

ARTICLE 8

ADMINISTRATION

These regulations shall be administered in accordance with the provisions below.

801.00 ZONING ADMINISTRATOR

801.01 *Appointment.* The Zoning Administrator shall be appointed by and shall serve at the pleasure of the Governing Body which shall fix the compensation of the Zoning Administrator.

801.02 *Powers and Duties Relating to Zoning.* The Zoning Administrator is authorized and empowered on behalf of and in the name of the Governing Body to administer and enforce the provisions set forth herein to include receiving applications, inspecting premises, issuing Zoning Permits and other duties as appropriate for uses and structures which are in conformance with the provisions of these Land Use Regulations. The Zoning Administrator shall have all necessary authority on behalf of the Governing Body to administer and enforce these Land Use Regulations, including the ordering, in writing, the remedy for any condition found in violation of these Land Use Regulations, the issuance of stop work orders and the bringing of legal actions, including injunction, abatement, or other appropriate action or proceeding, to insure compliance with these Land Use Regulations. The Zoning Administrator does not have the authority to take final action on applications or matters involving variances nor on conditional uses or other variances, on which final action is reserved to the Board.

801.03 *Zoning Administration Process.* Figure 1 outlines the administrative process to be followed under various provisions of these Land Use Regulations.

802.00 ZONING PERMIT PROCEDURES

Zoning Permits shall be issued in accordance with the following provisions and procedures:

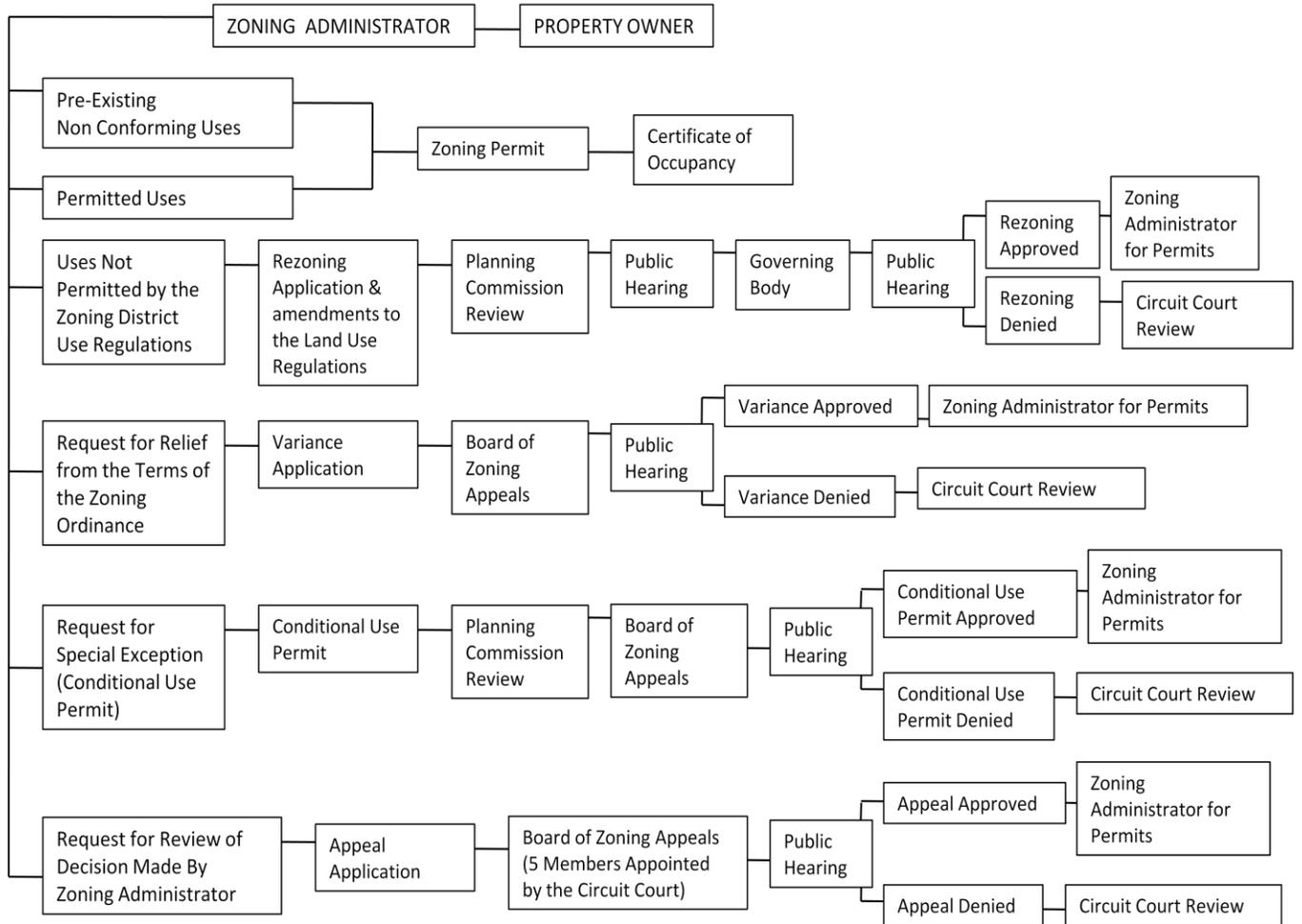
802.01 *Issuance.* No building or structure shall be erected, constructed, altered, moved, converted, extended or enlarged without a zoning permit issued by the Zoning Administrator or his designee and except in conformity with the provisions of this chapter. The Zoning Administrator shall issue a Zoning Permit for any permitted use or structural alteration, provided such proposed use of land or structure, or structural alteration, is in conformance with the provisions set forth herein. The Zoning Permit shall indicate whether the use is a permitted use, a conditional use or a variance.

