

**FAUQUIER COUNTY BOARD OF ZONING APPEALS'**  
**RULES OF PROCEDURE REGARDING APPEALS**

*Adopted April 4, 2013*  
*Revised May 2, 2013*  
*Revised August 6, 2015*

The following procedural rules govern appeals before the Fauquier County Board of Zoning Appeals (“BZA”):

**A. Definitions:**

**Appellant:** Any person aggrieved or any officer, department, board, commission, or authority of the County affected by any decision of the Zoning Administrator or by any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of the Fauquier County Zoning Ordinance.

**Appeal:** Action taken to contest a decision of the Zoning Administrator or to contest any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of the Fauquier County Zoning Ordinance

**B. Appellant to receive copy of Rules:**

County staff shall provide the appellant a copy of the BZA’s Rules of Procedure Regarding Appeals upon appellant’s request or no later than at the time appellant files its land development application noting its appeal. All appeals shall include as an Addendum, a statement by the appellants acknowledging receipt of these Rules of Procedure.

**C. Submission requirements of written materials:**

- (1) The appellant shall file a land development application and filing fee noting its appeal, along with a detailed statement of justification of the grounds for the appeal, in accordance with the relevant provisions of the Code of Virginia and the Fauquier County Zoning Ordinance, with Fauquier County’s Office of Community Development located at 29 Ashby Street, Third Floor, Warrenton, Virginia 20186. The appellant shall file eight (8) complete copies of the statement of the justification, including copies of all exhibits, at the time of filing.
- (2) The appeal shall be placed on the BZA’s next agenda for which it can be properly advertised, consistent with the legal notice requirements of the Code of Virginia and the Fauquier County Zoning Ordinance. There may be instances in which an appellant must file an appeal to protect its rights but appellant and County staff are actively pursuing a resolution to the issue which resulted in the appeal. In those instances, appellant and

County staff can consent to postpone scheduling of the appeal. In those instances, the appeal will not be placed on the BZA's public meeting agenda until either party notifies the Secretary of the BZA of the need to schedule it; however, both parties' consent to the postponement of the appeal shall be placed on the BZA's agenda.

- (3) County staff shall file seven (7) copies of its written response to the appeal, including copies of all exhibits, with the Secretary of the BZA within fourteen (14) business days of the date appellant filed its appeal. Staff shall also transmit by hand delivery, facsimile, or email a complete copy of its response to the appeal, including copies of all exhibits, to the appellant, so that the appellant receives its copy by 4:30 p.m. the same day staff files its response with the Secretary of the BZA.
- (4) The appellant may, but is not required to, file a written reply to staff's submission with the Office of Community Development. If appellant elects to file a written reply, it shall be filed within five (5) business days of the date staff filed its response to the appeal. The appellant shall file eight (8) complete copies of its reply, including copies of all exhibits, at the time of filing.
- (5) If appellant raises new or different arguments in its written reply to County staff's submission, staff may, but is not required, to file a reply with the Secretary of the BZA. If staff elects to file a reply, it shall be filed within three (3) business days of the date appellant filed its reply. Staff shall file seven (7) copies of its reply, including copies of all exhibits, at the time of filing. Staff shall also transmit by hand delivery, facsimile, or email a complete copy of its reply, including copies of all exhibits, to the appellant, so that the appellant receives its copy by 4:30 p.m. the same day staff files its reply with the Secretary of the BZA.
- (6) There is no page limit for written submissions.
- (7) Untimely submission of written materials may preclude or hinder the BZA's consideration of them but shall not be grounds for delay of consideration except at the discretion of the BZA.

**D. Oral argument at the public meeting:**

- (1) Order of oral argument:
  - a. County staff shall explain the basis for his/her determination; such determination is presumed to be correct. The County shall have twenty (20) minutes for this presentation.
  - b. Appellant or the appellant's representative has the burden to rebut the presumption of the determination's correctness by a preponderance of the evidence. Appellant shall have twenty (20) minutes to present their arguments.
  - c. County staff shall have the opportunity to rebut the issues presented by Appellant. Staff's rebuttal is limited to five (5) minutes.
  - d. Appellant may only reply to County staff's rebuttal if County staff raises new issues during its rebuttal. Appellant's reply is limited to five (5) minutes.

- (2) The time periods set forth regarding presentation of appeals at the public meeting may be modified at the discretion of the BZA. The Chairperson shall enforce the time limitations so that the hearing is held in a fair and orderly manner.
- (3) Appeals will be heard in the order in which they appear on the agenda unless a majority of the membership of the BZA votes to modify the agenda.
- (4) If either party presents an exhibit at the public meeting which was not submitted with its written submission, then a copy shall be submitted to the Secretary for the BZA at the public meeting. That copy shall be included in the BZA's official record relating to the appeal. Untimely submission of exhibits may preclude or hinder the BZA's consideration of them but shall not be grounds for delay of consideration except at the discretion of the BZA.

**E. Requests for deferral of appeals:**

- (1) A request for a deferral of an appeal shall be in writing, shall be addressed to the BZA, and delivered to the Secretary of the BZA. The party requesting the deferral shall transmit a copy of the request for a deferral to the opposing party or its representative by hand delivery, facsimile, or email so that the opposing party receives its copy by 4:30 p.m. the same day the request for deferral is delivered to the Secretary of the BZA.
- (2) A request shall include the reason(s) why deferral is necessary.
- (3) A decision regarding a deferral shall be made by the BZA at the public meeting at which the case is scheduled to be considered.
- (4) The parties shall be prepared to proceed with argument of the appeal in the event the request for deferral is denied.

**FAUQUIER COUNTY BOARD OF ZONING APPEALS**

**Addendum to Land Development Application**

I hereby acknowledge receipt and have read the Fauquier County Board of Zoning Appeals' *Rules of Procedure Regarding Appeals*.

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Applicant

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Applicant

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Printed Name

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Date