

ADOPTED

MAR 12 2019

ORDINANCE NO. 31A-344

Board of Supervisors
James City County, VA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING OF THE CODE OF JAMES CITY COUNTY BY AMENDING ARTICLE VIII, APPEALS, DIVISION 2, BOARD OF ZONING APPEALS, SECTION 24-650, POWERS AND DUTIES; GRANTING OF VARIANCES, BY AMENDING SUBSECTIONS 24-650(2)(a.) AND 24-650(2)(b.) TO ESTABLISH THAT VARIANCES WILL ONLY BE GRANTED IN ACCORDANCE WITH THE REQUIREMENTS OF VIRGINIA CODE § 15.2-2309.

BE IT ORDAINED by the Board of Supervisors of the County of James City Virginia, that Chapter 24, Zoning, is hereby amended and reordained by amending Article VIII, Appeals, Division 2, Board of Zoning Appeals, Section 24-650, Powers and duties; granting of variances.

Chapter 24. Zoning

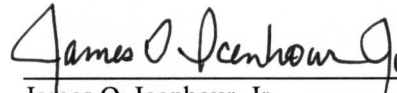
Article VIII. Appeals

Section 24-650. Powers and duties; granting of variances.

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 or of any ordinance adopted pursuant thereto.
- (2) To grant upon appeal or original application in specific cases a variance as defined in Va. Code § 15.2-2201 and section 24-2 of the County Code; provided that the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the defined standard for a variance and the following criteria:
 - a. A variance shall be granted ~~if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of a variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, and:~~ *only in accordance with Va. Code § 15.2-2309.*
 1. ~~The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;~~
 2. ~~The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;~~
 3. ~~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 the ordinance;~~
 4. ~~The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property;~~

- ~~5. The relief or remedy sought by the variance application is not available through the process for modification of a zoning ordinance pursuant to section 24-644 of the County Code at the time of the filing of the variance application.~~
- b. No such variance shall be considered except after notice and hearing as required by ~~section 15.2-2204 of the Code of Virginia~~ *Va. Code § 15.2-2204*.
- c. In granting a variance the board may impose such conditions regarding the location, character and other features of the proposed structure for 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.
- (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 a public hearing with notice as required by Va. Code § 15.2-2204 , the board may interpret the map in such 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, however, to rezone property or substantially to change the locations of district boundaries as established by ordinance.



James O. Icenhour, Jr.
Chairman, Board of Supervisors

VOTES

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>
HIPPLE	✓	—	—
LARSON	✓	—	—
SADLER	✓	—	—
MCGLENNON	✓	—	—
ICENHOUR	✓	—	—

ATTEST:



Teresa J. Fellows
Deputy Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of March, 2019.