



TOWN OF SMITHFIELD

Wednesday, July 15th, 2020

TO: BOARD OF ZONING APPEALS (BZA)
FROM: JOHN SETTLE, COMMUNITY DEVELOPMENT & PLANNING DIRECTOR
RE: BZA MEETING

The BZA will hold its regular meeting on Tuesday, July 21st, 2020 at 7:30 PM at the Smithfield Center (220 N Church St, Smithfield, VA 23430).

Please call 1-(757)-365-4200 or email jsettle@smithfieldva.gov with any questions.

Enclosures

cc: Town Council
William H. Riddick, III, Town Attorney
The Smithfield Times
The Daily Press
File

SMITHFIELD BOARD OF ZONING APPEALS (BZA) MEETING AGENDA

Tuesday, July 21st, 2020, 7:30 PM

- 1) **2020 Election of Officers**
- 2) **Community Development & Planning Director's Report:**
 - Introduction of Tammie Clary, the Town's new planner.
 - Town staff are encouraging all members of the BZA to attend this year's Certified BZA Member program offered by Virginia Commonwealth University (see Enclosure 1). For more information, please contact Town staff.
 - Town staff remind all BZA members to remain after the meeting for their 2020-2021 group photograph.
- 3) **Upcoming Meetings and Activities**
 - Monday, July 27th – 3:00 PM – Town Council Committee Meetings
 - Tuesday, July 28th – 3:00 PM – Town Council Committee Meetings
 - Tuesday, August 4th – 6:30 PM – Town Council Meeting
 - Tuesday, August 11th – 6:30 PM – Planning Commission Meeting
 - Tuesday, August 18th – 6:30 PM – Board of Historic & Architectural Review Meeting
 - Tuesday, August 18th – 7:30 PM – BZA Meeting
- 4) **Public Comments**
- 5) **Board Member Comments**
- 6) **BZA Bylaws Amendment, Town Staff, applicants** (staff report, draft BZA bylaws amendment & City of Hampton, Virginia BZA bylaws enclosed).
- 7) **Approval of the Tuesday, December 19th, 2019 meeting minutes** (enclosed).
- 8) **2020-2021 BZA Group Photograph**
- 9) **Adjournment.**

*****ATTENTION*****

Owing to the pandemic, we are encouraging remote public comment on all land use applications, whether or not a public hearing is required. If you do not feel comfortable with attending a meeting in person, please submit your comments in writing to Mr. John Settle, Community Development & Planning Director. Your comments will be conveyed to the appropriate Board or Commission. Mr. Settle can be reached via email (jsettle@smithfieldva.gov) or mail at the address below:

**Town of Smithfield Community
Development & Planning Department
ATTN John Settle, Director
PO Box 246
Smithfield, VA 23431**

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: **NOTICE OF INTENT TO COMPLY WITH THE AMERICANS WITH DISABILITIES ACT (ADA)** :
: Reasonable efforts will be made to provide assistance or special arrangements to qualified individuals with :
: disabilities in order to participate in or attend Board of Historic & Architectural Review (BHAR) meetings. :
: ADA compliant hearing devices are available for use upon request. Please call 1-(757)-365-4200 at least :
: twenty-four (24) hours prior to the meeting date so that proper arrangements may be made. :
:.....

ENCLOSURE 1

Summary

Register Now

39th Certified Board of Zoning Appeals Program

October 8, 2020–December 10, 2020
8:00 AM-3:30 PM

VCU Raleigh Building
1001 W. Franklin Street, Room B-001
Richmond, VA 23284

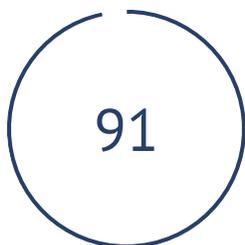
The Certified BZA Program is designed to provide each registrant with a comprehensive overview of zoning in Virginia and the critical role the BZA plays in deciding issues involving zoning and zoning decisions. The course covers the legal foundations of zoning as well as the duties, powers and responsibilities of the BZA. The program also reviews the role of procedural and substantive due process in BZA deliberations as well as principles of meeting management and decision making.