802.02 ***Application.*** Applications for zoning permits shall be made to the Zoning Administrator or his/her designee on forms provided. Each application shall be accompanied by a plan drawn to scale showing the size and shape of the parcel of land, the location of the structure or the use with respect to the property lines and to the right-of-way of any street or highway, written verification from the County Treasurer that all delinquent real estate taxes on the subject property have been paid in full and any other information which the Zoning Administrator or his/her designee deems necessary for consideration in review of the application.

802.03 ***Application Procedure.*** Upon receipt of an application, the Zoning Administrator or his/her designee shall review the application for completeness. If the application is not complete, the Zoning Administrator or his/her designee shall, within five (5) working days, return the application to the applicant noting the deficiencies. If the application is complete, the Zoning Administrator or his/her designee shall review the application and shall, within five (5) working days, either approve or deny the application. If the application is denied, the Zoning Administrator or his/her designee shall state in writing the reasons for the denial. Applications for a Zoning Permit shall be submitted to the Zoning Administrator according to the following provisions:

figure 1 – 118

Figure 1
Zoning Administration Process
County of Bath



802.03-1 An application for a Zoning Permit for a permitted use shall be accompanied by two (2) copies of an acceptable site plan with such reasonable information shown thereon as shall 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), water courses, fences, street names and street right-of-way lines, and such other information regarding abutting property as directly affects the application;

802.03-2 Each application for a Zoning Permit, upon issuance of the permit, shall be accompanied by payment of a fee as set forth in Article 10 to help defray expenses of administration;

802.03-3 If the proposed use or construction described in the application required by Section 802.02-1 are in conformity with the provisions set forth herein and other appropriate codes and regulations of the County of Bath, including but not limited to the required:

- (1) Health Department or Service Authority approval of water, sewer or septic systems;
- (2) Virginia Department of Transportation Entrance Permit;
- (3) Flood Insurance - Floodplain Ordinance;
- (4) Erosion and Sediment Control Ordinance Plan.

