

ORANGE COUNTY, VIRGINIA
OFFICE OF THE COUNTY ADMINISTRATOR

BRENDA G. GARTON
INTERIM COUNTY ADMINISTRATOR

bgarton@orangecountyva.gov
PHONE: (540) 672-3313
FAX: (540) 672-1679
orangecountyva.gov



MAILING ADDRESS:
P. O. Box 111
ORANGE, VA 22960

PHYSICAL ADDRESS:
112 WEST MAIN STREET
ORANGE, VA 22960

MEMORANDUM

TO: Orange County Board of Supervisors

FROM: Alyson A. Simpson, Chief Deputy Clerk *AS*

THROUGH: Brenda G. Garton, Interim County Administrator *BGG*

DATE: January 21, 2020

SUBJECT: Public Hearing for ZTA 19-05; Administrative Approval of Certain Variances

The Board of Supervisors previously authorized the scheduling of a Public Hearing for ZTA 19-06, which has been advertised to take place on Tuesday, January 28, 2020 at 7:00 p.m.

Attached, please find the draft ordinance related to this Zoning Text Amendment, which has been provided for your consideration following the Public Hearing.

Also attached is a memo from the former County Administrator and the resolution recommending approval from the Planning Commission, for your information and review.

Recommended Action:

Following the Public Hearing, it would be appropriate for the Board of Supervisors to consider the attached ordinance.

Attachments as noted.

cc: Thomas Lacheney, County Attorney
Sandra Thornton, Planning Services Manager

ORANGE COUNTY, VIRGINIA
BOARD OF SUPERVISORS

R. MARK JOHNSON, DISTRICT ONE
JAMES K. WHITE, DISTRICT TWO
S. TEEL GOODWIN, DISTRICT THREE
JAMES P. CROZIER, DISTRICT FOUR
LEE H. FRAME, DISTRICT FIVE

BRENDA G. GARTON
INTERIM COUNTY ADMINISTRATOR

PHONE: (540) 672-3313
FAX: (540) 672-1679



MAILING ADDRESS:
P. O. BOX 111
ORANGE, VA 22960

PHYSICAL ADDRESS:
R. LINDSAY GORDON III BUILDING
112 WEST MAIN STREET
ORANGE, VIRGINIA 22960

orangecountyva.gov

DRAFT ORDINANCE OF APPROVAL / DENIAL

MOTION: _____

SECOND: _____

January 28, 2020
Regular Meeting
Ord. No. 200128 – PH2

RE: **DRAFT ORDINANCE APPROVING / DENYING AMENDMENTS TO ARTICLE II (ADMINISTRATION), SECTION 70 (ZONING), OF THE ORANGE COUNTY CODE OF ORDINANCES CONCERNING ADMINISTRATIVE VARIANCES FOR REASONABLE MODIFICATIONS RELATED TO FAIR HOUSING OR AMERICANS WITH DISABILITIES**

WHEREAS, the Board previously initiated Planning Commission action on amendments to Article II (Administration), Section 70 (Zoning), of the Orange County Code of Ordinances concerning administrative variances for reasonable modifications related to Fair Housing or Americans with Disabilities; and

WHEREAS, staff prepared recommended language for the text amendments, which was presented to the Planning Commission for consideration; and

WHEREAS, the Planning Commission advertised and held a Public Hearing on the proposed text amendments on January 2, 2020; and

WHEREAS, after discussing the proposed text amendments, the Planning Commission recommended approval of the proposed text amendments to the Board of Supervisors, as presented during its meeting; and

WHEREAS, the Board of Supervisors conducted a duly-advertised Public Hearing on January 28, 2020, to receive public comment; and

WHEREAS, following discussion at the Public Hearing, the Board of Supervisors hereby **supports / does not support** the proposed text amendments, as **presented / modified** during its meeting; and

WHEREAS, public necessity, convenience, general welfare, and/or good zoning practice also **support / do not support** approval of the proposed text amendments;

NOW, THEREFORE, BE IT ORDAINED, on this 28th day of January, 2020, that the Orange County Board of Supervisors hereby **approves / denies** the proposed amendments to

Article II (Administration), Section 70 (Zoning), of the Orange County Code of Ordinances concerning administrative variances for reasonable modifications related to Fair Housing or Americans with Disabilities, **as presented / modified and attached.**

Votes:

Johnson:

White:

Goodwin:

Crozier:

Frame:

