

At a special meeting of the Board of Supervisors of Warren County held in the Warren County Government Center on July 26, 2022 at 7:00 PM.

Present: Cheryl L. Cullers, Chair (South River District); Delores R. Oates, Vice Chair (North River District); Victoria L. Cook (Fork District); Jerome K. Butler (Happy Creek District); and Walter J. Mabe (Shenandoah District); also present were Taryn G. Logan, Deputy County Administrator; Caitlin Jordan, Senior Assistant County Attorney; Chase Lenz, Zoning Administrator; Alisa Scott, Deputy Finance Director; Matt Wendling, Planning Director; and Emily Ciarrocchi, Deputy Clerk of the Board

Call to Order

Adoption of the Agenda

On a motion by Mr. Mabe, seconded by Mr. Butler, and by the following vote, the Board of Supervisors adopted the agenda as presented:

Mabe, Aye; Cook, Aye; Cullers, Aye; Oates, Aye; Butler, Aye

Public Hearing – Lease of County-Owned Property Located at 124 E 2nd Street – Alisa Scott

Alisa Scott, Deputy Finance Director, reported the County intends to lease the real property located at 124 E. 2nd Street, for approximately one year beginning July 27, 2022 and ending July 30, 2023.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mrs. Cook, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors approved the lease of County owned real property located at 124 E. 2nd Street to a tenant and further authorized the Chair and County Administrator, either of whom may act, to execute all necessary documents that have been approved by the County Attorney or the Senior Assistant County Attorney on behalf of the County:

Butler, Aye; Oates, No; Cullers, Aye; Cook, Aye; Mabe, Aye

Public Hearing – Conditional Use Permit 2022-05-01 – Ferhan Ture for a Short-Term Tourist Rental Located at 959 Thunder Road and Identified on Tax Map 36C, Section 2, Block 7, Lot 88 – Chase Lenz

Chase Lenz, Zoning Administrator, reported the applicant is requesting a conditional use permit for a short-term tourist rental for the property he purchased in November 2020.

The owner recently finished a basement suite in the dwelling and would like to make it available year-round for short-term visitations for couples and families visiting the Warren County area. The applicant and his wife will manage the property personally while residing in the main section of the dwelling. The Planning Department had sent the applicant a notice of violation in January 2022 for operating a short-term tourist rental without the required conditional use permit. At that time, Mr. Ture ceased operations of the rental and worked with Department staff to come into compliance.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval.

Mrs. Cullers opened the public hearing.

Sue Earley, 483 McCoys Ford Road, said she is a resident of the Thunderbird Farms subdivision where this rental is located. She, along with many others, do not want a short-term tourist rental bringing increased traffic to their subdivision.

There being no further comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mrs. Cook, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors approved the conditional use permit request of Ferhan Ture for a short-term tourist rental with the conditions as recommended by the Planning Commission and staff and listed below:

Mabe, Aye; Cook, Aye; Cullers, Aye; Oates, Aye; Butler, Aye

1. The applicant shall comply with all Warren County Health Department and Warren County Building Inspections and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The maximum number of occupants shall not exceed six as determined according to the Health Department operational permit for a three-bedroom dwelling.
3. The applicant shall have the well/drinking water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.
4. The applicant shall have the septic system inspected annually by a State licensed inspector and a copy of the results shall be submitted to the Planning and Health Departments. The system shall also be serviced every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.
5. The discharge of firearms and hunting on the property by guests shall be prohibited.
6. The use of All-Terrain Vehicles (ATVs) by guests on the property and within the subdivision shall be prohibited.

Public Hearing – Conditional Use Permit 2022-05-02 – Douglas and Christina Alley for Private Use Camping Located at 0 Burma Road and Identified on Tax Map 19H, Section 1, Lot 17 – Matt Wendling

Matt Wendling, Planning Director, reported the applicants are requesting a conditional use permit for Private Use Camping on a lot in the Man-Da-Lay subdivision which is located in the Special Flood Hazard Area (SFHA). The applicants recently purchased the lot in August 2021 from a long-time property owner who never improved the lot, which is currently mostly wooded. This conditional use permit would also allow them to erect a single accessory structure up to 200 square feet for storage of recreational and property maintenance equipment with the issuance of a building permit.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mrs. Oates, seconded by Mr. Butler, and by the following vote, the Board of Supervisors approved the conditional use permit request of Douglas and Christina Alley for private use camping (non-commercial) with the conditions as recommended by the Planning Commission and staff and listed below:

Butler, Aye; Oates, Aye; Cullers, Aye; Cook, Aye; Mabe, Aye

1. The applicants shall comply with all Warren County Health Department regulations and requirements.
2. Materials associated with the campers are to be stored in a neat and orderly fashion during the time of use and are to be removed from the site when not in use.
3. Any development, structure or fencing shall require a building and zoning permit.
4. The applicant shall post the property with a lot/parcel number for Fire and Emergency Rescue Services and have an emergency egress plan for removal of the recreational vehicles and portable commode prior to a predicted flood event.

Public Hearing – Conditional Use Permit 2022-05-03 – Seung Wan (Brian) Suh for a Bed and Breakfast Located at 198 Ashland Court and Identified on Tax Map 30D, Section 1, Lot 2 – Matt Wendling

Mr. Wendling reported the applicant is requesting a conditional use permit for a “Bed and Breakfast” for rental of rooms in his single-family dwelling for 14 days or fewer. The applicant states that he and his wife plan to reside at the property full-time in the future and will only be renting one or two bedrooms while they are staying at the property. The most occupants that will be at the dwelling at any one time will be six (6), which includes the

homeowners. They plan to serve breakfast to their guests and will comply with all Warren County Health Department regulations for a “commercial” kitchen. They have reached out to their neighbors and have received positive responses since they will be on-site while guests are staying at the Bed and Breakfast.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval.

