

# Dinwiddie County Board of Zoning Appeals

January 18, 2023

**Organizational/Regular Meeting Agenda - 7:00 PM  
Government Center Building Board Meeting Room**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF AGENDA**
- 4. MINUTES**

Documents:

[May 18 2022 Meeting Minutes.pdf](#)

- 5. CITIZEN COMMENTS**
- 6. ELECTION OF CHAIRMAN FOR 2023**

Documents:

[Chairman Resolution.pdf](#)

- 7. ELECTION OF VICE CHAIRMAN FOR 2023**

Documents:

[Vice Chairman Resolution.pdf](#)

- 8. ELECTION OF SECRETARY FOR 2023**

Documents:

[Secretary Resolution.pdf](#)

- 9. DETERMINATION OF MEETING SCHEDULE FOR 2023**

Documents:

[Meeting Schedule Resolution - EVERY MONTH.pdf](#)

[Meeting Schedule Resolution - EVERY OTHER MONTH.pdf](#)

- 10. OLD BUSINESS**

**11. NEW BUSINESS**

**12. REVIEW OF BY-LAWS**

Documents:

[BZA Bylaws.pdf](#)

[Bylaw Resoution Memo.pdf](#)

**13. REVIEW CODE OF ETHICS AND STANDARDS OF CONDUCT**

Documents:

[BZA Code of Ethics and Standards of Conduct.pdf](#)

**14. BOARD MEMBER COMMENTS**

**15. ZONING ADMINISTRATOR COMMENTS**

**16. ADJOURNMENT**

VIRGINIA: MINUTES OF THE REGULAR MEETING FOR THE DINWIDDIE COUNTY BOARD OF ZONING APPEALS HELD IN THE BOARD MEETING ROOM OF THE DINWIDDIE COUNTY GOVERNMENT CENTER BUILDING ON THE 18<sup>H</sup> DAY OF MAY, 2022 AT 7:00 P.M.

PRESENT: TRACY SHEETS                      VICE CHAIRMAN  
WILLIAM SEAY  
LANCE EVERETT

ABESENT: WILSON YAGER                      CHAIRMAN  
DONNIE BOSTIC

OTHERS: BRAD ROBINSON                      SENIOR PLANNER/ZONING ADMINISTRATOR  
MICHAEL DREWRY                      ASST. COUNTY ATTORNEY

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**IN RE:            CALL TO ORDER**

The Vice Chairman called the meeting to order at 7:00 p.m.

**IN RE:            ROLL CALL**

The Vice Chairman asked for the roll to be called. Mr. Yager and Mr. Bostic were not present.

**IN RE:            APPROVAL OF AGENDA**

The Vice Chairman asked if there were any additions or corrections to the agenda. She said since there are none she would entertain a motion to accept the agenda as presented.

Mr. Seay made a motion that the agenda be accepted as presented. It was seconded by Mr. Everett and with Mr. Seay, Mr. Everett and Ms. Sheets voting “Aye”, the Agenda was accepted as presented.

**IN RE:            MINUTES**

The Vice Chairman said you have the minutes from the January 19, 2022 Organizational/Regular Meeting before you. She asked if there were any corrections. She said since there are none she would entertain a motion to accept the minutes as presented.

Mr. Everett made a motion that the minutes be accepted as presented. It was seconded by Mr. Seay and with Mr. Seay, Mr. Everett and Ms. Sheets voting “Aye”, the Minutes were accepted as presented.

**IN RE:            CITIZEN COMMENTS**

There was no one present so the Vice Chairman opened and closed the citizen comment portion of the meeting.

**IN RE: PUBLIC NOTICE**

**Board of Zoning Appeals Staff Report**

File: V-22-1  
Applicant: Gerald and Juanita Massengill  
Property Location: Adjacent to/south of 7501 Claiborne Road, Sutherland  
Acreage: 5.026 acres  
Tax Map Parcel: 19-71C  
Current Zoning: Agricultural, General, District A-2

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**SUMMARY OF CASE**

The applicants, Gerald and Juanita Massengill, and their agent, Jesse Severt, are seeking a variance from Zoning Ordinance Section 22-73. – Setback, which requires structures in the Agricultural, General, District A-2 to be located 105 feet or more from the centerline of any street right-of-way, and Section 22-74. – Frontage, which requires permitted uses in the Agricultural, General, District A-2 to have 400 feet of frontage at the building setback line. The grandfathered plat shows a 237.01 foot building setback line at a lot width of 300 feet. The applicants are requesting to reduce the building setback line to 147 feet at a lot width of 287 feet. The subject parcel is located on Claiborne Road, Sutherland, Virginia, and is designated as Tax Map Parcel 19-71C, which is currently zoned Agricultural, General, District A-2.