Attachment: Adopted Amendments to the Orange County Code of Ordinances

**For Information: Thomas E. Lacheney, County Attorney
Sandra Thornton, Planning Services Manager**

**CERTIFIED COPY _____
Clerk to the Board of Supervisors**

DRAFT

DRAFT Amendments to the Orange County Code of Ordinances

**As adopted in Ord. No. 200128 – PH2
by the Orange County Board of Supervisors
on January 28, 2020**

1 **Chapter 70 - Zoning**

2
3 **Article II - Administration**

4
5 **Sec. 70-71 - Administrative variance.**

6
7 ~~Repealed. (Ord. 04-28-2015)~~

8
9 The Zoning Administrator may grant variances for a reasonable modification to the zoning
10 requirements where such variance request is appropriate under the provisions of state and
11 federal fair housing laws, or the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 et
12 seq.), as applicable. Any such variance granted to provide a reasonable modification to a
13 property or improvements thereon requested by, or on behalf of, a person with a disability shall
14 expire when the person benefited by it is no longer in need of the modification to such property
15 or improvements provided by the variance.

16
17 (State Code Sec. 15.2-2309)

ORANGE COUNTY
PLANNING SERVICES

COMMUNITY DEVELOPMENT
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960



OFFICE: (540) 672-4347
FAX: (540) 672-0164
orangecountyva.gov

Memorandum

TO: Orange County Board of Supervisors

FROM: Sandra B. Thornton, Planning Services Manager *SBT*

DATE: January 21, 2020

SUBJECT: ZTA 19-05 Orange County Board of Supervisors

Attached is the Orange County Planning Commission's Resolution No. 20-03 recommending approval of this zoning text amendment to Sec. 70-71 of the Orange County Code to allow the Zoning Administrator to grant administrative variances for persons with disabilities. Bryan David presented the proposed amendment and advised that improvements would remain in place only during the term of documented need. No public comment was offered during the commission's public hearing.

Upon motion by Mr. Hutchison with second from Mr. Capelle, the commission voted unanimously to recommend approval of the proposed text amendment.

ORANGE COUNTY
PLANNING COMMISSION

JASON CAPELLE, DISTRICT 1
GEORGE YANCEY, DISTRICT 2
DONALD BROOKS, DISTRICT 3
JULIE ZEIJLMAKER, DISTRICT 4
JIM HUTCHISON, DISTRICT 5

R. BRYAN, DAVID AICP
COUNTY ADMINISTRATOR



MAILING ADDRESS:
128 WEST MAIN STREET
ORANGE, VIRGINIA 22960

PLANNING & ZONING:
OFFICE: (540) 672-4347
FAX: (540) 672-0164
ORANGECOUNTYVA.GOV

RESOLUTION RECOMMENDING APPROVAL

MOTION: Hutchison

January 2, 2020

Regular Meeting

SECOND: Capelle

Res. No. 20-03

ZTA 19-05: Orange County Board of Supervisors

WHEREAS, the Orange County Board of Supervisors proposes to amend Sec. 70-71 of the Orange County Code to add provisions to permit the Zoning Administrator to grant variances for reasonable modifications or improvements to property which are to benefit a person or persons covered by the State or Federal Fair Housing Law or the Americans with Disabilities Act; and

WHEREAS, the request is pursuant to Sec. 70-211 *et. seq.* of the Zoning Ordinance; and

WHEREAS, the Planning Commission held a duly advertised public hearing on this proposed zoning text amendment during their January 2, 2020, regular meeting; and

WHEREAS, staff have recommended approval of this proposed zoning text amendment; and

WHEREAS, the Planning Commission has determined that this zoning text amendment would further the purposes of the Comprehensive Plan and the Zoning Ordinance; and

WHEREAS, the Planning Commission discussed this proposed zoning text amendment, considered comments received during the public hearing, and desires to recommend approval of the proposed zoning text amendment.

NOW, THEREFORE, BE IT RESOLVED, that the Orange County Planning Commission hereby recommends, based on public necessity, convenience, general welfare, and good planning/zoning practice, that the Orange County Board of Supervisors **approve** ZTA 19-05.

ORANGE COUNTY
PLANNING COMMISSION

Votes

Ayes: Brooks, Capelle, Hutchison, Yancey, Zeijlmaker

Nays: None

Abstained from Vote: None

Absent from Meeting: None

CERTIFIED COPY *Sandra B. Thurston*
Secretary to the Planning Commission

ORANGE COUNTY, VIRGINIA
OFFICE OF THE COUNTY ADMINISTRATOR

R. BRYAN DAVID
COUNTY ADMINISTRATOR

bdavid@orangecountyva.gov
PHONE: (540) 672-3313
FAX: (540) 672-1679
orangecountyva.gov



