



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of March 13, 2010**

DATE: February 22, 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:

Adopt 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.

ISSUES: The existing standard for reviewing appeals of HALRB decisions is based on an “arbitrary and abuse of discretion” standard and may no longer be the appropriate one for the County Board to use in reviewing such appeals.

SUMMARY: On December 12, 2009, the County Board approved a comprehensive update to the provisions in Sections 1, 2 and 31A of the Arlington County Zoning Ordinance pertaining to Historic Preservation Districts and the Historic Affairs and Landmark Review Board (HALRB). The County Board deferred their decision on the appeals standard at that time, and asked staff to research the appeals standard used by other Virginia localities and to solicit further public comment before bringing back a recommendation to the Board.

Staff compiled data from the 31 localities in the Virginia Department of Historic Resources’ Certified Local Governments (CLG) program for Fiscal Years (FY) 2001 – 2008. The data indicate that among the 31 local governments, the rate of appeals is generally quite low, ranging from no appeals to 7.4%. (The City of Suffolk has a 20 percent appeal rate; however, they limit appeals to denied requests.) Of the 31 localities, 29 local governments use a variation of the appeals standard that allows the local governing body to use the same review standards as its architectural review board in hearing appeals from its decisions. Only Arlington and the Town of Leesburg use the “arbitrary and abuse of discretion” standard of review. The Arlington appeal rate is less than one percent of the total cases heard over this period. It appears from the data that there is no correlation between standard of review and appeal rate. The proposed appeal standard would set the same standard for County Board review of an appeal as currently exists for HALRB review of a Certificate of Appropriateness case. While the current standard has worked

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County Attorney: SA

Staff: Rebeccah Ballo, DCPHD, Neighborhood Services Division

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well for the County over the 30 years of the preservation program, the proposed standard would give the County Board more flexibility in its review of appeals while also giving due weight to HALRB decisions. Both the HALRB and the Planning Commission support retention of the existing standard.

BACKGROUND: On December 12, 2009, 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 advertised for a hearing at the February 20, 2010, County Board meeting, per the County Board's motion in December. Due to the weather and subsequent County closures in February, the Planning Commission was not able to hear this item. The County Manager recommended this item be deferred to allow the Planning Commission the opportunity to comment at its March meeting. The County Board approved the deferral on February 20, 2010.

DISCUSSION: Staff has evaluated data from the thirty-one Virginia Certified Local Governments (CLGs) from FY 2001-FY 2008 supplied by the Virginia CLG office. The CLG Program recommends certification for local governments that have put key elements of a sound preservation program in place. Arlington County has been a member of the Certified Local Government program since 1993. The data has been compiled in the attached table (Attachment A). The rate of appeals was calculated by dividing the number of appeals by the number of decisions eligible for appeal (including approvals with conditions). Specific information for appeals overturned and upheld was not readily available. Highlights of the data set show the following:

- The rate of appeals for Arlington County is 0.72% of all cases heard, less than 1%.
- Of the 31 CLGs, only two (Arlington County and the Town of Leesburg) use the "arbitrary and abuse of discretion" clause as the standard for the local governing body to review appeals from its respective architectural review board.
- 29 CLGs use a variation of the appeals standard proposed by staff, allowing the local governing body to assume the same authority and use the same review standards as its architectural review board in hearing appeals.
- Of the 31 CLGs, only two (City of Suffolk and the Town of Culpeper) limit the appeals to applicants with a denial of a CoA request. All others, including Arlington County, have more open grounds for appeals.
- The City of Suffolk has the highest rate of appeals at 20%. This is due to only a limited number of cases (denials) being eligible for appeal. The data for the Town of Culpeper is incomplete.
- The median (middle of the data set) rate of appeals for all CLGs is 1%.

- The mean (average) rate of appeals for all CLGs is 2.4%.

It appears from the data that there is no correlation between standard of review and appeal rate. For most jurisdictions, the number of appeals is relatively low and, since appeals can be made on approvals (with conditions) as well as denials, the appeal rate is uniformly low.

