



County of Albemarle
COMMUNITY DEVELOPMENT DEPARTMENT

401 McIntire Road, North Wing
Charlottesville, VA 22902-4579
Telephone: 434-296-5832
WWW.ALBEMARLE.ORG

**ALBEMARLE COUNTY BOARD OF ZONING APPEALS
AGENDA
TUESDAY, MARCH 12, 2024 at 2:00 P.M
LANE AUDITORIUM**

1. Call to Order
2. Establish a Quorum
3. Public Hearings:
 - A. [Project: AP2023-00004 Challenger Way Set Back Determination {Sign #11}](#)
Property Owner(s): Challenger Way, LLC
Contact Person: Susan Stimart
Tax Map Parcel ID: 061W0-01-0C-00100
Staff: Francis MacCall
4. Approval of Minutes
 - A. [January 9, 2024](#)
5. Old Business
 - A. Discussion: Possible appointment of alternate BZA member(s)
6. New Business
7. Adjournment

Opportunities for the public to access and participate in the meeting will be posted at <https://www.albemarle.org/community/county-calendar>. Participation will include the opportunity to comment on those matters for which comments from the public will be received.

BOARD OF ZONING APPEALS IN-PERSON MEETING GUIDELINES

Thank you for attending the Board of Zoning Appeals (BZA) meeting. The following information is provided to help ensure the meeting proceeds as efficiently and effectively as possible. As a courtesy to others, please turn off all cell phones during the meeting.

General Information:

This meeting is recorded and later transcribed into minutes approved at a later meeting date.

Each item set for public hearing will begin with a presentation of the staff report. Next, the applicant or appellant for that item will be invited to speak. During the course of the process, the Chair will open the public hearing to comments from the public. At the end of these proceedings the Chair will announce that the public hearing is closed. Once the public hearing is closed, no further public comments will be allowed unless the Board asks for additional information from the applicant or appellant.

The BZA reserves the right to digress from these guidelines in any particular case.

To Members of the Public:

Public comment is welcome during Public Hearings. A sign-up sheet will be available in Lane Auditorium prior to the meeting for anyone who would like to comment on a scheduled public hearing. If you wish to comment on those matters for which comments from the public will be received, please list your name on the appropriate sign-up sheet. When your name is announced for comment, please come to the microphone and state your name for the record. For uncommon spellings, please spell your name for the recording clerk. If you are with a group of people, you may want to have a spokesperson present your position to the Board.

In order to give all speakers equal treatment and courtesy, the Board requests that speakers adhere to the following guidelines:

- *Come forward to the speaker's podium and state your name;*
- *Address comments directly to the Board as a whole - open public debate is prohibited;*
- *State your position and give facts and other data to back it up – keep in mind that there is a **3-minute time limit for public comment**;*
- **Give written statements and other supporting material to the Recording Clerk** *(written comments are also welcome if you do not wish to speak).*

Additional Guidelines for Applicants and Appellants addressing the Board:

- *Please contact staff in Community Development ahead of the meeting to make any necessary arrangements for your presentation. **The Recording Clerk will also need copies of any handouts given to the BZA members for the official record of the meeting.***
- *Be clear in stating your position and do not repeat information that has been previously submitted to the Board.*
- *Stay on topic by addressing the questions in the application or by responding directly to staff's determination(s). Focus on presenting facts and data that support your position.*
- *Keep in mind there is a **15-minute time limit for presentations and a 5-minute time limit for rebuttal comments.** The Board will ask any necessary follow-up questions to clarify points made during the presentation.*
- *Understand that the Board of Zoning Appeals cannot change County ordinances.*

The BZA reserves the right to place additional time limitations on speakers, as necessary.

STAFF: Francis H MacCall, Deputy Zoning Administrator

PUBLIC HEARING: March 12, 2024

STAFF REPORT: AP2023-00004

APPLICANT/APPELLANT: Challenger Way, LLC
446 Westfield Road
Charlottesville, VA 22902

Subject Property:

446 Westfield Road, Charlottesville, VA - Parcel ID 061W0-01-0C-00100 (the "Property")

Property Information:

The Property is zoned C-1 Commercial in the Rio Magisterial District (Attachment A).

Considering an Appeal:

The BZA's decision on appeal is limited to whether the Zoning Administrator's decision was correct and whether the Zoning Ordinance was applied correctly. This appeal does not consider whether the proposed use is appropriate, whether it is in the public interest, or whether a zoning regulation is invalid or needs to be amended. This appeal only aims to determine if the ordinance was applied correctly.

History:

February 17, 2021 –The Board of Supervisors approved ZMA2020-00011, rezoning the adjacent Premier Circle parcel (Parcel 61M-6) to the Neighborhood Model District (NMD).

August 2021 – The appellant inquired about putting a storage shed on its Property. Staff informed the appellant that placement of the structure within 50 feet of the Premier Circle parcel, which the appellant calls the "Homeless Shelter," would not be possible without a special exception.

August 23, 2023 – The appellant applied for an Official Letter of Determination (Attachment B).

November 22, 2023 – The Deputy Zoning Administrator issued a Letter of Determination LOD2023-00010 (Attachment C) that because NMD zoning constitutes a "residential district" under County Code § 18-4.20(a), a 50' setback for structures and a 20' setback for parking is required on commercial parcels abutting the Premier Circle parcel, including on the Property.

Before the 30-day appeal period ended, staff informed the appellant that it could apply for a special exception to waive or modify the setback. In the past, staff has recommended approval of special exceptions to allow new structures to be placed within similar 50-foot setbacks elsewhere.

December 18, 2023 – The appellant met with County staff in a pre-application meeting to explore the options of rezoning the Property to NMD or applying for a special exception to waive or modify the setback from the NMD.

December 22, 2023 – The appellant timely appealed Letter of Determination LOD2023-00010 (Attachment D).

Grounds for Zoning Administrator's Determination:

The question arises from *County Code* § 18-21.7, which provides:

"The minimum yard requirements in the commercial districts are as follows:

b. Adjacent to residential, rural areas, or the Monticello Historic districts. If the abutting lot is zoned residential, rural areas, or the Monticello Historic district, the minimum and maximum side and rear yards shall be as provided in section 4.20."

County Code § 18-4.20(a) (Attachment E) in turn provides:

"If the abutting lot is zoned residential, rural areas, or the Monticello Historic district: (i) no portion of any structure, excluding signs, shall be located closer than 50 feet from the district boundary; and (ii) no off-street parking or loading space shall be located closer than 20 feet to the district boundary."

By consistent and longstanding practice, Zoning Administrators have considered the NMD zoning district a residential district for purposes of Section 18-4.20a; thus, any proposed structures must be set back at least 50 feet from property lines abutting lots zoned residential. Therefore, the rezoning of the adjacent Premier Circle parcel made three structures on parcels along Westfield Road, but within 50 feet of the NMD-zoned Premier Circle parcel, legally nonconforming to its new 50-foot building setback. (Attachment F)

Staff's Response to Appeal:

The County does not agree with the appellant's arguments in Attachment D. Though the appellant focuses on the use currently proposed for the adjacent Premier Circle parcel ("a homeless shelter with supporting services"), the proper focus is on its zoning. The appellant compares the currently proposed use with uses allowed in Commercial (C-1) and Highway Commercial (HC) districts. However, the Premier Circle parcel owner sought and received NMD rezoning, allowing more residentially oriented use(s) than allowed by right in either the C-1 or HC districts.

