

MOTION:

**May 8, 2024
Regular Meeting
Res. No. 24-**

SECOND:

RE: RECOMMEND ADOPTION OF ZONING TEXT AMENDMENT #DPA2017-00025, MINOR CHANGES TO WRITTEN DETERMINATIONS TO UPDATE THE COUNTY CODE TO REFLECT CHANGES MADE TO THE CODE OF VIRGINIA BY CHAPTER 665 OF THE ACTS OF ASSEMBLY ENACTED BY THE GOVERNOR AND GENERAL ASSEMBLY DURING THE 2017 GENERAL SESSION - COUNTYWIDE

ACTION: RECOMMEND ADOPTION

WHEREAS, in accordance with Sections 15.2-2285 and 15.2-2286 of the Code of Virginia, Ann., the Board of County Supervisors may amend the Zoning Ordinance whenever it determines that public necessity, health, safety, convenience, general welfare, and good zoning practice necessitate such change; and

WHEREAS, this zoning text amendment would amend the following section of the Zoning Ordinance:

- Section 32-900.20 regarding the appeal period for the Board of Zoning Appeals ; and

WHEREAS, on May 16, 2017, the Board of County Supervisors adopted Resolution No. 17-239 which initiated a zoning text amendment to address the above referenced issues; and

WHEREAS, County staff recommends that the Planning Commission recommend approval of this zoning text amendment for the reason stated in the staff report; and

WHEREAS, the Prince William County Planning Commission duly ordered, advertised, and held a public hearing on May 8, 2024, at which time public testimony was received and the merits of the above-referenced zoning text amendment were considered; and

WHEREAS, the Prince William County Planning Commission finds that public necessity, convenience, general welfare as well as good zoning practices are served by recommending adoption of this zoning text amendment;

NOW, THEREFORE, BE IT RESOLVED, that the Prince William County Planning Commission does hereby recommend adoption of Zoning Text Amendment #DPA2017-00025, Minor Changes to Written Determinations, to update the County Code to reflect changes made to the Code of Virginia by Chapter 665 of the Acts of Assembly enacted by the Governor and General Assembly during the 2017 General Session.

ATTACHMENT: Zoning Text Amendment

Votes:

Ayes:

Nays:

Absent from Vote

Absent from Meeting:

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MOTION CARRIED or MOTION FAILED TO CARRY

ATTEST: _____
Clerk to the Planning Commission

Sec. 32-900.20. - Appeals.

The following provisions shall apply to appeals under this chapter:

1. The appeal to the Board of Zoning Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the County affected by any decision of the Zoning Administrator or other official charged with responsibility by this chapter for administering portions hereof. A written notice of a zoning violation or a written order of the Zoning Administrator shall include a statement that the notice of violation or written order shall be final and unappealable if not appealed within 30 days. ~~Such notice shall be sent by registered~~ The appeal period shall not commence until the statement is given and the zoning administrator's written order is sent by registered mail or certified mail to, or posted at, the last known address or usual place of abode of the property owner or its registered agent, if any. There shall be a rebuttable presumption that the property owner's last known address is that shown on the current real estate tax assessment records, or the address of a registered agent that is shown in the records of the Clerk of the State Corporate Commission. ~~of the property owner as shown on the current real estate tax assessment books or current real estate tax assessment records and shall be deemed sufficient notice to the property owner and shall satisfy the notice requirements of this section.~~ An appeal shall be taken within 30 days after the decision appealed from, by filing with the Zoning Administrator and the board of appeals a notice of appeal specifying the grounds thereof, which shall be accompanied by a fee set by the Board of County Supervisors. The Zoning Administrator or other appropriate official shall forthwith transmit to the Board of Zoning Appeals copies of the papers constituting the record upon which the action was taken. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Zoning Appeals 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 of Zoning Appeals or by a court of record, on application and on notice to the Zoning Administrator and for due cause shown.
2. The Board of Zoning Appeals shall fix a reasonable time for the hearing of an appeal, give public notice as required by [section 32-700.60](#) of this chapter thereof, as well as due notice to the parties in interest, and decide the same within 90 days.
3. In exercising its powers, the Board of Zoning Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from. The concurring vote of a quorum of its members shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or other official or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter. The chairman of the Board of Zoning Appeals, or in his absence, the acting chairman, may administer oaths and compel the attendance

of witnesses. The Board of Zoning Appeals shall keep minutes of its proceedings and other official actions which shall be filed in the Planning Office and shall be public record.

4. Upon filing an appeal to the Board of Zoning Appeals, a fee shall be paid in accordance with the fee schedule adopted by resolution of the governing body.

5. In any appeal taken pursuant to this section, if the board's attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.

