

ALBEMARLE COUNTY BOARD OF ZONING APPEALS
COUNTY OFFICE BUILDING
401 MCINTIRE ROAD – LANE AUDITORIUM
TUESDAY, JANUARY 9, 2024—2:00 P.M.

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

Staff Members: Bart Svoboda, Director of Zoning
 Francis MacCall, Deputy Zoning Administrator
 Lisa Green, Manager of Code Compliance
 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 approximately 2:10 p.m. by Francis MacCall. There were technical difficulties at the beginning of the meeting.

2. Establish a Quorum

Mr. MacCall established a quorum and recognized the BZA members present at the dais as: John Shepherd, Marcia Joseph, Kurt Burkhart, Ronald Rosenberg, and Edward Carrington. He stated that also present were Andy Herrick, James Bowling, IV, Bart Svoboda, Lisa Green, and Marsha Alley.

3. Annual Organizational Meeting

A. Election of Officers

Mr. MacCall asked if there were any nominations for the position of Chair.

MOTION: Mr. Shepherd thanked Ms. Joseph for her prior service as Chair and nominated Edward (Bo) Carrington for the position of Chair. Mr. Rosenberg seconded the nomination, which passed unanimously (4-0). Mr. Carrington accepted the nomination and abstained from the vote.

Mr. MacCall introduced Mr. Carrington as the new Chair of the Board of Zoning Appeals.

Mr. Carrington took his seat as Chair and suggested voting as a slate for Vice Chair and Secretary.

MOTION: Mr. Carrington nominated Kurt Burkhart for the position of Vice Chair and John Shepherd for the position of Secretary. Mr. Rosenberg seconded the motion, which passed (5-0).

Mr. Carrington thanked Mr. Burkhart for serving as Vice-Chair and Mr. Shepherd for serving as Secretary.

B. Review and Re-Adopt Rules of Procedure

Mr. Carrington introduced the item for discussion.

Mr. Shepherd asked if there had been any proposed changes.

Mr. Svoboda stated that currently there are no proposed changes, adding that there may be some revisions to be considered later in the year in relation to development processes and deadlines.

Ms. Joseph pointed out that in the event of weather or other hazardous conditions, etc., the Chair or Vice Chair could continue the meeting to the next regular meeting date. She also noted that on page 6, under Motion for Rehearing, the specifications for making the rehearing request and criteria for making the decision to rehear are listed in the section. She stated that she thought it was interesting and wanted to share the information.

MOTION: Ms. Joseph made a motion to adopt the Rules of Procedure as presented. Mr. Shepherd seconded the motion, which passed unanimously (5-0).

C. Review and Adopt 2023 Meeting Schedule

Mr. Carrington asked if there were comments regarding the proposed meeting schedule.

Mr. Shepherd stated that the schedule for March 5th presents a conflict due to the Super Tuesday elections. He added that he would not be in attendance and suggested moving that meeting to March 12th.

Mr. Burkhardt agreed and stated that he would not be in attendance on March 5th as well.

There was discussion regarding the availability of the auditorium and the possibility of an upcoming appeal deadline. Staff advised that they would follow up on those items.

Mr. Carrington noted that he would not be available in-person in August and may need to participate remotely if an alternate is not in place.

There was a brief discussion as to the process for remote participation. It was noted that the process is outlined in Section 7 of the Rules of Procedures.

MOTION: Mr. Shepherd made a motion to adopt the 2024 meeting schedule with the revision of the March 5th meeting date to March 12th subject to room availability. Mr. Burkhardt seconded the motion, which passed unanimously (5-0).

4. Public Hearings

There were no public hearings scheduled.

5. Approval of Minutes

A. November 14, 2023

MOTION: Ms. Joseph made a motion to approve the November 14, 2023 minutes as submitted by staff. Mr. Rosenberg seconded the motion, which passed unanimously (5-0).

6. Old Business

There was discussion regarding the possibility of having alternate members appointed to the BZA. It was noted that Ms. Joseph is the lead contact for this effort.

Ms. Joseph stated that she and Mr. Burkhart had worked together to compile a list of questions within a table which were shared with each member. She added that this table will be used to gather information as they call other localities, possibly Loudon, Fairfax, Richmond, Charlottesville, and Greene, to determine if alternate members are used elsewhere and what the parameters might be. She asked if there are other cases that may be coming up in February or March in order to determine a deadline for having the draft letter prepared for review by the members. She asked if the letter could be approved via email.

Mr. Bowling advised that he would not recommend making decisions on the letter via email as it develops poor habits. He added that the information is a matter of public record and could be shared by email if necessary.

Mr. Rosenberg suggested including a question asking if there are provisions in the localities' rules and regulations that govern the use of alternates and possibly getting a copy of the language.

There was discussion regarding the language that would govern the use of an alternate and how that would be compiled and included in the Rules of Procedure.

Ms. Joseph stated she and Mr. Burkhart would try to have the information compiled by March and share it with the members instead of sending the draft letter.

Mr. MacCall stated that the item would be added to the March agenda.

Mr. Carrington thanked Ms. Joseph and Mr. Burkhart for taking the lead in this effort and offered his assistance if needed.

7. New Business

Mr. Carrington noted that there are no new business items for discussion and asked if any member had business to discuss.

Mr. Burkhart informed the members that the General Assembly may be considering legislation that would allow public bodies to hold virtual meetings. He added that his preference is to meet in person as it provides a personal touch and interaction unless warranted otherwise.

Ms. Joseph asked Mr. Burkhart if he would share the information on the legislation. He stated that he would be happy to share the information.

There was a brief discussion regarding virtual meetings.

Mr. Shepherd stated that he believes that virtual meetings limit the exchange of ideas and eliminate communication via eye contact and body language; he noted that he prefers in-person meetings as well.

Mr. Rosenberg added that when discussing policy and such matters, the points made by Mr. Shepherd do not have as much force, but the BZA is a quasi-judicial body, which functions as a court, when considering requests from applicants or appellants. He stated that in those cases, the applicant/appellant wants the BZA to rule in a court-like way. He agreed that Mr. Shepherd's points are meaningful to the

applicant, especially if they are denied. He concluded that if the authority to hold virtual meetings does come into effect, his preference would be to hold applicant requested cases in-person, noting that he had no strong preference in regard to conducting board business, policy revision, etc. virtually.

There was a discussion regarding Mr. Rosenberg's conclusion. The membership appreciated the perspective, noted that good points were made, and shared the sentiments.

Mr. Shepherd clarified that there are no cases for next month and that there will not be a meeting on February 6, 2024.

Mr. MacCall confirmed.

Ms. Joseph asked if updates were available regarding the cases pending in Circuit Court.

Mr. Herrick did not have any updates.

8. Adjournment

MOTION: Mr. Burkhart made a motion to adjourn the meeting of January 9, 2024. Mr. Shepherd seconded the motion, which carried unanimously (5-0).

The meeting adjourned at 2:40 p.m.

(Recorded and compiled by Marsha Alley)

Respectfully Submitted,



John Shepherd, Secretary Board of Zoning Appeals

5-12-2024