For that reason, by consistent and longstanding practice, the NMD zoning district is considered residential for consideration of commercial setbacks. If wished, the appellant may pursue a special exception for waiving or modifying the 50-foot setback.

Summary:

Because the Deputy Zoning Administrator's Letter of Determination LOD2023-00010 (Attachment C) was and is correct, it should be affirmed.

Proposed Motion:

I move that the Board of Zoning Appeals affirm the official determination LOD 2023-00010.

Attachments:

Attachment A: Location and Zoning Map

Attachment B: Application for Official Letter of Determination, dated August 21, 2023

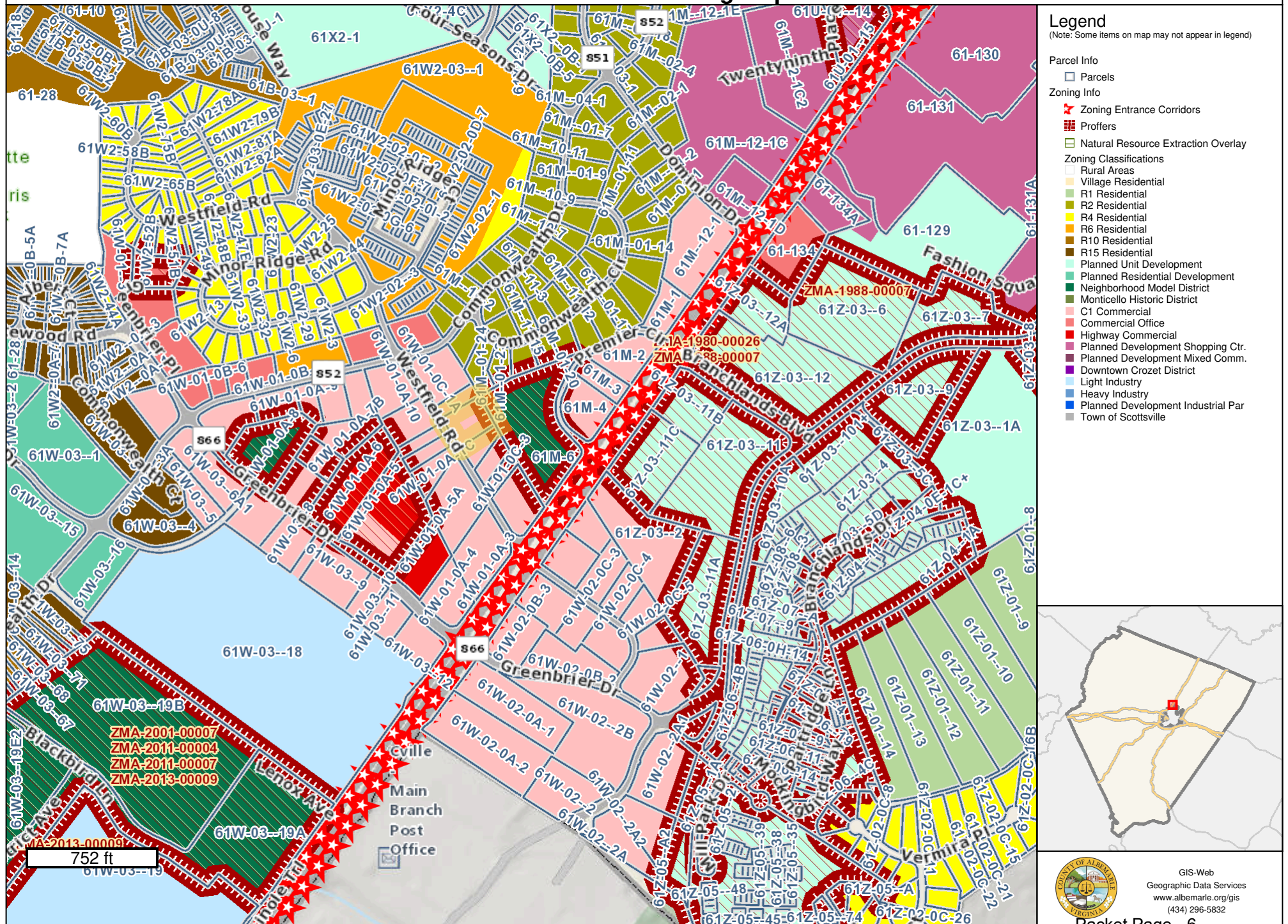
Attachment C: Letter of Determination LOD2023-00010, dated November 22, 2023

Attachment D: Appeal Application and Justification Statement (See BZA packet for information submitted by the applicant)

Attachment E: Albemarle County Code Section 18-4.20

Attachment F: Map showing the approximate location of the 50-foot setback on the lots that abut the NMD zoning district

Location and Zoning Map



Any determination of topography or contours, or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for the design, modification, or construction of improvements to real property or for flood plain determination. Map elements may scale larger than GIS data measured in the map or as provided on the data download page due to the projection used. Map Projection: WGS84 Web Mercator (Auxiliary Sphere) (EPSG 3857)



GIS-Web
Geographic Data Services
www.albemarle.org/gis
(434) 296-5832

FOR OFFICE USE ONLY

LOD # _____

Fee Amount \$ _____ Date Paid _____ By who? _____ Receipt # _____ Ck# _____ By: _____



Application for Official Letter of Determination

- ☐ **Official Letter of Determination of Parcel of Record and/or Development Rights = \$123.76**
Official Letter \$119 + Technology Surcharge \$4.76

A separate fee is required for each parcel shown on the tax map.
(1 parcel is \$119 + \$4.76 = **\$123.76**, 2 parcels are \$238 + \$9.52 = **\$247.52**, etc.)

- ☒ **All other Official Letters of Determinations (including but not limited to Use, Zoning, Nonconformity, Parking, Floodplain, Vested Rights, Area & Bulk Regulations, De minimis) = \$123.76**
Official Letter \$119 + Technology Surcharge \$4.76

☐ Certification that notice of this application has been provided to the property owner if the owner is different from applicant.

