



MEMORANDUM

TO: ARCHITECTURAL REVIEW BOARD
FROM: Kate Schwartz, Historic Resources Planner
DATE: February 8, 2023 (for the February 13 meeting)
RE: Update to ARB Bylaws

ISSUE

The bylaws governing ARB procedures do not reflect recent updates by the City Council to formalize remote participation procedures for Board members.

RECOMMENDATION

Review the draft document and direct staff to schedule a vote on the amended bylaws for the March 13, 2023 meeting.

DISCUSSION

The Virginia Freedom of Information Act permits a member of a public body to 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 permitting remote participation, and the member notifies the public body of the reason for his or her remote participation.

City Council adopted Resolution 14-68 on August 26, 2014, to permit remote participation in City Council meetings. The 2022 General Assembly adopted HB444, amending the Freedom of Information Act in 2022, effective September 1, 2022, to require the adopted policy to describe the process the public body will use for making requests for remote participation, approving or denying such requests, and creating a record of such requests. The policy shall also “fix” the number of times remote participation for a “personal matter” can be used per calendar year, not to exceed the limitation set forth in state law. Finally, the public body may decide to permit any of its own committees and subcommittees to use the public body’s remote participation policy.

The City Council updated its remote participation policy in September 2022. The proposed updates to the ARB bylaws align with City Council’s policy and carry it forward for ARB members. Additional minor corrections to other portions of the bylaws are proposed for clarity and are shown in the attached draft. Amendments to the bylaws must be presented to the ARB at a regular meeting before a vote can occur. The ARB should review the draft and direct staff to schedule a vote at a subsequent meeting.

ATTACHMENTS

1. Draft amended bylaws dated February 13, 2023



**ARCHITECTURAL REVIEW BOARD
OLD AND HISTORIC FREDERICKSBURG DISTRICT (HFD)
RULES OF PROCEDURE**

I. PROCEDURE

Pursuant to Chapter 10, Article II, Division 2 of the Code of the City of Fredericksburg, the Architectural Review Board (ARB) of the City of Fredericksburg, Virginia, hereby establishes its procedures for reviewing applications for Certificates of Appropriateness regarding properties within the HFD as well as for providing advisory review of City and other governmental projects outside of the HFD.

II. GENERAL RULES

The ARB shall be governed by the provisions of Section 72-23.1, Historic District – Certificates of Appropriateness, and Section 72-34.1, Old and Historic Fredericksburg District, of the Code of the City of Fredericksburg, as those provisions may be amended or revised.

III. JURISDICTION

The area of the City in which Certificates of Appropriateness are required is set forth in the Unified Development Ordinance, Section 72-34.1.E, on file in the Office of Community Planning and Building, Planning Services Division, ~~in City Hall, 715 Princess Anne Street~~601 Caroline Street, Fourth Floor, Fredericksburg, Virginia 22401.

IV. MEMBERS, OFFICERS, AND DUTIES

A. GENERAL: The Board is composed of seven (7) members.

B. CHAIRPERSON: A Chairperson shall be elected at the ARB organizational meeting upon the vote of no less than four (4) members. The Chairperson's term of office shall be for one year and no person shall serve in that position for more than two consecutive terms. The Chairperson shall preside at all meetings of the ARB and shall utilize Robert's Rules of Order in the conduct of said meetings. The Chairperson shall affix his/her signature to all official minutes of the ARB. The Chairperson shall rule on all points of order and procedure regarding the implementation of these rules unless overruled by a majority vote of the ARB in session at that time. The Chairperson shall accept or make nominations or appointments to ARB subcommittees, as necessary, for the conduct of ARB business, with such appointments being made by a majority of the ARB in session at that time.

C. VICE-CHAIRPERSON: A Vice-Chairperson shall be elected at the organizational meeting of the ARB upon the vote of no less than four (4) members of the ARB. The term of office for this position shall be the same as that of the Chairperson. The Vice-Chairperson shall act in the absence of the Chairperson and in so doing shall have all of the duties and powers of the Chairperson.

D. SECRETARY: A member of the ARB may be elected to serve as Secretary to the ARB although City staff handles the duties of Recording Secretary to the ARB and is responsible for Board correspondence, public advertising, circulating material to members and –applicants, and maintenance of ARB records. All records shall be maintained according to applicable statutes and made available for public inspection in the Office of Community Planning and Building, Planning Services Division. The City staff may handle these duties in lieu of an elected member of the ARB.

