

Town Council: Setting a public hearing on October 30, 2017

Virginia Code (excerpted see below) requires that we act on a "vote of a majority of the membership of the board."

- **Draft recommended language by Council: (9/11/2017)**

Sec. 18-241. - Decisions of board.

- A. In all cases coming before the board of zoning appeals, decisions shall be made within 90 days of the filing of the application or appeal. The board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. Pursuant to Va. Code §15.2-2312, tThe concurring vote of at least **four (4)** ~~three~~ members shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variance thereof.

- **Draft recommended language by Planning Commission: (9/27/2017)**

Sec. 18-241. - Decisions of board.

- A. In all cases coming before the board of zoning appeals, decisions shall be made within 90 days of the filing of the application or appeal. The board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. Pursuant to Va. Code §15.2-2312, tThe concurring vote of **the majority of the membership of the board** ~~at least three members~~ shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variance thereof.

- **Code of Virginia:**

§ 15.2-2312. Procedure on appeal.

The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and make its decision within ninety days of the filing of the application or appeal. In exercising its powers the board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from. **The concurring vote of a majority of the membership of the board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance from the ordinance.** The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board and shall be public records. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. (1975, c. 521, § 15.1-496.2; 1983, c. 444; 1986, c. 483; 1997, c. 587.)

§ 15.2-2308. Boards of zoning appeals to be created; membership, organization, etc.

C. With the exception of its secretary and the alternates, the board shall elect from its own membership its officers who shall serve annual terms as such and may succeed themselves. The board may elect as its

Town Council: Setting a public hearing on October 30, 2017

secretary either one of its members or a qualified individual who is not a member of the board, excluding the alternate members. A secretary who is not a member of the board shall not be entitled to vote on matters before the board. Notwithstanding any other provision of law, general or special, for the conduct of any hearing, a quorum shall be not less than a majority of all the members of the board and the board shall offer an equal amount of time in a hearing on the case to the applicant, appellant or other person aggrieved under § 15.2-2314, and the staff of the local governing body. **Except for matters governed by § 15.2-2312, no action of the board shall be valid unless authorized by a majority vote of those present and voting.** The board may make, alter and rescind rules and forms for its procedures, consistent with ordinances of the locality and general laws of the Commonwealth. The board shall keep a full public record of its proceedings and shall submit a report of its activities to the governing body or bodies at least once each year.