The BZA class consists of three parts: an in-person opening session, home study, and an in-person closing session. The dates of the opening and closing sessions are as follows:

Opening session: October 8-9

Closing session: December 10

Countdown to the Event



DAYS

Register By



HOURS

Register Now



MINUTES



SECONDS

Contact Us

**BOARD OF ZONING APPEALS (BZA) STAFF REPORT:
BZA BYLAWS AMENDMENT**

TUESDAY, JULY 21st, 2020, 7:30 PM

Earlier this year, Town staff conducted an internal review of the bylaws of the BZA and came to the conclusion that there appears to be conflicting language between two sections of the bylaws. Section II.1 states:

. . . In the event no cases or business are before the Board, the Board shall not meet . . .

Further, Section II.3 states:

. . . Special meetings of the Board of Zoning Appeals shall be called at the request of the Chairman or at the request of a majority of the membership . . .

To remedy this, Town staff are proposing to include qualifying language distinguishing between regular and special meetings by suggesting the alteration of Section II.1 to read:

. . . In the event no cases or business are before the Board, the Board shall not hold a regular meeting . . .

To further avoid any future debate on the meaning of these two Sections, and to stress the importance of a special BZA meeting, Town staff is proposing the revision of Section II.3 to read:

. . . Special meetings of the Board of Zoning Appeals shall be called at the request of the Chairman with the concurrence of two other Board members . . .

After an examination of various other localities' BZA bylaws, this language was found in the City of Hampton's BZA bylaws. Town staff believe that this language is the most suitable for the Town. We anticipate making similar changes to the Board of Historic and Architectural Review's bylaws in the near future.

Finally, to establish the July organizational meeting as a permanent fixture in the BZA's procedures, Town staff propose the inclusion of the following language as Section II.6:

An organizational meeting shall be held each year on the date of the Board's July regular meeting. In addition to deciding whatever cases or business may be before the Board at that time, the Board will have the opportunity to hold its officer elections (if it has not occurred already in the preceding months), welcome new members, and address other organizational matters.

A red lined version of this bylaws amendment, as well as the signed BZA bylaws of the City of Hampton, Virginia, are included in the pages immediately following this staff report.

Recommendation:

Town staff recommend approval as submitted.

Please direct inquiries to John Settle at 1-(757)-365-4200 or jsettle@smithfieldva.gov.

Town of Smithfield Board of Zoning Appeals

BYLAWS

I. OFFICERS

1. The officers of the Town of Smithfield Board of Zoning Appeals shall be a Chairman, a Vice-Chairman and a Secretary; all officers shall be elected by the Board of Zoning Appeals pursuant to usual parliamentary procedures. All officers shall serve one (1) year terms. Election of officers shall take place on the first meeting every year.
2. The Chairman shall preside at all meetings and rule on all procedural questions.
3. The Vice-Chairman shall act as Chairman in the absence or inability of the Chairman to act.
4. The Secretary, who need not be a member of the Board, shall keep a written record of all business transacted by the Board, in the form of minutes.
5. Members shall be recommended for appointment by Town Council. The Isle of Wight Circuit Court shall appoint the members. Members serve five (5) year terms. Vacancies shall be filled for the unexpired term only. All vacancies shall be filled within sixty (60) days.

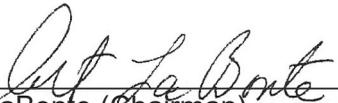
II. MEETINGS

1. Regular meetings of the Board shall be held on the third Tuesday of each month at 7:30 PM in the Town of Smithfield Town Council Chambers. In the event no cases or business are before the Board, the Board shall not ~~meet~~ hold a regular meeting. When a meeting date falls on a legal holiday, the new meeting day and time shall be determined by a majority of the Board.
2. The Zoning Administrator of the Town of Smithfield or his designee is hereby expressly delegated authority to call regular meetings of the Board of Zoning Appeals and properly advertise public hearings upon receipt by him of written applications for variances or written notices of appeals, as provided for in the Zoning Ordinance of the Town of Smithfield.
3. Special meetings of the Board of Zoning Appeals shall be called at the request of the Chairman ~~or at the request of a majority of the membership with the concurrence of two other Board members~~. Public notice will be given prior to any special meetings.

