

**A G E N D A**

**JAMES CITY COUNTY BOARD OF SUPERVISORS**

**READING FILE**

**April 9, 2013**

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**FOR YOUR INFORMATION**

1. Board of Zoning Appeals Annual Report
2. Clean Copies of Ordinances
  - a. Case No. ZO-0004-2013. Pawnshops and Payday/Title Loan Establishments
  - b. Case No. ZO-0001-2013. Amendments to Chapter 24, Division 4, Landscaping and Creation of an Enhanced Landscaping Policy
  - c. Case No. ZO-0002-2013 and Case No. ZO-0003-2013. Amendments to Chapter 24, Division 16, Public Lands District and Chapter 24, Division 17, Economic Opportunity District

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## **Board of Zoning Appeals**

### **2012 Annual Report**

#### **Note from the Chair**

Please find attached, the Board of Zoning Appeals 2012 Annual Report.

During 2012, applications for variances to the Zoning Ordinance have been significantly reduced in comparison to previous years. Three applications were filed for consideration by the BZA, all of which were approved. There were no appeals of decision by the Zoning Administrator.

Two members were appointed to the BZA during 2011 to complete the terms of members that resigned. Both are commended for their diligent effort and willingness to serve. Also, during 2012, Ms. Barbara Moody resigned and that position remains open. We understand that the Board of Supervisors continues to search for a candidate to recommend for appointment by the Judge of the Circuit Court. The Zoning Ordinance requires three affirmative votes for approval of variances and appeals of the Zoning Administrator.

At the present time, the BZA is not aware of any recurring issues with the Zoning Ordinance that require the Board of Supervisors review for possible change.

I would like to thank my associates on the BZA as well as the members of the County staff for their support and dedication in behalf of the citizens of James City County. It has been a privilege to serve as the Chair in 2012

Marvin Rhodes, Chairman

James City County Board of Zoning Appeals

## 2012 Board of Zoning Appeals Members

Marvin Rhodes \*\* – Chairman

David Otey, Jr.\*\*

Ron Campana, Jr.

Stephen Rodgers



### Zoning Division Staff

Jason Purse, AICP, Zoning Administrator

Christy Parrish, CZA, Proffer Administrator

John Rogerson, CZA, Senior Zoning Officer

Terry Costello, CZA, Zoning Officer

\*\* Virginia Certified BZA Member

AICP – American Institute of Certified Planners

CZA – Certified Zoning Administrator

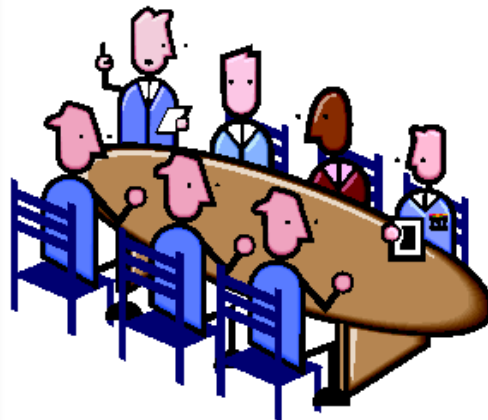
## Introduction

The James City County's Board of Zoning Appeals (BZA) is a five-member, quasi-judicial body appointed by the local circuit court to serve five-year terms. Any community adopting a zoning ordinance must also establish an appeals board for review of circumstances where landowners may be unjustly burdened by the zoning ordinance.

The Board conducts public hearings to consider requests for variances to the County's Zoning Ordinance, as well as appeals of decisions made by the Zoning Administrator. The Board must find that the strict application of the Zoning Ordinance would produce undue hardship to grant a variance, and may impose conditions regarding issues such as the location, character and other features of a proposed structure when granting a variance. Any decision made by the Board may be appealed to the James City County Circuit Court within thirty days.

## Meetings

The James City County BZA is scheduled the first Thursday of every month at 7 p.m. in Building F at the James City County Government Complex. However, due to the low volume of appeals submitted, the BZA met twice during 2012.