Mrs. Cullers asked if the six-person occupancy limit included the applicant and his wife, and Mr. Wendling confirmed it did. They would be able to host a maximum of four guests while they stay at the property.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

Mr. Mabe noted the phrase in the staff report that indicated the applicant and his wife would be residing at this residence full-time “in the future”, and he asked when “the future” would be. Mr. Wendling responded that he did not know, as Mr. Suh had not given him a firm date. Mr. Mabe voiced his concerns about approving this conditional use permit while the owners are not currently living at the property, and Mr. Wendling stated as a requirement of a bed and breakfast, the property owner or an innkeeper must be on-site while renters are there.

Mrs. Oates commented that there is a distinct legal difference between the definitions of a bed and breakfast and a short-term tourist rental, and Caitlin Jordan, Senior Assistant County Attorney, said the main difference is that short-term tourist rental guests can be at the rental when the owner/manager is not. However, as Mr. Wendling previously noted, a bed and breakfast requires the owner or innkeeper to be present if there are renters at the property. If the owners were in violation, the Department would investigate the allegation and, if necessary, bring the conditional use permit before the Board for possible revocation.

Mr. Butler said he was worried about the ability of the Planning Department to enforce the requirement of the owner being present on the property when renters were there, as it would require constant vigilance on the part of staff and/or others.

On a motion by Mrs. Oates, seconded by Mrs. Cook, and by the following vote, the Board of Supervisors approved the conditional use permit request of Seung Wan (Brian) Suh for a Bed and Breakfast with the conditions as recommended by the Planning Commission and staff and listed below:

Mabe, Aye; Cook, Aye; Cullers, No; Oates, Aye; Butler, No

1. The applicant shall comply with all Warren County Health Department and Warren County Building Inspections and Virginia Statewide Fire Prevention Code regulations and requirements.

2. The maximum number of occupants shall not exceed six (6) as determined according to the Health Department operational permit for a three-bedroom dwelling and septic system.
3. The applicant shall have the well water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.
4. The applicant shall have the septic system inspected annually by a State licensed inspector and a copy of the results shall be submitted to the Planning and Health Departments. The system shall also be serviced every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.
5. Property boundaries, or limitations within the property's boundaries where transients are allowed, must be clearly marked at all times.

Public Hearing – Conditional Use Permit 2022-05-04 – Valley View Ventures, LLC (Brooklyn Steele) for a Short-Term Tourist Rental Located at 4315 Rivermont Drive and Identified on Tax Map 28, Lot 127B – Chase Lenz

Mr. Lenz reported the applicant is requesting a conditional use permit for a short-term tourist rental for the property she is currently renting from her mother-in-law. With the owner's consent, the applicant would like to make the property available year-round as a quaint location for short-term visitations for individuals visiting the Warren County area. The applicant will manage the property personally.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mrs. Cook, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors approved the conditional use permit request of Valley View Ventures, LLC (Brooklyn Steele) for a short-term tourist rental with the conditions as recommended by the Planning Commission and staff and listed below:

Butler, Aye; Oates, Aye; Cullers, Aye; Cook, Aye; Mabe, Aye

1. The applicants shall comply with all Warren County Health Department and Warren County Building Inspections and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The maximum number of occupants shall not exceed six as determined according to the Health Department operational permit for a three-bedroom dwelling.

3. The applicants shall have the well/drinking water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.
4. The applicants shall have the septic system inspected annually by a State licensed inspector and a copy of the results shall be submitted to the Planning and Health Departments. The system shall also be serviced every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.
5. The discharge of firearms and hunting on the property by guests shall be prohibited.
6. The use of All-Terrain Vehicles (ATVs) by guests on the property and on the State road shall be prohibited.

Public Hearing – Conditional Use Permit 2022-05-05 – Edward Sperry for a Guesthouse Located at 690 Comforter Lane and Identified on Tax Map 10P, Section 1, Lot 11 – Matt Wendling

Mr. Wendling reported the applicant is requesting a conditional use permit for a guesthouse. He and his wife built this workshop in 2021, but due to life's circumstances, they decided to convert it to a one-bedroom dwelling to be used for temporary housing. They have plans to build their permanent residence within the next year but require the conditional use permit in order to keep this dwelling for friends and family when they visit. Their principal dwelling will be a three-bedroom structure with six-person occupancy, and they have approval for a four-bedroom septic system which will be used by both dwellings. They plan to continue living in the single bedroom cabin while the construction process is moving forward until they receive a certificate of occupancy for the other dwelling.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mrs. Oates, seconded by Mrs. Cook, and by the following vote, the Board of Supervisors approved the conditional use permit request of Edward Sperry for a guesthouse with the conditions as recommended by the Planning Commission and staff and listed below:

Mabe, Aye; Cook, Aye; Cullers, Aye; Oates, Aye; Butler, Aye

1. The guesthouse shall not be used for full-time occupancy.
2. This accessory dwelling shall not be used for commercial rental or leasing of rooms for compensation of any kind.

3. The applicant shall comply with all Warren County Building Inspections and Warren County Health Department regulations and requirements including Building Code requirements for a smoke and fire detector system and carbon monoxide detectors.
4. The applicant shall have a condition placed on the deed at the time of transfer of the property to a new owner that the rental or leasing of the dwelling for monetary compensation is prohibited and that it is limited to part-time occupancy up to six months.
5. After the approval by the County and recordation of a family subdivision of the guesthouse lot this conditional use permit shall become null and void.