A comparison of other County Board-appointed Commissions shows that Arlington County functions similarly to other Northern Virginia localities. City governments function differently per their individual charters; therefore, staff examined practices in Loudoun and Fairfax Counties. Both local governing boards hold final approval authority over a wide range of land use decisions including use permits, site plans, and master plans. Planning Commissions are permitted to approve public facility use permits, but these must be ratified by the County Board of each locality before they may be finalized. Both localities reserve the right to review de novo the appeals of decisions from their respective architectural review boards. Both localities note that their governing body shall review the decision of the architectural review board, and Loudoun goes so far as to mandate a consultation with its review board.

Though the existing appeal standard has worked well in the County for over thirty years, it does restrict the County Board's authority to review and decide appeals from its architectural review board. The Virginia Code does not set such a deferential standard. It provides that an ordinance may restrict actions, such as alterations and the like, on designated properties unless "the review board [Architectural Review Board] or, on appeal, the governing body of the locality" has found such actions are architecturally compatible with the historic landmarks, buildings, or structures therein (Va. Code 15.2-2306.A). The enabling legislation sets forth a standard where the local governing board would have the same review standard as its architectural review board.

The proposed language to amend this subsection would set the same standard for County Board review of an appeal as currently exists for HALRB review of a CoA case. The County Board would be asked to review the appealed CoA and determine whether or not the proposed alteration is architecturally or historically compatible with the historic district. The County Board's review would constitute a reconsideration while also giving due weight to the HALRB's decision. In any particular case, the County Board would have the ability, under the proposed standard, to defer to the HALRB's prior decision. Staff does not recommend, however, that the Ordinance be left as it is, because it would limit the Board's discretion in all future cases.

Community Process:

NAIOP: The proposed change was presented to NAIOP at their December meeting. The group had no comment on the change to the appeals standard.

Historical Affairs and Landmarks Review Board (HALRB): The amendment to the appeals standard was discussed by the HALRB in September and October of 2009 when it was considered as part of the larger package of amendments to Section 31A. The item was advertised on the HALRB agenda, notice was sent to interested parties and civic associations, and the item

was heard again at the HALRB's December 16, 2009, and January 20, 2010, hearings. There were no public speakers for the item. The data from Attachment A was presented at the January hearing. The HALRB voted unanimously to recommend that the appeals standard remain the same, and that the staff recommendation not be accepted. The HALRB pointed to the low rate of appeals of its cases, and stated as a group that the current appeals standard has worked well for over thirty years. The HALRB makes a point to work diligently with all applicants to achieve appropriate modifications to historic buildings and properties, and will continue to do so, as it is charged.

Zoning Ordinance Committee of the Planning Commission (ZOCO): The amendment to the appeals standard was previously discussed at the October 7, 2009 and October 20, 2009, ZOCO meetings. Staff updated ZOCO at their January 6, 2010 meeting, but had no new information to present. Staff presented the information in Attachment A at the February 4, 2010, meeting. The following comments were made by ZOCO members during the discussion:

- While the current system of appeals may have been working, allowing the County Board full appeal review would not harm anything. There is no issue in allowing elected officials to exercise their judgment. The approach proposed by staff would hold the County Board accountable for these decisions.
- The system we have had works well the way it is because bringing design issues to the County Board tends to politicize such decisions.
- The County Board should have as much latitude in appeal decisions as the state allows.
- Professional credentials are required for a member to be appointed to the HALRB, and therefore, the County Board relies on their expertise to help inform them.

PLANNING COMMISSION: At the March 1, 2010 Planning Commission, staff presented their findings on the appeals standard. The Commission discussed the expertise and credentials of the members with the HALRB Chair, who also testified on the matter. Some Commissioners expressed concern that the current standard does not provide for the County Board to exercise the full authority and discretion available to them under State law. Following discussion, the Planning Commission voted 10 – 1 to not support the staff recommendation and to retain the current appeal standard.

CONCLUSION: Staff recommends that the County Board adopt the attached ordinance to amend, reenact, and recodify the provision in Section 31A of the Arlington County Zoning Ordinance.