**ATTACHMENTS**

The following are included:

- Application
- Location Map

**PURPOSE OF THE STANDARD**

As described in Section 22-2 of the Dinwiddie County Zoning Ordinance, the regulations of the zoning ordinance are “for the purpose of promoting the health, safety and general welfare of the public.” These regulations are also a planning tool utilized by the County for improving the orderly development of land.

More specific to this application, Sec. 22-70. of the Zoning Ordinance states that “generally, agricultural, general, district A-2 covers the portion of the county into which urban-type development could logically expand as the need occurs. As a general rule it surrounds residential sections. This district is established for the specific purposes of:

- 1) Providing for the orderly expansion of urban development into territory surrounding incorporated areas within or adjacent to the county;
- 2) Confining such development to such locations as can feasibly be supplied urban-type facilities; and
- 3) Discouraging the random scattering of residential, commercial and industrial uses into the area.”

**APPLICABLE CODE SECTIONS**

The Code of Virginia provisions relevant to this variance request include:

**Sec. 15.2-2201. Definitions**

"Variance" means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area,

bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

**Sec. 15.2-2309. Powers and duties of boards of zoning appeals.**

Boards of zoning appeals shall have the following powers and duties:

2. Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases a variance as defined in § 15.2-2201, provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in this section.

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability, and (i) the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance; (ii) the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area; (iii) the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance; (iv) the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and (v) the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A 4 of § 15.2-2286 at the time of the filing of the variance application.

The Dinwiddie County Code provisions relevant to this variance request include:

**Sec. 22-73. - Setback.**

Structures in agricultural, general, district A-2 shall be located 105 feet or more from the centerline of any street right-of-way, except that signs may be erected up to the property line, however, such signs shall not block the view of traffic from a roadway. This shall be known as the "setback line".

**Sec. 22-74. - Frontage.**

The minimum frontage of permitted uses in agricultural, general, district A-2 shall be 400 feet, at the building setback line.

**CASE ANALYSIS**

The applicants are seeking a variance from the setback and frontage requirements of the A-2 District in order to construct a single-family dwelling on Tax Map Parcel 19-71C. The subject property is 5.026 acres. The A-2 District requires a minimum front setback of 105 feet from the centerline of Claiborne Road (Route 631), however, the property must also maintain the minimum road frontage at the building

setback line. While the minimum frontage currently required by the A-2 District is 400 feet, the minimum frontage was 300 feet at the time the subject property was created in 2000.

The subject property is not 400 feet wide at any point from the front to the rear. Therefore, a minimum setback of 237.01 feet from the centerline of Claiborne Road is required to comply with a minimum frontage of 300 feet at the building setback line, all of which is reflected on the recorded grandfathered plat.

Due to the topography of the subject property, the applicants are requesting to reduce 1) the minimum front setback from 237.01 feet to 147 feet and 2) the minimum frontage at the building setback line from 300 feet to 287 feet. The topography on the rear portion of the subject property begins to slope and fall towards Hatcher Run which is located over 400 feet to the south. The requested variance would reduce the front setback by a total of 90.01 feet and the frontage at the building setback line by a total of 13 feet.

Strict application of the ordinance, or requiring the dwelling to comply with the minimum setback and frontage requirements, would prevent the dwelling from being constructed and restrict utilization of the property. The topography on the rear portion of the property is a physical hardship not imposed by the applicant.

For case V-22-1, staff recommends **APPROVAL** of a variance of 90.01 feet from the front setback requirement and 13 feet from the minimum frontage required at the building setback line for a proposed single-family dwelling, due to the topography on the rear portion of the property. Sec. 15.2-2309 of the Code of Virginia states that, notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and:

- (i) **“the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;”**

The applicant did not create the hardship as the topography on the rear of the property is naturally occurring.

- (ii) **“the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;”**

There is no indication that the granting of the variance will be of any detriment to the adjacent property owners. The proposed dwelling will still comply with the minimum side and rear yard setbacks of 35 feet and 75 feet, respectively. The proposed front setback of 147 feet exceeds the requirement of 105 feet from the centerline of Claiborne Road (Route 631).

- (iii) **“the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;”**

The topography of the subject property is not so general that it could be remedied with an amendment to the ordinance, specifically by amending the building setback requirement for agricultural, general zoned property.

- (iv) **“the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and”**

Granting of the variance will not result in a use that is not permitted on the property nor change the A-2 zoning classification of the property.

- (v) **“the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A4 of § 15.2-2286 at the time of the filing of the variance application.”**

Relief is not available by a special exception process and a modification of the ordinance is not in progress at this time.