Project Name: Mixed Use zoning of "61-M" Homeless Shelter & new side setbacks, NMD Code interpretation

Tax map and parcel(s): 061W0-01-0C-0010 **Zoning:** C-1

Contact Person (Who should we call/write concerning this project?): Susan Stimart

Address 446 Westfield Road City Charlottesville State VA Zip _____

Daytime Phone (434) 202-2610 Fax # (____) _____ E-mail dbrd2010@gmail.com

Owner of Record Challenger Way, LLC

Address 446 Westfield Road City Charlottesville State VA Zip _____

Daytime Phone (434) 202-2610 Fax # (____) _____ E-mail matthewstimart@msn.com

Applicant (Who is the Contact person representing?): Self, & Matthew Stimart

Address 446 Westfield Road City Charlottesville State VA Zip _____

Daytime Phone (571) 331-3486 Fax # (____) _____ E-mail matthwestimart@msn.com

County of Albemarle Department of Community Development
401 McIntire Road Charlottesville, VA 22902 Voice: (434) 296-5832 Fax: (434) 972-4126

Submittal Requirements

Parcel of Record and/or Development Rights

- ☐ Tax Map Page
- ☐ Provide evidence showing when the parcel/parcels was/were created. This will include the following:
 - ☐ The last instrument of record in the Clerk's Office of the Circuit Court of Albemarle County, Virginia on or prior to December 10, 1980.
 - ☐ Include deeds that provide a plat or metes and bounds description of the property. (Highlight or underline references to the subject property).
- ☐ All plats and deeds of record after December 10, 1980, UP UNTIL THE PRESENT DATE. (Highlight or underline references to the subject property).
- ☐ Cover letter stating the assumed number of parcels and development rights, with explanation of same.
- ☐ Any other pertinent information.
- ☐ A fee is required for each separate parcel shown on the tax map.

All other Determinations

- ☒ Cover letter stating what is being requested. Provide all necessary information for the consideration of this decision including
- ☒ Tax Map Page if request is regarding a specific property.
- ☐ **If the request is regarding a nonconforming use, structure, or lot then you must provide enough probative material evidence to prove the nonconformity.**
- ☒ Provide justification for the request and any other pertinent information.
- ☐ Fee as noted above.

Please refer to the Albemarle County Land Use Law Handbook for more information regarding zoning determinations and nonconformities. <http://www.albemarle.org/LandUseLaw>

Determination may take up to ninety (90) days from submittal



Signature of Owner

Matthew & Susan Stimart

Print Name

August 21, 2023

Date

(571) 242-1241

Daytime phone number of Signatory

FOR OFFICE USE ONLY

LOD # _____

Fee Amount \$ _____ Date Paid _____ By who? _____ Receipt # _____ Ck# _____ By: _____



Application for Official Letter of Determination

☐ Official Letter of Determination of Parcel of Record and/or Development Rights = \$123.76

Official Letter \$119 + Technology Surcharge \$4.76

A separate fee is required for each parcel shown on the tax map.

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☒ All other Official Letters of Determinations (including but not limited to Use, Zoning, Nonconformity, Parking, Floodplain, Vested Rights, Area & Bulk Regulations, De minimis) = \$123.76

Official Letter \$119 + Technology Surcharge \$4.76

☐ Certification that notice of this application has been provided to the property owner if the owner is different from applicant.

61M-6

Project Name: Mixed Use re-zoning 061M0-00-00-00600 ^{"Homers Shelter"}
061W0-01-00-0010 ^{Previously Red-empted In}
Tax map and parcel(s): 61W-01-00-1 **Zoning:** C-1

Contact Person (Who should we call/write concerning this project?): Jensen Stinson
Address 446 Westfield Rd **City** Charlottesville **State** VA **Zip** 22901
Daytime Phone (434) 202-2610 **Fax #** () **E-mail** dbord2010@gmail.com

Owner of Record Challenger Way, LLC
Address 446 Westfield Rd **City** Ch **State** VA **Zip** 22901
Daytime Phone (817) 242-1241 **Fax #** () **E-mail** dbord2010@gmail.com

Applicant (Who is the Contact person representing?): self + Matthew Stinson
Address 446 Westfield Rd **City** Charlottesville **State** VA **Zip** 22901
Daytime Phone (434) 202-2610 **Fax #** () **E-mail** matthew.stinson

County of Albemarle Department of Community Development
401 McIntire Road Charlottesville, VA 22902 Voice: (434) 296-5832 Fax: (434) 972-4126

Challenger Way, LLC
446 Westfield Road
Charlottesville VA 22901

August 21, 2023

Mr. Francis MacCall
Community Development Dept
401 McIntire Road
Charlottesville VA 22902

Dear Mr. MacCall,

Please review the zoning conditions for TMP 061M0-00-00-00600 and TMP 061W0-01-0C-0010, and confirm if and what side setbacks are in effect following a recent rezoning of the former Red Carpet Inn, as they pertain to neighboring parcel TMP 61W-01-0C-1 "Challenger Way."

At the end of 2020, the County approved a re-zoning of the former Red Carpet Inn (TMP 61M-6) to a Mixed Use zoning code, to include Single-room-occupied shelter for homeless. Following that rezoning, Challenger Way owner of abutting parcel 61W-01-0C-1 approached County staff to request placement of a shed where the currently vacant cement pad is located (and previously supporting trash receptacles). Challenger Way tenant, By Word of Mouth Auto owner asked for permission to locate a shed for holding parts & supplies on that same concrete pad. County staff denied the placement based on the Homeless Shelter zoning and new code of development that included residential uses, to use a basis for a 50' setback of no structures inside the Challenger Way parcel.

A follow up, in-person meeting on July 7, 2023, with several County Community Development planners resulted in conflicting opinions in interpreting the new Homeless Shelter Code of Development. Can you please confirm whether a 50' setback, internal to the Challenger Way parcel, now is in effect along the parcel side that abuts the Homeless shelter?

If there is a 50" setback, can you describe the restrictions associated with that new zoning codee setback?

Please see the attached application for an Official Letter of Determination.

Sincerely,



Susan Stimart, owner Challenger way parcel
Cell (517)-242-1241



County of Albemarle
COMMUNITY DEVELOPMENT DEPARTMENT

Attachment C
401 McIntire Road, North Wing
Charlottesville, VA 22902-4579
Telephone: 434-296-5832
WWW.ALBEMARLE.ORG

November 22, 2023

RE: LOD2023-00010 - OFFICIAL DETERMINATION OF SETBACK between Commercially Zoned Parcel and a Neighborhood Model District (Parcel ID 061W0-01-0C-00100, the "Challenger Way" parcel, and Parcel ID 061M0-00-00-00600, the "Homeless shelter" parcel)

Mrs. Stimart:

You requested written confirmation of the setbacks between the parcels, Parcel IDs 061W0-01-0C-00100, zoned Commercial, C-1, and 061M0-00-00-00600, zoned Neighborhood Model District, NMD. More specifically, "whether a 50' setback, internal to the Challenger Way parcel, now is in effect along the parcel side that abuts the Homeless shelter?"

In response, I have reviewed the zoning district regulations along with previous actions taken regarding setbacks from a Neighborhood Model District, NMD and can confirm the following,

The setback identified in Section 4.20a of Chapter 18 of the Albemarle County Code (the "Zoning Ordinance") and noted below for "Side and Rear-Minimum" applies to Parcel ID 061W0-01-0C-00100, as it is zoned Commercial, C-1,

"If the abutting lot is zoned residential, rural areas, or the Monticello Historic district: (i) no portion of any structure, excluding signs, shall be located closer than 50 feet from the district boundary; and (ii) no off-street parking or loading space shall be located closer than 20 feet to the district boundary."

