



**Bylaws & Rules of Procedure
Pulaski County, VA**

**Board of Zoning Appeals
2023-2024**

ARTICLE 1 – TITLE, OBJECTIVE, POWERS & DUTIES

- 1.1 The official title of this board shall be the Pulaski County Board of Zoning Appeals.
- 1.2 This Board of Zoning Appeals for County of Pulaski (“BZA” or “Board”), established pursuant to Article § 15.2-2308, Code of Virginia, has adopted these Bylaws and Rules of Procedure in order to facilitate its powers and duties in accordance with the provisions of Title 15.2, Chapter 22, Code of Virginia.
- 1.3 The BZA shall have the powers and duties set forth in § 15.2-2309 Code of Virginia, including related provisions of § 15.2-2308 – 2312, and Article 2 of the Pulaski County Unified Development Ordinance.

ARTICLE 2 – MEMBERS, APPOINTMENTS AND OFFICERS

- 2.1 The Board of Zoning Appeals (BZA) shall consist of five (5) residents of the County.
- 2.2 Appointments to serve on the BZA are made by the Circuit Court Judge for the locality. The Circuit Court has on tradition requested recommendations from the Board of Supervisors for appointments. Historically this tradition has been used to fill vacancies and issue reappointments for the BZA. The Circuit Court reserves the right to appoint any citizen willing to serve.
- 2.3 Sixty (60) days prior to a term expiration, or upon such time that an immediate vacancy occurs, the Clerk to the BZA shall notify the Executive Secretary for County Administration and the County Attorney that the need exists to fill a vacancy or to fill an upcoming expected term expiration.
- 2.4 When a recommendation has been requested by the Court and provided by the Board of Supervisors the following shall occur. Thirty (30) days prior to a term expiration or immediately once a vacancy has occurred, the County Attorney shall notify the court and provide any recommendations, if any, for replacement of member(s) or reappointments to serve. If there are no recommendations provided by the Board of Supervisors, the order shall indicate that a vacancy is present or pending and that no recommendation has been made.
- 2.5 At such time that the court order for a new appointment or re-appointment on the BZA arrives the Clerk to the BZA shall notify the new member of the appointment and when needed, schedule a new member orientation and any onboarding activity which may be needed to serve.

- 2.6** Appointments to fill vacancies shall be for the unexpired portion of the term. The standard and regular term of office for BZA members shall be five (5) years each. Members may be reappointed to succeed themselves for another term. There are no term limits. A member whose term expires shall continue to serve until his successor is appointed and qualifies.
- 2.7** A Board of Zoning Appeals member who chooses to resign shall submit a written correspondence to the Clerk indicating the decision to resign and the effective date of resignation. Any member who misses more than three (3) consecutive meetings and who has failed to respond to either the Clerk or the Chair regarding the absence, has by their actions indicated that they are no longer interested in serving and this action shall be considered a resignation.
- 2.8** Any member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court that appointed him/her, when a hearing is held in accordance with the Code of Virginia § 15.2-2308.E.
- 2.9** Election of officers for the Board of Zoning Appeals shall occur every year. The Board shall elect a Chair and a Vice-Chair and the nomination of officers shall be made from the floor. A candidate receiving a majority vote of the membership of the Board present and voting shall be declared elected. The Secretary/Clerk to the Board of Zoning Appeals shall be the Director of Planning & Zoning or an appointed staff of the Planning and Zoning office or an assigned person at the direction of the County Administrator who is qualified to perform the task.
- 2.10** Duties of elected officers are determined by the Board of Zoning Appeals and subject to change as needed and determined by the Board. The guidance below conveys the typical activities associated with each role;

The Chair shall: Preside at all meetings and hearings of the BZA. Appoint committees as necessary. Administer oaths and compel the attendance of witnesses. Decide all points of order or procedural questions and maintain order within the meetings. Call special meetings when needed and cancel meetings when needed. When needed by the staff assist with agendas and correspondences.

The Vice-Chair shall: Act in the absence or inability of the Chair to act.