The Zoning Administrator shall sign and return one (1) copy of the site plan to the applicant and shall issue a Zoning Permit. The Zoning Administrator shall retain the application and one (1) copy of the site plan for his records;

802.03-4 If the application and site plan submitted describes work which does not conform to the requirements set forth herein, the Zoning Administrator shall not issue a Zoning Permit, but shall return one (1) copy of the site plan to the applicant along with a signed refusal in writing. Such refusal shall state the reasons for refusal and shall cite the portions of these Land Use Regulations with which the submitted plan does not comply. The Zoning Administrator shall retain one (1) copy of the site plan and one (1) copy of the refusal.

802.04 ***Application Procedures for Conditional Uses.*** Applications for a Conditional Use Permit shall be submitted to the Zoning Administrator, who shall refer the application to the Board for a public hearing. Applications for Conditional Use Permits must be submitted in accordance with the following procedures:

802.04-1 An application shall be accompanied by two (2) copies of an acceptable site plan drawn in accordance with applicable provisions of Section 802.00 of these Land Use Regulations, with such reasonable information shown thereon as may be required by the Zoning Administrator. Such site plan shall include, as a minimum, the

following: the 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), water courses, fences, street names and street right-of-way lines, and such other information regarding abutting property as directly affects the application;

- 802.04-2 Each application for a Zoning Permit for a conditional use or other special exception shall be accompanied by payment of a fee as set forth in Article 10 to help defray the cost of publicizing and conducting the public hearing;
- 802.04-3 The Zoning Administrator shall cause to have posted in a conspicuous place on the property in question one (1) or more signs, each of which shall not be less than twelve (12) square feet in area, shall contain information as to the proposed change and the date and time of the public hearing, and the cost of each shall be paid by the applicant prior to the public hearing, these signs shall be posted at least fifteen (15) days prior to the public hearing;
- 802.04-4 The application shall be sent to the Commission for review and recommendation, and said Commission shall have sixty (60) days from the date of the filing of the formal application and in accordance with the approved Bath County Planning Commission schedule within which to submit a report to the Board. If the Commission fails to submit a report within the aforementioned sixty (60) day period, it shall be deemed to have recommended approval of the proposed conditional use;
- 802.04-5 The Board shall consider the proposed conditional use or other special exception after notice and public hearing in accordance with Section 15.2-2204 of the Code of Virginia, 1950, as amended, and shall take action on the proposed conditional use within sixty (60) days from the date of the public hearing, provided however, that if, due to inclement weather or other circumstances beyond the Board's control, the Board may have an additional thirty (30) days to take action on the proposed conditional use;
- 802.04-6 In evaluating the proposed conditional use or other special exception, the Board shall address the following concerns:
- (a) The effect of the proposed use or special exception, on existing and projected traffic volumes in the neighborhood;
 - (b) The current and future need for the proposed use in the County of Bath; and in the area; and
 - (c) The character of the existing neighborhood and the effect of the proposed use or special exception on existing property values.
- 802.04-7 Conditions set forth in Section 802.03-6 for the various conditional uses are minimum. In approving a proposed conditional use or other special exception, the

Board may stipulate such additional requirements as are necessary to protect the public interest. The Board may require the applicant to furnish a performance bond in an amount sufficient for and conditioned upon the fulfilling of any and all conditions and requirements stipulated by the Board;