Public Hearing – Conditional Use Permit 2022-05-06 – Hunter E. Hughes and Rinku Sinha for a Short-Term Tourist Rental Located at 289 Heim-Jones Road and Identified on Tax Map 23C, Section 7, Block 2B, Lot 188 – Matt Wendling

Mr. Wendling reported the applicants recently purchased the property in 2022 and moved to the property full-time and telecommute to their jobs in the D.C. Metropolitan area. They would like to rent out rooms short-term and will be residing in the dwelling at the same time their guests would be there. They would not be serving food to the guests. This land use would allow them to defray the costs of home ownership and to eventually renovate their unfinished basement. The applicants will be acting as the property managers and cleaning service since they reside on the premises.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mr. Mabe, seconded by Mrs. Oates, and by the following vote, the Board of Supervisors approved the conditional use permit request of Hunter Hughes and Rinku Sinha for a short-term tourist rental with the conditions as recommended by the Planning Commission and staff and listed below:

Butler, Aye; Oates, Aye; Cullers, Aye; Cook, Aye; Mabe, Aye

1. The applicants shall comply with all Warren County Health Department and Warren County Building Inspections and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The maximum number of occupants shall not exceed six (6) as determined according to the Health Department conditional/operational permit which needs to be issued for a three-bedroom dwelling.
3. The applicants shall have the well/drinking water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.

4. The applicants shall have the septic system inspected annually by a State licensed inspector and a copy of the results shall be submitted to the Planning and Health Departments. The system shall also be serviced every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.
5. The discharge of firearms and hunting on the property by guests shall be prohibited.
6. The use of All-Terrain Vehicles (ATVs) by guests on the property and within the subdivision shall be prohibited.

Public Hearing – Conditional Use Permit 2022-05-07 – James V. Elliott, Jr. for a Short-Term Tourist Rental Located at 2633 Buck Mountain Road and Identified on Tax Map 37, Lot 63D – Chase Lenz

Mr. Lenz reported the applicant is requesting a conditional use permit for a short-term tourist rental for the property he purchased in January 2022. The owner hopes to promote local businesses and attractions by making the property available year-round for short-term visitations for individuals visiting the Warren County area. The applicant will manage the property personally as he currently resides in Bentonville, a few miles south of the subject property.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mrs. Cook, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors approved the conditional use permit request of James V. Elliott, Jr. for a short-term tourist rental with the conditions as recommended by the Planning Commission and staff and listed below:

Mabe, Aye; Cook, Aye; Cullers, Aye; Oates, Aye; Butler, Aye

1. The applicants shall comply with all Warren County Health Department and Warren County Building Inspections and Virginia Statewide Fire Prevention Code regulations and requirements.
2. The maximum number of occupants shall not exceed four as determined according to the Health Department operational permit for a two-bedroom dwelling.
3. The applicants shall have the well/drinking water tested annually for e-coli and coliform bacteria and a copy of the results shall be submitted to the Planning and Health Departments.
4. The applicants shall have the septic system inspected annually by a State licensed inspector and a copy of the results shall be submitted to the Planning and Health

Departments. The system shall also be serviced every five years as recommended by the Health Department and a copy of the service invoice shall be provided to the Planning Department.

5. The discharge of firearms and hunting on the property by guests shall be prohibited.
6. The use of All-Terrain Vehicles (ATVs) by guests on the property and on the State road shall be prohibited.

Public Hearing – Conditional Use Permit 2022-05-08 – Self-Realization Fellowship Church for a Church Located at 2660 John Marshall Highway and Identified on Tax Map 30, Lot 24A1 – Matt Wendling

Mr. Wendling reported the applicant, Self-Realization Fellowship Church has been holding scheduled worship services for their small local congregation here at this site since the early 1980s. They meet in a small chapel that is currently located in the main residence on the property which serves as home for the worship leader as well as her two assistants. Average attendance for the weekday evening services has been 12 to 18 attendees, Sunday morning services may have up to 50 people on average and 30 to 50 for special fellowship events held on Saturday. The board of directors and members of the church are requesting to build a new facility on the grounds so that the residents of the main dwelling can preserve their privacy and for health concerns that came about during the recent COVID-19 pandemic. The church does not intend to increase its size with the new building will be built to accommodate its current congregation and will also include handicapped and senior citizen accessible facilities that the existing chapel does not. The lot is a 5.12-acre parcel located within the 527 acres of land the church owns which is primarily undeveloped woodlands.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval.

Mr. Butler wondered why they were seeking a conditional use permit for a church if they have been meeting since the 1980s. Mr. Wendling replied that because this church was around before the adoption of the County's Zoning Ordinance, it is a grandfathered use. Since they are requesting to build a structure, and as such are required to apply for permits through the Building Inspections Department, they must bring the property into compliance with the current Zoning Ordinance, which lists "Church" as a use allowed by conditional use permit (not by-right) in the Agricultural (A) District. Mr. Butler said he did not want to see the congregation in a position where the conditional use permit may be pulled.

Mrs. Cullers noted proposed condition #1 indicates the number of occupants for the proposed structure is not yet determined by the Building Code or the Health Department and also noted the absence of comments on this application from the Virginia Department of Transportation (VDOT), specifically regarding the potential for improvements to be made at the entrance to the property off John Marshall Highway (Route 55). She does not feel comfortable approving this conditional use permit until comments from VDOT are received,

especially given its close proximity to the problematic intersection of John Marshall Highway (Route 55) and High Knob Road.

Mrs. Cullers opened the public hearing.

Kim Lucas, 756 Hillandale Road, stated that as an adjacent property owner, she is also concerned with the entrance to the property's proximity to the intersection of John Marshall Highway and High Knob Road. The speed limit is 55 miles per hour, and the entrance to the property is towards the bottom of a very large hill, which would only increase the speed of eastbound vehicles.