The Secretary/Clerk shall: Keep the minutes and records of the BZA's proceedings; including the date, time and location of the meeting. Record members absent or present. Compose a summary of the discussion, matters proposed, deliberated and decided. Record votes taken and outcomes. Compile meeting minutes for review and approval. Maintain all BZA records and applications. Coordinate with applicants on applications before the BZA. Prepare and be responsible for the publishing of advertisements relating to meetings and public hearings in accordance with State law. Send out notices required by these By-laws, the Pulaski County Unified Development Ordinance, and the Code of Virginia. Prepare a staff report and communicate official correspondences for the BZA. Notify County Administration, County Attorney or Board of Supervisors of any vacancy on the BZA. Maintain records of the BZA membership.

ARTICLE 3 – MEETINGS, QUORUM AND ACTIONS

- 3.1 The regular meeting of the Board of Zoning Appeals shall be held on the third Tuesday of every month at 6 p.m. If no applications are pending, and the Chair has determined that there is no reason to convene, then no meeting shall be held that month. If a meeting date should fall on a legal holiday, the Chair will determine the next available date in coordination with county staff and any applicant.
- 3.2 Meetings shall be held at the Pulaski County Administration Building, 143 Third Street N.W, Pulaski, VA. If required, the Chair may determine prior to a meeting that the location shall be changed and the change of location shall be advertised in any required public notices for the meeting.
- 3.3 All meetings of the Board of Zoning Appeals shall be open to the public, unless a closed meeting is scheduled by the Chair, approved by the County Attorney prior to the meeting and qualified in accordance with the Virginia Freedom of Information Act.
- 3.4 The BZA will hold an organizational meeting in December to review and approve the By-laws; set the meeting calendar for the following year; and elect officers for the following year. In the event of inclement weather or unforeseen circumstances, the organizational meeting can be rescheduled.
- 3.5 Special meetings of the BZA may be held at the call of the Chair and at such other times as a quorum of the BZA may determine, provided that notice of such meeting is given to each member pursuant to the Virginia Freedom of Information Act (FOIA), § 2.2-3707 *et seq.* Code of Virginia.
- 3.6 A quorum in attendance shall be at least three (3) members when the total number of individuals serving on the board is five (5) members.
- 3.7 The conduct of business at all regular meetings of the Board shall follow Robert’s Rules of Order; Simplified Procedures.
- 3.8 The Board may adjourn a regular meeting of all applications or appeals that cannot be disposed of on the day set. No further public notice shall be necessary for such a continuation or reconvened meeting.
- 3.9 The Chair, or the Vice-Chair in the absence of the Chair, may call an adjournment in the event of bad weather or for other reasons, when in the opinion of such officer calling the adjournment, it is unsafe for the meeting to occur. The Clerk shall attempt to notify each member of the Board, any applicants or citizens who plan on attending and the general public by posting notice of the change. The meeting will be rescheduled by the Chair or Vice-Chair.
- 3.10 Members have a responsibility to determine whether they have a conflict of interest and when needed act in accordance with the State and Local Government Conflict of Interests Act § 2.2-3100 *et seq.* Code of Virginia. Any Board member may request a “ Conflict of Interest Opinion Letter” from the Commonwealth Attorney prior to hearing an application at a Board of Zoning Appeals Meeting.

- 3.11 Any member has the right to abstain from participating in a meeting agenda item and/or voting on an application before the Board, when they have determined that they have a Conflict of Interest in accordance with the State and Local Government Conflict of Interest Act. When abstaining and prior to the agenda item at hand, the member shall state that they are abstaining from the discussion and/or the vote, and the basis for the decision to abstain.
- 3.12 Members shall make every effort possible to attend meetings. At such time that a board member knows of a potential absence they shall let the Secretary know as far in advance as possible.
- 3.13 Records associated with the activities of the Board of Zoning Appeals shall be kept in the Office of Planning & Zoning, and/or the assigned file storage location for county records. The Clerk shall be notified of any Freedom of Information Act Requests and/or other requests for meeting minutes and applications heard by the Board of Zoning Appeals. Requests for information shall be processed in accordance with the County Freedom of Information Act Policy.
- 3.14 Board of Zoning Appeals Members may receive compensation for service, as authorized by the Board of Supervisors and allocated on a yearly or per meeting basis.