### **BOARD OF ZONING APPEALS ACTION**

The final statement of action should be similar to the following. If a BZA member chooses to make this motion, it should be read aloud:

I move that the Board of Zoning Appeals adopts the following resolution:

WHEREAS, the Code of Virginia, specifically § 15.2-2309, states that the Board of Zoning Appeals shall grant a variance if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and:

- i. the property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
- ii. the granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
- iii. the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;
- iv. the granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and
- v. the relief or remedy sought by the variance application is not available through a special exception process that is authorized in the ordinance pursuant to subdivision 6 of § 15.2-2309 or the process for modification of a zoning ordinance pursuant to subdivision A4 of § 15.2-2286 at the time of the filing of the variance application; and

**WHEREAS, the Board (FINDS AS TRUE or DOES NOT FIND AS TRUE) the factual statements and rationale set forth in the staff report,**

**BE IT THEREFORE RESOLVED THAT pursuant to Virginia Code Section 15.2-2309, after full examination of the facts and law related to the case, the Board of Zoning Appeals finds the foregoing criteria are (MET or NOT MET) and the Board of Zoning Appeals (APPROVES or DENIES) variance request V-22-1, to grant the request for a variance of 90.01 feet from the front setback of 237.01 feet, and a variance of 13 feet from the minimum frontage of 300 feet at the building setback line.**

Mr. Robinson asked if there were any questions from the Board Members.

Mr. Seay said so this variance is before us because where our ordinance requires the applicant to build his house is a slope portion of his property. The applicant just wants to move it forward so as to not be on that slope.

Mr. Robinson said that is correct.

Ms. Sheets asked if any of the surrounding neighbors had any problems with this request.

Mr. Robinson said there were a few people who called in response to the sign and its meaning, but no one called in opposition.

There was some general conversation with Mr. Robinson and the Board members about the old building setback number of a three hundred (300) feet and the new building setback number of four hundred (400) feet.

The Vice Chairman said since there are no questions for Mr. Robinson, would the applicant like to come forward and add anything.

Mr. Gerald Massengill, 18816 Waterford Drive, Sutherland, VA said he didn't have anything else to add, but he wanted to thank the Board members for coming out to hear his case.

The Vice Chairman asked if there were any more questions for the applicant. She said since there are none she was opening the public hearing portion of the case. She asked if anyone had signed up to speak. She said since there is no one, she was closing the public hearing portion of the case. She told the members if they had anything else they wanted to add she would entertain a motion.

Mr. Everett made a motion and read the following: WHEREAS, the Board (FINDS AS TRUE or DOES NOT FIND AS TRUE) the factual statements and rationale set forth in the staff report,

BE IT THEREFORE RESOLVED THAT pursuant to Virginia Code Section 15.2-2309, after full examination of the facts and law related to the case, the Board of Zoning Appeals finds the foregoing criteria are MET and the Board of Zoning Appeals APPROVES variance request V-22-1, to grant the request for a variance of 90.01 feet from the front setback of 237.01 feet, and a variance of 13 feet from the minimum frontage of 300 feet at the building setback line. It was seconded by Mr. Seay and with Mr. Everett, Mr. Seay and Ms. Sheets voting "AYE", V-22-1 was approved.

**IN RE: OLD BUSINESS**

There was no Old Business.

**IN RE: NEW BUSINESS**

There was no New Business.

**IN RE: BOARD MEMBER COMMENTS**



Mr. Everett said he was sorry there was no other way to resolve this, but he was glad we could bring some resolve for the applicant.

**IN RE: ZONING ADMINISTRATOR COMMENTS**

Mr. Robinson said he did not have any comments.

**IN RE: ADJOURNMENT**

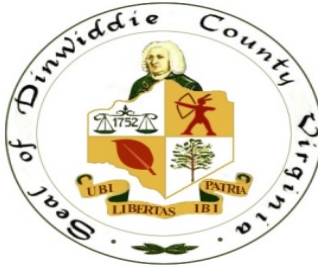
The Vice Chairman said if there is nothing else she would entertain a motion for adjournment. Mr. Seay made a motion to adjourn. It was seconded by Mr. Everett, and with all members present voting "AYE", the meeting adjourned at 7:20 p.m.

Respectfully submitted:

Brad Robinson  
Senior Planner/Zoning Administrator

Signed: \_\_\_\_\_  
Wilson Yager, BZA Chairman

Dated: \_\_\_\_\_



# **Resolution**

**of the BOARD OF ZONING APPEALS of  
DINWIDDIE COUNTY, VIRGINIA**

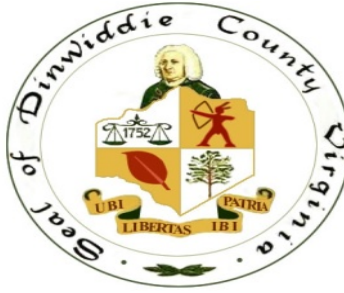
BE IT RESOLVED, by the Board of Zoning Appeals of Dinwiddie County, Virginia that \_\_\_\_\_ shall be appointed as the Chairman of the Board of Zoning Appeals of Dinwiddie County, Virginia for the year 2023, or until he or she resigns, is unable to hold office, or until a successor assumes office.



