

**TOWN OF CHINCOTEAGUE
BOARD OF ZONING APPEALS APPLICATION**



APPEAL CASE NUMBER: _____ FEE: \$ 450.00

APPLICANT/APPELLANT NAME: _____

ADDRESS: _____

PHONE NUMBER _____ E-MAIL _____

OWNER/APPELLANT SIGNATURE: _____ DATE _____

ADDRESS OF PROPERTY: _____

TAX MAP#: _____ PARCEL# _____ LOT SIZE: _____

ZONING DESIGNATION: _____ DATE ACQUIRED: _____

THE APPLICANT/APPELLANT REQUEST THAT A HEARING BE CONDUCTED BEFORE THE BOARD OF ZONING APPEALS FOR THE FOLLOWING PURPOSE:

- VARIANCE FROM ZONING REGULATIONS
- APPEAL FROM A DECISION OF THE ZONING ADMINISTRATOR
- INTERPRETATION OF THE ZONING DISTRICT BOUNDARIES
- APPEAL OF A ZONING VIOLATION NOTICE
- SPECIAL EXCEPTION
- APPEAL FROM ANY ORDER, REQUIREMENT, DECISION, OR DETERMINATION MADE BY ANY OTHER ADMINISTRATIVE OFFICIAL
- REVOCATION OF SPECIAL EXCEPTION, OR OTHER REQUESTED ACTION.
- APPEAL FROM FLOOD PLAIN ORDINANCE

SECTIONS OF ZONING ORDINANCE UNDER APPEAL:

PLEASE PROVIDE RESPONSES AND EXPLANATIONS WHERE APPLICABLE TO THE FOLLOWING:

QUESTIONS 1-9 MUST BE ANSWERED FOR A VARIANCE REQUEST.

1. IS THE PROPERTY EXCEPTIONALLY NARROW OR SHALLOW OR POSSESS AN IRREGULAR SHAPE OR SIZE WHICH EXISTED PRIOR TO THE ADOPTION OF THE ZONING REGULATION(S) FROM WHICH A VARIANCE IS SOUGHT SO THAT THE STRICT APPLICATION OF THE TERMS OF THE ORDINANCE WOULD EFFECTIVELY PROHIBIT OR UNREASONABLY RESTRICT THE UTILIZATION OF THE PROPERTY?

() YES () NO

EXPLANATION: _____

2. DOES THE SUBJECT PROPERTY HAVE EXCEPTIONAL TOPOGRAPHIC CONDITIONS OR SOME OTHER EXTRAORDINARY SITUATION OR CONDITION WHICH IS UNLIKE OTHER PROPERTIES IN THE IMMEDIATE VICINITY SO THAT THE STRICT APPLICATION OF THE TERMS OF THE ORDINANCE WOULD EFFECTIVELY PROHIBIT OR UNREASONABLY RESTRICT THE UTILIZATION OF THE PROPERTY.

() YES () NO

EXPLANATION: _____

3. IS THERE SOME PARTICULAR CONDITION, SITUATION OR DEVELOPMENT ON THE PROPERTY IMMEDIATELY ADJACENT TO THE SUBJECT PROPERTY WHICH AFFECTS THE SUBJECT PROPERTY'S ABILITY TO COMPLY WITH THE REGULATION(S) FROM WHICH THE VARIANCE IS SOUGHT SO THAT THE STRICT APPLICATION OF THE TERMS OF THE ORDINANCE WOULD EFFECTIVELY PROHIBIT OR UNREASONABLY RESTRICT THE UTILIZATION OF THE PROPERTY?

() YES () NO

EXPLANATION: _____

4. ON THE FACTS RELATIVE TO THE APPLICANT'S PROPERTY, WOULD THE GRANTING OF THE VARIANCE ALLEVIATE A CLEARLY DEMONSTRABLE HARDSHIP, AS DISTINGUISHED FROM A SPECIAL PRIVILEGE OR CONVENIENCE FOR THE APPLICANT?

YES NO

EXPLANATION: _____

5. WOULD THE GRANTING OF A VARIANCE CREATE SUBSTANTIAL DETRIMENT TO ADJACENT PROPERTY AND CHANGE THE CHARACTER OF THE ZONING DISTRICT?

