

# **TOWN OF AMHERST BOARD OF ZONING APPEALS BY-LAWS**

(Originally adopted June 11, 1996; amended to reflect changes in the Town Code)

## **ARTICLE 1 - OBJECTIVES**

This Board has been established in accordance with §15.2-2308 of the Code of Virginia and §18.1-1402 of the Code of the Town of Amherst. The provisions of these by-laws are intended to facilitate the powers and the duties of the Board in accordance with these statutes.

## **ARTICLE 2 - APPLICATIONS**

All applications for decisions by the Board shall be transmitted to the Secretary and shall include, as a minimum:

- A. Cover letter
- B. Signed application on a form provided by the Secretary
- C. Site plan or other appropriate drawings
- D. Application fee required by law (Per §18.1-1009, \$150 for variance, \$300 for other)

Upon receiving a full application, the Secretary immediately report same to the Chairman who shall have the authority to set a public hearing date and authorize the required advertisement.

Applicants shall be advised that several weeks are normally required between application and decision by the Board. This is due to the public notice requirements for hearings by the Board as contained in §15.2-2204 of the Code of Virginia, arranging the meeting of the Board, and requests for additional information not available at the hearing. The Code of Virginia requires action by the Board within 90 days of receipt of the application.

## **ARTICLE 3 - MEETINGS**

Meetings shall be called at the request of the Chairman or a quorum of the Board's membership. Written notice stating time and place of meetings shall be given to each member prior to the meeting.

The order of business for a meeting shall be as follows:

1. Call to Order by Chairman
2. Determination of quorum
3. Confirmation of minutes of previous meeting
4. Public Hearings
  - A. Report by Secretary
  - B. Statements by Applicant
  - C. Statements by other interested parties
  - D. Questions from Board Members
5. Unfinished Business
6. New Business
7. Adjournment

## **ARTICLE 4 - RULES**

These by-laws shall remain in full force and effect unless changed by a vote of the full membership of the Board of Zoning Appeals.

*(Reference: Chapter 18.1 of the Town Code, available online at [www.amherstva.gov](http://www.amherstva.gov))*





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

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

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2. To authorize upon appeal or original application in specific cases such variance as defined in § [15.2-2201](#) from the terms of the ordinance as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of the ordinance shall be observed and substantial justice done, as follows:

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of the ordinance would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of the ordinance.

No such variance shall be authorized by the board unless it finds:

- a. That the strict application of the ordinance would produce undue hardship relating to the property;
- b. That the hardship is not shared generally by other properties in the same zoning district and the same vicinity; and
- c. That the authorization of the variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

No variance shall be authorized except after notice and hearing as required by § [15.2-2204](#). However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

No variance shall be authorized unless the board finds that 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.

In authorizing a variance the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

## BZA Procedure Notes

09/02/2010

1	Application Receipt	Receive application per BZA bylaws. Only AFTER the application is in order, with fees and all materials required by the bylaws received, call the chairman of the BZA.
2		Organize a meeting as directed by the chairman for an initial review and setting the date, time and place of the required public hearing
3		Notify the applicant and the New Era Progress to advise when the first meeting is to take place.
4		Prepare and distribute agenda papers to Board members via mail.
5		Distribute case info to Planning Commission for review and comment.
6		Fax agenda to the New Era Progress as the official meeting notice.
7	First Meeting	Calculate earliest hearing date
8		On the day of the meeting, do reminder/quorum calls, set up the meeting room (gavel, pads/pencils, chairs, minutes of last meeting), take minutes.
9		Write minutes and circulate to Board members and draft to minutes book and case file.
10		Send a letter confirming the application has been received and when the hearing will be held to the applicant.
11		Fax the hearing notice to the paper; call to confirm receipt and note such on what was faxed.
12		Prepare list of adjoining property owners.
13		Send a notice to adjoining property owners and prepare affidavit of same.
14	Second Meeting	Prepare and post zoning sign on the site.
15		Prepare case writeup/analysis/report
16		Prepare and distribute agenda papers to Board members via mail.
17		On the day of the meeting, do reminder/quorum calls, set up the meeting room (gavel, pads/pencils, chairs, minutes of last meeting), take minutes.
18		Write minutes and circulate to Board members and draft to minutes book and case file.
19	Closeout	Send a letter confirming any decision to the applicant (closeout letter).
20		Remove/recycle zoning sign.
21		Secretary wraps up paperwork and closes the file.