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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ATTACHMENT A

**Standard of Review of an Appeal by the Local Governing Body in Virginia
Date Compiled from FY 01-FY08 (FY 02, FY04 missing from State Data Set)***

* Not all localities reported data in each fiscal year. Should be read as a representative sample only.
**60 cases officially deferred

Name	Type	Who May Appeal	Standard of Review	# of Cases Reviewed	# Approved	# Denied	# Appealed	# Upheld	#Overturned	Other (pending or withdrawn)	Rate of Appeals
Abingdon	Town	Applicant w/a denial; or for an approval, petition signed by 10 registered voters	No Standard mentioned	112	105	3	1	1	0	1	0.93%
Alexandria	City	Applicant w/a denial; or for an approval, petition signed by 25 persons owning property within the hd	The same standards shall be applied by the council as are established for the Old and Historic Alexandria district board or architectural review. The council may affirm, reverse or modify the decision of the board, in whole or in part.	1631	1314**	41	24	15	7	3	1.77%
Arlington	County	Anyone	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.	283	272	6	2	1	0	1	0.72%
Blacksburg	Town	Anyone	The Town Council may uphold, reverse, or modify the Historic or Design Review Board's decision.	41	39	2	0	0	0	0	0.00%
Cape Charles	Town	Anyone	the Town Council...to that end shall have all the powers of the Historic District Review Board.	19	19	2 (applicants reapplied)	0	0	0	0	0.00%
Charlottesville	City	Applicant	the City Council shall consult with the BAR and consider the written appeal, the criteria set forth within section 34-276 [Standards for review of construction or alteration] or 34-278 [Standards for considering demolitions] ...or any other information, factors, or opinions it deems relevant.	358	275	35	9	2	3	4	2.90%
Clarke	County	Anyone	No standard named	12	11	1	0	0	0	0	0.00%
Culpeper	Town	Denial	No standard named.	45	34 (some data missing)	0	2	0	0	2	5.88%
Fairfax	City	Anyone	The same procedure and standards shall be applied by the council as established for the board of architectural review.	170	170	0	0	0	0	0	0.00%
Fairfax	County	Anyone	The Board shall review the action of the ARB and shall decide the appeal. The Board may affirm, reverse, or modify the decision of the ARB.	186	134	3	0	0	0	5	0.00%
Fredericksburg	City	Anyone	Will review and consult ARB decision.	315	299	16	4	1	3	0	1.27%
Hanover	County	Applicant or owner within historic district	No Standard mentioned	32	28	4	2	1	1	0	6.25%

Herndon	Town	Applicant or any person aggrieved with land abutting or across the street	The decision shall be based on the standards in section 78-202 8(5) [architectural appropriateness]. A decision shall not be reversed or modified unless there is evidence in the record that the decision of the HPRB is not correct, based on the review standards for a certificate of appropriateness.	192	164	18	7	1	4	2	3.85%
Leesburg	Town	Anyone	The Town council may reverse or modify the decision of the Board of Architectural Review, in whole or in part, if it finds upon review that the decision of the Board of Architectural Review is contrary to the law or that its decision is arbitrary and constitutes an abuse of discretion , or it may affirm the decision of the Board of Architectural Review.	349	342	1	2	1	8 including 1 appeal tabled	0	0.58%
Loudoun	County	Any applicant or other party economically injured	Shall consult with HDRC.	95	88	6	2	2	0	0	2.13%
Lynchburg	City	Applicant w/a denial; or for an approval, petition signed by 25 registered voters	The same standards and considerations aforesaid ... shall be applied by the city council as are established for the HPC.	194	179	15	2	2	0	1	1.03%
Manassas	City	Applicant w/a denial; or for an approval, petition signed by 25 persons owning property within the hd	The council shall... conduct a full and impartial public hearing on the matter before rendering any decision, adhering to the standards and guidelines established by this division for review.	204	192	8	3	2	1	0	1.50%
Middleburg	Town	Anyone	the council may reverse, modify or affirm the decision of the committee.	275	251	10	2	0	0	0	0.77%
Petersburg	City	Anyone	The same standards and considerations aforesaid in this article shall be applied by the council as are established for the architectural review board...the council may affirm, reverse or modify the decision of the board, in whole or in part.	647	520	81	8	3	4	1	1.33%
Prince William	County	Any owner(s)	The board after consultation with the ARB may reverse or modify the decision of the ARB, in whole or in part, or it may affirm the decision of the ARB.	0	0	0	0	0	0	0	0.00%
Pulaski	Town	propreety owner or any person aggrieved in the historic district	Shall have all the powers of the architectural review board.	29	27	2	2	0	2	0	7.41%