With previous decisions on setbacks from properties zoned NMD, it has been determined that the NMD is a residential district for setbacks noted in Section 4.20a of the Zoning Ordinance. As the proposed structure was closer than 50 feet, the structure cannot be permitted with a site plan and building permit without the approval of a special exception from the Board of Supervisors per Section 4.20a(3) of the Zoning Ordinance, which states, *"Any minimum setback may be reduced by special exception."*

You may have a right to appeal this determination within thirty (30) days of this notice, in accordance with *Virginia Code* § 15.2-2311. This determination shall be final and unappealable if not appealed within 30 days.

An appeal may be taken only by filing an appeal application with the Zoning Administrator and the Board of Zoning Appeals, in accordance with [Albemarle County Code § 18-34.3](#), along with a fee of \$295.36. This includes the \$284 application fee and the 4% Technology surcharge of \$11.36. Additionally, a separate fee of \$448 is required for the cost of providing notice and advertising the appeal for a public hearing.

Applications for Appeal of the Zoning Administrator's Determination are available at the Community Development Department office located at 401 McIntire Road, Charlottesville, Virginia 22902, or online [HERE](#). This form applies to the appeal of a decision of the zoning administrator or any other administrative officer pertaining to the Zoning Ordinance. Regulations pertaining to filing an appeal to the Board of Zoning Appeals are in Chapter 18, Section 34.3 of the Zoning Ordinance and may be reviewed [HERE](#).

Applications for special exceptions are available at the Community Development Department office located at 401 McIntire Road, Charlottesville, Virginia 22902, or online [HERE](#).

Please note that our online documents are in PDF format and must be viewed with a PDF reader. A link to download a PDF reader of your choice is available at the bottom of the page [HERE](#).

November 22, 2023
LOD2023-00010
Page 2

If you have any questions, please get in touch with me.

Sincerely,

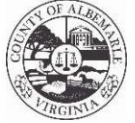
A handwritten signature in black ink, reading "Francis H. MacCall". The signature is written in a cursive style with a large, stylized "F" and "M".

Francis H. MacCall
Deputy Zoning Administrator

ZONING ORDINANCE SECTION: _____

Fee Amount \$ _____ Date Paid _____ By who? _____ Receipt # _____ Ck# _____ By: _____

Application for Appeal of Zoning Administrator's Determination



☒ Appeal of Zoning Administrator's Determination = \$295.36
Application \$284 + Technology surcharge \$11.36

☐ Initial notice fee to be provided in conjunction with an application,
for preparing and mailing notices and published notice = \$448

FEES for re-advertisement and notification of public hearing after advertisement of a public hearing and a deferral is made at the applicant's request

➤ Preparing and mailing or delivering each notice after fifty (50)	\$237
➤ Preparing and mailing or delivering each notice after fifty (50)	\$1.19 for each additional notice + actual cost of first-class postage
➤ Published notice (published twice in the newspaper for each public hearing)	Actual cost based on a cost quote from the publisher (averages between \$150 and \$250)

Contact Person (Who should we call/write concerning this project?): SUSAN STIMART

Address 446 WESTFIELD ROAD City CHARLOTTESVILLE State VA Zip 22901

Daytime Phone (571) 242-1241 Fax # () _____ E-mail DBRD2010@GMAIL.COM

Owner of Record CHALLENGER WAY, LLC

Address 446 WESTFIELD ROAD City CHARLOTTESVILLE State VA Zip 22901

Daytime Phone (571) 331-3486 Fax # () _____ E-mail MATTHEWSTIMART@MSN.COM

Applicant (Who is the Contact person representing?): MATTHEW STIMART

Address 446 WESTFIELD ROAD City CHARLOTTESVILLE State VA Zip 22901

Daytime Phone (571) 331-3486 Fax # () _____ E-mail MATTHEWSTIMART@MSN.COM

County of Albemarle Department of Community Development
401 McIntire Road Charlottesville, VA 22902 Voice: (434) 296-5832 Fax: (434) 972-4126

Appeal Application Revised 7/1/2021 Page 1 of 2

Project Name: HOMELESS SHELTER / CHALLENGER WAY SET BACK DETERMINATION

Tax map and parcel: 061M0-00-00-006, 061W0-01-0C-00100 **Zoning:** NMD & C-1

Physical Street Address (if assigned):
405 PREMIER CIRCLE, 446 WESTFIELD ROAD

Location of property (landmarks, intersections, or other):

The following information shall be submitted with the application and is to be provided by the applicant:

- 1) Completed application including subject of appeal.
- 2) Justification for applicant's position, including error in Zoning Administrators determination. You may use the space below to provide this information or submit an attached sheet.
- 3) If applicable, a copy of the latest deed for the property involved, and the approved and recorded plat.
- 4) If applicable, the appropriate drawings showing all existing and proposed improvements on the property and any special conditions for the situation that may justify the appeal.
- 5) Reference to the relevant Zoning Ordinance section or other applicable regulations or case precedence to justify the appeal.
- 6) Appropriate fee made payable to the County of Albemarle.

Explanation of error in determination and justification of applicant's position:

Owner/Applicant Must Read and Sign

I hereby certify that the information provided on this application and accompanying information is accurate, true and correct to the best of my knowledge and belief.

Susan Stimart

 Signature of Owner or Contract Purchaser, Agent

12-22-2023

 Date

SUSAN STIMART

 Print Name

571-242-1241

 Daytime phone number of Signatory

Board of Zoning Appeals Action/vote:

Board of Zoning Appeals Chairman's signature: _____ Date: _____

Dear Board of Zoning Appeal,

We applaud the community and the Board's support of a homeless shelter at the former Red Carpet Inn. As owners of Challenger Way/446 Westfield Road, we see the Red Carpet Inn as a reasonable location for serving homeless individuals with temporary shelter and services. This location even provides walking distance proximity to a wide array of potentially future employment locations with a ¼ mile walking distance.