Christina Guthrie, a resident on the subject property, wanted to reiterate that they are not trying to grow their congregation; they do not advertise their church or proselytize. She and the rest of the congregation is aware of the dangers of John Marshall Highway, and if they were trying to increase their numbers, they would certainly be looking into making turn lanes or other traffic solutions. She stated their weekly service attendance is on low side right now (around 25 to 30 persons), and they hold their Sunday services either in the home on the property, at the Warren County Community Center, or at the 4H Center.

Keith Arnett, 49 Greenfield Court, said he is a member of the congregation of the church, and while a 10,000 square foot structure may sound large, it really is not. The worship space is less than 1,000 square feet, and there are many other areas included in the overall floorplan, such as a foyer area, Sunday school space, meeting rooms, offices, and mechanical rooms. He went on to compliment the staff of the Planning Department and they them for being such a pleasure to work with throughout this application process.

Fred Andreae, 367 Overall Road, commented that the actual building footprint is closer to 6,000 square feet but might be larger if the porches are counted as well.

There being no comments from the public, Mrs. Cullers closed the public hearing.

Mrs. Cullers stated there will be a Development Review Committee meeting on Wednesday, July 27th where there will be representatives from VDOT. She will make sure this application is given to VDOT in order to receive comments.

On a motion by Mr. Butler, seconded by Mr. Mabe, and by the following vote, the Board of Supervisors tabled further consideration of this item until comments are received from the Virginia Department of Transportation:

Butler, Aye; Oates, Aye; Cullers, Aye; Cook, No; Mabe, Aye

Public Hearing – Conditional Use Permit 2022-06-10 – Shahi Food Group for a Facility for Food Processing Located at 426 Baugh Drive and Identified on Tax Map 5C as Lot 5 – Matt Wendling

Mr. Wendling reported the applicant is requesting a conditional use permit for a food processing facility. Shahi Foods, LLC Group is a specialty ice cream bar producer with a distribution network in 20 states, including New York, New Jersey, Texas, Ohio, and Virginia. Shahi projects \$7 million capital investment and a 5-year employment projection of 100 individuals. They are currently going through a 60-day study period with the Front Royal-Warren County Economic Development Authority (EDA) and have requested the conditional use permit to have land-use approval by the time they close on the property. They project to begin manufacturing operations at the Baugh Drive site in the late fall of 2022.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mrs. Oates, seconded by Mr. Butler, and by the following vote, the Board of Supervisors approved the conditional use permit request of Shahi Foods, LLC for a Food Processing Facility with the conditions as recommended by the Planning Commission and staff and listed below:

Mabe, Aye; Cook, Aye; Cullers, Aye; Oates, Aye; Butler, Aye

1. The applicants shall comply with all Warren County Health Department, and Warren County Building Inspections and Virginia Statewide Fire Prevention Code regulations and requirements.
2. All associated materials shall be stored inside the building.
3. The applicants shall prohibit overnight parking of trucks along Baugh Drive.
4. Southbound truck traffic should be directed to utilize Baugh Drive (Route 702) to Toray Drive (Route 720) to access Winchester Road (Route 340/522) to reduce the traffic on Fairground Road (Route 661).
5. Property shall be maintained in accordance with the original approved site plan. Any modifications shall require a review of the site plan by the Warren County Planning Department.
6. All outdoor lighting fixtures shall be full-cutoff (shielded) fixtures as required by the Warren County Zoning Ordinance.

Public Hearing – Z2022-05-02 – Warren County Planning Commission, Ordinance to Amend and Re-Ordain Sections 180-8 and 180-16 Pertaining to the Floodplain Overlay District – Matt Wendling

Mr. Wendling reported on March 16, 2022, the Board of Supervisors approved a request to amend the Floodplain Overlay District ordinance with the recommended changes

based on the 2019/2020 review of the County ordinance that were recommended by the Federal Emergency Management Agency (FEMA) after its Community Assistance Visit (CAV) in March 2019. These current amendments are for changes, additions, corrections, and updates based on a third-party review of a FEMA consultant of the latest ordinance which were not observed during the review of the ordinance by FEMA, the Virginia Department of Conservation and Recreation (VA DCR), and County staff in the most recent update.

The last major review and revision to the ordinance was done between 2012 and 2013 and adopted by the Board on May 21, 2013. During the CAV both FEMA and the VA DCR assisted in the current review of the proposed amended ordinance providing recommendations based on the FEMA Region III Ordinance Review Checklist and the FEMA publication on Higher Standards. In order for the County to meet the requirements of FEMA and the National Flood Insurance Program (NFIP) to participate in the Community Rating System program the County's Floodplain Overlay District ordinance must meet certain provisions and incorporate the voluntary higher standards in order to gain credits for the Community Rating System scoring system.

The Planning Commission has forwarded this application to the Board of Supervisors recommending approval.

Mrs. Cullers opened the public hearing. There being no comments from the public, Mrs. Cullers closed the public hearing.

On a motion by Mr. Butler, seconded by Mrs. Cook, and by the following vote, the Board of Supervisors finding that the proposed zoning ordinance amendment is appropriate for the public necessity, convenience, and general welfare and good zoning practice, adopted the proposed ordinance to amend and re-ordain Sections 180-8 and 180-16 of the Warren County Code:

Butler, Aye; Oates, Aye; Cullers, Aye; Cook, Aye; Mabe, Aye

ORDINANCE TO AMEND SECTIONS 180-8 AND 180-16 OF THE WARREN COUNTY CODE
REGARDING FLOODPLAIN OVERLAY DISTRICT

BE IT ORDAINED BY THE WARREN COUNTY BOARD OF SUPERVISORS that Sections 180-8 (Definitions) and 180-16 (Floodplain Overlay District; dam break inundation zones) of the Warren County Code be amended, added, and re-ordained as follows:

§ 180-8. Definitions.

