



**BOARD OF ZONING APPEALS
CITY OF FREDERICKSBURG, VIRGINIA
BYLAWS**

Article I: Authorization

- 1.1 The Board of Zoning Appeals is established in accord with the provisions of the Code of Virginia § 15.2-2308.
- 1.2 The official title of this Board of Zoning Appeals shall be the Board of Zoning Appeals of the City of Fredericksburg, hereinafter referred to as the “Board”.

Article II: Members

- 2.1 The Board of Zoning Appeals shall consist of five (5) residents of the city, appointed by the Circuit Court of the City. Their terms of office shall be for five (5) years each, and the term of office of one member shall expire each year.
- 2.2 At the annual meeting in February or the first meeting of the year, members of the Board shall elect a Chair and Vice Chair to hold office for a one (1) year term.
- 2.3 The Chair shall preside over meetings of the Board, represent the Board to other governing bodies, act as a liaison between the Board and the Planning Department, assist in the preparation of the agenda for meetings, and any other duties which may be assigned in these bylaws or by the Board. The Chair may administer oaths and compel the attendance of witnesses.
- 2.4 The Vice Chair shall exercise the powers and perform the duties of the Chair during the absence, disability or disqualification of the Chair.
- 2.5 Members of the Board shall hold no other public office in the City, except one may be a member of the Planning Commission.
- 2.6 Members should give at least thirty (30) days prior written notice to the Recording 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. Should a vacancy occur among the officers, the Board shall move to fill any vacancy as promptly as practicable and the individual elected to

such position shall serve for the remainder of the unexpired term in which the vacancy has occurred. A member whose term expires shall continue to serve until his successor is appointed and qualifies.

Article III: Organization

- 3.1 Forms, documents, files and records of the Board shall be kept and maintained in the office of the Planning Department.
- 3.2 The office of the Planning Department shall be responsible for all required notifications regarding variances and appeals which are to be heard by the Board.
- 3.3 Subject to the availability of funds, the Director of Planning shall designate a Recording Secretary of the Board and such other support personnel as may be necessary for the Board to perform its functions. The Recording Secretary of the Board shall prepare the minutes of the meetings of the Board for the signature of the Chair and shall keep accurate records of all proceedings of the Board; recording the vote of each member on each matter voted upon.

Article IV: Meetings

- 4.1 Regular meetings shall be held in the City Council Chambers, at 4:00 pm on the third Monday of each month, unless agreed upon by the Board otherwise. If a scheduled meeting is cancelled due to inclement weather or other unforeseen reason, the backup meeting date will be the following regularly scheduled Board of Zoning Appeals meeting date and time. When a meeting falls on a legal holiday, the meeting shall be held on the following Monday unless otherwise designated by the Chairman or by a vote of the Board. If the City offices are closed then the meeting will be cancelled.
- 4.2 In preparation of hearing the cases to be presented at each regular meeting, members of the Board of Zoning Appeals and the Zoning Administrator, or his/her representative, shall visit the site of each case listed on the agenda for that month, at some point prior to their arrival at the regular meeting. Site visits need not be made as a group, but at each individual's convenience.
- 4.3 Work sessions may be held at the request of the Chair, the Vice Chair or the Zoning Administrator or his/her representative. Work sessions shall be held for the purpose of inquiry, discussion and/or training. No official action shall be taken at such meetings.
- 4.4 The Recording Secretary of the Board shall give written notice of all meetings at least seven (7) days prior to the meeting. Such notice shall be accompanied by an agenda and accompanied by any documentation as may be reasonable to permit the members of the Board to consider the business which they are being called upon to act.

- 4.5 The Board will comply with the Code of Virginia and the Freedom of Information Act as it pertains to notice of meetings.
- 4.6 No Board member shall have more than three (3) consecutive, or five (5) total unexcused absences from regularly scheduled meetings or work sessions during any calendar year. Absences may be excused by the Chair in the case of illness, death in the family, or other special circumstances which, in the judgment of the Chair, warrant said absence. The Vice Chair, in accordance with the above procedures, may excuse absences by the Chair. A statement may be made by the presiding officer for recordation in the minutes stating whether the absence is excused or unexcused.
- 4.7 If a Board member exceeds his/her number of unexcused absences, the Chair or Vice Chair, where applicable, shall notify said member in writing that he/she is dismissed from the Board and shall request City Council to make a recommendation to the Circuit Court for appointment of a new member.

Article V: Conduct of Meetings

- 5.1 All meetings of the Board shall be held in an open public forum.
- 5.2 In order to conduct a Board meeting, a quorum of the members must be present. A majority of the members of the Board shall constitute a quorum. The concurring vote of a majority of the membership of the Board 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 City Code or to effect any variance from the Zoning Ordinance.
- 5.3 All meetings of the Board shall be conducted in accordance with Robert's Rules of Order, as modified.
- 5.4 At any meeting of the Board, the order of business to come before the Board shall be as expressed on the agenda sent out with the notice of the meeting. The presiding officer, with consent of a majority of the members present, may change the order of business for any reason. Any matter not on the agenda for the meeting shall be brought before the Board for consideration as an amendment to the agenda.
- 5.5 A member shall disqualify himself/herself from participating in a matter if it applies to property or a business in which he/she has a personal interest, as provided in Virginia Code §2.2-3111. In the event that any member shall have a personal interest in a matter coming before the Board, such member shall disclose his/her interest and shall disqualify himself/herself from the discussion and voting of this matter and shall comply with the declaration requirements of Virginia Code §2.2-3115 (G) as applicable. In the event that another member of the Board or any person present at the meeting believes that a member has an interest in any

matter, such member or person may bring such question to the attention of the Board.