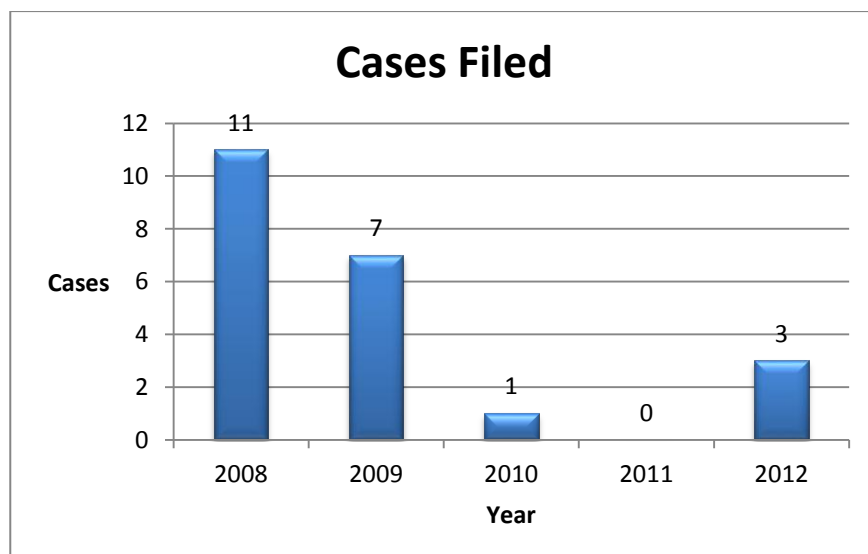
## Variations

Three application variations were received in 2012. One was for an administrative variation and two applications went before the BZA. All three applications were approved. They are as follows:

**ZA-0001-2012, 10100 Sycamore Landing Road** – This was an application for a variation to Section 24-215, Setback Requirements, to reduce the required front yard setback from 50 feet to 35 feet, and a variation to Section 24-216, Minimum Lot Width and Frontage, to reduce the required minimum lot width from 150 feet to 130 feet. This application was approved by the BZA on June 7, 2012.

**ZA-0002-2012, 8428 Croaker Road** – This was an application for a variation to Section 24-215, Setback Requirements, to reduce the required front yard setback from 75 feet from the center of the right-of way to 50 feet. This application was approved by the BZA on June 7, 2012.

**ZA-0004-2012, 4704 Captain John Smith** – This was an application for an administrative variation of 1.3 feet to allow for the existence of the home in its present as-built location. This application was approved by the Zoning Administrator on September 6, 2012.





## James City County Board of Zoning Appeals



(From left to right: Stephen Rodgers, Ron Campana, Jr. David Otey, Jr. Marvin Rhodes)

Zoning Enforcement Division of Development Management

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**MEMORANDUM**

DATE: April 9, 2013  
TO: The Board of Supervisors  
FROM: Jason Purse, Zoning Administrator  
SUBJECT: Board of Zoning Appeals Annual Report

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The 2012 Board of Zoning Appeals Annual Report is attached for your information. Section 15.2-2308 (c) of the Code of Virginia requires the Board of Zoning Appeals submit a report of its activities to the governing body at least once a year. This report gives a brief overview of the Board of Zoning Appeals and summarizes the cases heard in 2012. No action is necessary.

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Jason Purse

JP/tlc  
BZARpt2012\_mem

Attachment

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 24-2, DEFINITIONS; BY AMENDING ARTICLE V, DISTRICTS; DIVISION 11, LIMITED BUSINESS/INDUSTRIAL DISTRICT, M-1, SECTION 24-411, USE LIST; AND BY AMENDING ARTICLE V, DISTRICTS; DIVISION 12, GENERAL INDUSTRIAL DISTRICT, M-2, SECTION 24-436, USE LIST.

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 I, In General, Section 24-2, Definitions; by amending Article V, Districts; Division 11, Limited Business/Industrial District, M-1, Section 24-411, Use list; and by amending Article V, Districts; Division 12, General Industrial District, M-2, Section 24-436, Use list.

**Chapter 24**

**ARTICLE I. IN GENERAL**

**Sec. 24-2. Definitions.**

**Pawnshop.** A retail establishment where any person who lends or advances money or other things for profit on the pledge and possession of tangible personal property, or other valuable things, other than securities or written or printed evidences of indebtedness or title, or who deals in the purchasing of personal property or other valuable things on condition of selling the same back to the seller at a stipulated price.

**Payday/title loan establishment.** Any establishment which advances or lends a small, short-maturity loan on the security of (i) a check, (ii) any form of assignment of an interest in the account of an individual at a depository institution, (iii) any form of assignment of income payable to an individual, other than loans based on income tax refunds or (iv) title of a motor vehicle.