- C. Definitions of words and terms. As used in this chapter, the following words and terms shall have the meanings indicated:

...

SUBSTANTIAL IMPROVEMENT

Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 45% of the assessed value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage regardless of the actual repair work performed. The term does not, however, include either ~~any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure;~~

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- (2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

§ 180-16 Floodplain Overlay District; dam break inundation zones.

[Amended 2-21-1995; 2-17-1998; 5-20-2008; 3-15-2022; **7-26-2022**]

A. Statutory Authorization and Purpose and Intent:

- (1) Statutory authority: In accordance with the general purpose and intent, this section is specifically adopted pursuant to the authority granted to localities by Virginia Code §§ 15.2-2280 and 10.1-600 et seq. and all amendments thereto.
- (2) Purpose and intent. These flood ordinances shall be designed to provide for safety from flood, to facilitate the provision of flood protection, and to protect against loss of life, health, or property from flood. The purpose of these provisions is to prevent the loss of life and property, the creation of health and safety hazards, the disruptions of commerce and all governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief and the impairment of the tax base by:
 - (a) Regulating uses, activities and development which, alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies;
 - (b) Restricting or prohibiting certain uses, activities and development from locating within districts subject to flooding or located within dam break inundation zones; **[Amended 5-21-2013]**
 - (c) Requiring all those uses, activities and developments that do occur in flood-prone districts to be protected and/or flood-proofed against flooding and flood damage; ~~and~~

- (d) Protecting individuals from buying land and structures which are unsuited for intended purposes because of flood or dam break hazards; **[Amended 5-21-2013]**
 - (e) The Planning Department shall maintain copies of all mapped dam break inundation zones; **[Added 5-21-2013]**
 - (f) Addressing a local need of property owners for flood insurance and to participate in the National Flood Insurance Program (NFIP).
- B. Applicability: These provisions shall apply to all privately or publicly owned lands within the unincorporated limits of Warren County and identified as being in the special flood hazard area (SFHA) by the Federal Insurance Administration or by the community. These lands are also identified in the most recent Flood Insurance Study (FIS) and the Flood Insurance Rate Maps (FIRM) adopted by the Warren County Board of Supervisors on June 3, 2008, **and all subsequent revisions. [Amended 5-21-2013]**
- C. Compliance and Disclaimer of Liability.
 - (1) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of this section and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this section.
 - (2) The degree of flood protection sought by the provisions of this section is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study but does not imply total flood protection within the Special Flood Hazard Areas and adjacent areas.
 - (3) Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This section does not imply that districts outside the floodplain district or that land uses permitted within such district will be free from flooding or flood damages. **[Amended 5-21-2013]**
 - (4) Records of actions associated with administering this section shall be kept on file and maintained by the Planning Department in perpetuity. **[Added 5-21-2013]**
 - (5) This section is not a waiver of sovereign immunity or any statutory immunities and shall not create liability on the part of Warren County or any officer, agency or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.
- D. Abrogation and Greater Restrictions
 - (1) This chapter supersedes any less restrictive, conflicting ordinance currently in effect in flood-prone areas. To the extent that any other existing law or regulation is more restrictive or does not conflict it shall remain in full force and effect.

- (2) These regulations are not intended to repeal or abrogate any existing ordinances including subdivision regulations, zoning ordinances, or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall govern.
- (3) This chapter shall also include any subsequent revisions and amendments to the Flood Insurance Rate Maps and the Flood Insurance Study effective June 3, 2008.

E. Severability

- (1) If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance shall be declared invalid for any reason, such decision shall not affect the remaining portions of this ordinance. The remaining portions shall remain in full force and effect; and for this purpose, the provisions of this ordinance are hereby declared to be severable.

F. Designation of County Floodplain Administrator

The Floodplain Administrator is hereby appointed to administer and implement these regulations and is referred to herein as the County Floodplain Administrator. The County Floodplain Administrator may:

...

- (1) The duties and responsibilities of the County Floodplain Administrator shall include:

...

- (l) Verify that applicants proposing an alteration of a watercourse have notified adjacent communities, the Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management), and other appropriate agencies (VADEQ, USACE), and have submitted copies of such notifications to FEMA.
- (m) Administer the requirements related to proposed work on existing buildings:
 - [1] Make determinations as to whether buildings and structures that are located in flood hazard areas and that are damaged by any cause have been substantially damaged.
 - [2] Make reasonable efforts to notify owners of substantially damaged structures of the need to obtain a permit to repair, rehabilitate, or reconstruct. Prohibit the non-compliant repair of substantially damaged buildings except for temporary emergency protective measures necessary to secure a property or stabilize a building or structure to prevent additional damage.
- (n) Undertake, as determined appropriate by the Floodplain Administrator due to the circumstances, other actions which may include but are not limited to: issuing press releases, public service

announcements, and other public information materials related to permit requests and repair of damaged structures; coordinating with other Federal, State, and local agencies to assist with substantial damage determinations; providing owners of damaged structures information related to the proper repair of damaged structures in special flood hazard areas; and assisting property owners with documentation necessary to file claims for Increased Cost of Compliance coverage under NFIP flood insurance policies.

(o) Notify the Federal Emergency Management Agency when the corporate boundaries of the Warren County have been modified and:

[1] Provide a map that clearly delineates the new corporate boundaries or the new area for which the authority to regulate pursuant to these regulations has either been assumed or relinquished through annexation; and

[2] If the FIRM for any annexed area includes special flood hazard areas that have flood zones that have regulatory requirements that are not set forth in these regulations, prepare amendments to these regulations to adopt the FIRM and appropriate requirements, and submit the amendments to the governing body for adoption; such adoption shall take place at the same time as or prior to the date of annexation and a copy of the amended regulations shall be provided to Department of Conservation and Recreation (Division of Dam Safety and Floodplain Management) and FEMA.