# **Resolution**

**of the BOARD OF ZONING APPEALS of  
DINWIDDIE COUNTY, VIRGINIA**

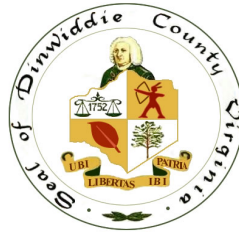
BE IT RESOLVED, by the Board of Zoning Appeals of Dinwiddie County, Virginia that \_\_\_\_\_ shall be appointed as the Vice Chairman of the Board of Zoning Appeals of Dinwiddie County, Virginia for the year 2023, or until he or she resigns, is unable to hold office, or until a successor assumes office.



# **Resolution**

## **of the BOARD OF ZONING APPEALS of DINWIDDIE COUNTY, VIRGINIA**

BE IT RESOLVED, by the Board of Zoning Appeals of Dinwiddie County, Virginia that \_\_\_\_\_ shall be appointed as the Secretary of the Board of Zoning Appeals of Dinwiddie County, Virginia for the year 2023, or until he or she resigns, is unable to hold office, or until a successor assumes office.



# Resolution

of the BOARD OF ZONING APPEALS of DINWIDDIE COUNTY, VIRGINIA

## ORGANIZATIONAL MEETING OF THE BOARD OF ZONING APPEALS SCHEDULE OF MEETINGS AND DATES FOR 2023

*WHEREAS*, the Board of Zoning Appeals of Dinwiddie County, Virginia, in accordance with the Code of Virginia, 1950, as amended may adopt a regular meeting schedule,

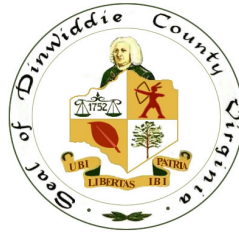
*NOW THEREFORE BE IT RESOLVED* by the Board of Zoning Appeals of Dinwiddie County, Virginia, that the following rules shall apply for the year 2023:

1. Regular Meetings of the Board shall be held every month, on the third Wednesday of the month in the Government Center Building Board Meeting Room, 14010 Boydton Plank Road, Dinwiddie, Virginia 23841. The Regular Meeting time shall be 7:00 p.m. unless otherwise noted.
2. If a meeting with an advertised public hearing is canceled due to weather or other conditions, it shall be continued for 7 days to the same time and place. If no cases are pending, the Board may cancel the meeting or the Board may hold the meeting to receive training or to consider matters brought before it by the Secretary of the BZA.

The regular meeting dates are as follows:

|                  |                   |                    |
|------------------|-------------------|--------------------|
| January 18, 2023 | February 15, 2023 | March 15, 2023     |
| April 19, 2023   | May 17, 2023      | June 21, 2023      |
| July 19, 2023    | August 16, 2023   | September 20, 2023 |
| October 18, 2023 | November 15, 2023 | December 20, 2023  |

\*Note: The organizational meeting for the calendar year 2024 will be held on January 17, 2024 at 7:00 p.m.



# Resolution

of the BOARD OF ZONING APPEALS of DINWIDDIE COUNTY, VIRGINIA

## ORGANIZATIONAL MEETING OF THE BOARD OF ZONING APPEALS SCHEDULE OF MEETINGS AND DATES FOR 2023

*WHEREAS*, the Board of Zoning Appeals of Dinwiddie County, Virginia, in accordance with the Code of Virginia, 1950, as amended may adopt a regular meeting schedule,

*NOW THEREFORE BE IT RESOLVED* by the Board of Zoning Appeals of Dinwiddie County, Virginia, that the following rules shall apply for the year 2023:

1. Regular Meetings of the Board shall be held every other month, on the third Wednesday of the month in the Government Center Building Board Meeting Room, 14010 Boydton Plank Road, Dinwiddie, Virginia 23841. The Regular Meeting time shall be 7:00 p.m. unless otherwise noted.
2. If a meeting with an advertised public hearing is canceled due to weather or other conditions, it shall be continued for 7 days to the same time and place. If no cases are pending, the Board may cancel the meeting or the Board may hold the meeting to receive training or to consider matters brought before it by the Secretary of the BZA.

The regular meeting dates are as follows:

|                    |                   |
|--------------------|-------------------|
| January 18, 2023   | March 15, 2023    |
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\*Note: The organizational meeting for the calendar year 2024 will be held on January 17, 2024 at 7:00 p.m.