YES NO

EXPLANATION: _____

6. IS THE HARDSHIP FROM WHICH A VARIANCE IS SOUGHT, SHARED BY OTHER PROPERTIES IN THE SAME ZONING DISTRICTS AND THE SAME VICINITY?

YES NO

EXPLANATION: _____

7. DESCRIBE THE LAND-USE HARDSHIP WHICH HAS LIMITED THE USE OF THE PROPERTY, IF DIFFERENT FROM THE RESPONSE IN QUESTIONS 1-4 ABOVE.

EXPLANATION: _____

8. IF A RESPONSE OF "YES" IS PROVIDED FOR QUESTIONS #1, #2, #3 OR #4 ABOVE, NEVERTHELESS, IS THERE ANY REASONABLE BENEFICIAL USE FOR THE PROPERTY AS A WHOLE UNDER THE CURRENT REGULATION(S) FROM WHICH A VARIANCE IS SOUGHT?

YES NO

EXPLANATION: _____

9. IF A RESPONSE OF "NO" IS PROVIDED FOR QUESTIONS #1, #2, #3 AND #4 ABOVE, OR A RESPONSE OF "YES" IS PROVIDED FOR QUESTIONS #5, #6 OR #8, THE APPLICANT IS HEREBY ADVISED THAT THE CHINCOTEAGUE BOARD OF ZONING APPEALS, UNDER APPLICABLE STATE LAW AND THE ZONING CODE, WILL HAVE INSUFFICIENT LEGAL GROUNDS FOR GRANTING A VARIANCE. THE APPLICANT DOES, HOWEVER, HAVE LEGAL RIGHT TO PRESENT THEIR CASE TO THE BOARD FOR ITS CONSIDERATION.

10. HAS ANY DEVELOPMENT, CONSTRUCTION OR OTHER ACTIVITY OCCURRED ON THE SUBJECT PROPERTY WHILE UNDER THE CURRENT OWNERSHIP WHICH DOES NOT COMPLY WITH ANY PROVISION OF THE Code?

YES NO

EXPLANATION: _____

11. HAS A VARIANCE BEEN REQUESTED FOR THE SUBJECT PROPERTY WITHIN THE LAST 12 MONTHS.

YES NO

EXPLANATION: _____

12. IS THE PROPERTY SUBJECT TO ANY LEGAL ACTION INCLUDING BUILDING CODE VIOLATIONS, ZONING CODE VIOLATION OR ANY PENDING COURT ORDER?

() YES () NO

EXPLANATION: _____

13. THE APPLICANT IS ADVISED TO REVIEW THE ATTACHED SECTIONS OF THE TOWN OF CHINCOTEAGUE ZONING CODE IN ORDER TO FURTHER UNDERSTAND THE LEGAL REQUIREMENTS REGARDING APPEALS, VARIANCE AND SPECIAL EXCEPTIONS. IF THE OWNER OF THE PROPERTY ELECTS REPRESENTATION BEFORE THE BOARD BY LEGAL COUNSEL, AGENT OR OTHERS ACTING ON BEHALF OF THE OWNER, THE FOLLOWING INFORMATION MUST BE PROVIDED:

REPRESENTATIVE'S NAME: _____

REPRESENTATIVE'S ADDRESS: _____

REPRESENTATIVE'S PHONE NUMBER: _____

REPRESENTATIVE'S EMAIL: _____

14. ATTACH ANY APPLICABLE SITE PLANS, BUILDING ELEVATIONS, GRADING PLANS, SEWERAGE LOCATIONS OR OTHER INFORMATION THAT MAY ASSIST THE BOARD IN THEIR CONSIDERATION OF THE MATTER.

LOCATION OF EXISTING & PROPOSED CONSTRUCTION

- (1). DRAW AN OUTLINE OF EXISTING BUILDINGS(S) AND INDICATE DISTANCES FROM THE BUILDING(S) TO THE FRONT, REAR AND SIDE PROPERTY LINES.**
- (2). DRAW AN OUTLINE OF THE PROPOSED STRUCTURE USING DASHED LINES AND INDICATE DISTANCES TO THE OTHER BUILDINGS AND TO ALL PROPERTY LINES.**
- (3). DRAW LOCATION OF SEPTIC SYSTEM.**

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SITE PLAN

PLEASE INDICATE YOUR APPROVAL OR DISAPPROVAL OF THE PROPOSED LAND USE AS STATED IN THE APPLICATION BY CHECKING THE APPROPRIATE SPACE. SPECIFY THE LOCATION OF YOUR PROPERTY; NORTH, EAST, SOUTH OR WEST OF THE APPLICANTS PROPERTY.