**ARTICLE V. DISTRICTS**

**DIVISION 11. LIMITED BUSINESS/INDUSTRIAL DISTRICT, M-1**

**Sec. 24-411. Use list.**

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Commercial	Pawnshops		SUP
	Payday/title loan establishments		SUP



**DIVISION 12. GENERAL INDUSTRIAL DISTRICT, M-2**

**Sec. 24-436. Use list.**

Use Category	Use List	Permitted Uses	Specially Permitted Uses
Commercial	Pawnshops		SUP
	Payday/title loan establishments		SUP

ZO-04-13Pawnshop\_ord

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE II, SPECIAL REGULATIONS DIVISION 4, LANDSCAPING, SECTION 24-91, MODIFICATION, SUBSTITUTION, TRANSFER, AND SECTION 24-101, LANDSCAPE REQUIREMENTS BY ZONING DISTRICT.

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 Section 24-91 Modification, substitution, transfer, and Section 24-101, Landscape requirements by zoning district.

**Chapter 24**

**ARTICLE II. SPECIAL REGULATIONS**

**DIVISION 4. LANDSCAPING**

**Sec. 24-91. Modification, substitution, transfers.**

Generally the need for any modification, substitution or transfer shall be demonstrated by the applicant. Nothing in this section shall act to circumvent the landscape standards and purposes set forth in this division. Modifications, substitutions and transfers are intended to provide more flexibility in specific limited instances as more particularly described below.

- (a) Cases for modifications. Modifications may be requested when an adjustment to planting mixtures or densities are needed. Planting density may be modified by proposing plants that are larger than minimum ordinance standards for plant size in exchange for a reduction in quantity when it can be demonstrated that due to site constraints planting to ordinance requirements will result in overplanting and where a transfer of plant materials cannot accomplish the same intent as described in the modification request. Applicants may propose a minimum 25 percent increase in plant size for a maximum 25 percent reduction in required plant quantity. Planting mixtures may be adjusted to provide more screening, complement surrounding areas, or to implement a planting theme.
- (b) Cases for substitution. Substitutions of plant materials may be considered if it can be demonstrated that the substitution is warranted and is equal to or greater than the standard requirement.
- (c) Cases for transfer. Transfers may be requested when it can be demonstrated that the transferred plant materials serve to provide a greater public benefit than the standard requirements would provide.
- (d) All modifications, substitutions, or transfer requests shall be designed to mitigate existing site constraints or meet the conditions listed below:
  - (1) The proposed landscape plan, by substitution of technique, design or materials of comparable quality, but differing from those required by this section, will achieve results which clearly satisfy the overall purposes of this division in a manner clearly equal to or exceeding the desired effects of the requirements of this division;

- (2) The proposed landscape plan substantially preserves, enhances, integrates and complements existing trees and topography;
  - (3) Where, because of unusual size, topography, shape or location of the property or other unusual conditions, strict application of the requirements of this division would result in significant degradation of the site or adjacent properties;
  - (4) Where existing easements present site constraints in which this division would result in overcrowding of landscape plant materials;
  - (4) Where, because of narrow parcels, unusually shaped lots, or sloping topography, strict application of the landscape standards of this division would result in overcrowding of landscape plant materials;
  - (6) The proposed landscape design or materials involve a readily discernible theme, historic or otherwise, or complements an architectural style or design;
  - (7) Where it is necessary to allow the subdivision of property on which commercial or industrial units will be for sale, for sale in condominium or for lease, and such units are constructed as part of a multiunit structure in which the units share common walls or are part of a multiple-structure development, and the entire development has been planned and designed as a cohesive, coordinated unit under a single master plan; or
  - (8) Where transfers of required landscape areas to other areas on a site are necessary to satisfy other purposes of this division, including transfers to increase screening or preserve existing trees, provided such transfers do not reduce overall landscape requirements for a development.
- (e) *Process for requesting modifications, substitutions, or transfers.* Requests for modifications, substitutions or transfers shall be filed in writing with the planning director at the time of plan submittal and shall identify the specific requirement of this section and the reasons and justifications for such request together with the proposed alternative. Depending upon whether the landscape plan is subject to commission or administrative review, the commission or planning director shall approve, deny, conditionally approve or defer action on such request and shall include a written statement certifying the above findings. The commission or planning director may require the applicant to provide plans, documentation or other materials to substantiate these findings.

In the case of approvals or conditional approvals, this statement shall include a finding as to the public purpose served by such recommendations, particularly in regard to the purposes of this division. The planning director shall notify the applicant in writing as to the reasons for such action within 30 days of submittal of administrative plans meeting all applicable submittal criteria or within five working days of such decision by the commission.