# *Dinwiddie County Board of Zoning Appeals Bylaws*

## **TABLE OF CONTENTS**

### **Articles**

1. *Objectives*
2. *Members*
3. *Officers and Their Selection*
4. *Duties of Officers*
5. *Meetings*
6. *General Rules of Procedure*
7. *Citizen Comment Period*
8. *Voting*
9. *Public Hearings*
10. *Committees*
11. *Amendments*
12. *Severability*

*These bylaws are written rules of conduct for the Dinwiddie County Board of Zoning Appeals and are intended to establish best practices for meeting behavior and structure, but are not required by code.*

## ARTICLE 1 - OBJECTIVES

- 1 *The Dinwiddie County Board of Zoning Appeals (“Board”) is established to administer the powers and duties set forth in Title 15.2, Article 7 of the Code of Virginia and all amendments or changes thereto. As defined in Chapter 22, Article 3 of the Code of Dinwiddie County these powers and duties are:*
  - a. *To hear appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of zoning ordinances.*
  - b. *To authorize, upon appeal in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest, and the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance.*
  - c. *To hear and decide appeals from the decision of the zoning administrator or applications for such special exceptions as may be authorized by Chapter 22 of the Code of Dinwiddie County.*
- 2 *The official title of this Board shall be the Dinwiddie County Board of Zoning Appeals.*

## ARTICLE 2 - MEMBERS

- 1 *The Board shall consist of five (5) members appointed by the Circuit Court of the County. One of the members may be a member of the Planning Commission. All members must reside within Dinwiddie County.*
- 2 *The term of the members are terms for five (5) years. Their successors shall be appointed for terms of five (5) years. Any member shall be eligible for reappointment. Any vacancy in membership shall be filled by an appointment by the Circuit Court of the County and all vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term. Members shall not hold any other public office in the locality with the exception that one member may be a member of the Planning Commission.*
- 3 *Any appointed member may be removed for cause by the appointing authority upon written notice and after a public hearing. Any member shall be disqualified to act upon a matter before the Board with respect to property in which the said member has an interest.*



### ARTICLE 3 - OFFICERS AND THEIR SELECTION

- 1 *The officers of the Board shall consist of a Chairman, Vice-Chairman, and a Secretary.*
- 2 *Nomination of the Chairman and Vice-Chairman shall be made from the floor at the first meeting of each calendar year. Election of officers shall follow immediately.*
- 3 *A candidate receiving a majority vote of the entire membership of the Board shall be declared elected. He shall take office immediately and serve for one (1) year or until his successor takes office.*
- 4 *At the Board's first meeting of each year, the Board shall appoint a Secretary who shall be a salaried employee of the Planning Department. The Secretary shall not be entitled to vote on matters before the Board. In the absence of the Secretary, the Director of Planning shall designate a staff member to serve as Temporary Secretary.*
- 5 *Officer vacancies shall be filled immediately by regular election procedures.*

### ARTICLE 4 - DUTIES OF OFFICERS

- 1 *The Chairman shall be a member of the Board and shall:*
  - a. *Preside at all meetings and hearings of the Board.*
  - b. *Appoint committees, special and/or standing, that are necessary for the business of the Board.*
  - c. *Promote the orderly and expeditious conduct of meetings.*
  - d. *Rule on all procedural questions. (Subject to a reversal by two-thirds (2/3) majority of the members present).*
  - e. *Ensure new members are properly oriented to the Board bylaws and rules of order.*
  - f. *The Chairman may speak in discussion, and vote on all questions.*
  - g. *Carry out other duties as assigned by the Board.*

2 *The Vice-Chairman shall be a member of the Board and shall:*

- a. *Perform the duties of the Chairman in the absence or disability or at the request of the Chairman.*

3 *The Secretary shall be a non-member of the Board and shall:*

- a. *Receive all applications for appeals to the Board and shall request of the applicant all information and collect other such information required to advise the Board fully of the issues before it.*
- b. *Advertise all public hearings and notify the parties in interest of all hearing as required by law and these bylaws.*
- c. *Keep all papers relating to an application, including written documentation of the decision of the Board, as part of the records of the Board and shall file such records in the Office of the Board as public records.*
- d. *Keep the minutes of the Board's proceedings and other official actions and shall file them in the Office of the Board as public records.*
- e. *Notify all applicants of the final action of the Board on applications for variances and special exceptions, appeals, and any other item over which the Board has jurisdiction.*
- f. *Notify the Vice-Chairman, by telephone or in person, as soon as possible after the Secretary is informed that the Chairman (~~or Vice-Chairman~~) will not attend a Board meeting.*
- g. *The Secretary or another member of the Planning staff, on behalf of the Secretary, shall prepare and file an Annual Report of the BZA with the Board of Supervisors.*

## ARTICLE 5 - MEETINGS

- 1 *The Board shall adopt a regular meeting time, location and schedule for the year at its first regular meeting of each year. If no cases are pending, the Board may hold its regular meeting to receive training or to consider matters brought before it by the Secretary of the Board of Zoning Appeals.*
- 2 *All regular meetings shall be open to the public.*
- 3 *A quorum must be present at all meetings to transact any official business. A quorum of the Board shall consist of three (3) of the five (5) members of the Board.*