- 802.04-8 If the Board approves the application for a Zoning Permit for a proposed conditional use, the Zoning Administrator shall issue a Conditional Use Permit, indicating the conditional nature of the use;
- 802.04-9 If the Board disapproves the application for a Zoning Permit for a proposed conditional use or other special exception, the Board shall inform the applicant of the decision in writing within thirty (30) days from the date of the Board's action, stating the reasons for disapproval. The Zoning Administrator shall retain one (1) copy of the site plan and one (1) copy of the refusal, and shall keep them as a public record;
- 802.04-10 A property owner, or his appointed agent, shall not initiate action for a Conditional Use Permit relating to the same conditional use affecting the same parcel of land more often than once every twelve (12) months;
- 802.04-11 A Conditional Use Permit must be put into effect six (6) months after the date the permit is issued, unless otherwise provided in the permit itself; i.e., "put into effect" means that some action must have taken place to begin the use of the Conditional Use Permit – examples: ordering of materials/supplies, breaking ground to begin construction, submission of application obtaining appropriate licenses from other agencies, etc.
- 802.04-12 Renewal of a Conditional Use Permit does not require a public hearing unless the original conditions in the permit are changed; however, notice of the renewal will be shown in the local newspaper at least thirty (30) days prior to its expiration;
- 802.04-13 Upon change of ownership, any Conditional Use Permit shall remain in effect for the property by the owner provided that the conditional use is continued within two (2) years.
- 802.05 ***Application Procedures for Rezoning or Map Amendment.*** In accordance with Section 1204.00 of these Land Use Regulations, the Governing Body may, from time to time, amend these regulations or district maps whenever the public necessity, convenience, general welfare, or good zoning practice require. Any resolution or motion by the Governing Body or Planning Commission proposing the rezoning shall state the above public purposes therefore.
- 802.05-1 Applications for amendments initiated by any person, firm, or corporation owning the subject property shall be submitted in writing to the Zoning Administrator and shall be accompanied by two (2) copies of the proposed amendment and an acceptable site plan, where applicable, with such reasonable information shown

thereon as shall be required by the Zoning Administrator. Where site plans are required, they shall show, as a minimum, the following: lot dimensions with property line monuments located thereon, location and size of existing and proposed structures, yard dimension and the use of structures, easements (private and public), water courses, fences, street names and street right-of-way lines, and such other information regarding abutting property as directly affects the application. Proposals for amendments not initiated by either the Commission or the Governing Body shall be accompanied by payment of a fee as set forth in Article 10;

- 802.05-2 The Commission shall consider the proposed amendment after notice and public hearing in accordance with Section 15.2-2204 of the Code of Virginia, 1950, as amended. The Commission shall then present the proposed amendment along with site plans and explanatory materials, where applicable, to the Governing Body with its recommendations. If the Commission fails to submit its recommendations within sixty (60) days of the first meeting of the Commission after the proposed amendment has been referred to it, the Commission shall be deemed to have approved the proposed amendment;
- 802.05-3 The Governing Body shall consider the proposed amendment after notice and public hearing in accordance with Section 15.2-2204 of the Code of Virginia, 1950, as amended, and shall take action on the proposed amendment within thirty (30) days from the date of the public hearing. The Governing Body and the Commission may hold a joint public hearing in accordance with Section 15.2-2204 of the Code of Virginia;
- 802.05-4 Any petition for an amendment may be withdrawn prior to action thereon by the Governing Body at the discretion of the person, firm, or corporation initiating such a request, upon written notice to the Zoning Administrator;
- 802.05-5 No more than one (1) application affecting a specific parcel of land may be initiated during any single twelve (12) month period unless filed for interdependent and filed concurrently.
- 802.06 ***Procedures for Proffering Conditions to Zoning District Regulations, Conditional Zoning.***
- 802.06-1 *Intent.* The intent of this section is to provide (pursuant to Sections 15.2-2296 through 15.2-2301 of the Code of Virginia, 1950, as amended) to the zoning district regulations or the Zoning District Map a more flexible and adaptable zoning method to cope with situations found in such zones whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that are not generally applicable to land similarly zoned;
- 802.06-2 *Proffer of Conditions.* An owner may proffer reasonable conditions, in addition to the regulations established elsewhere in these Land Use Regulations, as part of an

amendment to the zoning district regulations or the Zoning District Map. The proffered conditions shall be in writing and shall be made prior to the public hearing before the Governing Body. 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 County.

802.06-3 *Expiration.* Any Zoning Permit shall automatically expire six (6) 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 (1) year.

803.00 BOARD OF ZONING APPEALS

The Board shall consist of five (5) members who shall be appointed by the Circuit Court of Bath County.

