

VIRGINIA: MINUTES OF THE ORGANIZATIONAL AND REGULAR MEETING FOR THE DINWIDDIE COUNTY BOARD OF ZONING APPEALS HELD IN THE BOARD MEETING ROOM OF THE PAMPLIN ADMINISTRATION BUILDING ON THE 18th DAY OF JANUARY 2018 AT 7:00 P.M.

PRESENT: TRACY SHEETS CHAIRMAN
LANCE EVERETT
WILSON YAGER VICE CHAIRMAN
WILLIAM SEAY
DONNIE BOSTIC

OTHERS: JAMIE SHERRY ZONING ADMINSTRATOR

IN RE: CALL TO ORDER

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

IN RE: ROLL CALL

The Chairman asked for the roll to be called and all members were present.

IN RE: APPROVAL OF AGENDA

The 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. Everette made a motion that the agenda be accepted as presented. It was seconded by Mr. Seay and with Mr. Bostic, Mr. Seay, Mr. Everett, Mr. Yager and voting "Aye" the Agenda was accepted as presented.

IN RE: MINUTES

The Chairman said you have the minutes from the January 19, 2018 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. Seay made a motion that the agenda be accepted as presented. It was seconded by Mr. Bostic and with Mr. Bostic, Mr. Seay, Mr. Everett, Mr. Yager and Ms. Sheets voting "Aye" the minutes were accepted as presented.

IN RE: MINUTES

The Chairman said you have the minutes from the July 20, 2017 Workshop 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. Seay made a motion that the agenda be accepted as presented. It was seconded by Mr. Bostic and with Mr. Bostic, Mr. Seay, Mr. Everett, Mr. Yager and Ms. Sheets voting "Aye" the minutes were accepted as presented.

IN RE: MINUTES

The Chairman said you have the minutes from the September 21, 2017 Workshop 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. Seay made a motion that the agenda be accepted as presented. It was seconded by Mr. Bostic and with Mr. Bostic, Mr. Seay, Mr. Everett, Mr. Yager and Ms. Sheets voting "Aye" the minutes were accepted as presented.

IN RE: ELECTION OF CHAIRMAN FOR 2018

The Chairman said she was turning the meeting over to Ms. Sherry. Ms. Sherry asked if there were any nominations for 2018 Chairman.

Mr. Seay said he nominates Ms. Sheets to remain as the new Chairman. Mr. Yager seconded the motion. There being no other nominations and with Mr. Bostic, Mr. Seay, Mr. Everett, Mr. Yager and Ms. Sheets voting "Aye" Ms. Sheets remained the Chairman.

The following resolution was then read: BE IT RESOLVED, by the Board of Zoning Appeals of Dinwiddie County, Virginia that Ms. Tracy Sheets shall be appointed as the Chairman of the Board of Zoning Appeals of Dinwiddie County, Virginia for the year 2018, or until he or she resigns, is unable to hold office, or until a successor assumes office.

IN RE: ELECTION OF VICE CHAIRMAN FOR 2018

Ms. Sherry turned the meeting back over to the Chairman.

Ms. Sheets asked if there were any nomination for 2018 Vice Chairman.

Mr. Everett said he nominates Mr. Yager to remain Vice Chairman. Mr. Seay seconded the motion. There being no other nominations and with Mr. Bostic, Mr. Seay, Mr. Everett, Mr. Yager and Ms. Sheets voting "Aye" Mr. Yager remained the Vice Chairman.

The following resolution was then read: BE IT RESOLVED, by the Board of Zoning Appeals of Dinwiddie County, Virginia that Mr. Wilson Yager shall be appointed as the Vice Chairman of the Board of Zoning Appeals of Dinwiddie County, Virginia for the year 2018, or until he or she resigns, is unable to hold office, or until a successor assumes office.

