

Board of Zoning Appeals  
Town of Dumfries, Virginia

Sec. 70-615. - Generally.

- (a) A board consisting of five or seven residents of the town shall be appointed by the circuit court for the county. Members of the board shall hold no other public office in the town except that one may be a member of the planning commission. The board shall be paid for attendance of meetings and traveling expenses. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term.
- (b) The term of office shall be for five years, except that the original appointments shall be made for such terms that the term of at least one member shall expire each year.
- (c) Any board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court which appointed him, after hearing held after at least 15 days' notice.
- (d) Any member of the board shall be disqualified to act upon a matter before the board with respect to property in which the member has an interest.
- (e) The board shall choose annually its own chairman, and a vice chairman who shall act in the absence of the chairman.

(Ord. of 1-18-79, § 13-1; Ord. of 3-3-87)

Sec. 70-616. - Powers; duties.

- (a) The board of zoning appeals shall have the following powers and duties:
  - (1) To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of this chapter.
  - (2) To authorize upon appeal or original application in specific cases such variance, as defined in Code of Virginia, § 15.1-430(p), from the terms of this chapter 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 this chapter 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 on January 18, 1979, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of this chapter 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 such variance will alleviate a clearly demonstrable hardship approaching confiscation, 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 this chapter. No such variance shall be authorized by the board unless it finds that:
    - a. The strict application of this chapter would produce undue hardship.
    - b. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
    - c. The authorization of such 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 such variance shall be authorized except after notice and hearing as required by Code of Virginia, § 15.1-431. 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 this chapter. 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.

- (3) To hear and decide appeals from the decision of the zoning administrator. No such appeal shall be heard except after notice and hearing as provided by Code of Virginia, § 15.1-431.
  - (4) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by any such question and after public hearing with notice as required by Code of Virginia, § 15.1-431, the board may interpret the map in such a way as to carry out the intent and purpose of this chapter for the particular section or district in question. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.
  - (5) To hear and decide applications for such special use permits as may be authorized in this chapter. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with. No such special use permit may be granted except after notice and hearing as provided by Code of Virginia, § 15.1-431.
  - (6) To hear and decide applications for such special exceptions as may be authorized in this chapter. The board may impose such conditions relating to the use provided for in the authorized special exceptions for which a permit is granted 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. No such special exception may be granted except after notice and hearing as provided by Code of Virginia, § 15.1-431.
- (b) No provision of this section shall be construed as granting to the board the power to rezone property.

(Ord. of 1-18-79, § 13-2)

**State Law reference**— State law reference—Powers and duties of board of zoning appeals, Code of Virginia, § 15.1-495.

Sec. 70-617. - Rules; regulations.

- (a) The board of zoning appeals shall adopt such rules and regulations as it may consider necessary.
- (b) Meetings of the board shall be held at the call of its chairman or at such time as a quorum of the board may determine.
- (c) The chairman or, in his absence, the acting chairman may administer oaths and compel the attendance of witnesses.
- (d) The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.
- (e) All meetings of the board shall be open to the public.
- (f) A quorum shall be a majority of the members of the board.

- (g) A favorable vote of a majority of the 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.

(Ord. of 1-18-79, § 13-3)

Sec. 70-618. - Appeals to board.

An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the town affected by any decision of the administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of Code of Virginia, § 15.1-486 et seq. or this chapter. Such appeal shall be taken within 30 days after the decision appealed from by filing with the administrator, and with the board, a notice of appeal specifying the grounds thereof. The administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings in furtherance of the action appealed from unless the administrator certifies to the board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the administrator and for good cause shown.

(Ord. of 1-18-79, § 13-4)

**State Law reference**— State law reference—Appeals to board, Code of Virginia, § 15.1-496.1.

Sec. 70-619. - Appeal procedure.

- (a) Appeals shall be mailed to the board of zoning appeals in care of the zoning administrator, and a copy of the appeal shall be mailed to the secretary of the planning commission. A third copy shall be mailed to the individual, official, department, or agency concerned, if any.
- (b) Upon filing an appeal to the board of zoning appeals, a fee shall be paid in accordance with the fee schedule adopted and amended by the town council.

(Ord. of 1-18-79, § 13-5; Ord. of 5-14-1996(7), § 1)