TAX MAP # _____

NAME: _____

ADDRESS: _____

PHONE: _____

COMMENTS: _____

() APPROVE REQUEST () DISAPPROVE REQUEST

SIGNATURE: _____ DATE: _____

TAX MAP # _____

NAME: _____

ADDRESS: _____

PHONE: _____

COMMENTS: _____

() APPROVE REQUEST () DISAPPROVE REQUEST

SIGNATURE: _____ DATE: _____

TAX MAP # _____

NAME: _____

ADDRESS: _____

PHONE: _____

COMMENTS: _____

() APPROVE REQUEST () DISAPPROVE REQUEST

SIGNATURE: _____ DATE: _____

TAX MAP # _____

NAME: _____

ADDRESS: _____

PHONE: _____

COMMENTS:

APPROVE REQUEST **DISAPPROVE REQUEST**

SIGNATURE: _____ **DATE:** _____

TAX MAP # _____

NAME: _____

ADDRESS: _____

PHONE: _____

COMMENTS:

APPROVE REQUEST **DISAPPROVE REQUEST**

SIGNATURE: _____ **DATE:** _____

TAX MAP # _____

NAME: _____

ADDRESS: _____

PHONE: _____

COMMENTS:

APPROVE REQUEST **DISAPPROVE REQUEST**

SIGNATURE: _____ **DATE:** _____

TAX MAP # _____

NAME: _____

ADDRESS: _____

PHONE: _____

COMMENTS:

APPROVE REQUEST **DISAPPROVE REQUEST**

SIGNATURE: _____ **DATE:** _____

TAX MAP # _____

NAME: _____

ADDRESS: _____

PHONE: _____

COMMENTS:

APPROVE REQUEST **DISAPPROVE REQUEST**

SIGNATURE: _____ **DATE:** _____

TAX MAP # _____

NAME: _____

ADDRESS: _____

PHONE: _____

COMMENTS:

APPROVE REQUEST **DISAPPROVE REQUEST**

SIGNATURE: _____ **DATE:** _____

OFFICIAL USE ONLY

DATE: _____

APPEAL # _____

MOTION ON APPEAL: _____

APPROVED

DENIED

CONDITIONALLY APPROVED;

FOR :

JESSIE SPEIDEL **DONNIE THORNTON** **ROBERT CHERRIX**

MIKE MCGEE **JACK GILLISS** **CHUCK WARD** **EDDIE MORAN**

AGAINST:

JESSIE SPEIDEL **DONNIE THORNTON** **ROBERT CHERRIX**

MIKE MCGEE **JACK GILLISS** **CHUCK WARD** **EDDIE MORAN**

CHINCOTEAGUE CODE

- 7.13.13.2. Gas pump signs. Each gas pump shall be permitted a total of 1.5 square feet of sign area to identify the product dispensed. (Gas pump signs shall not apply to total square footage of sign area permitted.) Canopy's that are used to cover fuel pumps may extend 20 feet in height and may include the name of the brand of fuel upon the canopy, however this advertisement shall not cover more than 50% of the each side of the facing of the canopy.

7.13.14. Office and/or industrial centers. Office and/or industrial centers at least one acre in size and planned as an integrated development shall be authorized to erect signs based on the following criteria:

- 7.13.14.1 Center identification signs. One monument sign per public street frontage, identifying the name of the center only and not exceeding 32 square feet in area and six feet in height.
- 7.13.14.2. Individual establishment signs. Each individual establishment within an office and/or industrial building may erect one wall sign of a size which does not exceed a maximum of 16 square feet in area. The top of the wall sign shall be located below the roof line and at a height no greater than 12 feet above the ground.

7.13.15. Directory signs. Commercial and industrial properties may erect a directory sign identifying the names and/or addresses of the establishments within individual buildings. A directory sign shall not exceed sixteen (16) square feet in area and six (6) feet in height and precludes the use of any other freestanding sign for the zoning lot on the same street frontage.