IN RE: ELECTION OF SECRETARY FOR 2018

Ms. Sheets asked if there were any nominations for 2018 Secretary. Mr. Seay said he nominates Mr. Gurley to remain as Secretary. Mr. Everett seconded the motion. There being no other nominations and with Mr. Bostic, Mr. Seay, Mr. Everett, Mr. Yager and Ms. Sheets voting "Aye" Mr. Gurley remained the Secretary.

The following resolution was then read: BE IT RESOLVED, by the Board of Zoning Appeals of Dinwiddie County, Virginia that Mr. Alvin Gurley shall be appointed as the Chairman of the Board of Zoning Appeals of Dinwiddie County, Virginia for the year 2018, or until he or she resigns, is unable to hold office, or until a successor assumes office.

IN RE: DETERMINATION OF MEETING SCHEDULE FOR 2018

The Chairman said the next item on the agenda is the determination of the meeting schedule for 2018. She said we always have the meeting on the third Thursday of the month, but we have had a couple of conflicts. She asked if there was a better day to have the meeting.

Mr. Everett said he has been having some conflicts with the third Thursday meetings. He said he would like for us to consider moving the meeting to the third Wednesday.

The Chairman asked the members what their thoughts were concerning what Mr. Everett has requested.

She said since there are no objections she would accept a motion to approve the 2018 Board of Zoning Appeals meeting schedule with the third Wednesday being the new meeting day.

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 2018

Mr. Seay made a motion and read the following: **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 2018:

1. Regular Meetings of the Board shall be held every other month, on the third Thursday of the month, as shown on the attached 2018 calendar, in the Board Meeting Room in the Pamplin Administration Building, 14016 Boydton Plank Road, Dinwiddie, Virginia. 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, 2018

March 14, 2018

May 16, 2018

July 18, 2018

September 19, 2018

November 21, 2018

The organizational meeting for the calendar year 2019 will be held on January 17, 2019 at 7:00 pm.

It was seconded by Mr. Everett and with Mr. Bostic, Mr. Seay, Mr. Everett, Mr. Yager and Ms. Sheets voting "Aye" the 2018 meeting schedule, with the change that Wednesday of every other month will be the new meeting day, was adopted.

IN RE: CITIZEN COMMENTS

The Chairman opened the citizen comment period of the meeting and asked if anyone had signed up to speak. She said since there is no one she was closing the citizen comments portion of the meeting. She said she was turning the meeting over to Ms. Sherry for the listed public hearing items.

IN RE: OLD BUSINESS (By-Laws Resolution Memo 2018)

To: Dinwiddie County Board of Zoning Appeals
From: Jamie Sherry, Zoning Administrator
Date: January 11, 2018
Subject: Proposed resolution to adopt the Dinwiddie County Board of Zoning Appeals Bylaws.

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

IN RE: OLD BUSINESS (Draft BZA By-Laws January 20, 2018 Mark up

Dinwiddie County
Board of Zoning Appeals Bylaws
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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 ~~(1-1)~~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 ~~1-2~~The official title of this Board shall be the Dinwiddie County Board of Zoning Appeals.

ARTICLE 2 - MEMBERS

- 1 ~~2-1~~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 ~~2-2~~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 ~~2-3~~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 ~~3-1~~The officers of the Board shall consist of a Chairman, Vice-Chairman, and a Secretary.
- 2 ~~3-2~~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 ~~3-3~~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 ~~3-4~~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 ~~3-5~~Officer vacancies shall be filled immediately by regular election procedures.

