

be in writing and shall be made prior to the public hearing before the Town Council. In addition:

- (a) The rezoning itself must give rise to the need for the conditions.
 - (b) The conditions proffered shall have a reasonable relation to the rezoning.
 - (c) The conditions proffered shall not include a cash contribution to the town.
- (3) Expiration. Any zoning permit shall automatically expire six months from the date of issuance if the person, firm, or corporation to which the permit was issued has not clearly demonstrated that the permit is being exercised for the purpose for which it was issued, or if the work so authorized is suspended or discontinued for a period of one year.

§ 110-803. Certificate of occupancy.

Certificates of occupancy shall be issued by the Zoning Administrator in accordance with the following provisions:

- A. Certificate of occupancy required. A certificate of occupancy shall be required in advance of occupancy or use of:
 - (1) A building hereafter erected.
 - (2) A building hereafter altered so as to affect height, or the side, front, or rear yard dimensions.
 - (3) A change of type of occupancy or use of any building or premises.
- B. Issuance of certificate of occupancy. The Zoning Administrator shall sign and issue a certificate of occupancy, as stated on the application for such certificate and signed thereto by the owner or his or her appointed agent, if found to conform to the applicable provisions set forth herein and if the building, as finally constructed, complies with the sketch or plan submitted for the zoning and building permit.
- C. Denial of certificate of occupancy. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provision set forth herein.

§ 110-804. Board of Zoning Appeals.

The Board of Zoning Appeals shall consist of five regular members and one alternate member who shall be appointed by the Circuit Court of Rockingham County.

- A. Terms of office. Appointments shall be made for five years each. The Secretary of the Board of Zoning Appeals shall notify the Circuit Court at least 30 days in advance of the expiration of any term of office. A regular member or alternate member whose term expires shall continue to serve until his or her successor is appointed.
- B. Public office held. No regular member or alternate member shall hold any public office, except that one regular member shall be a member of the Planning Commission.

- C. Compensation. Regular members and the alternate member of the Board may receive such compensation as may be authorized by the governing body. The compensation of the alternate member shall be the same as the compensation of regular members.
- D. Vacancies. Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term. Regular members and alternate members shall be removable for cause by the Circuit Court upon written charges and a hearing held after at least 15 days' written notice.

§ 110-805. Rules of procedure.

The Board shall observe the following procedures:

- A. Said Board shall adopt rules in accordance with the provisions of this chapter and consistent with other ordinances of the Town of Elkton and general laws of the Commonwealth for the conduct of its affairs. [Amended 12-18-2000]
- B. Said Board shall elect a Chair, Vice Chair, and Secretary from its own membership who shall serve annual terms as such and may succeed themselves.
- C. Said Board will keep a full public record of its proceedings and shall submit a report of its activities to the Town Council at least once each year.
- D. All meetings of said Board shall be open to the public.
- E. Any member of said Board shall be disqualified to act upon a matter before said Board with respect to property in which the member has an interest.
- F. The meetings of said Board shall be held at the call of the Chair and at such other times as a quorum of said Board may determine.
- G. The Chair, or in his or her absence the Vice Chair or acting Chair, may administer oaths and compel the attendance of witnesses.
- H. A quorum shall be at least three members.
- I. A favorable vote of three members of said Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official or to decide in favor of the applicant on any matter upon which said Board is empowered.

§ 110-806. Powers and duties of Board of Zoning Appeals.

The Board of Zoning Appeals shall have the following duties and powers:

- A. 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.
- B. To authorize upon original application in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest, when, owing to special conditions a literal enforcement of the provisions will result in unnecessary hardship, provided that the spirit of this chapter shall be observed and substantial justice done as follows:

- (1) When a property owner can show that this property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this chapter, or where by reason of exceptional topographic conditions or other extraordinary situation or conditions of such piece of property, or of the use or development of property immediately adjacent thereto, the strict application of the terms of this chapter would effectively prohibit or unreasonable restrict the use of the property or where the Board is satisfied, upon the evidence heard by it, that the granting of such variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter.
 - (2) No such variance shall be authorized by the Board unless it finds:
 - (a) That the strict application of this chapter would produce undue hardship.
 - (b) That such hardship is not shared generally by other properties in the same zoning district and the same vicinity.
 - (c) That the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variation.
 - (3) No such variance shall be authorized except after notice and hearing as required by § 15.2-2204 of the Code of Virginia, 1950, as amended. **[Amended 12-18-2000]**
 - (4) No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property 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 this chapter.
 - (5) In authorizing 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 insure that the conditions imposed are being and will continue to be complied with.
- C. Support. Within the limits of funds appropriated by the governing body, the Board of Appeals may employ or contract for secretaries, clerks, legal counsel, consultants, and other technical and clerical services. **[Added 12-18-2000]**

§ 110-807. Application for variances.

Applications for variances are to be made by any property owner, tenant, government official, department, board, or bureau.

- A. Application. Application shall be made to the Zoning Administrator. The application shall be accompanied by an acceptable site plan with such reasonable information shown thereon as may be required by the Zoning Administrator. Such site plan shall include, as a minimum, the following: lot dimensions with property line monuments located thereon; location and size of existing and proposed structures; yard dimensions and the use of structures; easements (private and public); watercourses; fences; road names and road right-of-way lines; and such other information regarding abutting property as directly affects the application. The application and accompanying maps, plans, or other information shall be transmitted promptly to the Secretary of the Board. The Zoning