) The Chairman will call upon the Zoning Administrator or his designee to be heard. The Zoning Administrator or his designee shall speak to the issue and present the staff report which shall not exceed a time period of ten (10) minutes

(c) The Secretary, at the commencement of the hearing, will administer the oath to the applicant and all private citizens who will speak for or against an issue. Those unwilling to swear or affirm the oath will not be permitted to speak on the issue.

(d) The applicant may appear in his own behalf at the public hearing, or be represented by counsel or an agent and speak to the issue. The applicant, his counsel or agents have a combined total of ten (10) minutes to speak.

(e) The Chairman will open the floor to public comment, if any, after the Zoning Administrator or his designee, and the applicant or his counsel or agent have spoken. Any private citizen may speak for or against the issue. Private citizens are limited

to a maximum of ten (10) minutes per speaker. The applicant or his counsel or agent shall be given an opportunity for a final rebuttal, which shall last no more than five (5) minutes.

(f) The time limitations of these By-Laws may be varied or waived by a unanimous vote of the Board. In no event shall such time limit change result in unequal time being granted to an applicant, appellant, citizen or staff member.

(g) After the applicant, Zoning Administrator or his designee and the public have been heard; the Chairman will close the floor to public comment and refer the matter for BZA discussion. When a public hearing shall have been closed by order of the Chairman of the BZA, no further public comments shall be received.

(h) The concurring vote of a majority of the membership of the BZA shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance or special exception from the ordinance. All decisions of the BZA will be decided in accordance with Section 15.2-2309 *et. seq.*, of the Code of Virginia (1950, as amended), and Appendix B, Article I, Section 1-1019, *et. seq.*, Isle of Wight County Code, (1978), as amended.

(i) Within thirty (30) days after the hearing, the BZA shall notify the parties in interest and the Zoning Administrator or designee of the decision in writing.

ARTICLE 5

Section 5-1.Records.

The Secretary shall keep a complete file on each appeal, variance and other applicable documentation as part of the records of the BZA. All records of the BZA shall be a public record and shall be on file in the Office of the Isle of Wight County Department of Planning and Zoning. The BZA shall prepare and submit an annual report of its activities to the Isle of Wight County Board of Supervisors.

ARTICLE 6

Section 6-1. Amendment of By-Laws.

The By-Laws may be amended by a two-thirds ($2/3^{rds}$) concurring vote of the BZA; however, at least thirty (30) days shall have elapsed from the date of the BZA's initial consideration of an amendment to these By-Laws and the date of the BZA's vote on such amendment.

Ronald A. Fiveash
Chairman, Isle of Wight County Board of Zoning Appeals

Date: December 7, 2015

Attest:

Linda W. Robertson
Secretary