E. ELECTIONS: The ARB's organizational meetings shall be held at the first regular January meeting, at which time officers shall be elected with the terms of office beginning immediately at that meeting.

F. ATTENDANCE OF MEETINGS: No member of the ARB shall miss more than two consecutive regular meetings or more than half of the regular meetings in any calendar year. Absence due to sickness, death in the family, or emergencies of like nature, shall be recognized as excused absences. The Secretary shall notify a member when he or she is approaching the maximum number of unexcused absences. When a member has exceeded the maximum number of unexcused absences, the Secretary shall notify the full ARB and the City Manager.

G. REMOTE PARTICIPATION: A member of the ARB who cannot attend a meeting in person due to an emergency or personal matter may participate via remote participation.

“Remote participation” means participation by an individual member of the ARB by electronic communication means (audio + optional video) in a public meeting where a quorum of the ARB is physically assembled.

Individual ARB members may participate in meetings of the Board by electronic communication as permitted by Va. Code §2.2-3708.3. This policy shall apply 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 grounds for remote participation are the following:

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 meeting notice; or
4. The member is unable to attend the meeting due to a personal matter, the nature of which is identified with specificity.

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Whenever an individual member wishes to participate from a remote location, a quorum of the ARB shall be physically assembled at the primary or central meeting location.

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When such individual remote participation is due to a personal matter, such participation is limited to 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.

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A member who wishes to use remote participation will notify the Historic Resources Planner to make the request in sufficient time for staff to make any necessary technical arrangements, and the staff will notify the Chairperson of the request.

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Unless a member of the ARB objects to the remote participation at the beginning of the meeting, it is deemed approved without action by the Board. If a member of the Board does object to the remote participation, it may be disapproved, but only if it would violate FOIA or this policy.

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The minutes of the meeting shall record all of the information required by Va. Code §2.2-3708.3.

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G.H. CONFLICTS-OF-INTEREST: Members of the ARB shall carefully consider whether or not they have any conflicts-of-interest in matters coming before the ARB. If a conflict-of-interest exists, the member having the conflict shall take no formal role in the ARB decision, but will remain seated with the Board during the discussion and voting process. Members claiming a conflict-of-interest shall provide a written notice to the Board and also state their reason(s) for disqualifying themselves so these can be entered into the minutes of the meeting.

H.I. RESPONSIBILITIES OF MEMBERS: It shall be the responsibility of each member of the ARB to become thoroughly familiar with the applicable laws, statutes, ordinances, rules, and procedures relating to the HFD. Each member shall vote on matters coming before the ARB, unless formally excused due to a conflict-of-interest or with the permission of the majority of the members of the ARB then in session. Members shall diligently review applications presented at meetings they were unable to attend, as well as the minutes of those meetings, as practicable, before voting on such applications.

I.J. EX PARTE COMMUNICATION: ARB members shall act responsibly in discussing issues before the Board in private conversation. No ARB member shall advise applicants on the approvability of their application outside of a formal meeting.

V. MEETINGS

A. MEETINGS: Regular meetings of the ARB shall be held on the second Monday of each month at 7:00pm.

Supplementary meetings, when needed, are held on the fourth Monday of each month at 7:00pm or at a time and place agreed upon by the ARB at a previous meeting. These work

sessions may be used for continued discussion of applications, informal review, and ARB business.

B. MEETING LOCATIONS: Meetings shall be held in the following locations:

1. Second Monday—Regular meetings for consideration of applications. Held in Council Chambers, City Hall.
2. Fourth Monday—Supplementary meetings (only held as needed). Held in Council Chambers, City Hall or at a place and time agreed upon by the ARB and the applicants.

C. CANCELLATION OF MEETINGS: Whenever there is no business for the ARB, the Chairperson may dispense with a meeting by giving notice to all members not less than twenty-four (24) hours prior to the time set for the meeting.

