



## ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item  
Meeting of February 20, 2010**

**DATE:** February 16, 2010

**SUBJECT:** ZOA-09-10A Zoning Ordinance amendment to Section 31A, Subsection E12. This amendment alters the standard for County Board review of appeals of Historical Affairs and Landmark Review Board (HALRB) decisions.

**C.M. RECOMMENDATION:**

Defer the attached ordinance (ZOA-09-10A) to amend, reenact and recodify Section 31A of the Zoning Ordinance to change the standard by which the County Board would review appeals of decisions from the HALRB to the March 13, 2010 Regular Meeting.

**ISSUES:** Is the existing standard for reviewing appeals of HALRB decisions an appropriate one for the County Board to use in reviewing such appeals? How does Arlington County's standard compare to that of other Virginia localities that have an appointed Architectural Review Board?

**DISCUSSION:** On December 12, 2009 at its regular public hearing, the County Board approved ZOA-09-10, Zoning Ordinance amendments to Sections 1, 2, and 31A. These amendments constituted a comprehensive updating of the sections of the Zoning Ordinance dealing with historic preservation and the HALRB. The County Board approved all the recommended amendments except the proposed change to the appeals standard, and asked that staff re-advertise this portion of the Ordinance and solicit further public comment. The County Board asked staff to research the appeals standard currently used in other Virginia localities, the rate of appeals in each of those localities, and gather information on other types of approval authority granted to County Board appointed commissions in Arlington and other Northern Virginia localities. This item was scheduled to be heard at the February Planning Commission meeting; however both the regular meeting and the carryover meeting were cancelled due to weather. The Planning Commission was not able to reschedule a February meeting, and will not meet again until March 1<sup>st</sup>.

**CONCLUSION:** Staff recommends that the County Board defer the attached ordinance to amend, reenact, and recodify the provision in Section 31A of the Arlington County Zoning Ordinance until the March 13, 2010 Regular Meeting. The deferral would allow the Planning Commission the opportunity to hear this item at the March 1, 2010 meeting.

County Manager: BMD/GA

County Attorney: CEM/SJM

Staff: Rebecca Ballo, DCPHD, Neighborhood Services Division

**AN ORDINANCE TO AMEND, REENACT AND RECODIFY THE PROPOSED AMENDMENT TO SECTION 31A “HISTORIC PRESERVATION DISTRICTS” OF THE ARLINGTON COUNTY ZONING ORDINANCE. THIS AMENDMENT IS NECESSARY IN ORDER TO ENSURE THAT HISTORIC PRESERVATION ACTIVITIES WITHIN THE COUNTY ARE CONSISTENT WITH CURRENT BEST PRACTICES, AND FOR OTHER REASONS REQUIRED BY THE PUBLIC NECESSITY, CONVENIENCE AND GENERAL WELFARE, AND GOOD ZONING PRACTICE.**

Be it ordained that the County Board of Arlington County hereby resolves to amend, reenact and recodify the following amendment to Section 31A “Historic Preservation Districts” of the Arlington County Zoning Ordinance. This amendment would amend, reenact and recodify the proposed zoning ordinance provisions in order to ensure that historic preservation activities within the County are consistent with best current practices, and for other reasons required by the public necessity, convenience and general welfare and good zoning practice.

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**SECTION 31A. HISTORIC PRESERVATION DISTRICTS.**

**Subsection E. Certificate Procedure; Notice; Reasons; Appeal.**

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11. *If the Review Board or, after an appeal as provided in paragraph E.12., below, the County Board determines that a CoA should not be issued, it shall forthwith notify the applicant of such determination, furnishing him a copy of the reasons therefore and the recommendations, if any, as appearing in the records of the Review Board.*

12. Any person or persons jointly or severally aggrieved by any final decision of the Review Board under subsections 31A.D., or 31A.E., above, may, within thirty (30) days after the final decision, have the right of appeal of that decision to the County Board of Arlington County by filing a petition which shall stay the decision of the Review Board pending the outcome of the appeal, provided that such a petition shall not stay a decision which denies the right to raze or demolish a historic landmark, building or structure. The County Board may reverse or modify, in whole or in part, any decision it finds upon review to be erroneous, after giving the Review Board’s decision due weight. ~~The County Board may reverse or modify, in whole or in part, any decision it finds upon review to be contrary to law or that is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the board.~~

13. *Any person or persons jointly or severally aggrieved by any final decision of the County Board under subsections 31A.C., 31A.D., or 31A.E., above, may within thirty (30) days*

1        *after the final decision have the right to appeal to the Circuit Court of Arlington County*  
2        *by filing a petition at law which shall stay the decision of the County Board pending the*  
3        *outcome of the appeal, provided that such a petition shall not stay a decision which*  
4        *denies the right to raze or demolish a historic building or structure within an historic*  
5        *district. The Circuit Court may reverse or modify, in whole or in part, any decision it*  
6        *finds upon review to be contrary to law or that is arbitrary and constitutes an abuse of*  
7        *discretion, or it may affirm the decision of the board.*

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