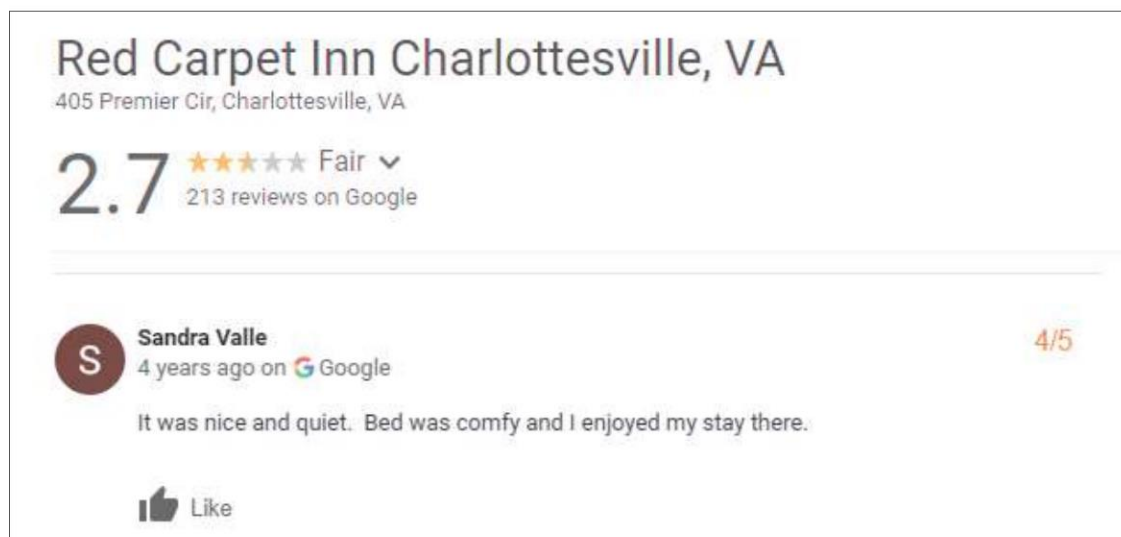
The error is in applying a "residential use" to Premier Circle NMD rezoning and enforcing a 50' setback on adjoining Westfield Road properties with pre-existing C-1 zoning. Per the attached Nov 22, 2023 letter, County staff have just confirmed a zoning determination relating to Feb 2021 NMD zoning change to Premier Circle property (TMP 061M0000000600) from its original HC. Please see the attached zoning determination dated 11/22/2023 from Francis MacCall.

The purpose of the Feb 2021 rezoning is to accommodate a homeless shelter with supporting services. This use is more similar to the prior Red Carpet Inn use -- a hotel (C-1), or in-patient clinic/ nursing home (HC) or apartment buildings (in Crozet Downtown District no 50' setback exists). None of these zoning districts -- C-1, HC or DCD create the 50' setback/20' buffer. By categorizing the Homeless shelter as residential and adhering to an archaic 50' setback and 20' buffer, this has the impact of causing four (4) properties and at least four businesses to operate nonconforming uses of

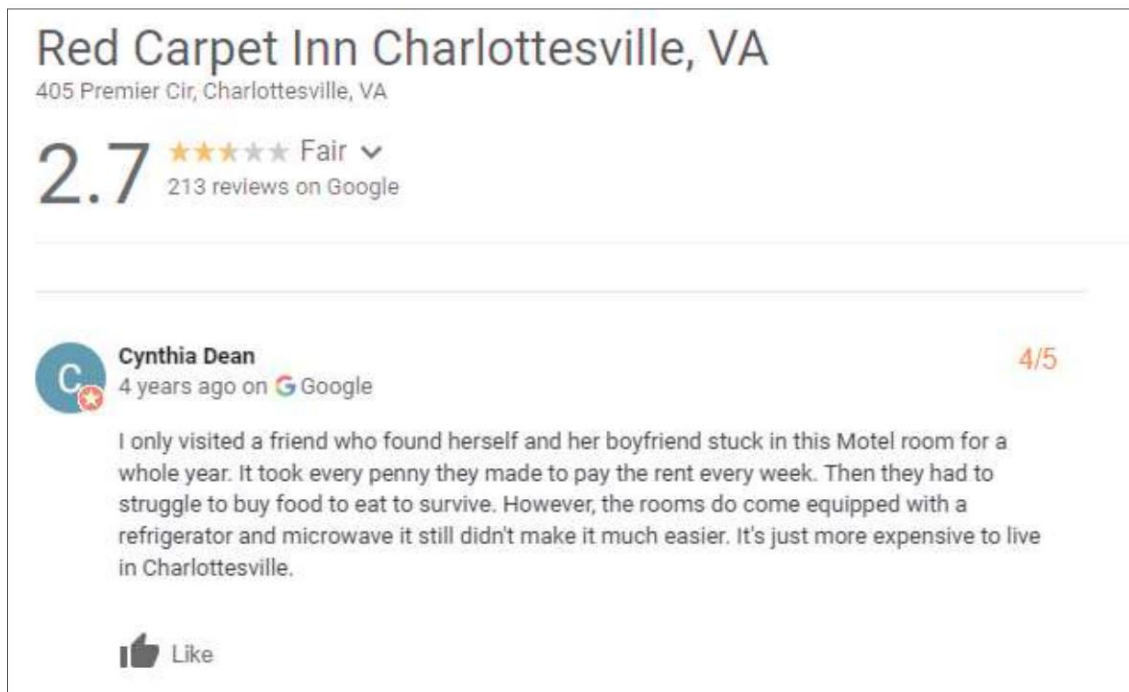
- off-street parking,
- loading spaces in a buffer, and
- structures in a setback of 50' feet.

The doggy day care, the several auto repair operations, and Comcast contractors located on Westfield Road are currently operating out of compliance with this new zoning determination. Please see the attached graphic depicting the setback and buffer over the County GIS aerial view.

A careful scan of the former Red Carpet Inn's 213 Google reviews from the last seven years indicated NO noise complaints about its adjoining neighbors (the doggy daycare, the Comcast contractors and the several auto repair operations). Some comments even mentioned how quiet the area is, see Sandra Valle comment below.



Another review from Cynthia Dean mentioned how a family choose Red Carpet Inn hotel pricing for over a year as their most affordable housing option.



A review of zoning cases throughout America shows that zoning for homeless shelters has faced several challenges, but by and large, have found success in HC/hotel zoning and other commercial districts such as churches and other urban locations. Please reference www.Reason.com, "[Zoning vs. the Good Samaritan](#)." Washington state [passed legislation](#) allowing hotels to become shelters, this is consistent with the expectation that a homeless shelter is not materially different from a hotel.

Likewise, the County's NMD is purported for an urban mix of uses: "The regulations in section 20A encourage a development form and character that is different from conventional suburban development by providing the following characteristics:" The characteristics include "Redevelopment, mixture of housing types and affordability, Pedestrian scale, Mixture of uses and use types, etc.

Under current circumstances, none of the businesses along the north side block of Westfield Road can redevelop and still comply the 50' setback/20' buffer. This is an enormous challenge to supporting local business vitality when the homeless shelter could easily be accommodated with a different classification than residential under NMD. For more detail on the goals of the NMD, please see County's Zoning in Chapter 18, Article III, Section 20A, Subsection 20A.1

If the County wanted the NMD goals as described in its own County code, then the 50' setback needs to be modified or eliminated. Alternatively, the homeless shelter zoning could be amended to HC uses, or modeled after the Crozet Downtown District NMD code (with modifications to address the needs of the shelter). This 50' setback only creates hardship with the existing commercial activities and historic uses in the commercial districts. Beyond this Westfield Road circumstance and to look more broadly in other commercial districts, there is simply no place where a 50' setback works in keeping with the Neighborhood Model goals. Every single application for NMD in a previously commercial district will create side and rear setback encumbrances on neighboring properties' pre-existing zoning and uses.