D. QUORUM: A quorum shall consist of not less than a majority of all members of the ARB.

E. CONDUCT OF MEETINGS: All meetings shall be open to the public.

1. The order of business at regular meetings shall be as follows:

- a. Determination of a quorum.
- b. Determination that public notice requirements have been met.
- c. Approval of agenda.
- d. Review of minutes of previous meeting(s).
- e. Disclosure of ex parte communication
- f. Disclosure of conflicts of interest
- g. Consideration of applications for Certificates of Appropriateness (public hearing).
 - i. Consent Agenda
 - ii. Continued Cases
 - iii. New Cases

h. General Public Comment

i. Other Business

2. The order of business at supplementary meetings shall be as follows:

a. Determination of a quorum.

b. Determination that public notice requirements have been met.

c. Approval of agenda.

d. Continued Cases

e. New Business (not to include consideration of new applications)

f. General Public Comment

F. VOTING: The vote of a majority of all members appointed shall be necessary to decide matters before the ARB. An abstention may have the practical effect of a "no" vote since a motion may fail for lack of sufficient "yes" votes.

G. PUBLIC HEARINGS AND THE PUBLIC RECORD: The ARB defines a public hearing as a portion of an open meeting, duly advertised, to provide an opportunity for any interested person to comment on a case before the Board.

The ARB shall conduct its public hearings at its regular meetings. Designated hearings require speakers to limit their testimony to the specific application at hand. City staff ensures all public notice requirements are met. The Chair must ensure that the hearing is conducted so all speakers have the same opportunity to comment. The ARB is fully authorized to put a limit on the amount of time speakers have to deliver their comments. The Chair must also curtail any abuses of the public participation process.

All new applications for Certificates of Appropriateness, with the exception of administratively reviewed applications, must be considered in a public hearing that has been properly advertised. If the ARB requires additional information or consideration before taking action on a Certificate of Appropriateness, the Board may vote to keep the public hearing open and continue the case to a future regular meeting of the ARB; but the ARB shall not vote on an application until the public hearing is closed. Supplementary meetings are work sessions that may be used for continued design work and discussion on COA applications. If the public hearing

on an application has been closed, and the ARB has reviewed the application in a work session, continued cases may be included on a consent agenda at a subsequent meeting of the ARB.

The Secretary, or City staff, will develop meeting minutes as the official record of the ARB's meetings. By definition, minutes are a summary of matters discussed, and a record of the ARB's decisions, including a record of any votes taken, rather than a transcript of what was said.

VI. CONSIDERATION OF APPLICATIONS

A. ORDER OF BUSINESS: Any party may appear in person or by agent or attorney at the meeting. The order of business for a public hearing for an application for a Certificate of Appropriateness shall be as follows:

1. A City staff presentation on each item ~~prior to the applicant's comments.~~
2. The Chairperson shall recognize the applicant. The applicant or his/her representative shall be allowed to make a statement and/or presentation for up to 15 minutes, and may give a response, after all citizens have spoken, for up to 5 minutes.
3. Any person(s) interested in the application may speak at a public hearing for up to five minutes in support of or against the application. Written comments received in advance of the hearing will be read into the record by staff, with up to 3 minutes allowed for the reading of each comment.
4. When public testimony is complete, the ARB shall deliberate. If the ARB determines that enough information is available to render a decision, the Chairperson shall close the public hearing and the Board will then determine whether to approve, allow modifications to, or deny the application. The Board has the authority to approve or deny applications in the absence of the applicant or his/her representative. If the ARB elects to continue their consideration of the case, the Chairperson shall keep the public hearing open until the next regular meeting of the ARB.
5. Written notice of the Board's decision shall be promptly transmitted to applicant(s) and shall include the guidelines contained in the City ordinance upon which the decision was based.
6. The procedure to be used for an individual application may be modified upon the concurrence of all of the parties before the Board and a majority of the members of the ARB.

7. An additional opportunity for public comment shall be provided if proposed plans are modified materially from those that were provided for public review and comment, and that raise new issues which interested parties could not reasonably have foreseen during the public review process.

B. REVIEW CRITERIA: When reviewing applications for Certificates of Appropriateness, the ARB shall follow the requirements set forth in the City Code and the guidelines contained in the Historic District [Design Guidelines Handbook](#). The ARB shall limit all of its consideration and discussion to the applicable provisions for review contained therein.

C. REVIEW PROCEDURE: The ARB may engage in a two-step review process for specific projects, as warranted. Staff may make a determination as to the appropriateness of the process and present applications to the ARB accordingly. This approach allows the ARB to provide timely guidance to architects and property owners as they incur the costs of designing complex or large-scale projects. The first step in this process defines the parameters of a project, through a review of the site planning and the scale and massing. The second step considers the final proposed project in its entirety. At least one public hearing shall be conducted for each step.

