



BOARD OF ZONING APPEALS MEETING AGENDA

Herndon Municipal Center
777 Lynn Street
Large Conference Room, 2nd Floor
Thursday, March 23, 2023 | 7:00 p.m.

1. Call to Order

2. Approval of Minutes

- a. January 26, 2023, Board of Zoning Appeals Meeting
- b. February 23, 2023, Board of Zoning Appeals Meeting, *CANCELLED*

3. Comments

- a. Comments from the Board Members
- b. Comments from the Staff Members
- c. Comments from Citizens

Members of the public may, for one 3-minute period, provide public comments, requests, consent or general item comments, and comments on matters not included on the agenda.

4. New Business

- a. **Discussion**, amendments to Town Code restricting similar applications from being resubmitted within one year of each other.

5. Adjournment



MEMORANDUM

To: Chairman Kim and Members of the Board of Zoning Appeals

From: David Stromberg, AICP, Zoning Administrator *DS*

Date: March 23, 2023

Subject: Potential changes to reapplication time limit

The Board has requested a discussion regarding changes to the zoning ordinance that would prohibit the filing of a variance on the same property after consideration and denial by the Board. Feedback from the Board will provide staff with direction for an upcoming zoning ordinance text amendment.

Legal Authority

Section 15.2-2310 of the Code of Virginia states, "Any locality may provide by ordinance that substantially the same application will not be considered by the board within a specified period, not exceeding one year." The Herndon Zoning Ordinance does not have any language stating that the same application will not be considered. A previous version of the zoning ordinance, before it was rewritten in 2006, did include the language from the Code of Virginia.

Other Land Use Applications

Section 78-155.1(c)(3) of the zoning ordinance states, "No application for a change of zoning on the same parcel of land shall be considered by the town council within a period of time of one year from its last consideration by the town council." Section 78-155.3(k) of the zoning ordinance states, "No application for a special exception for the same lot shall be considered by the town council within a period of one year from its last consideration."

Challenges of not codifying a reapplication time limit

- Public frustration and fatigue from adjacent property owners who repeatedly receive notice regarding applications and wish to make the time to provide comment.
- Drain on town resources, including staff time and financial impacts from required notifications and court reporter fees.
- Inconsistent with other land use applications.

Benefits of not codifying a reapplication time limit

- The zoning administrator is responsible for determining whether an application is "substantially the same." This determination could be appealed and would be heard by the BZA, so there would still be another meeting and it would likely be confusing to the public because the meeting would be about the determination, not the original variance request. Not having a reapplication time limit avoids this problem.
- Applicants may feel that they are being denied their ability to be heard by the town. Not having a reapplication time limit avoids this problem.