- 5.6 At all meetings of the Board, each member present shall be entitled to cast one vote. All votes shall be recorded in the meeting minutes.

Article VI: Procedure for Applications/Appeals

- 6.1 The agenda item number, summary and any other relevant information shall be read aloud and the staff report given prior to receiving public input.
- 6.1.1 In the case of an appeal, the administrative officer shall explain the basis for his determination.
- 6.1.2 In the case of an application for a variance, the administrative officer shall explain the information and recommendation in their staff report.
- 6.2 At the conclusion of the staff report:
- 6.2.1 In the case of an appeal, the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence.
- 6.2.2 In the case of an application for a variance, the appellant has the opportunity to present their case for a variance.
- 6.2.3 In both cases, the board shall offer an equal amount of time in the hearing to the applicant or appellant and the staff, however, the applicant shall have no less than ten minutes to present their case.
- 6.3 The Chair will open the Public Hearing.
- 6.4 Persons in support of or in opposition to the application may present their position. Such presentations shall be subject to the following:
- 6.4.1 Prior to speaking, each speaker will identify himself/herself and state his/her current address.
- 6.4.2 Members of the public wishing to speak may be given up to five (5) minutes to present their case, limitable or extendable at the discretion of the Chair.
- 6.5 Upon determination by the presiding officer that all members of the public requesting to be heard on the matter, have been heard, the applicant, or his/her authorized agent, may be permitted up to three (3) minutes for rebuttal.
- 6.6 Closed Public Hearing. Upon closure of the public hearing, no further comments should be heard from the audience unless specifically asked for by the Chair.
- 6.7 Upon closure of the public hearing, the Board members may openly discuss the application/appeal and vote to approve, deny or defer to the next regular meeting.

The official minutes of the meeting shall show reason(s) for the Board's decision for approval, denial or deferral.

- 6.8 It shall be the responsibility of the Chair to enforce the time limitations set forth in this Article so that the hearing is held in a fair and judicious manner. During a public hearing all presentations and comments shall be addressed to the Chair. There shall be no questioning, debates or arguments between individuals in the audience. The Chair, Board members, Counsel to the Board, or staff may direct any questions to the applicant or any person speaking from the audience, through the Chair to bring out pertinent facts. The Chair or Board members may call for information from the staff. No Board member shall debate or argue with persons in the audience. Nothing contained herein shall be construed as prohibiting the Chair from conducting an orderly meeting.

Article VII: Training Requirements

- 7.1 All members of the Board shall attend at least one training session per term. Such training will be provided at the expense of the City and arranged by the Zoning Administrator or his/her representative. Training will pertain to the work and functions of the Board or to the Zoning Ordinance.

Article VIII: Records of Board Meetings

- 8.1 The Recording Secretary shall maintain a complete file on each case as part of the records of the Board of Zoning Appeals.
- 8.2 The Recording Secretary shall prepare minutes for each meeting of the Board to record actions of the Board, and such minutes, after adoption by the Board, shall be the official record of the Board's actions.
- 8.3 The application or appeal file and the adopted meeting minutes shall be a public record.
- 8.4 Audio Recordings –
- 8.4.1 The Recording Secretary shall record all meetings of the Board unless technical difficulties prevent recording.
- 8.4.2 Any individual who would like to listen to tapes of the meetings shall file with the Recording Secretary a written request that includes the requesting party's name, address and telephone number.
- 8.4.3 The Recording Secretary shall contact the requesting party to arrange a mutually agreed upon time within regular hours that the requesting party may listen to the tapes in the office of the Planning Department. Tapes shall not be taken out of the office.

8.4.4 The Recording Secretary shall maintain tapes for thirty (30) days after adoption of the Board's meeting minutes, after which time, the Recording Secretary may destroy such tapes per City records disposal policies.

Article IX: Adoption, Amendments and Conflicts

- 9.1 These bylaws and procedures shall be in full force and effect unless modified by motion to amend, which must receive a second, and majority vote in favor.
- 9.2 These bylaws may be amended by vote of a majority of the Board at any meeting provided, however, notice of such proposed amendment shall be given to each member of the Board in writing at least three (3) days prior to such meeting.
- 9.3 To the extent any provision of these bylaws is in conflict with State or local law, such provision shall be interpreted so as to avoid conflict, and the State or local law shall take precedence. In the event that any term or provision of these bylaws, or the application thereof to any person or circumstances shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the bylaws, and their application to any person or circumstances other than those where it has been held invalid or unenforceable, shall not be affected thereby.

By-laws amended by majority vote on April 17, 2017.



Helen P. Ross, Chair