Richmond	City	Any person	The city council shall review the petition, record, documents, and other materials produced by the commission of architectural review pursuant to this section, and the city council may reverse or modify the decision appealed, in whole or in part, when it is satisfied that the decision of the commission is in error under this division, or the city council may affirm the decision of the commission	511	440	59	9	6	2	1	1.80%
Roanoke	City	Any aggrieved property owner	The Board Council may affirm the decision of the Board, reverse or modify the Board's decision, in whole or in part, or refer the matter back to the Board.	346	308	36	12	8	3	1	3.37%
Smithfield	Town	Any person	The Town Council shall consult with the Review Board in relation to any appeal and may require documentation of any Review Board decision prior to hearing the appeal. The Town Council may affirm, reverse or modify the Review Board decision and shall notify the Planning and Zoning Administrator of its action.	182	178	4	0	0	0	0	0.00%
Spotsylvania	County	Any property owner aggrieved	The board of supervisors shall render its final decision on such appeal after consultation with the historic preservation commission.	27	26	1	0	0	0	0	0.00%
Stafford	County	Any property owner(s) aggrieved	The board of supervisors, after consultation with the ARB, may reverse the decision of the ARB, in whole or in part, or it may affirm the decision of the ARB.	15	13	2	1	0	1	0	6.67%
Staunton	City	Owner of the property or any person, firm, or corporation aggrieved	the city council may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify, any order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the commission.	51	47	4	0	0	0	0	0.00%
Suffolk	City	Any applicant appeal denial	the City Council may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify any order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made and, to that end, shall have all the powers of the HLC. The City Council shall consult with the HLC in relation to any appeal and may require documentation of any HLC decision prior to hearing the appeal.	169	155	10	2	1	0	1	20.00%

Warrenton	Town	Any applicant	the Board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from. The concurring vote of a majority of the membership 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 the Ordinance or to effect any variance from the Ordinance.	329	284	27	12	1	10	1	3.86%
Williamsburg	City	Any person(s) aggrieved by any decision	The city council may affirm, reverse or modify the decision of the review board, in whole or in part. The same standards shall be applied by the council as are established for the review board.	931	910	21	3	1	2	0	0.32%
Winchester	City	Any applicant appeal denial, or a petition in writing signed by at least twenty-five (25) persons owning real estate within the Historic Winchester District	The Council shall consult with the Board of Architectural Review, before rendering any decision. The same standards shall be applied by the Council as are established for the Board of Architectural Review. The Council may affirm, reverse or modify the decision of the Board, in whole or in part.	448	411	14	0	0	0	0	0.00%

Median Rate of Appeals	1.00%
Mean Rate of Appeals	2.40%

Code of Virginia

§ 15.2-2306. Preservation of historical sites and architectural areas.

A. 1. Any locality may adopt an ordinance setting forth the historic landmarks within the locality as established by the Virginia Board of Historic Resources, and any other buildings or structures within the locality having an important historic, architectural, archaeological or cultural interest, any historic areas within the locality as defined by § 15.2-2201, and areas of unique architectural value located within designated conservation, rehabilitation or redevelopment districts, amending the existing zoning ordinance and delineating one or more historic districts, adjacent to such landmarks, buildings and structures, or encompassing such areas, or encompassing parcels of land contiguous to arterial streets or highways (as designated pursuant to Title 33.1, including § 33.1-41.1 of that title) found by the governing body to be significant routes of tourist access to the locality or to designated historic landmarks, buildings, structures or districts therein or in a contiguous locality. An amendment of the zoning ordinance and the establishment of a district or districts shall be in accordance with the provisions of Article 7 (§ 15.2-2280 et seq.) of this chapter. The governing body may provide for a review board to administer the ordinance and may provide compensation to the board. The ordinance may include a provision that no building or structure, including signs, shall be erected, reconstructed, altered or restored within any such district unless approved by the review board or, on appeal, by the governing body of the locality as being architecturally compatible with the historic landmarks, buildings or structures therein.