- a. *If a quorum is not present, the Board's agenda shall be moved to the next regular or special meeting of the Board.*
  - b. *An abstention, although not a vote in favor or against a motion, shall be counted as a vote for the purpose of determining a quorum.*
- 4 *The order of business for a regular meeting shall be as follows, unless amended by a majority of the Board:*
  - a. *Call to order by Chairman.*
  - b. *Roll Call to determine quorum.*
  - c. *Review and approval of minutes from previous meetings.*
  - d. *Review agenda.*
  - e. *Citizen Comments - unrelated to agenda items.*
  - f. *Public Hearings.*
  - g. *Old Business.*
  - h. *New Business.*
  - i. *Adjournment.*
- 5 *All motions shall be restated by the Chairman before a vote is taken. The names of persons making and seconding motions shall be recorded.*
- 6 *The Chairman of the Board may, at his discretion, administer oaths and compel the attendance of witnesses.*
- 7 *The Board shall keep a set of minutes of all regular meetings, and these minutes shall be a public record.*
- 8 *Board members are encouraged to attend all meetings, regular and special, and to notify the Chairman or Secretary as soon as possible if unable to attend a meeting. Any member who misses three (3) regular meetings in succession, or fails to attend at least sixty percent (60%) of regular scheduled meetings during any calendar year, without sufficient justification, is subject to recommendation by the Board to the appointing authority for removal from office.*
- 9 *Non-legal staff of the governing body, applicant, landowner or his agent or attorney may have ex parte communications with a member of the board prior to the meeting but may not discuss the facts or law relative to a particular case, and must be in accordance with Va. Code § 15.2-2308.1.*
- 10 *If a meeting exceeds four hours, the Chairman may continue the meeting until the next meeting. If there is a public hearing on the agenda, it can be continued without the need to re-advertise.*

11 *Special meetings of the Board 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 contact all members, at least fourteen (14) days in advance of a special meeting, informing them to the time and place of the meeting and the purpose thereof. If the special meeting is to hear a variance case or an appeal to the Board, then all advertisement requirements of a public hearing shall be met.*

#### ARTICLE 6 - GENERAL RULES OF PARLIMENTARY PROCEDURE

- 1 *The Board's Parliamentary Procedures shall be the most current edition of Robert's Rules of Order, in all matters not covered by the Board's bylaws, to the extent compatible with law and the historical practices of the Board. The County Attorney, or his or her designee, shall act as Parliamentarian to the Board. Any questions involving the interpretation or application of Robert's Rules shall be addressed to the County Attorney. The Board may amend, by Resolution, the rules as it deems appropriate. The following rules shall apply:*
  - a. *Members are not required to obtain the floor before making motions or speaking, which they may do while seated.*
  - b. *Motions need not be seconded. If a motion is not seconded, the Chairman shall decide if vote is taken on the motion or if a motion is dead.*
  - c. *There is no limit to the number of times a member can speak to a question, and motions to close or limit debate generally should not be entertained.*
  - d. *Informal discussion of a subject is permitted while no motion is pending.*
  - e. *The Chairman may speak in discussion without leaving the chair, can vote on all questions, but cannot make motions unless by consent of a majority of Board members present.*
  - f. *When any Board member determines, prior to the calling of any issue before the Board, that he, because of conflict or otherwise, will abstain from voting on such issue, he shall announce such intention at the time the issue comes before the Board and shall not participate in the discussion on such issue or question.*
  - g. *In the incidence of a tie, the voted upon issue by the Board is dead and therefore voted down, except any appeal taken pursuant to Va. Code § 15.2-2311, in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.*

- h. Only Board members and the Parliamentarian shall have standing to raise noncompliance with these General Rules of Procedure, and only during the current meeting at the time of violation. Failure of the Board to comply with these General Rules of Procedure shall not invalidate any action taken by the Board.*

## **ARTICLE 7 - CITIZEN COMMENT PERIOD**

*To ensure that the affairs of the Board and its committees may be conducted in an orderly manner, to ensure that all persons desiring to address the Board on matters pertinent to it are afforded an opportunity to do so, to permit persons in attendance to observe and hear the proceedings of the Board without distraction, and to permit to the fullest extent the Board to conduct County business with minimal disruption the following rules are established. Any individual, who does not abide by the following rules, after a warning, may be asked to leave the meeting.*

### **1 Rules for Citizen Comment Period**

- a. Each person desiring to speak must sign up in advance of the opening of the Citizen's Comment Period on the agenda.*
- b. Each speaker shall be limited to a period of three (3) minutes per comment period; when two (2) minutes have passed the speaker will be reminded that there is one (1) minute remaining. Specified time limits may vary at the discretion of the Chairman.*
- c. Speakers who have signed up may use their allotted time only for themselves and may not donate their time to other speakers.*
- d. Comments must not be related to agenda items and must be confined to matters germane to the business of the Board of Zoning Appeals and shall not be cumulative or repetitive.*
- e. Speakers should address the Board with decorum – loud, boisterous, and disruptive behavior, obscenity, and vulgarity should be avoided, as well as other words or acts tending to evoke violence or deemed to be a breach of the peace.*
- f. The Citizens' Comment Period is not intended to be a question and answer period or for dialogue with County officials. Questions which are raised during a comment period may at the discretion of the Board be responded to by County officials after sufficient time for investigation.*
- g. Speakers shall remain at the podium while addressing the Board.*

