

OCT 12 2010

ORDINANCE NO. 31A-248BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 24, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE VIII, APPEALS, DIVISION 3, REGULATIONS GOVERNING APPEALS, SECTION 24-666, PETITION FOR CERTIORARI TO REVIEW DECISION OF BOARD.

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 24-666, Petition for certiorari to review decision of board.

Chapter 24. Zoning

Article VIII. Appeals

Division 3. Regulations Governing Appeals

Section 24-666. Petition for certiorari to review decision of board.


(a) Petition to circuit court. Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals or any taxpayer or any officer, department, board or bureau of the county may present to the Circuit Court of James City County a petition *that shall be styled "In Re: [date] Decision of the Board of Zoning Appeals of James City County,"* specifying the grounds on which aggrieved within 30 days after the final decision of the board. A "final decision" is the decision that resolves the merits of the action pending before the board or effects a dismissal of the case with prejudice.

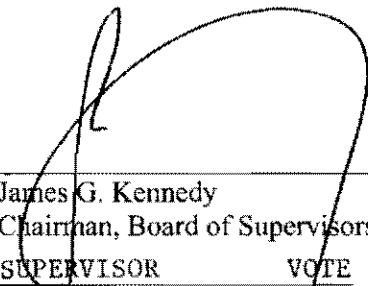
Any review of a decision of the board shall not be considered an action against the board and the board shall not be a party to the proceedings; however, the board shall participate in the proceedings to the extent required by this article. The board of supervisors, the landowner, and the applicant before the board of zoning appeals shall be necessary parties to the proceedings. The court may permit intervention by any other person or persons jointly or severally aggrieved by any decision of the board of zoning appeals.

(b) *Allowance of writ of certiorari.* Upon the presentation of such petition, the court will allow a writ of certiorari to review the decision of the board of zoning appeals and will prescribe therein the time within which a return thereto must be made and served upon the ~~petitioner's attorney,~~ *secretary of the board of zoning appeals, or if no secretary exists, the chair of the board of zoning appeals,* which will not be less than ten days and may be extended by the court. The allowances of the writ will not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

(e) *Costs.* Costs shall not be allowed against the ~~board~~ *county* unless it shall appear to the court that it acted in bad faith or with malice ~~in making the decision appealed from.~~ In the event the decision of the board is affirmed, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making a return of the record pursuant to the writ of certiorari.

ATTEST:


Robert C. McJdaugh
Clerk to the Board


James G. Kennedy
Chairman, Board of Supervisors

SUPERVISOR	VOTE
MCCLENNON	AYE
GOODSON	AYE
ICENHOUR	AYE
JONES	AYE
KENNEDY	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 12th day of October, 2010.