803.01 *Terms of Office.* Appointments shall be for five (5) years each. The Secretary of the Board shall notify the Circuit Court at least thirty (30) days in advance of the expiration of any term of office. A member whose term expires shall continue to serve until his successor is appointed.

803.02 *Public Offices Held.* No member shall hold any public office except that one (1) member may be a member of the Commission.

803.03 *Compensation.* Members of the Board may receive such compensation as may be authorized by the Governing Body.

803.04 *Support.* Within the limits of funds appropriated by the Governing Body, the Board may employ or contract for secretaries, clerks, legal council, consultants, and other technical and clerical services.

803.05 *Vacancies.* Appointments for vacancies occurring otherwise than by expiration of term shall in all cases be for the unexpired term. Members shall be removable for cause by the Circuit Court upon written charges and after hearing held after at least fifteen (15) days notice.

804.00 RULES OF PROCEDURE - BOARD OF ZONING APPEALS

The Board shall observe the following procedures:

- 804.01 Said Board shall adopt rules in accordance with the provisions of these Land Use Regulations and consistent with other ordinances of the County of Bath and general laws of the Commonwealth for the conduct of its affairs.
- 804.02 Said Board shall elect a Chairman, Vice Chairman, and Secretary from its own membership who shall serve annual terms as such and may succeed themselves.
- 804.03 Said Board will keep a full public record of its proceedings and shall submit a report of its activities to the Governing Body at least once each year.
- 804.04 All meetings of said Board shall be open to the public, except for meetings that comply with requirements of a “closed meeting” under Va. Code Section 2.2-3711.
- 804.05 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.
- 804.06 The meetings of said Board shall be held at the call of the Chairman and at such other times as a quorum of said Board may determine.
- 804.07 The Chairman, or in his absence the Vice Chairman or acting Chairman, may administer oaths and compel the attendance of witnesses.
- 804.08 A quorum shall be at least three (3) members.
- 804.09 A favorable vote of three (3) 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.

805.00 POWERS AND DUTIES OF THE BOARD OF ZONING APPEALS

The Board shall have the following duties and powers:

- 805.01 To hear and decide appeals from any order, requirement, decision, or determination made by an administrative officer in the administration or enforcement of these Land Use Regulations.
- 805.02 To authorize upon original application in specific cases, such variance from the terms of these Land Use Regulations 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 these Land Use Regulations shall be observed and substantial justice done as follows:

- 805.02-1 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 these Land Use Regulations, 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 these Land Use Regulations would effectively prohibit or unreasonably 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 these Land Use Regulations;
- 805.02-2 No such variance shall be authorized by the Board unless it finds: (1) that the strict application of these Land Use Regulations would produce undue hardship; (2) that such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (3) 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;
- 805.02-3 No such variance shall be authorized except after notice and hearing as required by Section 15.2-2204 of the Code of Virginia, 1950, as amended;
- 805.02-4 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 these Land Use Regulations;
- 805.02-5 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.

806.00 APPLICATION FOR VARIANCES

Application for variances from these Land Use Regulations may be made by any property owner, tenant, governmental official, department, board, or bureau.

- 806.01 *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), water courses, 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 Administrator shall also transmit a copy of the application and materials to the local commission which may send a recommendation to the Board or appear as a party at the hearing.

806.02 ***Posting and Land.*** The Zoning Administrator shall cause to have posted in a conspicuous place on the property in question one or more signs, each of which shall not be less than six (6) square feet in area, shall contain information as to the proposed change and the date and time of the public hearing, and the cost of each shall be paid by the applicant prior to the public hearing. These signs shall be posted at least fifteen (15) days prior to the public hearing.

806.03 ***Hearing and Action.*** The secretary shall place the matter on the docket to be acted upon by the Board. No such variance shall be authorized except after notice and hearing as required by Section 15.2-2204 of the Code of Virginia, 1950, as amended. The Board shall decide same within thirty (30) days from the date of such hearing.