MEMORANDUM

MAILING ADDRESS:
P. O. Box 111
ORANGE, VA 22960

PHYSICAL ADDRESS:
112 WEST MAIN STREET
ORANGE, VA 22960

DATE: December 17, 2019
TO: Orange County Planning Commission
FROM: R. Bryan David
County Administrator

RE: Draft Zoning Text Amendments

At the Board of Supervisors meeting on November 13th, the County Attorney presented three (3) proposed Zoning Ordinance text amendments. These text amendments had been under discussion by members of the Board, the County Attorney, and staff. The information about each of the proposed text amendments follows and copies of the redline and blackline drafts are attached for your reference:

Section 70-244(a) Expansion or enlargement of nonconformities – The proposed text amendment will address the expansion of nonconforming residential and non-residential structures in the Agricultural (A) District. These structures are nonconforming because the existing structure was built prior to the adoption of the Zoning Ordinance and do not meet the setback area or yard distance from property lines or road rights of way required in the Agricultural (A) District.

This issue often presents itself when a Zoning Permit and Building Permit are sought to expand an existing structure and the proposed expansion area is greater than fifty percent (50%) of the original footprint of the residential non-conforming structure. For nonresidential structures which are often church buildings, the expansion area is limited to twenty-five percent (25%) of the existing structure's footprint. Often the footprint sizes for these existing non-conforming structures are small, and thereby the zoning imposed percentage limitation reduces or prevents what could be a usable and functional addition to the structure.

For purposes of this discussion, the footprint is the total square footage of the structure using the linear measurement from the outside of all exterior walls and supporting columns including deck areas. The Zoning Ordinance does not define the term *footprint* though it is used in Section 70-244(a).

It is important to note that the new portion of the existing structure constituting the enlargement or expansion may be no closer to the affected property line or lines than the nonconforming portion of the structure.

The proposed amendment would allow existing residential or non-residential structures to be expanded or enlarged by no more than fifty percent (50%) or twenty-five percent (25%), respectively, or by fifteen hundred (1,500) square feet, whichever is greater. This will give owners of smaller structures an opportunity for a reasonable expansion or enlargement size.

In the event a property owner wants an expansion or enlargement of a non-conforming structure greater than what is permitted by right under this proposed amendment, the property owner still may pursue a variance from the Board of Zoning Appeals. Nor does this proposed amendment prevent the property owner from pursuing a variance if the setback area or yard distance from property lines or road rights of way cannot be met by the expansion or enlargement. Essentially, a property owner continues to have the ability to pursue relief from these provisions of the Zoning Ordinance by means of a variance as may be approved or denied by the Board of Zoning Appeals.

Sec. 70-71. - Administrative variance – The proposed text amendment will permit the Zoning Administrator the authority to grant variances for reasonable modifications to property or improvements which are to benefit a person or persons covered by State or Federal fair housing law or the American with Disabilities Act. The Code of Virginia was recently amended to require the Board of Zoning Appeals to grant this same class of variance. The proposed text amendment transfers the Board of Zoning Appeals' authority to Zoning Administrator.

Essentially, the person or persons would need not apply to the Board of Zoning Appeals for such a variance and wait for the BZA to hold a public hearing to grant a required variance. It makes the process administrative and thus saving time and expense for the property owner.

It should be noted the variance is only for the benefit of the person or persons covered by the State or Federal fair housing law or the American with Disabilities Act. Once these people no longer are benefiting from the property or improvement modification permitted by the variance, then such property or improvement modification is to be removed or otherwise rendered no to be longer in use.

The most common instance for these types of variance will be access ramps, porches, covered walkways, and the like to access the primary structure.

Sec. 70-551. - Establishment and Applicability – The proposed text amendment is under the provisions of the Barboursville Village Overlay District which establish the Barboursville Village Overlay District Advisory Committee (BVODAC). This amendment increases the committee's membership from three (3) members to five (5) members with three (3) members residing or owning real estate in the Barboursville Village Overlay District.

The BVODAC provides the Zoning Administrator with comments on all site plans or development proposals with the District. The BVODAC operates under guidelines which set forth the process of reviewing site plans and development proposals. Copies of the BVOD and the BVODAC are attached for your reference.

The proposed text amendments are being advertised for public hearings at the Planning Commission's meeting on January 2nd. The proposed text amendments are also being advertised for public hearings at the Board of Supervisors meeting on January 28th.

If you should have any questions or would like to discuss these proposed amendments prior to the Planning Commission's January 2nd meeting, please contact me. I will attend the meeting to represent these proposed text amendments.

cc: Orange County Board of Supervisors
Sandra Thornton, Planning Services Manager
Tom Lacheney, County Attorney
Eric Lansing, Assistant County Attorney
Tracey Newman, Planning Services Associate