...

I. Definitions. Notwithstanding any other provision of the Warren County Code, for the purposes of this section, the following words and phrases shall have the meanings described herein:

...

DAM BREAK INUNDATION ZONE

The area downstream of a dam that would be inundated or otherwise directly affected by the failure of the dam. The dam break inundation zone shall be as shown on the dam break inundation zone map filed with the Virginia Department of Conservation and Recreation. **[Added 5-21-2013]**

...

EXISTING CONSTRUCTION

Any buildings and structures for which the start of construction commenced before May 1, 1980, in conjunction with the Flood Insurance Rate Maps. Existing construction is also referred to as existing structures. **[Added 5-21-2013]**

...

FLOOD-DAMAGE-RESISTANT MATERIALS

Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair. [Added 5-21-2013]

FLOOD INSURANCE RATE MAP (FIRM)

An official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas and the risk premium zones applicable to the community. DFIRM is the digital version of the FIRM. [Added 5-21-2013]

FLOOD INSURANCE STUDY (FIS)

A report by FEMA that examines, evaluates and determines flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudflow and/or flood-related erosion hazards. [Added 5-21-2013]

...

FLOODPROOFING

Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures and their contents; these include required anchoring and strapping of structures and the inclusion of approved flood vents when necessary. [Added 5-21-2013]

...

FREEBOARD

A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. It is a specific additional height requirement above the base flood elevation (BFE) that provides a margin of safety against extraordinary or unknown risks. [Amended 5-21-2013]

HEC-RAS (HYDROLOGIC ENGINEERING CENTER - RIVER ANALYSIS SYSTEM)

A one-dimensional steady flow hydraulic model designed to aid hydraulic engineers in channel flow analysis and floodplain determination. [Added 5-21-2013]

HIGHEST ADJACENT GRADE (HAG)

The highest natural elevation of the ground surface prior to construction located adjacent to the proposed walls of a structure. [Added 5-21-2013]

HISTORIC STRUCTURE

Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior such as the Virginia Department of Historic Resources (DHR); or **[Amended 5-21-2013]**
 - (b) Directly by the Secretary of the Interior in states without approved programs.

HYDROLOGIC AND HYDRAULIC (H&H) ANALYSIS

Analyses performed by a licensed professional engineer, in accordance with standard engineering practices that are accepted by the Virginia Department of Conservation and Recreation and FEMA, used to determine the base flood, other frequency floods, flood elevations, floodway information and boundaries, flood profiles and mapping of the Special Flood Hazard Area. **[Added 5-21-2013]**

LETTER OF MAP CHANGE (LOMC)

An official FEMA determination by letter which reflects an official revision or amendment to an effective Flood Insurance Rate Map. A letter of map change is issued in lieu of the physical revision and republication of the effective map. Letters of Map Change include:

- (1) Letters of Map Amendment (LOMA): an amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a parcel of land as defined by metes and bounds or a structure is not located in a special flood hazard area.
- (2) Letter of Map Revision (LOMR): a revision based on technical data that may show changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features.
- (3) A Letter of Map Revision Based on Fill (LOMR-F) is a determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer exposed to flooding associated with the

base flood. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

- (4) Conditional Letter of Map Revision (CLOMR): a formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study.
- (5) Conditional Letter of Map Revision Based on Fill (CLOMR-F) is a conditional determination that a structure or parcel of land will be elevated by fill above the base flood elevation and will be no longer exposed to flooding associated with the base flood. A LOMR-F is then submitted once fill has been placed in the area during construction. This construction may have taken place during the time the engineering study was being performed or subsequent to that study. **[Added 5-21-2013]**

...

MANUFACTURED/MOBILE HOME

A structure, transportable in one or more sections, ~~which is~~ built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. **[Amended 5-21-2013]**

MANUFACTURED/MOBILE HOME PARK

A parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale. **[Added 5-21-2013]**

NEW CONSTRUCTION

For the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial Flood Insurance Rate Map on or ~~July 19, 1974~~ **May 1, 1980**, whichever is later, and includes any subsequent improvements to such structures.

For floodplain management purposes, "new construction" means structures for which start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures which is on or after May 1, 1980 **and includes any subsequent improvements to such structures. This also includes the replacement of a structure or facility which has been totally destroyed.**

...

POST-FIRM BUILDING

A building for which construction or substantial improvement occurred after May 1, 1980, or on or after the effective date of an initial Flood Insurance Rate Map (FIRM), whichever is later. **[Added 5-21-2013]**

PRE-FIRM BUILDING

A building for which construction or substantial improvement occurred on or before May 1, 1980, or before the effective date of an initial Flood Insurance Rate Map (FIRM). **[Added 5-21-2013]**

RECREATIONAL VEHICLE

A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or able to be permanently towed; and **[Amended 5-21-2013]**
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

REGULATORY FLOODWAY

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height ~~not to exceed one (1) foot.~~

REMEDY A VIOLATION

Remedy a violation means to bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

REPETITIVE LOSS STRUCTURE

Any insurable building for which two or more claims of more than \$1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling ten-year period since 1978. A repetitive loss property may or may not be currently insured by the NFIP. **[Added 5-21-2013]**

SEVERE REPETITIVE LOSS STRUCTURE

Repetitive loss structures with four separate claim payments greater than \$5,000 each which include building and contents or two or more separate claim payments within any rolling ten-year period since 1978 for the building only, where the total of payments exceeds the current market value of the structure.