4. Written notice of all meetings shall be given to each member at least five (5) days prior to such meetings and shall include the agenda and documents supporting each application.
5. A majority of the membership of the Board shall constitute a quorum; the number of votes necessary to transact business shall be a majority of the entire Board. All voting shall be recorded.
6. An organizational meeting shall be held each year on the date of the Board's July regular meeting. In addition to deciding whatever cases or business may be before the Board at that time, the Board will have the opportunity to hold its officer elections (if it has not occurred already in the preceding months), welcome new members, and address other organizational matters.

III. AMENDMENTS

1. The bylaws may be amended by a two-thirds vote of the entire membership of the Board.
2. The Board may temporarily suspend any of the bylaws by a unanimous vote of members present.



Art LaBonte (Chairman)



Date

BOARD OF ZONING APPEALS BY-LAWS
CITY OF HAMPTON, VIRGINIA

PREAMBLE

This Board is established in accordance with Section 15.2-2308 of the Code of Virginia and Chapter 22 of the Zoning Ordinance of the City of Hampton. The provisions of these by-laws are intended to facilitate the powers and duties of the Board in accordance with these statutes.

ARTICLE I – OFFICERS

1. The Board shall elect a Chair and a Vice Chair at its first regular meeting in January of each year. The term of the Chair and Vice Chair shall be one (1) calendar year. The term limit of the Chair and Vice Chair shall be for no more than four (4) consecutive years.
2. The Secretary of the Board shall be designated by the Zoning Administrator.
3. The Chair shall preside at all meetings of the Board and shall decide all points of order or procedure and shall appoint any committee deemed necessary.
4. The Vice Chair shall conduct the meeting in the absence of the Chair.
5. In the event that the Vice Chair is also absent, the Board shall elect one of its members to Chair the meeting.
6. The Secretary shall conduct all official correspondence, be responsible for the minutes of all meetings and maintain a file on each case which comes before the Board.
7. The Secretary shall distribute a recommendation on each case and prepare an agenda which shall be delivered to the members of the Board in the week prior to the meeting.

ARTICLE II – MEETINGS

1. A regular meeting of the Board shall be held on the first Monday of each month at 5:00 p.m. in Hampton City Hall. In the event that the regular meeting falls on a holiday, the meeting and hearings on all matters scheduled for that meeting shall be held on the next succeeding Monday, which is not a legal holiday.
2. The Board, by resolution adopted at a regular meeting, may also fix the day or days to which any meeting shall be continued if the Chairman, or Vice-Chairman, if the Chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting shall be conducted at the continued meeting and no further advertisement is required. The Board shall cause a copy of such resolution to be inserted in a newspaper having general circulation in the locality at least seven days prior to the first meeting held pursuant to the adopted schedule.
3. Special meetings may be called by the Chair with the concurrence of two other Board members.
4. A quorum shall consist of at least three (3) members of the Board, including alternates serving in an absent or abstaining member's place.
5. No action of the board shall be valid unless authorized by a majority of those present and voting. Except in the case of an appeal, where the concurring vote of three (3) members is necessary to reverse the decision under appeal.
6. If a quorum is not present within fifteen (15) minutes after the meeting is called to order, the Chair may adjourn the meeting.
7. The order of business at all regular meetings of the Board shall be as follows:
 - a. Call the meeting to order
 - b. Roll call
 - c. Approval of minutes of previous meeting

- d. Hearing of cases
- e. New Business
- f. Adjournment

If deemed necessary, the Chair may change the above order of business.