- (f) *Findings for acceptance of modifications, substitutions, or transfers.* The commission or planning director may modify, permit substitutions for any requirement of this division, or permit transfer of required landscaping on a site upon finding that:
- (1) Such requirement would not promote the intent of this division;
  - (2) The proposed site and landscape plan shall satisfy the intent of this division and its landscape area requirements to at least an equivalent degree as compared to a plan that strictly complies with the minimum requirements of this division;

- (3) The proposed site and landscape plan shall not reduce the total amount of landscape area or will not reduce the overall landscape effects of the requirements of this division as compared to a plan that strictly complies with the minimum requirements of this division;
- (4) Such modification, substitution or transfer shall have no additional adverse impact on adjacent properties or public areas; and
- (5) The proposed site and landscape plan, as compared to a plan that strictly complies with the minimum requirements of this division, shall have no additional detrimental impacts on the orderly development or character of the area, adjacent properties, the environment, sound engineering or planning practice, Comprehensive Plan, or on achievement of the purposes of this section division.

**Sec. 24-101. Landscape requirements by zoning district.**

- (c) *LB, Limited Business District; B-1, General Business District; M-1, Limited Business/Industrial District; M-2, General Industrial District; RT, Research and Technology District, PL, Public Lands District.*

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS DIVISION 16, PUBLIC LAND DISTRICT, SECTION 24-535.4, SETBACK REQUIREMENTS, SECTION 24-535.6 YARD REQUIREMENTS.

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 Section 24-535.4, Setback requirements, Section 535.6, Yard requirements.

**Chapter 24**

**ARTICLE V. DISTRICTS**

**DIVISION 16. PUBLIC LAND DISTRICT, PL**

**Sec. 24-535.4. Setback requirements.**

Structures shall be located a minimum of 35 feet from any street right-of-way which is 50 feet or greater in width. Where the street right-of-way is less than 50 feet in width, structures shall be located a minimum of 60 feet from the centerline of the street. This shall be known as the "setback line." Subdivisions platted and recorded prior to March 1, 1969, with building setback lines shown on their recorded plat, shall be allowed to adhere to these established setback lines. In addition refer to division 4 section 24-98 for landscape area and construction zone requirements.

**Sec. 24-535.6. Yard requirements.**

- (a) *Side.* The minimum side yard for each main structure shall be 15 feet. The minimum side yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum side yard of 15 feet. All landscape areas, in accordance with section 24-101 (c), shall contain any existing trees and/or supplemental plantings in conformance with section 24-96.
- (b) *Rear.* Each main structure shall have a rear yard of 35 feet or more. The minimum rear yard for accessory structures shall be five feet, except that accessory buildings exceeding one story shall have a minimum rear yard of 15 feet. All landscape areas, in accordance with section 24-101 (c), shall contain any existing trees and/or supplemental plantings in conformance with section 24-96.

ORDINANCE NO.

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE V, DISTRICTS DIVISION 17, ECONOMIC OPPORTUNITY DISTRICT, SECTION 24-536.8, SETBACK AND BUFFER REQUIREMENTS.

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 Section 24-536.8 Setback and buffer requirements.

**Chapter 24**

**ARTICLE V. DISTRICTS**

Division 17. Economic Opportunity, EO

**Sec. 24-536.8. Setback and buffer requirements.**

- (a) *Location of structures.* Structures shall be located 25 feet or more from any external existing or planned public road right-of-way, or any internal arterial road right-of-way, which is 50 feet or greater in width. Where the external existing or planned public road right-of-way, or the internal arterial road right of- way, is less than 50 feet in width, structures shall be located 45 feet or more from the centerline of the external existing or planned or internal arterial public road. Structures shall be located a minimum of 50 feet or more from any community character corridor. In addition, refer to division 4, Landscaping, section 24-98 for landscape area and construction zone requirements.
- (b) *Required buffers from economic opportunity districts.* A buffer of 25 feet shall be maintained from the perimeter of an economic opportunity district. The buffer in an economic opportunity district shall be increased to 100 feet where adjoining property is designated low-density residential or rural lands on the Comprehensive Plan. In addition, the buffer shall also be increased to 100 feet where an economic opportunity district adjoins property in a community character area, except where those properties are included in the economic opportunity master plan.

The buffer shall be left in its natural undisturbed state and/or planted with additional or new landscape trees and shrubs such that the setback serves to minimize the visual intrusion and other negative impacts of new development or redevelopment on adjacent development.