2. Subject to the provisions of subdivision 3 of this subsection the governing body may provide in the ordinance that no historic landmark, building or structure within any district shall be razed, demolished or moved until the razing, demolition or moving thereof is approved by the review board, or, on appeal, by the governing body after consultation with the review board.

3. The governing body shall provide by ordinance for appeals to the circuit court for such locality from any final decision of the governing body pursuant to subdivisions 1 and 2 of this subsection and shall specify therein the parties entitled to appeal the decisions, which parties shall have the right to appeal to the circuit court for review by filing a petition at law, setting forth the alleged illegality of the action of the governing body, provided the petition is filed within thirty days after the final decision is rendered by the governing body. The filing of the petition shall stay the decision of the governing body pending the outcome of the appeal to the court, except that the filing of the petition shall not stay the decision of the governing body if the decision denies the right to raze or demolish a historic landmark, building or structure. The court may reverse or modify the decision of the governing body, in whole or in part, if it finds upon review that the decision of the governing body is contrary to law or that its decision is arbitrary and constitutes an abuse of discretion, or it may affirm the decision of the governing body.

In addition to the right of appeal hereinabove set forth, the owner of a historic landmark, building or structure, the razing or demolition of which is subject to the provisions of subdivision 2 of this subsection, shall, as a matter of right, be entitled to raze or demolish such landmark, building or structure provided that: (i) he has applied to the governing body for such right, (ii) the owner has for the period of time set forth in the same schedule hereinafter contained and at a price reasonably related to its fair market value, made a bona fide offer to sell the landmark, building or structure, and the land pertaining thereto, to the locality or to any person, firm, corporation, government or agency thereof, or political subdivision or agency thereof, which gives reasonable assurance that it is willing to preserve and restore the landmark, building or structure and the land pertaining thereto, and (iii) no bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark, building or structure, and the land pertaining thereto, prior to the expiration of the applicable time period set forth in the time schedule hereinafter contained. Any appeal which may be taken to

the court from the decision of the governing body, whether instituted by the owner or by any other proper party, notwithstanding the provisions heretofore stated relating to a stay of the decision appealed from shall not affect the right of the owner to make the bona fide offer to sell referred to above. No offer to sell shall be made more than one year after a final decision by the governing body, but thereafter the owner may renew his request to the governing body to approve the razing or demolition of the historic landmark, building or structure. The time schedule for offers to sell shall be as follows: three months when the offering price is less than \$25,000; four months when the offering price is \$25,000 or more but less than \$40,000; five months when the offering price is \$40,000 or more but less than \$55,000; six months when the offering price is \$55,000 or more but less than \$75,000; seven months when the offering price is \$75,000 or more but less than \$90,000; and twelve months when the offering price is \$90,000 or more.

4. The governing body is authorized to acquire in any legal manner any historic area, landmark, building or structure, land pertaining thereto, or any estate or interest therein which, in the opinion of the governing body should be acquired, preserved and maintained for the use, observation, education, pleasure and welfare of the people; provide for their renovation, preservation, maintenance, management and control as places of historic interest by a department of the locality or by a board, commission or agency specially established by ordinance for the purpose; charge or authorize the charging of compensation for the use thereof or admission thereto; lease, subject to such regulations as may be established by ordinance, any such area, property, lands or estate or interest therein so acquired upon the condition that the historic character of the area, landmark, building, structure or land shall be preserved and maintained; or to enter into contracts with any person, firm or corporation for the management, preservation, maintenance or operation of any such area, landmark, building, structure, land pertaining thereto or interest therein so acquired as a place of historic interest; however, the locality shall not use the right of condemnation under this subsection unless the historic value of such area, landmark, building, structure, land pertaining thereto, or estate or interest therein is about to be destroyed.

B. Notwithstanding any contrary provision of law, general or special, in the City of Portsmouth no approval of any governmental agency or review board shall be required for the construction of a ramp to serve the handicapped at any structure designated pursuant to the provisions of this section.

(1973, c. 270, § 15.1-503.2; 1974, c. 90; 1975, cc. 98, 574, 575, 641; 1977, c. 473; 1987, c. 563; 1988, c. 700; 1989, c. 174; 1993, c. 770; 1996, c. 424; 1997, cc. 587, 676.)