- h. Speakers shall not be interrupted by audience comments, calls/whistles, laughter, or other gestures.*

#### **ARTICLE 8 - VOTING**

- 1 All matters to be voted upon shall be stated in the form of a motion.*
- 2 All matters before the Board that require a majority vote shall be by roll call.*
- 3 A favorable vote of three members of the Board shall be necessary to reverse 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.*
- 4 A tie vote means the defeat of the motion, except any appeal taken pursuant to Va. Code § 15.2-2311, in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.*
- 5 No member shall abstain from voting on a roll call unless he/she has a conflict of interest in the matter being voted upon, and so states for the record, or unless by the consent of a majority of members present.*

#### **ARTICLE 9 – PUBLIC HEARINGS**

- 1 All public hearings will be advertised in accordance with the Virginia Code. No action at a public hearing shall be taken until after notice of intention so to act has been published once a week for two (2) successive weeks in a newspaper published or having general circulation in Dinwiddie County. The term two successive weeks shall mean that such notice shall be published at least twice in such newspapers with not less than six (6) days elapsing between the first and second publication. The notice shall specify the time and place of the hearing at which persons affected may appear and present their views, which the time of hearing shall be not less than five (5) days nor more than twenty-one (21) days after the second advertisement appears in the newspaper.*
- 2 In addition to those required by law, the Board at its discretion may hold public hearings when it decides that a hearing will be in the public interest.*
- 3 The procedure for a public hearing shall be as follows:*
  - a. The Chairman calls for the item.*
  - b. The Secretary, or staff, reads the request and recommendation.*
  - c. Applicant's presentation.*
  - d. Interested citizens' presentation in support/opposition.*

- e. *Applicant rebuttal.*
- f. *Additional time for presenters, as permitted by the Chairman.*
- g. *Questions, if any, from the Board members.*
- h. *Chairman closes public hearing and the Board votes.*

*4 The following rules shall govern the conduct of public hearings:*

- a. *The applicant shall have ten (10) minutes to address the Board and present written and/or oral comments. Individuals who have signed up to comment on the case shall have three (3) minutes to present written and/or oral comments. All comments shall be directed to the Board, not the audience or other individuals. Specified time limits may vary at the discretion of the Chairman.*
- b. *After all persons who desire to address the Board have had the opportunity to do so, the Chairman may grant additional time to persons who have spoken previously.*
- c. *The Chairman may terminate the hearing at any time after all persons who desire to address the Board have had one (1) opportunity to do so.*
- d. *Board members may question each speaker at the end of his/her presentation.*
- e. *When a matter is set for a public hearing, it shall be heard even though no one in favor of, or in opposition to, the matter appears at the hearing unless it is deferred or withdrawn. In the absence of a personal appearance by the applicant or agent, the Board may proceed to dispose of the application or defer it to another meeting. The applicant may withdraw an application at any time prior to the Board's action.*
- f. *Upon the BZA making a decision, the applicant or appellant shall be advised that an appeal of such decision must be filed within 30 days from the date of that decision.*

**ARTICLE 10 - COMMITTEES**

- 1 Special Committees may be appointed by the Chairman for the purposes and terms approved by the Board.*

**ARTICLE 11 - AMENDMENTS**

- 1 The Board bylaws may be amended by a recorded majority vote of the entire membership of the Board provided that written notice has been given to all members of the Board and a copy of the proposed amendment is sent with the notice, prior to said meeting.*

*2 The Board bylaws may be suspended in whole or in part upon the unanimous vote of Board members present, relating to any matter before it.*

**ARTICLE 12 – SEVERABILITY**

*1 If any word, clause, sentence, section, subsection or other part of parts of these Bylaws shall be held by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect any of the remaining parts of these Bylaws, nor shall it affect any application of these Bylaws that may be given effect without the unconstitutional or invalid parts, and to this end, all provisions of these Bylaws are hereby declared to be severable.*





## **Dinwiddie County Planning & Zoning Office**

14010 Boydton Plank Road

Dinwiddie, VA 23841

Phone: (804) 469-4500

Fax: (804) 469-5322

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**To: Dinwiddie County Board of Zoning Appeals**