VII. CONSENT AGENDA

A. PURPOSE: A consent agenda serves as a means to expedite approval of applications that have been reviewed administratively or are complete in nature, clearly meet all applicable guidelines, where the public hearing has been closed, and for which there is no additional public comment.

B. ORDER OF BUSINESS: The order of business for considering a consent agenda shall be as follows:

1. Staff will place cases that have been administratively reviewed or are thought to have complete information on a consent agenda. Applications for which additional information is needed will not be included.
2. During approval of the agenda, at a regular meeting, the Chair will ask if any member desires to remove any listed item from the consent agenda.
3. If any ARB member desires to remove an item from the consent agenda, to obtain additional information or for some other reason, that item will be considered individually during the regular agenda.

4. After Board members have had an opportunity to remove items from the consent agenda, the Chair will ask if any member of the public desires to speak to any item on the consent agenda.
 5. If any member of the public desires to provide testimony regarding an item on the consent agenda, that item will be removed from the consent agenda and heard individually during the regular agenda.
 6. By a motion, duly seconded, and voted upon, the ARB will approve its meeting agenda, including the overall content of the consent agenda.
 7. At the appropriate time on the agenda, by a motion, duly seconded, and voted upon, the ARB will approve the consent agenda.
- C. NOTICE OF CITY ACTION: Applicants whose items are approved on consent will receive the same notification and Certificate of Appropriateness as those applicants whose items are heard during the regular agenda.

VIII. RECONSIDERATION OF APPLICATIONS

- A. ORDER OF BUSINESS: The order of business for reconsideration of applications for Certificates of Appropriateness shall be as follows:
1. The Chairperson at a regular meeting following a meeting where a determination notice was delivered shall entertain a motion from a member of the ARB that voted with the prevailing side. The purpose of reconsideration is to permit correction of a hasty, ill-advised, or erroneous action, or take into account added information or a changed situation that has developed since the taking of the vote. The applicant for a matter being opposed, however, shall be given the opportunity to present any other additional supporting evidence if the ARB decides to reconsider his/her application.
 2. After receiving additional facts and argument, the ARB shall determine whether or not there has been a substantial change in the facts, evidence, or conditions relating to the application, which would warrant reconsideration.

IX. APPLICATION PROCEDURES

- A. An application must be filed in the Office of Community Planning and Building, Planning Services Division, by a deadline established by City staff to allow sufficient time to process the application and comply with public notification requirements prior to the regular meeting of the ARB. The application shall be accompanied by a check for the appropriate fee payable to

the "City Treasurer." The application shall be accompanied by all necessary sketches, drawings, photographs, specifications, descriptions, or any other pertinent data for the proposed project. When the Planning staff determines the application is complete, ~~they~~he/she shall prepare a report for the ARB analyzing the application against the applicable criteria, and then ~~he~~she shall present it to the ARB for its review.

B. The Office of Community Planning and Building, Planning Services Division, shall advertise applications for a hearing at a regular meeting of the ARB, as specified in the City Code.

C. It shall be the policy of the ARB in regard to applications involving extensive alterations and/or additions to existing structures that the ARB shall be available to meet with representatives of the persons or organizations involved at some early stage in the design process to informally advise them about Historic District guidelines, the nature of the area where the proposed construction is to take place, and other relevant factors. No advice or opinion given by any individual member at that time shall be, in any way, official or binding upon the ARB as a whole.

~~D. The ARB may, at its option, engage in a two-step process for large-scale buildings. In these instances, the Board will consider the overall design, but render a decision on only the site planning, scale and massing, and roof shape. This initial approval will define the parameters within which the applicant and/or a design team will be able to work to complete the project design. In the second step, the ARB will address the remaining details, to complete the review process.~~

X. AMENDMENTS

These rules may, within the limits allowed by law, be amended at any time by an affirmative vote of not less than five (5) members of the ARB, provided that such amendment shall have first been presented to the membership in writing at a regular or special meeting preceding the meeting at which the vote is taken.

ADOPTED - March 11, 1985
REVISED - August 26, 1985
January 10, 1990
March 9, 1992
April 14, 1997
February 9, 1998
February 8, 1999
December 10, 2001
July 11, 2005
May 11, 2007
June 11, 2007
October 15, 2007
May 10, 2010
December 13, 2010
January 12, 2015
July 11, 2016
December 9, 2019

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