(Ord. No. 04-78, 12-21-04; Ord. No. 09-22, 4-21-09; Ord. No. 14-17, Attch., 4-15-14)



STAFF REPORT

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| PC Meeting Date: | May 8, 2024 |
| Agenda Title: | Zoning Text Amendment #DPA2017-00025, Minor Changes to Written Determination to update the County Code to reflect changes made to the Code of Virginia by Chapter 665 of the Acts of Assembly enacted by the Governor and General Assembly during the 2017 General Session |
| District Impact: | Countywide |
| Requested Action: | Recommend Adoption of Zoning Text Amendment #DPA2017-00025, Minor Changes to Written Determination |
| Department: | Planning Office |
| Case Planner: | Emilie Wolfson |

EXECUTIVE SUMMARY

The Governor and General Assembly have made various changes to the Code of Virginia, specifically, by enactment of Chapter 665 of the Acts of Assembly during the 2017 General Session. Chapter 665 amends §15.2-2311 of the Code of Virginia related to Board of Zoning Appeals. This amendment requires the amendment of Section 32-900.20 of the Zoning Ordinance.

It is the recommendation of staff that the Planning Commission recommend approval of Zoning Text Amendment #DPA2017-00025.

BACKGROUND

Zoning Text Amendment Initiated – On May 16, 2017, the Board initiated Zoning Text Amendment #DPA2017-00025, Minor Changes to Written Determination in Resolution 17-239, to address the requirements of Chapter 665 of the 2017 Acts of Assembly (see Attachment A). As part of the resolution, the Board also initiated staff to address the requirements of Chapters 835 of the 2017 Acts of Assembly, and Chapter 613 of the 2016 Acts of Assembly. These changes are being handled through a separate Zoning Text Amendment, #DPA2017-00024: Telecommunication and Small Cell Facilities that is currently being processed.

Amendment of the Zoning Ordinance – Section 15.2-2285 and 15.2-2286 of the Code of Virginia, Ann., the Board of County Supervisors may amend the Zoning Ordinance whenever it determines that public necessity, health, safety, convenience, general welfare, and good zoning practice necessitate such change.

2017 State Legislation – General Acts of Assembly Chapter 665, approved during the 2017 legislative session of the Virginia General Assembly and signed into law by the Governor (see Attachment A), amended the Code of Virginia as follows:

General Acts of Assembly Chapter 665 - Chapter 665 amends §15.2-2311 of the Code of Virginia related to the Board of Zoning Appeals. This amendment requires the amendment of Section 32-900.20 of the Zoning Ordinance.

Purpose of the Amendment – The purpose of the amendment is to include the adopted changes to State Code from the General Acts of Assembly 2017 session Chapter 655.

STAFF RECOMMENDATION

The Planning Office recommends the Planning Commission recommends approval of the proposed Zoning Text Amendment #DPA 2017-00025, Minor Changes to Written Determinations for the following reason:

1. The Prince William County Zoning Ordinance is intended to implement state legislation. The proposed text amendments will further bring the Zoning Ordinance into consistency with the Virginia Code.

Community Input

As required by §§ 15.2-2204 and 15.2-2285, Code of Virginia, and the Zoning Ordinance, notice of the Zoning Text Amendment has been advertised and the proposed amendment has been published on the Prince William County government website and has been available in the Planning Office.

Legal Issues

Legal issues are appropriately addressed by the County Attorney's Office.

Timing

There is no time requirement for the Planning Commission to take action on Zoning Text Amendments.

STAFF CONTACT INFORMATION

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ewolfson@pwcgov.org

ATTACHMENTS

Attachment A- Zoning Text Amendment Initiation Resolution and Virginia Acts of Assembly 2017
Session- Chapter 665

MOTION: LAWSON

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SECOND: CADDIGAN

RE: AUTHORIZE PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE COUNTY CODE TO BE EFFECTIVE JULY 1, 2017, MANDATED BY CHANGES TO STATE LAW MADE BY THE GOVERNOR AND THE 2017 GENERAL ASSEMBLY: PROPOSED AMENDMENTS TO CHAPTERS 2 (ADMINISTRATION), 4 (ANIMAL AND FOWL), 4.5 (BAD CHECKS), 5 (BUILDINGS AND BUILDING REGULATIONS), 13 (MOTOR VEHICLES AND TRAFFIC), 16 (MISCELLANEOUS OFFENSES), 22 (REFUSE), 26 (TAXATION), 27 (TAXICABS), AND 31 (WEAPONS); AND INITIATE ZONING TEXT AMENDMENT

ACTION: APPROVED

WHEREAS, the Board of County Supervisors of Prince William County, Virginia, pursuant to both general and specific authority granted by the Code of Virginia, has enacted certain provisions of Chapters 2 (Administration), 4 (Animal And Fowl), 4.5 (Bad Checks), 5 (Buildings And Building Regulations), 13 (Motor Vehicles And Traffic), 16 (Miscellaneous Offenses), 22 (Refuse), 26 (Taxation), 27 (Taxicabs), and 31 (Weapons) of the Prince William County Code to parallel certain provisions of the Code of Virginia; and

WHEREAS, the parallel provisions of the Code of Virginia have been previously amended or amended by the 2017 General Assembly and the Governor of Virginia; and