**From: Brad Robinson, Senior Planner/Zoning Administrator**

**Date: January 18, 2023**

**Subject: Proposed resolution to adopt the Dinwiddie County Board of Zoning Appeals Bylaws.**

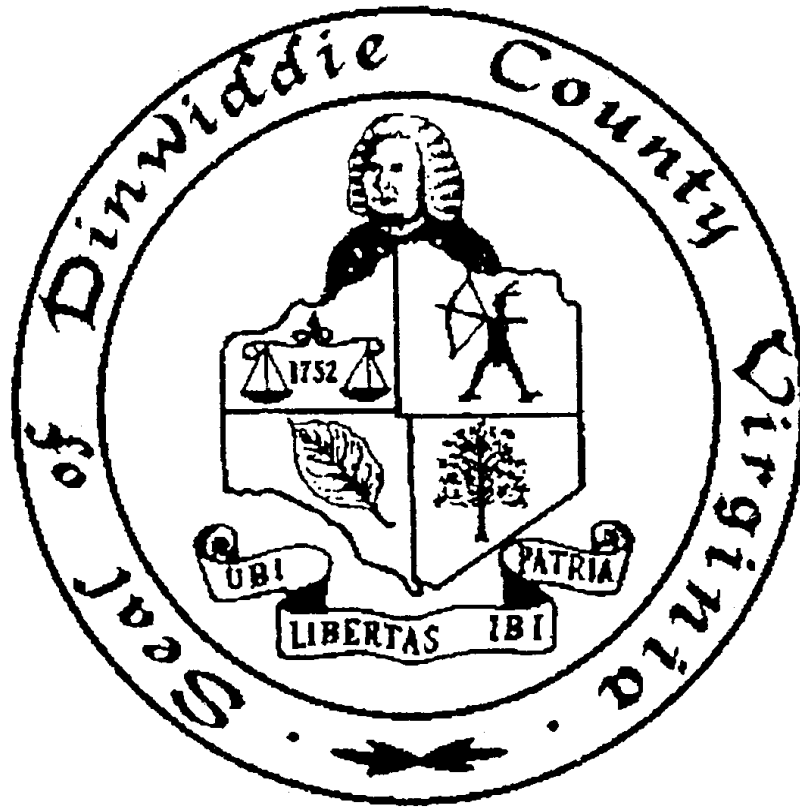
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### **Board of Zoning Appeals Action**

**WHEREAS, Section 22-39 of the Zoning Ordinance in the Dinwiddie County Code states that the Board of Zoning Appeals (the “Board”) of Dinwiddie County, Virginia (the “County”) shall adopt such rules and regulations as it may consider necessary; and**

**NOW, THEREFORE, BE IT RESOLVED, that the Board does hereby adopt the Dinwiddie County Board of Zoning Appeals Bylaws**

# Board of Zoning Appeals Code of Ethics



*DINWIDDIE COUNTY*

*Dinwiddie, Virginia*

## CODE OF ETHICS AND STANDARDS OF CONDUCT FOR MEMBERS OF THE DINWIDDIE COUNTY BOARD OF ZONING APPEALS

Recognizing that persons who hold public office have been given a public trust and that the stewardship of such office demands the highest levels of ethical and moral conduct, any person serving on the Dinwiddie County Board of Zoning Appeals should adhere to the following Code of Ethics:

1. Uphold the Constitution, laws and regulations of the United States and of all governments therein and never knowingly be a part to their evasion.
2. Put loyalty to the highest moral principles and to the County as a whole above loyalty to individuals, districts, or particular groups.
3. Give a full measure of effort and service to the position of trust for which stewardship has been granted; giving earnest effort and best thought to the performance of duties.
4. Seek to find and use the most equitable, efficient, effective, and economical means for getting tasks accomplished.
5. Adopt policies and programs that provide equal opportunity to all citizens without regard to national origin, race, color, religion, gender, age, disability, pregnancy, or sexual orientation.
6. Ensure the integrity of the actions of the Board by conducting official and private affairs in a way that clearly conveys that you cannot be improperly influenced in performing your official duties.
7. Make no private promises of any kind binding upon the duties of any office, since a public servant has no private word, which can be binding on public duty.
8. Engage in no business with the County government, or the school system, either directly or indirectly, which is inconsistent with the conscientious performance of Board duties except as may be consistent with the conflict of interest statutes in the Code of Virginia.
9. Never use any information gained confidentially in the performance of Board duties as a means of making private profit.
10. Expose, through appropriate means and channels, corruption, misconduct, or neglect of duty whenever discovered.
11. Adhere to the principle that the public's business should be conducted in the public view by observing and following the letter and spirit of the Freedom of Information Act using closed sessions only to deal with sensitive personnel, legal or contractual matters as provided by the Code of Virginia.
12. Avoid using the position of public trust to gain access to the media for the purposes of criticizing colleagues or citizens, impugning their integrity or vilifying their personal beliefs.
13. Make sure, when responding to the media, that a clear distinction is made between personal opinion or belief and a decision made by the Board.
14. Review orally and in public session, at the annual organizational meeting, each of these principles.
15. Pledge to honor and uphold these principles, ever conscious that public office is a public trust.