

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 15.2-2314 of the Code of Virginia, relating to review of board of*
3 *zoning appeals decisions.*

4 [H 2496]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 15.2-2314 of the Code of Virginia is amended and reenacted as follows:**

8 § 15.2-2314. Certiorari to review decision of board.

9 Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals,
10 or any aggrieved taxpayer or any officer, department, board or bureau of the locality, may ~~present to the~~
11 ~~file with the clerk of the~~ circuit court for the county or city a petition specifying the grounds on which
12 aggrieved within thirty days after the ~~filing of the decision in the office~~ *final decision* of the board.

13 Upon the presentation of such petition, the court shall allow a writ of certiorari to review the
14 decision of the board of zoning appeals and shall prescribe therein the time within which a return
15 thereto must be made and served upon the relator's attorney, which shall not be less than ten days and
16 may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision
17 appealed from, but the court may, on application, on notice to the board and on due cause shown, grant
18 a restraining order.

19 The board of zoning appeals shall not be required to return the original papers acted upon by it but it
20 shall be sufficient to return certified or sworn copies thereof or of the portions thereof as may be called
21 for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to
22 show the grounds of the decision appealed from and shall be verified.

23 If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition
24 of the matter, it may take evidence or appoint a commissioner to take evidence as it may direct and
25 report the evidence to the court with his findings of fact and conclusions of law, which shall constitute a
26 part of the proceedings upon which the determination of the court shall be made. The court may reverse
27 or affirm, wholly or partly, or may modify the decision brought up for review.

28 Costs shall not be allowed against the board, unless it shall appear to the court that it acted in bad
29 faith or with malice in making the decision appealed from. In the event the decision of the board is
30 affirmed and the court finds that the appeal was frivolous, the court may order the person or persons
31 who requested the issuance of the writ of certiorari to pay the costs incurred in making the return of the
32 record pursuant to the writ of certiorari. If the petition is withdrawn subsequent to the filing of the
33 return, the board may request that the court hear the matter on the question of whether the appeal was
34 frivolous.