TMP 61W-01-0C-5
(C1)

TMP 61W-01-0C-1
(C1)

50' REAR SETBACK
ADJACENT TO
RESIDENTIAL ZONED
PROPERTY

20' PARKING/LOADING
SETBACK ADJACENT TO
RESIDENTIAL ZONED
PROPERTY

TMP 61M-6
(NMD)

MANAGED
STEEP
SLOPES

WESTFIELD ROAD

TMP 61W-01-0C-6
(C1)

TMP 61W-01-0C-2
(C1)

TMP 61W-01-0C-3
(C1)



CHAPTER 18 - ZONING
ARTICLE II - BASIC REGULATIONS
SECTION 4 - GENERAL REGULATIONS

Sec. 4.20 Setbacks and setbacks in conventional commercial and industrial districts.

Sec. 4.20 Setbacks and setbacks in conventional commercial and industrial districts.

Setbacks and setbacks shall be provided as follows:

- a. **Conventional commercial districts.** The following shall apply within the C-1, CO, and HC districts:

Setbacks	
Front-Minimum	10 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way; for off-street parking or loading spaces, 10 feet from any public street right-of-way
Front-Maximum	30 feet from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way, provided that this maximum setback shall not apply to any structure existing on June 3, 2015 and to any structure depicted on an approved final site plan that is valid on June 3, 2015 as having a front setback greater than 30 feet; none, on any lot, including a corner lot, abutting a principal arterial highway or interstate
Side and Rear-Minimum	If the abutting lot is zoned residential, rural areas, or the Monticello Historic district: (i) no portion of any structure, excluding signs, shall be located closer than 50 feet from the district boundary; and (ii) no off-street parking or loading space shall be located closer than 20 feet to the district boundary. If the abutting lot is zoned commercial or industrial, any primary structure shall be constructed and separated in accordance with the current edition of the Building Code.
Side and Rear-Maximum	None
Stepbacks	
Front	For each story that begins above 40 feet in height or for each story above the third story, whichever is less, the minimum stepback shall be 15 feet
Side and Rear	None

1. The maximum front setback shall be increased to the depth necessary to avoid existing utilities, significant existing vegetation, steep slopes, perennial and intermittent streams, stream buffers, public spaces and public plazas shown as such on an approved site plan or subdivision plat, to satisfy a condition of a certificate of appropriateness, and in circumstances where there are multiple buildings on the same lot and prevailing development patterns. On any parcel with multiple main buildings, at least one main building shall meet the maximum setback.
2. The maximum front setback may be increased by special exception to accommodate low impact design, unique parking or circulation plans, or a unique target market design.
3. Any minimum setback may be reduced by special exception.
4. The minimum 15-foot stepback may be reduced by special exception.

CHAPTER 18 - ZONING
ARTICLE II - BASIC REGULATIONS
SECTION 4 - GENERAL REGULATIONS

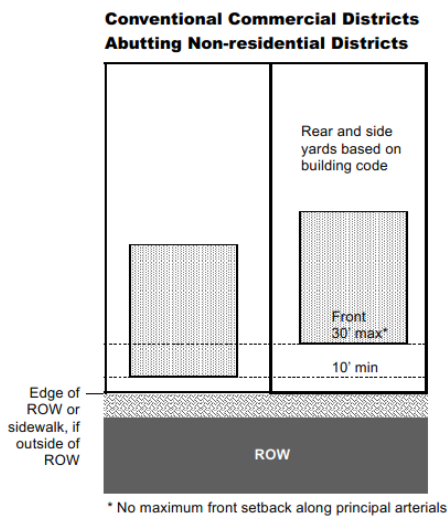
Sec. 4.20 Setbacks and stepbacks in conventional commercial and industrial districts.

5. Notwithstanding section 4.6.3, the front setbacks in the districts subject to this subsection shall be measured from the right-of-way or the exterior edge of the sidewalk if the sidewalk is outside of the right-of-way.
6. On any site subject to proffered conditions accepted in conjunction with a zoning map amendment establishing minimum or maximum setbacks or stepbacks, the proffered setbacks or stepbacks shall apply.

Figures

Figures 1 through 6 are for illustration purposes only. If there is a conflict or inconsistency between a regulation in section 4.20 to which a Figure pertains and the Figure itself, the regulation is controlling. In addition, Figures 1 through 6 merely illustrate specific requirements and do not show all applicable requirements of the applicable district regulations.

Figure 1



CHAPTER 18 - ZONING
 ARTICLE II - BASIC REGULATIONS
 SECTION 4 - GENERAL REGULATIONS
 Sec. 4.20 Setbacks and stepbacks in conventional commercial and industrial districts.

Figure 2

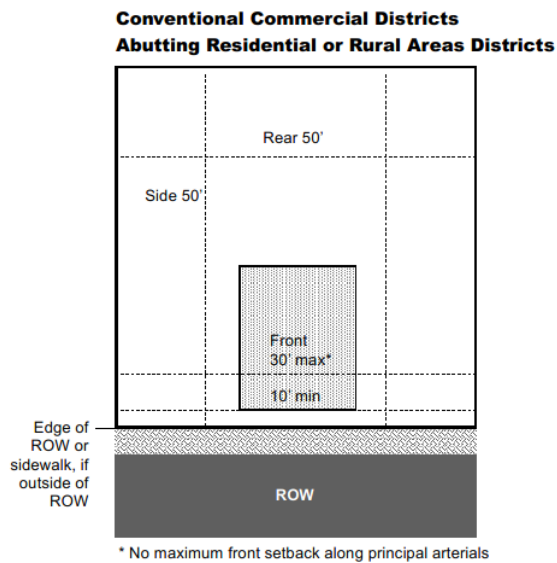
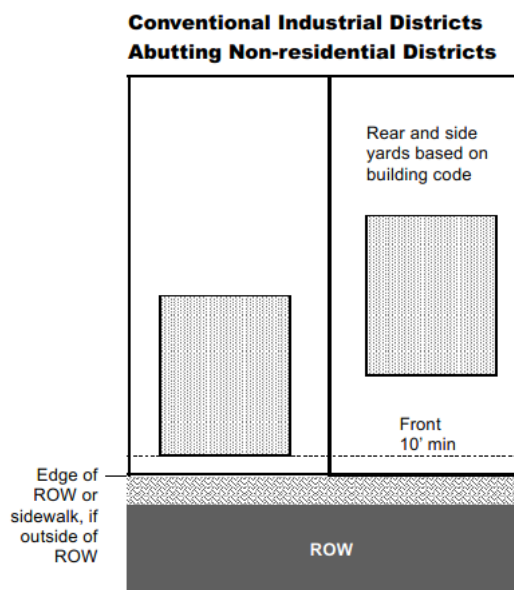


Figure 3



CHAPTER 18 - ZONING
 ARTICLE II - BASIC REGULATIONS
 SECTION 4 - GENERAL REGULATIONS
 Sec. 4.20 Setbacks and stepbacks in conventional commercial and industrial districts.