806.04 ***Limitation of Hearings.*** A property owner, or his appointed agent, shall not initiate action for a hearing before the Board relating to the same parcel of land more often than once every twelve (12) months without specific approval of the Board.

806.05 ***Withdrawal of Application.*** Any petition for a hearing before the Board may be withdrawn prior to action thereon, by said Board at the discretion of the person, firm, or corporation initiating such request upon written notice to the Secretary of said Board.

806.06 ***Fee.*** Each application for a variance shall be accompanied by payment of a fee as set forth in Article 11 to help defray the cost of publicizing and conducting the public hearing. Upon withdrawal of an application, the fee required will be refunded provided no expenditures have been made for publicizing or conducting the public hearing at the time the notice is received.

807.00 PROCEDURE FOR REQUESTING A HEARING BEFORE THE BOARD OF ZONING APPEALS

Requests for a hearing before the Board for an administrative review shall observe the following procedures:

- 807.01 An appeal to the Board may be taken by any person aggrieved by, or by an officer, department, board, or bureau of the County of Bath affected by a decision of the Zoning Administrator within thirty (30) days after the decision.
- 807.02 Applications for appeal shall be submitted to the Zoning Administrator who shall refer the application to the Board, such applications shall specify the grounds for appeal.
- 807.03 The Zoning Administrator shall forthwith transmit to the Board all of the papers constituting the record upon which the action being appealed was taken.
- 807.04 An appeal shall stay all proceedings in furtherance of the action being appealed unless the Zoning Administrator certifies to the Board that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the Board or by a Court of Record, and on notice to the Zoning Administrator and for good cause shown.
- 807.05 The Board shall fix a reasonable time for the hearing of appeals. The Board shall also consider appeals after notice and hearing as required by Section 15.2-2204 of the Code of Virginia, 1950, as amended, and decide the same within thirty (30) days from the date of such public hearing.
- 807.06 In exercising the powers granted the Board in Section 805.00 of these Land Use Regulations, the said Board may, in conformity with the provisions of these Land Use Regulations, reverse or affirm, wholly or in part, or may modify the order, requirements, decisions, or determination of the Zoning Administrator, and to that end shall have all the powers of the Zoning Administrator and may issue or direct the issuance of a Zoning Permit.
- 807.07 Any application for appeal before the Board may be withdrawn prior to action hereon by said Board at the discretion of the person, firm, or corporation initiating such a request upon written notice to the Secretary of said Board.
- 807.08 Each application for an appeal shall be accompanied by payment of a fee as set forth in Article 11 of these Land Use Regulations to help defray the cost of publicizing and conducting the public hearing. Upon withdrawal of an application, the fee required will be refunded provided no expenditures have been made for publicizing or conducting the public hearing at the time the notice is received.

808.00 DECISION OF BOARD OF ZONING APPEALS

- 808.01 Any person or persons jointly or severally aggrieved by any decision of the Board, or any taxpayer or any officer, department, board, or bureau of the County of Bath may present to the Circuit Court of the County of Bath a petition specifying the

grounds on which aggrieved within thirty (30) days after the filing of the decision in the office of the Board.

- 808.02 Upon the presentation of such petition, the Court shall allow a writ of certiorari to review the decision of the Board and shall prescribe therein the time within which a return thereto must be made and served upon the aggrieved's attorney, which shall not be less than ten (10) days and may be extended by the Court. The allowance of the writ shall not stay proceedings upon the decision being appealed, but the Court may, on application, on notice to the Board, and on due cause shown, grant a restraining order.
- 808.03 The Board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision being appealed and shall be verified.
- 808.04 If, upon the hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the Court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. The Court may reverse or affirm, wholly, or in part, or may modify the decision brought up for review.
- 808.05 Costs shall not be allowed against the Board, unless it shall appear to the Court that it acted in bad faith or with malice in making the decision being appealed.