SHALLOW FLOODING AREA (SHEET FLOW AREA)

A designated AO, AH, AR/AO, AR/AH, or VO Zone on a community's FIRM with a 1% or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. **[Added 5-21-2013]**

SPECIAL FLOOD HAZARD AREA (SFHA)

The land in the floodplain subject to a 1% or greater chance of being flooded in any given year as determined in § 180-16J(2) of this section and formerly called the 100-year floodplain. Includes areas having special flood, mudflow, or flood-related erosion hazards, and shown on a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM) as Zones A, AO, A1-A30, AE, A99, AH, AR, AR/A, AR/AE, AR/AH, AR/A1-A30, V1-V30, VE and V. **[Amended 5-21-2013]**

...

STRUCTURE

For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. For insurance purposes, means: A building with two or more outside rigid walls and fully secured roof, that is affixed to a permanent site, or, a manufactured home built on a permanent chassis, transported to its site in one of more sections, and affixed to a permanent foundation, or a travel trailer without wheels built on a chassis and affixed to a permanent foundation. These are regulated under the community's floodplain management and building ordinances or laws.

...

VIOLATION

The failure of a structure or any other development to be fully compliant with Warren County's floodplain management regulations shall be deemed a violation. A structure or other development without the required floodplain determination, zoning and building permits, elevation certificate, other certifications, or other evidence of compliance required by 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided for the as-built structure prior to final inspection approval and issuance of a certificate of occupancy from the Building Inspections Department. **[Added 5-21-2013]**

WATERCOURSE

A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

- J. Establishment of floodplain districts and dam break inundation zones. **[Amended 5-21-2013]**

...

K. District provisions.

- (1) Permit and application requirements. **[Amended 5-21-2013]**

...

- (2) General standards. In all SFHA Districts the following provisions shall apply to all permits: **[Amended 5-21-2013]**

...

- (3) Specific standards. In all special flood hazard areas where base flood elevations have been provided in the Flood Insurance Study or generated according to § 180-16K(1), the following provisions shall apply and shall comply with the current Uniform Statewide Building Code (USBC):

- (a) Residential construction. Construction of these structures within the regulatory floodway (SFHA Floodway District) shall be prohibited. Within the Special Flood Hazard Areas Zones A and AE, new construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than 2 1/2 feet (30" **above BFE inches**) above the base flood elevation. They must also meet a linear setback of 50 feet from the edge of the regulatory floodway as determined in the Flood Insurance Study or through a base floodwater surface elevation and contour analysis survey. Such certifications and determinations, including the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the County Planning Department. The Zoning Administrator shall determine that the yard location and setbacks for structures located in residential zoned properties and adjacent to the waterway are compliant and meet the Warren County Code requirements and floodplain determination elevation and comments of the Floodplain Administrator. A signed and notarized letter of understanding for a non-conversion of the dwelling shall be submitted at the time of the permit application.
- (b) Nonresidential commercial, industrial and institutional construction. New construction of these structures within the SFHA Floodway shall be prohibited. Substantial improvement of any existing commercial, industrial, or institutional buildings located in all A and AE Zones shall have the lowest floor, including basement, elevated to no lower than 2 1/2 feet (30" **above BFE inches**) above the base flood elevation. These buildings may be floodproofed in lieu of being elevated, provided that all areas of the building components below the elevation corresponding to the BFE plus 2 1/2 feet (30" **above BFE inches**) are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered

professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certifications shall be provided during the site plan process and must be approved by the County Floodplain Administrator or Zoning Administrator.

...

- (f) Standards for manufactured homes and recreational vehicles.

...

- [2] All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that:

[a] The lowest floor of the manufactured home is elevated no lower than one foot 2 1/2 feet (30" ~~above BFE inches~~) above the base flood elevation; ~~or~~

[b] The manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength and of no less than 36 inches in height above the grade; ~~or~~

[c] The manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse and lateral movement; ~~or~~

- [3] All recreational vehicles placed on sites must:

[a] Be on the site for fewer than 180 consecutive calendar days; in any one year and be fully licensed and ready for highway use; ~~or~~

~~[b] Meet all the requirements for manufactured homes in § 180-16K(3)(d), outlined above.~~

~~[b] The major recreational equipment is ready for highway use if it is on its wheels or jacking system, attached to the site by only quick disconnect-type utilities and securities and has no permanently attached additions.~~

~~[c] The parking and storage of inoperative major recreational equipment shall be prohibited.~~

~~[4] A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.~~

- (4) Standards for Special Flood Hazard Area Zone A District. [Amended 5-21-2013]

- (a) When base flood elevation data or floodway data have not been provided, the Zoning Administrator or County Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or any other source, in order to administer the provisions of § 180-16K. In locations where the specific base flood elevations and floodway boundary cannot be determined using sources such as the United States Army Corps of Engineers Floodplain Reports, United States Geological Survey Flood-Prone Quadrangles or other existing data, then the applicant shall provide documentation certifying the base flood elevation and floodway boundary using hydrologic and hydraulic engineering methods and modeling. This analysis shall be certified by a state-registered professional engineer or surveyor and submitted to the Planning Department with supplemental data relating to the study. When such base flood elevation and floodway boundary data is utilized, the Zoning Administrator or County Floodplain Administrator shall obtain:

- [1] An elevation certificate which states the elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures; and
- [2] Documentation that the structure has been floodproofed in accordance with the requirements of § 180-16K(3), above, the elevation in relation to the mean sea level to which the structure has been floodproofed.

~~(b) New construction, development and substantial improvement of existing structures within the regulatory floodway shall be prohibited.~~

~~(b)~~ (e) Any new construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than 2 1/2 feet (30" **above BFE inches**) above the base flood elevation.