7.13.16. Theaters. Theaters are authorized to erect one of the permitted wall or marquee signs with a changeable copy letter board displaying the name and time of the current motion picture or theatrical production. (Ord. of 4-4-1994)
(Article VII. Amended 6/19/08. Section 7.13 Amended 10/07/13)

ARTICLE VIII. BOARD OF ZONING APPEALS

Sec. 8.1. Board of zoning appeals (BZA).

8.1.1. A board consisting of seven members shall be appointed by the circuit court of the county. The board shall serve without pay other than for traveling expenses. Appointments for vacancies occurring other than by expiration of term shall in all cases be for the unexpired term.

8.1.2. The term of office shall be for five years, except that original appointments shall be made for such terms that the term of at least one member shall expire each year. Members of the board of zoning appeals appointed and qualified at the time of the enactment hereof

APPENDIX A-ZONING

shall continue to serve the balance of the term for which they were appointed.

8.1.3. Any board member may be removed for malfeasance, misfeasance or nonfeasance in office, or for other just cause, by the court that appointed him, after a hearing held after at least 15 days' notice.

8.1.4. Any member of the board shall be disqualified to act upon a matter before the board with respect to property in which the member has an interest.

8.1.5. The board shall choose annually its own chairperson and vice-chairperson who shall act in the absence of the chairperson.

Cross reference—Boards and commissions, § 2-106 et seq.

Sec. 8.2. Powers of the board of zoning appeals.

The board of zoning appeals shall have the following powers and duties:

8.2.1. To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this ordinance.

8.2.2. To authorize upon appeal or original application in specific cases such variance as defined in section 2.173 from the terms of this ordinance as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship; provided that the spirit of this ordinance shall be observed and substantial justice done, as follows:

When a property owner can show that his property was acquired in good faith and where by reason of the exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of this ordinance, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property, or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of this ordinance would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this ordinance.

The board of zoning appeals shall require the applicant for a special use permit to submit written comments from all property owners within 300 feet of the boundary line of the property upon which action is to be taken, when application is made to appeal for a variance, the applicant shall submit signatures from all adjoining property owners including the property owners across the street or across bodies of water adjacent to or dividing two properties. The Board of Zoning Appeals may require the applicant to submit written comments from additional property owners.

No such variance shall be authorized by the board unless it finds:

CHINCOTEAGUE CODE

- (1) That the strict application of this ordinance would produce undue hardship.
- (2) That the hardship is not shared generally by other properties in the same zoning district and the same vicinity.
- (3) That the authorization of the 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 variance.

No variance shall be authorized except after notice and hearing as required by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail.

No variance shall be authorized unless the board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this ordinance.

In authorizing a variance the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

8.2.3. To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail.

8.2.4. To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by Code of Virginia, § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of this ordinance for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

8.2.5. No provision of this section shall be construed as granting any board the power to rezone property.

8.2.6. To hear and decide applications for special exceptions as may be authorized in this ordinance. The board may impose such conditions relating to the use for which a permit

APPENDIX A–ZONING

is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail.

Before issuance of a special use permit the board of zoning appeals shall consider the general character of the surrounding neighborhood in order to facilitate the preservation and creation of an attractive and harmonious community. The board of zoning appeals shall also consider the environmental effect on scenic, historic and waterfront areas including the property rights and values of adjoining and nearby property owners.

The board of zoning appeals shall have the authority to establish such conditions as it may deem necessary to assure and protect the health, safety, convenience and welfare of the general public within the district. Conditions may include, but need not be limited to, additional requirements for area, frontage, setback, side and rear yard, lighting, noise and odor control and location of streets including ingress and egress.

The board of zoning appeals may also impose such other conditions relating to the use for which a special use permit is granted as it may deem necessary in the public interest, including time limitations.

The board of zoning appeals shall not extend or renew any special use permit, or any conditional use permit previously granted, without the applicant complying with the procedures as set forth in section 8.4 of this ordinance.

All special use permits granted by the board of zoning appeals shall expire one year after the date of issuance unless construction or the use for which said permit was granted has actually commenced.

The board of zoning appeals may require a guarantee or bond with sufficient surety to ensure that any of the conditions which may be imposed pursuant to this article are being and will continue to be complied with.

8.2.7. To revoke a special exception if the board determines that there has not been compliance with the terms or conditions of the permit. No special exception may be revoked except after notice and hearing as provided by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail.

State law reference—Similar provisions, Code of Virginia, § 15.2-2309.

Sec. 8.3. Rules and regulations.