Figure 4

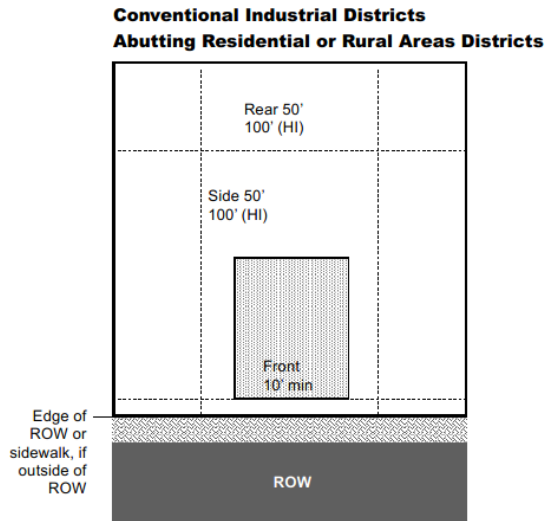
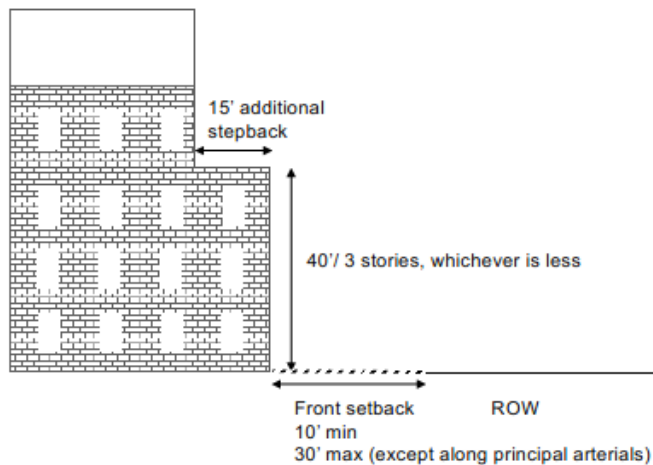


Figure 5

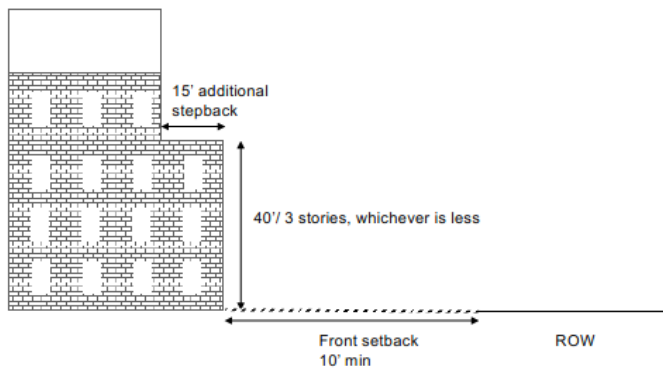
**Conventional Commercial Districts,
 Front Stepback (side view)**



CHAPTER 18 - ZONING
 ARTICLE II - BASIC REGULATIONS
 SECTION 4 - GENERAL REGULATIONS
 Sec. 4.20 Setbacks and stepbacks in conventional commercial and industrial districts.

Figure 6

**Conventional Industrial Districts,
 Front Stepback (side view)**

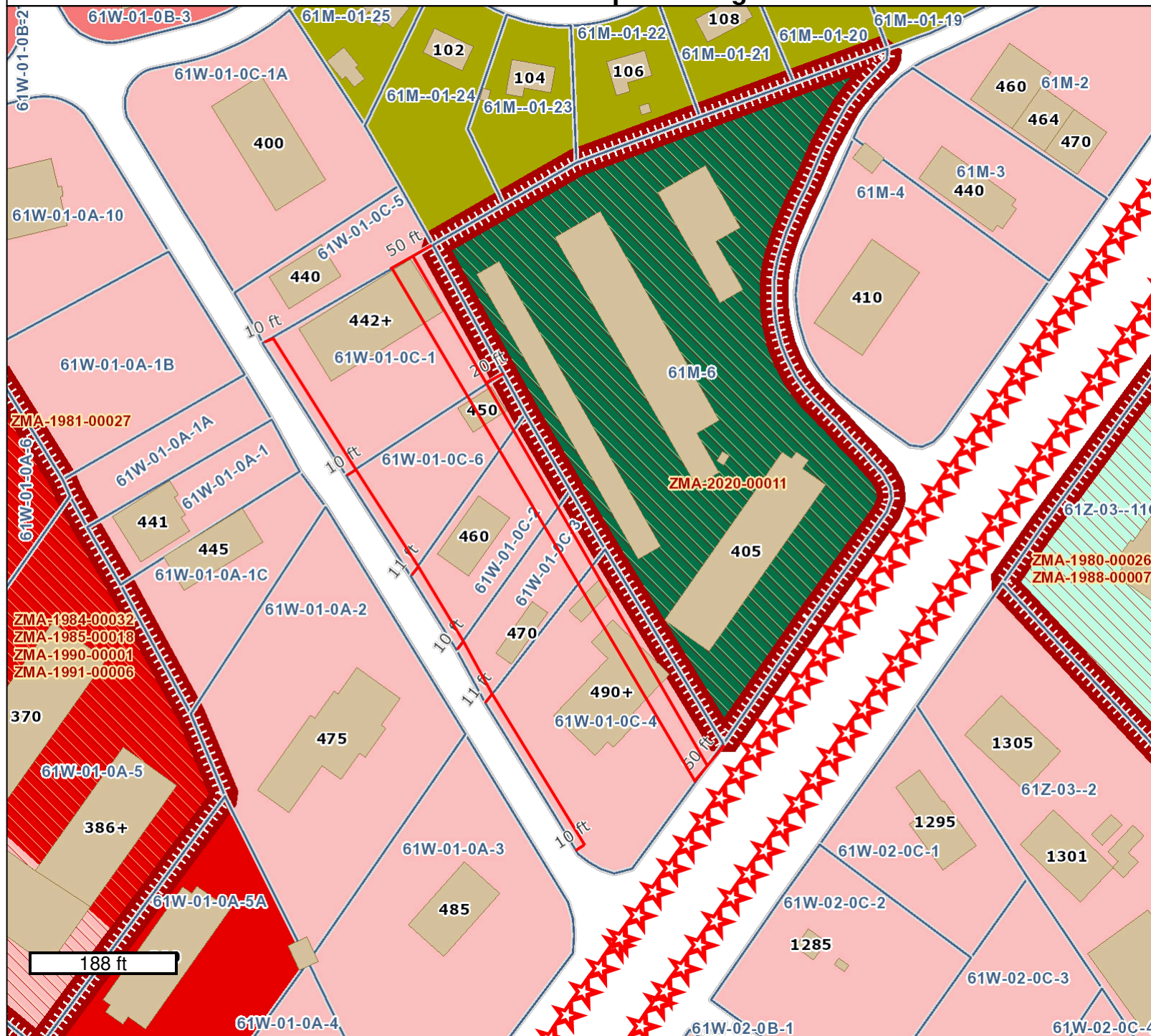


(Ord. 15-18(4) , 6-3-15; Ord. 16-18(1) , 3-2-16; Ord. 17-18(4) , 8-9-17)

State law reference(s)—Va. Code § 15.2-2280 .