WHEREAS, it is the Board's desire to conduct a public hearing for the purpose of considering adoption of corresponding amendments to the Prince William County Code; and

WHEREAS, the Board has enacted Chapter 32 of the Prince William Code, Zoning, and the Governor and General Assembly have enacted Chapters 665 and 835 of the 2017 Acts of Assembly and Chapter 613 of the 2016 Acts of Assembly, mandating changes to local zoning ordinances including provisions that deem proposed telecommunication towers or facilities constructed pursuant to Chapter 9.1, Title 56 of the Code of Virginia to be substantially in accord with the comprehensive plan and waiving the need for approval by the planning commission, changing when the appeal period commences for a zoning appeal, establishing a rebuttable presumption in a zoning appeal that the property owner's last known address is the address shown on current real estate assessments, and zoning for wireless communications infrastructure; and

WHEREAS, the Prince William County Board of Supervises finds that public necessity, convenience, general welfare, and good zoning practices require the initiation of this zoning text amendment;

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NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors does hereby determine that it shall conduct a public hearing to be scheduled on June 20, 2017, by the Clerk to the Board to consider the adoption of the amendments to Chapters 2, 4, 4.5, 5, 13, 16, 22, 26, 27, and 31 of the County Code, shown on the attachment to this Resolution, all to be effective July 1, 2017. The Clerk is further directed to make copies of all proposed amendments available to the public upon request;

BE IT FURTHER RESOLVED that the Clerk to the Board properly advertise notice of the public hearing for the stated purpose in a newspaper of general circulation in Prince William County;

BE IT FURTHER RESOLVED that the Prince William Board of County Supervisors does hereby direct the Planning Commission and County Staff to initiate appropriate amendments to Chapter 32 of the Prince William Code, which is the Zoning Ordinance to address the Requirements of Chapters 665 and 835 of the 2017 Acts of Assembly and Chapter 613 of the 2016 Acts of Assembly.

Votes:

Ayes: Anderson, Caddigan, Jenkins, Lawson, Nohe, Principi, Stewart

Nays: None

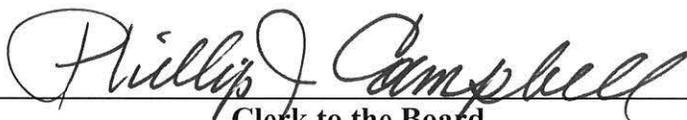
Absent from Vote: Candland

Absent from Meeting: None

For Information:

County Executive
Police Chief
Finance Director
Planning Director
Development Services Director
Public Works Director
Commonwealth's Attorney

ATTEST: _____


Clerk to the Board

VIRGINIA ACTS OF ASSEMBLY -- 2017 SESSION

CHAPTER 665

An Act to amend and reenact § 15.2-2311 of the Code of Virginia, relating to board of zoning appeals.

[S 1559]

Approved March 20, 2017

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-2311 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-2311. Appeals to board.

A. An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the locality affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article, any ordinance adopted pursuant to this article, or any modification of zoning requirements pursuant to § 15.2-2286. Notwithstanding any charter provision to the contrary, any written notice of a zoning violation or a written order of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The zoning violation or written order shall include the applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal. The appeal period shall not commence until the statement is given *and the zoning administrator's written order is sent by registered mail to, or posted at, the last known address or usual place of abode of the property owner or its registered agent, if any. There shall be a rebuttable presumption that the property owner's last known address is that shown on the current real estate tax assessment records, or the address of a registered agent that is shown in the records of the Clerk of the State Corporation Commission.* A written notice of a zoning violation or a written order of the zoning administrator that includes such statement sent by registered or certified mail to, or posted at, the last known address of the property owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed sufficient notice to the property owner and shall satisfy the notice requirements of this section. The appeal shall be taken within 30 days after the decision appealed from by filing with the zoning administrator, and with the board, a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. The fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs. A decision by the board on an appeal taken pursuant to this section shall be binding upon the owner of the property which is the subject of such appeal only if the owner of such property has been provided notice of the zoning violation or written order of the zoning administrator in accordance with this section. The owner's actual notice of such notice of zoning violation or written order or active participation in the appeal hearing shall waive the owner's right to challenge the validity of the board's decision due to failure of the owner to receive the notice of zoning violation or written order. For jurisdictions that impose civil penalties for violations of the zoning ordinance, any such civil penalty shall not be assessed by a court having jurisdiction during the pendency of the 30-day appeal period.

B. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning 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 zoning administrator and for good cause shown.

C. In no event shall a written order, requirement, decision or determination made by the zoning administrator or other administrative officer be subject to change, modification or reversal by any zoning administrator or other administrative officer after 60 days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the zoning administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the zoning administrator or other administrative officer or through fraud. The 60-day limitation period shall not apply in any case where, with the concurrence of the attorney for the governing body, modification is required to correct clerical errors.

D. In any appeal taken pursuant to this section, if the board's attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.