ARTICLE 4 – APPLICATIONS & ORDER OF BUSINESS

- 4.1 Applications for items to be heard by the Board of Zoning Appeals are made available at the Planning and Zoning Office at the Pulaski County Administration Building and when possible made available online. At such time that county staff determines that the application is complete, received by the deadline and when application fees are fully paid, the staff will schedule the public hearing, order any public hearing advertisements, notify the applicant of the meeting date, time and location and prepare the application for the next Board of Zoning Appeals Meeting.
- 4.2 It is the duty of the Secretary to the Board of Zoning Appeals to prepare any application or hearing before the BZA. The applications and supporting information, in addition to the meeting agenda, previous meeting minutes and other documents as determined by the Chair for the regular conduct of the meeting, shall be compiled and delivered to the Board of Zoning Appeals at least seven (7) days prior to the meeting. Should unforeseen circumstances prevent staff from delivering the packet in this time period, the members shall be notified of the delay in receiving the materials.
- 4.3 In the hearing of any application or appeal, the Board of Zoning Appeals shall offer an equal amount of time in the hearing on the case to both the applicant/ appellant or other person aggrieved, and county staff presenting the application or basis for decision.
- 4.4 The applicant may appear in his own behalf at the public hearing, or be represented by counsel or an agent.
- 4.5 Any public comment provided to staff prior to a meeting which requires a public hearing, shall be assembled in a packet labeled “Public Comments” and provided to the BZA in paper format prior to the meeting. This includes telephone, email and regular mail comments that are sent to the direction of the Board of Zoning Appeals. Public comments can also be presented at the night of the meeting in person. Board of Zoning Appeals who receive public comment shall ensure that all

board members are in receipt of the same public comment and share with county staff when received for dissemination to the entire board.

- 4.6 In accordance with the Code of Virginia, 15.2-2308.1, communications regarding any application or case before the BZA shall not be discussed with non-legal staff and/or applicants prior to the public meeting. Board of Zoning Appeals members shall not discuss any application or case outside of the public meeting.
- 4.7 The general order in the hearing of the application shall be Staff Report, Applicant or Appellant Report, Opening of the Public Hearing for public comment. Public Comments. Closing of the Public Hearing. Time for discussing among the Board. Any person can be called back up to the podium by the Chair to answer questions or give additional testimony when called and recognized by the Chair. The Chair reserves the right to allow or disallow further comment or testimony after the Public Hearing has ended.
- 4.8 The Chair of the BZA may establish time limits on presentations or for public hearings. The standard rule for Public Hearings is three (3) minutes per person unless otherwise established by the Chair.
- 4.9 No cross-examination of speakers testifying shall be permitted, except by members of the BZA, without the permission of the Chair.
- 4.10 The general order of any motion shall be. Motion made, seconded and voted on. Roll call votes are required for applications and/or appeals heard by the Board of Zoning Appeals. After the vote, the Chair states the results of the vote.
- 4.11 The process to file an appeal of any decision made by the Board of Zoning Appeals shall be in accordance with, Code of Virginia, 15.2-2314.

ARTICLE 5 – VALIDITY

- 5.1 If any word, clause, sentence, article, section, subsection or other part or parts of these By-laws 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 By-laws, nor shall it affect any application of these By-laws that may be given effect without the unconstitutional or invalid parts, and to this end, all provisions of these By-laws are hereby declared to be severable.
- 5.2 The BZA shall be governed by the requirements of Title 15.2, Chapter 22, Code of Virginia, and the Pulaski County Unified Development Ordinance Article 2. Should any provision of these By-laws be found to be in conflict with said requirements, the Code of Virginia and/or the Pulaski County Unified Development Ordinance, the Code and Ordinance shall take precedence.
- 5.3 The Bylaws and Rules of Procedure of the Pulaski County Board of Zoning Appeals can be amended, as needed, and updated accordingly by the Board of Zoning Appeals.