CHINCOTEAGUE CODE

8.3.1. The board of zoning appeals shall adopt such rules and regulations as it may consider necessary.

8.3.2. The meeting of the board shall be held at the call of its chairperson or at such times as a quorum of the board may determine.

8.3.3. The chairperson or, in his/her absence, the acting chairperson may administer oaths and compel the attendance of witnesses.

8.3.4. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. It shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

8.3.5. All meetings of the board shall be open to the public.

8.3.6. A quorum shall be at least four members

8.3.7. The board shall act on all matters that are properly before it.
(Ord. of 4-3-1995)

Sec. 8.4. Appeal to the board of zoning appeals.

8.4.1. An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the town affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this ordinance. Notwithstanding any Charter provision to the contrary, any written notice of a zoning violation or a written order of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The appeal period shall not commence until the statement is given. The appeal shall be taken within 30 days after the decision appealed from by filing with the zoning administrator, and with the board, a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

8.4.2. An appeal shall stay all proceedings in furtherance of the action appealed from 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, on application and on notice to the zoning administrator and for good cause shown.

8.4.3. In no event shall a written order, requirement, decision or determination made by the zoning administrator or other administrative officer be subject to change, modification or reversal by any zoning administrator or other administrative officer after 60 days have elapsed from the date of the written order, requirement, decision or determination where the

APPENDIX A-ZONING

person aggrieved has materially changed his position in good faith reliance on the action of the zoning administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the zoning administrator or other administrative officer or through fraud. The 60-day limitation period shall not apply in any case where, with the concurrence of the attorney for the governing body, modification is required to correct clerical or other nondiscretionary errors.

State law reference—Similar provisions, Code of Virginia, § 15.2-2311.

Sec. 8.5. Appeal procedure.

8.5.1. Appeals shall be mailed to the board of zoning appeals c/o the zoning administrator, and a copy of the appeal shall be mailed to the secretary of the planning commission. A third copy should be mailed to the individual, official, department or agency concerned, if any.

8.5.2. Appeals and applications for a variance or special exception requiring an advertised public hearing shall be accompanied by payment established by the town council payable to the treasurer.

(Ord. of 11-4-1996; Ord. of 5-1-2000) (*Amended 1/18/07*)

Sec. 8.6. Procedure on application or appeal.

The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and make its decision within 90 days of the filing of the application or appeal. In exercising its powers the board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from. The concurring vote of at least four of the members of the board shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance or to effect any variance from this ordinance. The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board and shall be public records. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

(Ord. of 4-7-1997)

State law reference—Similar provisions, Code of Virginia, § 15.2-2312.

Sec. 8.7. Certiorari to review decision of board.

8.7.1. Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any aggrieved taxpayer or any officer, department, board or bureau of the town, may present to the circuit court for the county a petition specifying the grounds on which aggrieved within 30 days after the filing of the decision in the office of the board.

8.7.2. Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ

CHINCOTEAGUE CODE

shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

8.7.3. The board of zoning appeals 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 or of the portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

8.7.4. 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 evidence as it may direct and report the evidence 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 partly, or may modify the decision brought up for review.

8.7.5. 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 appealed from. In the event the decision of the board is affirmed and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making the return of the record pursuant to the writ of certiorari. If the petition is withdrawn subsequent to the filing of the return, the board may request that the court hear the matter on the question of whether the appeal was frivolous.

State law reference—Similar provisions, Code of Virginia, § 15.2-2314.

ARTICLE IX. CONDITIONAL USE PERMITS

Sec. 9.1. General.

Because of their nature, size, unique characteristics, particular demands on public facilities and resources, and the potential for substantial impact on neighboring properties, the surrounding area, and the general public, certain proposed uses will require a close consideration of whether a specific use should be permitted in a particular location within a zoning district, and if so, what special conditions or safeguards should be applied to protect the overall public welfare.

Sec. 9.2. Requirements of conditional use permits.

No temporary or permanent use of land, buildings, or structures, except such uses as are expressly permitted under this Code as a matter of right or permitted by a special use permit by the Board of Zoning Appeals within the applicable zoning district shall be permitted within such district, except such use or uses as may be permitted by the Town Council of the Town of Chincoteague as a conditional use pursuant to the provisions of this Article 9.

Sec. 9.3. Procedures, standards, and conditions.