

ALBEMARLE COUNTY BOARD OF ZONING APPEALS

TUESDAY, NOVEMBER, 14, 2023—2:00 P.M.

Board Members: John Shepherd
Marcia Joseph
Edward (Bo) Carrington
Kurt Burkhardt
Ronald Rosenberg

Staff Members: Bart Svoboda, Director of Zoning
Francis MacCall, Deputy Zoning Administrator
Marsha Alley, BZA Clerk and Recorder

County Attorney: Andy Herrick, Deputy County Attorney

BZA Attorney: James Bowling, IV

1. Call to Order

The meeting was called to order at 2:08 p.m. by Chairman Marcia Joseph.

2. Establish a Quorum

Ms. Joseph established a quorum and recognized that the BZA members present were Edward Carrington, Kurt Burkhardt, John Shepherd, and herself, Marcia Joseph; also present were Andy Herrick, Bart Svoboda, James Bowling, Francis MacCall, and Marsha Alley.

3. Public Hearings

There were none.

4. Approval of Minutes

A. August 1, 2023

MOTION: Mr. Burkhardt moved to approve the August 1, 2023 minutes. Mr. Shepherd seconded the motion, which passed unanimously (4–0). (Mr. Rosenberg was absent.)

5. Old Business

A. Discussion: Possible appointment of alternate BZA member(s)

Ms. Joseph stated that through discussions with staff and Mr. Bowling, she and Mr. Carrington had developed a list of reasons why it would be beneficial to request appointment of alternate BZA members. She stated that counsel informed her the BZA could request alternate appointments via a letter to the Board of Supervisors, who would then request the Circuit Court to appoint an alternate. Mr. Bowling said that another option would be to request staff to make the request.

Mr. Rosenberg arrived at the meeting at 2:12 p.m.

Ms. Joseph asked whether staff had any objections to the request.

Mr. Herrick said that staff could take the recommendation of the BZA to the Board of Supervisors, but that staff would likely want to provide a report containing its own analysis and recommendations.

1 Mr. Svoboda explained that this would be a new endeavor for the locality, and the Board of Supervisors
2 had not received such a request before. He said staff had not discussed budget implications or other
3 associated matters, and these were topics the Board of Supervisors may want to consider. He said that he
4 did not foresee a significant budget impact, and the Board of Supervisors may not want to receive the staff
5 recommendations. He said that they wanted to allow the Board of Supervisors to determine how to move
6 forward with the process.
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8
9 Mr. Herrick requested that any letter sent to the Board of Supervisors not include staff analysis. He said
10 that the BZA could provide its own recommendation, and staff would faithfully present it to the Board of
11 Supervisors. He said that staff would want the opportunity to present its own analysis of the request
12 without commingling the recommendations.
13

14 Mr. Carrington said that at a high level, there was agreement that there were legitimate points of
15 advocacy, and there was agreement to continue the conversation.
16

17 Mr. Burkhart asked whether there had been communication with other localities about their processes. He
18 asked for more details about how alternates would be compensated for their attendance.
19

20 Mr. Svoboda said that they had not solicited feedback from other localities. He said that they had not yet
21 had discussions with the Finance Department about how alternates would be compensated or about
22 adding new FTEs (full-time employees). He noted that through his experience in Greene County, the
23 biggest challenge for the alternative member was participating in the meeting, since they were not part of
24 the Board nor part of the public.
25

26 Mr. Carrington asked how the rules and procedures for the alternate would be set.
27

28 Mr. Herrick said that where rules and procedures were not defined in state code, they could be defined by
29 the BZA rules of procedure.
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31 Mr. Rosenberg asked if succession of BZA members could be accelerated.
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33 Mr. Herrick suggested that the process could be accelerated by BZA members having proposed
34 successors in line that could be recommended to the Circuit Court for appointment.
35

36 **MOTION:** Mr. Shepherd moved for the BZA to authorize the Chair to draft a letter to request that the
37 Board of Supervisors request that the Circuit Court appoint an alternate BZA member. Mr. Carrington
38 seconded the motion.
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40 Mr. Carrington noted that there were other means of addressing absences or tied votes of the BZA;
41 however, appointing alternates would have a minimal budget impact and would provide benefits.
42

43 Mr. Rosenberg said that he was interested in more data about how often there was a lack of a quorum or a
44 tie vote.
45

46 Ms. Joseph suggested amending the motion to include more information on how other localities
47 implemented alternate members and collect data on how often the BZA lacked a full quorum. She also
48 suggested amending the motion so that other BZA members have the power to veto specific sections of
49 the letter to the Board of Supervisors.
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1 Mr. Burkhart suggested including language during a hearing about the appellant's options related to
2 deferring a case.

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4 Mr. Shepherd withdrew his motion so that the BZA could first review the letter before taking action.

5
6 Ms. Joseph noted that there was agreement from the BZA for the Chair to draft a letter requesting that the
7 Board of Supervisors request that the Circuit Court appoint alternate members. She said she would deliver
8 a draft to the other members toward the end of November.

9
10 Mr. Bowling said that they would require another meeting in order to authorize the Chair to actually send
11 the letter since the BZA could only take action at a meeting.

12
13 Ms. Joseph said that they could address the matter at the January organizational meeting.

14
15 **6. New Business**

16 Mr. Burkhart stated that he attended a training course led by Mike Chandler where they had read three
17 books that helped him learn more about BZA processes. He said that following the training, he had come
18 up with suggested changes for the rules of procedure. He recommended that other members undergo the
19 training.

20
21 Mr. Bowling asked if the BZA had a budget to purchase the books for all of the BZA members.

22
23 Mr. Svoboda said that they did not have a materials budget. He said that there was a books and
24 subscriptions item within the Zoning Department budget, and he would look at adjusting funds to cover
25 the costs of the books.

26
27 **7. Adjournment**

28 **MOTION:** Mr. Carrington moved to adjourn the BZA meeting. Mr. Shepherd seconded the motion,
29 which passed unanimously (5-0).

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31 The meeting adjourned at 3:26 p.m.

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33 (Recorded by Marsha Alley and transcribed by Golden Transcription Services)

34
35 Respectfully Submitted,

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40 John Shepherd, Secretary Board of Zoning Appeals
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