Map Showing setbacks

Attachment F



Legend

(Note: Some items on map may not appear in legend)

Parcel Info

Parcels

Zoning Info

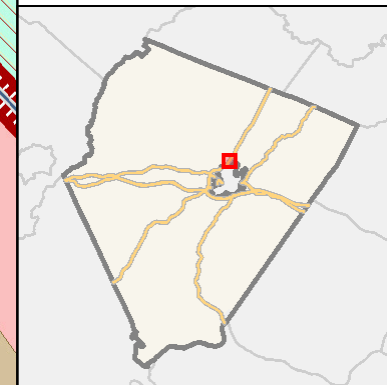
Zoning Entrance Corridors

Proffers

Natural Resource Extraction Overlay

Zoning Classifications

- Rural Areas
- Village Residential
- R1 Residential
- R2 Residential
- R4 Residential
- R6 Residential
- R10 Residential
- R15 Residential
- Planned Unit Development
- Planned Residential Development
- Neighborhood Model District
- Monticello Historic District
- C1 Commercial
- Commercial Office
- Highway Commercial
- Planned Development Shopping Ctr.
- Planned Development Mixed Comm.
- Downtown Crozet District
- Light Industry
- Heavy Industry
- Planned Development Industrial Par
- Town of Scottsville



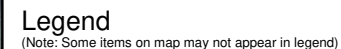
GIS-Web
Geographic Data Services
www.albemarle.org/gis
(434) 296-5832

Any determination of topography or contours, or any depiction of physical improvements, property lines or boundaries is for general information only and shall not be used for the design, modification, or construction of improvements to real property or for flood plain determination.

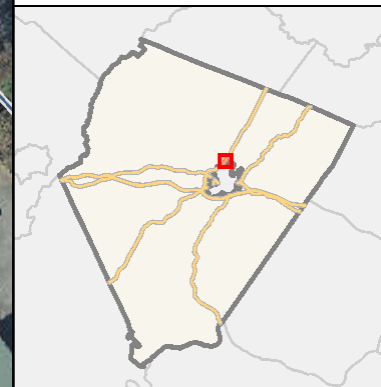
Map elements may scale larger than GIS data measured in the map or as provided on the data download page due to the projection used. Map Projection: WGS84 Web Mercator (Auxiliary Sphere) (EPSG 3857)

February 6, 2024

Attachment F



Parcel Info



GIS-Web
Geographic Data Services
www.albemarle.org/gis
(434) 296-5832

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.

1
2 **B. Review and Re-Adopt Rules of Procedure**

3
4 Mr. Carrington introduced the item for discussion.

5
6 Mr. Shepherd asked if there had been any proposed changes.

7
8 Mr. Svoboda stated that currently there are no proposed changes, adding that there may be some revisions
9 to be considered later in the year in relation to development processes and deadlines.

10
11 Ms. Joseph pointed out that in the event of weather or other hazardous conditions, etc., the Chair or Vice
12 Chair could continue the meeting to the next regular meeting date. She also noted that on page 6, under
13 Motion for Rehearing, the specifications for making the rehearing request and criteria for making the
14 decision to rehear are listed in the section. She stated that she thought it was interesting and wanted to
15 share the information.

16
17 **MOTION:** Ms. Joseph made a motion to adopt the Rules of Procedure as presented. Mr. Shepherd
18 seconded the motion, which passed unanimously (5-0).

19
20 **C. Review and Adopt 2023 Meeting Schedule**

21
22 Mr. Carrington asked if there were comments regarding the proposed meeting schedule.

23
24 Mr. Shepherd stated that the schedule for March 5th presents a conflict due to the Super Tuesday elections.
25 He added that he would not be in attendance and suggested moving that meeting to March 12th.

26
27 Mr. Burkhart agreed and stated that he would not be in attendance on March 5th as well.

28
29 There was discussion regarding the availability of the auditorium and the possibility of an upcoming
30 appeal deadline. Staff advised that they would follow up on those items.

31
32 Mr. Carrington noted that he would not be available in-person in August and may need to participate
33 remotely if an alternate is not in place.

34
35 There was a brief discussion as to the process for remote participation. It was noted that the process is
36 outlined in Section 7 of the Rules of Procedures.

37
38 **MOTION:** Mr. Shepherd made a motion to adopt the 2024 meeting schedule with the revision of the
39 March 5th meeting date to March 12th subject to room availability. Mr. Burkhart seconded the motion,
40 which passed unanimously (5-0).

41
42 **4. Public Hearings**

43 There were no public hearings scheduled.

44
45 **5. Approval of Minutes**

46 **A. November 14, 2023**

47
48 **MOTION:** Ms. Joseph made a motion to approve the November 14, 2023 minutes as submitted by staff.
49 Mr. Rosenberg seconded the motion, which passed unanimously (5-0).

1
2 **6. Old Business**

3 There was discussion regarding the possibility of having alternate members appointed to the BZA. It was
4 noted that Ms. Joseph is the lead contact for this effort.
5

6 Ms. Joseph stated that she and Mr. Burkhart had worked together to compile a list of questions within a
7 table which were shared with each member. She added that this table will be used to gather information
8 as they call other localities, possibly Loudon, Fairfax, Richmond, Charlottesville, and Greene, to
9 determine if alternate members are used elsewhere and what the parameters might be. She asked if there
10 are other cases that may be coming up in February or March in order to determine a deadline for having
11 the draft letter prepared for review by the members. She asked if the letter could be approved via email.
12

13 Mr. Bowling advised that he would not recommend making decisions on the letter via email as it develops
14 poor habits. He added that the information is a matter of public record and could be shared by email if
15 necessary.
16

17 Mr. Rosenberg suggested including a question asking if there are provisions in the localities' rules and
18 regulations that govern the use of alternates and possibly getting a copy of the language.
19

20 There was discussion regarding the language that would govern the use of an alternate and how that
21 would be compiled and included in the Rules of Procedure.
22

23 Ms. Joseph stated she and Mr. Burkhart would try to have the information compiled by March and share it
24 with the members instead of sending the draft letter.
25

26 Mr. MacCall stated that the item would be added to the March agenda.
27

28 Mr. Carrington thanked Ms. Joseph and Mr. Burkhart for taking the lead in this effort and offered his
29 assistance if needed.
30

31 **7. New Business**

32 Mr. Carrington noted that there are no new business items for discussion and asked if any member had
33 business to discuss.
34

35 Mr. Burkhart informed the members that the General Assembly may be considering legislation that would
36 allow public bodies to hold virtual meetings. He added that his preference is to meet in person as it
37 provides a personal touch and interaction unless warranted otherwise.
38

39 Ms. Joseph asked Mr. Burkhart if he would share the information on the legislation. He stated that he
40 would be happy to share the information.
41

42 There was a brief discussion regarding virtual meetings.
43

44 Mr. Shepherd stated that he believes that virtual meetings limit the exchange of ideas and eliminate
45 communication via eye contact and body language; he noted that he prefers in-person meetings as well.
46

47 Mr. Rosenberg added that when discussing policy and such matters, the points made by Mr. Shepherd do
48 not have as much force, but the BZA is a quasi-judicial body, which functions as a court, when
49 considering requests from applicants or appellants. He stated that in those cases, the applicant/appellant
50 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