~~(c)~~ (d) Any new construction or development must meet a linear setback of 50 feet from the edge of the regulatory floodway based on best available data or through a hydrologic and hydraulic analysis study submitted by a certified engineer or a topological field survey by a licensed surveyor.

~~(d)~~ (e) Development activities in Zone A on the Warren County Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies, with the Board of Supervisor's endorsement, for a conditional letter of map revision (CLOMR) ~~or one based on fill (CLOMR-F)~~, and receives the approval of the Federal Emergency Management Agency.

- (5) Standards for the Special Flood Hazard Area Zone AE District. The following provisions shall apply within this district: **[Amended 5-21-2013]**

- (a) New construction, substantial improvements, or other development (including fill) shall be permitted within the areas of special flood hazard, designated as AE on the Flood Rate Insurance Map and located and setback 50 feet outside of the regulatory floodway.
 - [1] An elevation certificate which states the elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures; and
 - [2] Documentation that the structure has been floodproofed in accordance with the requirements of § 180-16K(3), above, the elevation in relation to the mean sea level to which the structure has been floodproofed.
- ~~(b) New construction, development and substantial improvement of existing structures within the regulatory floodway shall be prohibited.~~
- (b)** ~~(e)~~ Any new construction or substantial improvement of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than 2 1/2 feet ~~(30 inches)~~ above the base flood elevation **(30" above BFE)**.
- (c)** ~~(e)~~ Any new construction or development must meet a linear setback of 50 feet from the edge of the regulatory floodway as determined in the Flood Insurance Study or through a base floodwater surface elevation analysis completed by a certified engineer or topological field survey by a licensed surveyor.
- (d)** ~~(e)~~ Development activities within the AE flood zone on the Warren County Flood Insurance Rate Map which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies, with the Board of Supervisor's endorsement, for a conditional flood insurance rate map revision (CLOMR) ~~or one based on fill (CLOMR-F)~~, and receives the approval of the Federal Emergency Management Agency.
- (6) Standards for the Special Flood Hazard Area Floodway District. The following provisions shall apply within this district: **[Amended 5-21-2013]**
 - (a) Encroachments, including fill, new construction, substantial improvements and other developments shall be prohibited, with the exception of accessory structures used solely for storage of recreation equipment and property maintenance equipment as referenced in § 180-16K(3)(c). All development shall require a floodplain determination and shall have a zoning and building permit issued if it is deemed to be a qualifying accessory structure, fence and any land disturbance or erosion stabilization.
 - [1] Substantially damaged structures shall meet all permitting requirements and flood hazard reduction provisions of §180-16K.**

- (b) If § 180-16K(6)(a) is satisfied, all new construction of accessory structures shall comply with all applicable flood hazard reduction provisions of § 180-16K.
 - (c) The placement of manufactured homes (mobile homes) is prohibited, except in an existing manufactured homes (mobile homes) park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision, provided the anchoring, elevation and encroachment standards are met.
- (7) Standards for subdivision proposals:
- (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
 - (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
 - (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards; and
 - (d) Hydrologic and hydraulic analysis and/or drainage study, erosion and sediment, encroachment analysis and base flood elevation data shall be provided for subdivision proposals and other proposed development proposals (including manufactured home parks and subdivisions greater than 50 lots or five acres) that are in the SFHA or within 100 feet of the boundary of the special flood hazard area. **[Amended 5-21-2013]**

L. Variances: factors to be considered.

- (1) In passing upon applications for variances, the Board of Zoning Appeals shall satisfy all relevant factors and procedures specified in other sections of the Zoning Ordinance and consider the following additional factors that are exceptional, unusual, and specific to the property:

...

- (b) The danger to life and property due to increased flood heights or velocities caused by encroachments. No variance shall be granted for any proposed use, development or activity within any Floodway or Floodplain District that will cause any increase in the Special Flood Hazard Area base flood elevation. **[Amended 5-21-2013]**

...

- (o) The ability of the property owner to remove equipment and vehicles incidental to the use of the property prior to or during a flood event. **[Added 5-21-2013]**
- (p) Development must not cause an increase in water surface elevations (WSEL) during floods of any magnitude.

- (2) The Board of Zoning Appeals may refer any application and accompanying documentation pertaining to any request for a variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities and the adequacy of the plans for flood protection and other related matters.
- (3) Variances shall be issued only after the Board of Zoning Appeals has determined that the granting of such will not result in unacceptable or prohibited increases in flood heights greater than one foot **(1')**; additional threats to public safety; extraordinary public expense; and will not create nuisances; cause fraud or victimization of the public; or conflict with local, state or federal laws or ordinances. **[Amended 5-21-2013]**
- (4) Variances shall be issued only after the Board of Zoning Appeals has determined that the variance will be the minimum required to provide relief from exceptional hardship to the applicant.
- (5) The Board of Zoning Appeals shall notify the applicant for a variance, in writing, that the issuance of a variance to construct a structure below the Special Flood Hazard Area base flood elevation increases the risks to life and property and will result in increased premium rates for flood insurance. **[Amended 5-21-2013]**
- (6) A record shall be maintained of the above notification as well as all variance actions, including justification for the issuance of the variances. Any variances that are issued shall be noted in the annual or biennial report submitted to the Federal Insurance Administrator.
- (7) A record of the issuance of a variance with any conditions attached shall be recorded with the deed to the property and on any elevation certificate submitted for the property within 30 days from the approval of the variance by the Board of Zoning Appeals (BZA). **[Added 5-21-2013]**

THIS ORDINANCE SHALL BE EFFECTIVE UPON ADOPTION

Language proposed to be deleted is lined through. Example

Language proposed to be added is bolded and underlined. **Example**

Adjournment

Mrs. Cullers adjourned the meeting at 8:07 PM.

Cheryl L. Cullers
Chair