- 8. The Board may adjourn a regular meeting if all of the cases or appeals cannot be heard or disposed of on the date set and no further public hearing notice shall be necessary if all parties are notified in writing of the new hearing date.
- 9. A regular member, when he knows he will be absent from or will have to abstain from any application at a meeting, shall notify the chairman twenty-four (24) hours prior to the meeting of such fact. The chairman shall select an alternate to serve in the absent or abstaining member's place and the records of the board shall so note. Such alternate member may vote on any application in which a regular member abstains.

ARTICLE III – PROCEDURE FOR HEARING CASES

- 1. The Board shall have the following powers and duties:
 - a. To hear and decide appeals from any zoning order, zoning requirement, zoning decision or zoning determination made by an administrative officer.
 - b. To authorize such variance from the terms of the zoning ordinance pursuant to section 22-7 (b) of the zoning ordinance.
 - c. To hear and decide appeals from the decision of the Zoning Administrator
 - d. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary
 - e. To hear and decide applications for such special exceptions as may be authorized in the ordinance

2. All variances, appeals or special exceptions shall be filed with the Community Development Department on standard forms provided by the City.
3. The Secretary or his/her designee, upon receiving a variance , appeal or special exception application, shall advertise the request for a public hearing as prescribed by the ordinance. The applicant and surrounding property owners shall be notified by mail, giving the time and date the matter will be heard by the Board.
4. At the public hearing, the applicant may appear on his own behalf or may be represented by counsel or agent. The Zoning Administrator, or his designee, shall present the staff recommendation, followed by the applicant's presentation, followed by any person wishing to speak in favor of or against the request. The applicant shall be given the opportunity for a final rebuttal.
5. Members shall address only the Chairman, or address each other through the Chairman. A member must be recognized by the Chairman before proceeding.
6. The final decision of any application or appeal to the Board shall be in the form of a motion and second and shall be in accordance with Article II, #5. The Board, after hearing all of the testimony, may delay any final decision for a period not to exceed ninety (90) days. Upon agreement by the Board and the applicant, the period may be extended up to an additional ninety (90) days.
7. All motions shall be restated by the Chairman before a vote is taken. The names of the persons making and seconding motions shall be recorded.
8. After rendering a decision on a case, the applicant and/or the opposition shall be advised of their right of appeal of the Board's decision to the Circuit Court.
9. All procedural questions not covered by these By-laws or state law, shall be governed by the general rules of parliamentary procedure (Robert's Rules of Order, Newly Revised). The City Attorney is Parliamentarian of the Board.

ARTICLE IV – RECORDS

1. A file of each application and related material shall be maintained by the Secretary, in the Community Development Department. The Secretary shall keep minutes of each meeting and shall maintain a record of all meetings.
2. All records of the Board shall be available as a public record.

ARTICLE V – COMPENSATION

1. The compensation for the Board is as established by the City Council.

ARTICLE VI – VACANCIES

1. When a vacancy occurs, prospective candidate names will be considered by the Zoning Administrator, forwarded to the Board for review and then sent to City Council for a recommendation to the Judges of the Circuit Court for their consideration to make appointments to the Board.

ARTICLE VII – AMENDMENTS TO THE BY-LAWS

1. The By-Laws may be amended by a quorum of the Board at a regular meeting upon 30 days written notice to the board members of the proposed changes.

Adopted by the Board of Zoning Appeals, this 21st day of July, 2014.

AT A REGULAR MEETING AND PUBLIC HEARING OF THE BOARD OF ZONING APPEALS OF THE CITY OF HAMPTON, VIRGINIA, HELD IN THE HARDY CASH CONFERENCE ROOM, CITY HALL, 22 LINCOLN STREET, AT 5:00 P.M. ON MONDAY, **JULY 21, 2014.**

Present: Chairman Thomas Savage, Vice-Chairman Burnett Peters, Board Members Linda Ellis, Rodney Gentry and Alternate Board Member Tim Smith. Also present were Zoning Administrator Steve Shapiro, Senior Deputy City Attorney Lesa Yeatts, and Recording Secretary Victoria Byrd. Absent was Board Member John Pope.