ARTICLE 4 - DUTIES OF OFFICERS

- 1 ~~4-1~~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 ~~4-2~~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 ~~4-3~~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 ~~5-1~~The Board shall adopt a regular meeting time, location and schedule for the year at its first regular meeting of each year. ~~In the event there are no cases requiring a public hearing pending, the meeting can be cancelled at the discretion of the Chairman. 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 ~~5-2~~ All regular meetings shall be open to the public.
- 3 ~~5-3~~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 ~~5-4~~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. ~~Unfinished~~ Old Business.
 - h. New Business.
 - i. Adjournment.
- 5 ~~5-5~~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 ~~5-6~~The Chairman of the Board may, at his discretion, administer oaths and compel the attendance of witnesses.
 - 7 ~~5-7~~The Board shall keep a set of minutes of all regular meetings, and these minutes shall be a public record.
 - 8 ~~5-8~~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 ~~5-9~~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 ~~5-10~~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 readvertise.
 - 11 ~~5-11~~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 ~~five (5)~~ 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 ~~6-1~~The Board's Parliamentary Procedures shall be the most current edition of Robert's Rules of Order, Newly Revised, 11th Edition 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 ~~7-1~~ 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 *~~8-1~~ All matters to be voted upon shall be stated in the form of a motion.*
- 2 *~~8-2~~ All matters before the Board that require a majority vote shall be by roll call.*
- 3 *~~8-3~~ 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 ~~8-4~~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 ~~8-5~~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 ~~9-1~~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 ~~9-2~~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 ~~9-3~~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 ~~9-4~~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 ~~10-1~~Special Committees may be appointed by the Chairman for the purposes and terms approved by the Board.

ARTICLE 11 - AMENDMENTS

- 1 ~~1-1~~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 ~~1-2~~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 ~~12-1~~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.

Ms. Sherry said to follow up on the discussion that we have had over the last couple of months particularly with Mrs. Pandack who recommended that we revisit our by-laws as well as our code section that is something we could address in the upcoming months. I can work with Mr. Southall to make sure we cover the proper way of advertising, when we do make by-law changes.

Ms. Sherry also said the by-laws do not have to be read or voted on, but she would have to read the Code of Ethics once they are finished discussing any other concerns.

Ms. Sheets asked the Board Members if they have any comments to what Ms. Sherry has said or anything they wanted to discuss concerning the By-Laws. She said since there are none Ms. Sherry could go forward with reading the Code of Ethics.

IN RE: OLD BUSINESS (Draft BZA By-Laws for Adoption Consideration 2018)

*Dinwiddie County
Board of Zoning Appeals Bylaws
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 - 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 readvertise.*
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.*

Ms. Sherry asked the members if they wanted her to go through what was marked up or were they ready to vote.

Mr. Yager said at the last workshop we made some changes and we looked through them. I don't see a need to go over them again.

The Chairman said if there are no questions for Ms. Sherry she would entertain a motion.

Mr. Yager made a motion and Ms. Sheets read the following: 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. It was seconded by Mr. Bostic and with Mr. Bostic, Mr. Seay, Mr. Everett, Mr. Yager and Ms. Sheets voting "Aye" the by-laws with changes were adopted.

IN RE: OLD BUSINESS (Review Code of Ethics and Standards of Conduct)

Ms. Sherry read the following:

**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.

IN RE: BOARD MEMBER COMMENTS

Mr. Yager said he appreciated the opportunity that Dinwiddie County gave him to go to the BZA certification class. I really enjoyed the class and it was very educational. It was also good to see other localities and what they do at their meeting as well as how often they meet.

Ms. Sheets said she agrees with what Mr. Yager has said. I highly recommend it if you have the time, because it is very educational. She also said she appreciated everyone's hard work on getting the by-laws updated.

IN RE: ZONING ADMINISTRATOR COMMENTS

Ms. Sherry thanked all the members for serving on the BZA for another year. Last year we had a couple of workshops and it was good to see all of you.

IN RE: ADJOURNMENT

The Chairman said if there is nothing else she would entertain a motion for adjournment. Mr. Everett made a motion to adjourn and Mr. Seay seconded it and with all members presents in agreement the meeting adjourned at 7320 p.m.

Respectfully submitted:

Jamie Sherry, Principal Planner
Zoning Administrator

Signed: _____
Tracy Sheets, BZA Chairman

Dated: _____

DRAFT