Chairman Savage called the meeting to order and asked that the minutes of the July 7, 2014, meeting be considered. A motion was made by Vice-Chairman Peters and seconded by Board Member Gentry that the minutes be approved as written.

A roll call vote on the motion resulted as follows:

AYES:	Ellis, Gentry, Peters, Savage
NAYS:	None
ABSTAIN:	Smith
ABSENT:	Pope

(Continued from April 21, 2014) VA14-00001: Carlos Lewis, 1003 New Street, LRSN: 103772, variance to reduce the required lot width from 60' to 40' and the required lot area from 6,000 sq ft to 4,320 sq ft to allow a new single-family dwelling on an existing vacant lot.

After all parties were sworn in by the court reporter, Zoning Administrator Steve Shapiro stated that Mr. Lewis had previously requested a 90 day continuance because staff was working on an amendment to the section of the Zoning Ordinance which governs this case and the hope was to have the amendment through City Council by the end of July. The amendment is now scheduled to be brought in front of City Council in September and Mr. Lewis has requested another 90 day continuance until the amendment has been approved.

A motion was made by Board Member Gentry and seconded by Vice Chairman Peters to continue the case until the October 6, 2014 meeting.

A roll call on the motion resulted as follows:

AYES:	Ellis, Gentry, Peters, Savage, Smith
NAYS:	None
ABSTAIN:	None
ABSENT:	Pope

SX14-00002, Ronald V. Davis, Sr., 322 Alcove Drive, LRSN: 12000021, a special exception to allow a day care 2 for up to 9 children at an existing single-family home.

Zoning Administrator Shapiro stated that staff is recommending the granting of the Special Exception subject to the attached ten (10) conditions.

The applicant, Helen Armstead-Davis, presented her case to the Board.

After discussion, a motion was made by Board Member Ellis and seconded by Board Member Gentry that the special exception should be approved with the following ten (10) conditions:

1. Outdoor play area(s) shall be limited to the rear yard and shall be enclosed with a fence at least four (4) feet in height
2. No signs shall be allowed
3. Records shall be kept on a daily basis of enrollment with the names, addresses and ages of children and be open for inspection by authorized personnel
4. Hours of operation shall be limited to 6:30 AM to 5:30 PM, Monday through Friday
5. Employees must reside on premises
6. The day care shall be licensed by the Virginia Department of Social Services
7. In each kitchen there shall be installed and maintained at least one approved type-ABC portable fire extinguisher with a minimum rating of 2A10BC
8. The facility shall provide and maintain at least one approved battery-operated properly-installed smoke detector as a minimum (i) outside each sleeping area in the vicinity of bedrooms and bedroom hallway and (ii) on each additional floor
9. The total number of children enrolled shall not exceed nine (9)
10. A certificate of occupancy must be obtained from the Community Development Department prior to beginning operation of the day care.

A roll call on the motion resulted as follows:

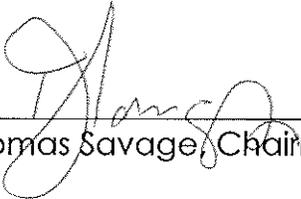
AYES:	Ellis, Gentry, Peters, Savage, Smith
NAYS:	None
ABSTAIN:	None
ABSENT:	Pope

Consideration of revision to the By-Laws was completed. After discussion, a motion was made by Alternate Board Member Smith and seconded by Board Member Ellis that the revised By-Laws should be approved as written.

A roll call on the motion resulted as follows:

AYES:	Ellis, Gentry, Peters, Savage, Smith
NAYS:	None
ABSTAIN:	None
ABSENT:	Pope

There being no further business to come before the Board, the meeting was adjourned at 5:20 p.m.



Thomas Savage, Chairman