

ALBEMARLE COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING
DECEMBER 2, 2025–2:00 P.M.

Board Members: Edward Carrington - *absent*
Kurt Burkhart
John Shepherd - *absent*
Marcia Joseph
Ronald Rosenberg

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

County Attorney: Andy Herrick, County Attorney
Jennifer Tevendale, Deputy County Attorney

BZA Attorney: James Bowling, IV

1. Call to Order

The meeting was called to order at 2:00 p.m. by Vice Chair Kurt Burkhart.

2. Establish a Quorum

Mr. Burkhart established a quorum.

The following members were present: Kurt Burkhart, Marcia Joseph, and Ronald Rosenberg.

The following members were absent: John Shepherd, and Edward Carrington.

Also present were Andy Herrick, Jennifer Tevendale, Jim Bowling, Bart Svoboda, Francis MacCall, Lisa Green, and Marsha Alley.

3. Public Hearings

A. APZ-2025-00002 1701 Old Forge Rd {Sign 48}

Mr. Burkhart announced that the third item on the agenda was a public hearing and before beginning, he wanted to note that the Board had received a request to defer the matter to the next meeting on January 6, 2026. However, Maynard Sipe, the attorney for the appellant, was present and able to proceed with the hearing.

The Chair introduced the item and afforded the County 15 minutes for a presentation.

Andy Herrick, County Attorney, suggested that the Board address the matter in three parts: first, on the County's motion to dismiss the appeal; second, on the motion to continue if it was still pending; and finally, on the merits of the appeal if the previous matters were denied.

1 Mr. Herrick presented the County's motion to dismiss the appeal on the grounds that no grounds
2 for appeal or defense were filed with the appeal. He explained that Virginia Code § 15.2-
3 2311(A) provided that, "the appeal shall be taken within 30 days after the decision appealed from
4 by filing with the zoning administrator, and with the board, a notice of appeal specifying the
5 grounds thereof." He stated that the appeal, though timely filed, did not specify any grounds for
6 the appeal. He continued that County Code § 18-34.3(b) similarly stated, "any appeal shall be in
7 writing and shall state the grounds for the appeal."

8
9 Mr. Herrick asked to be heard in rebuttal following the appellant's remarks.

10
11 The Chair afforded the appellant with 15 minutes to present arguments.

12
13 Maynard Sipe, representing the appellant, addressed the Board stating that since his client did not
14 feel comfortable submitting the appeal digitally, as he was instructed, his client went in person to
15 the County offices where a staff member helped him input and submit the appeal.

16
17 Mr. Sipe said that his client stated he did mention he was not in agreement with the arguments,
18 and he was not using the vehicles for business use, nor was he conducting business on the
19 property. He continued that this information may not have been included by the staff member
20 who filled out the appeal.

21
22 Mr. Sipe referred to a letter sent by his client to the County, which was sent after the appeal was
23 filed and contained grounds for the appeal. He added that while the state code did not contain the
24 word "shall" in relation to filing the grounds of the appeal, County code did, which was more
25 restrictive than state code, and in his opinion, may violate the Dillon Rule.

26
27 Mr. Sipe argued that grounds for the appeal were included in a letter that he sent to Lisa Green,
28 Manager of Code Compliance, which was included in the meeting materials, so the motion to
29 dismiss should be denied.

30
31 The Chair provided the County time for rebuttal.

32
33 Mr. Herrick acknowledged the unusual nature of the motion to dismiss because the County had
34 never before had a case where an appellant did not specify the grounds for appeal. He noted that
35 while Mr. Sipe sent a letter to Ms. Green, the letter was post-dated November 21, and it was not
36 filed with the Secretary of the BZA. He argued that the attempt to file the grounds for the appeal
37 at the last minute was unfair and put the Board in a disadvantageous position. He reiterated that
38 the appeal should be dismissed because grounds for the appeal were not timely filed.

39
40 The Chair provided the appellant time for rebuttal.

41
42 Mr. Sipe reiterated that if the County needed more time to review the materials of the appeal, he
43 was amenable to deferring the matter to the January 6, 2026 meeting. He recalled that a section
44 of the ordinance stated that any materials submitted to Zoning Department staff would be
45 considered submitted to the Board, which is why he sent the letter to Ms. Green.

1 The Chair brought the matter before the Board for deliberation.

2
3 Mr. Rosenberg noted that in the state code, he interpreted the "shall" clause to apply to the time
4 limit and to filing the grounds of the appeal. He continued that the appellant had missed the 30-
5 day deadline due to the insufficient information submitted as part of the appeal, so he would
6 support dismissal.

7
8 Ms. Joseph noted that the staff report revealed a discussion where Francis MacCall, Deputy
9 Zoning Administrator, spoke with the appellant's attorney and granted him civil access to upload
10 the grounds for appeal on October 7, 2025. She emphasized that this information should have
11 and could have been provided to the Board in a timely manner.

12
13 Mr. Burkhardt said he was in agreement with the other Board members.

14
15 **MOTION:** Ms. Joseph motioned to dismiss APZ-2025-00002. Mr. Rosenberg seconded the
16 motion, which carried unanimously (3-0). (Mr. Shepherd and Mr. Carrington were absent)

17
18 Mr. Burkhardt clarified that the motion effectively upheld the Zoning Administrator's
19 determination.

20
21 Mr. Rosenberg noted that the appellant had the ability to file an appeal on the dismissal with the
22 Circuit Court.

23
24 The Chair allowed the appellant to make closing statements.

25
26 Mr. Sipe stated that his client had filed a letter stating the grounds for the appeal prior to filing
27 the appeal. He said that it was difficult to expect a lay person to navigate the process. He
28 requested that the Chair consider a motion to reconsider the action and review the letter
29 previously submitted by his client.

30
31 James Bowling, IV, Board Counsel, recommended that if the appellant wanted to bring a motion
32 before the Board, then it should be submitted in writing and considered at a later meeting. He
33 said that the matter had been otherwise decided.

34
35 Mr. Rosenberg said he agreed with the recommendation of counsel. He noted that two members
36 were missing, and they could be convinced to reconsider the matter at a later meeting.

37
38 The Chair allowed a member from the public to speak.

39
40 Ed Basham, a property owner in the community, expressed his concerns about the presence of
41 the debris on the appellant's property. He noted that the property was in a nice neighborhood,
42 where the property values averaged over \$750,000. He said the appellant had no incentive to
43 remove the debris because the County fines were lower than the cost to remove and
44 appropriately store the equipment.

1 **4. Approval of Minutes**

2
3 **A. June 3, 2025**

4 **MOTION:** Ms. Joseph motioned to approve the minutes for the June 3, 2025 meeting. Mr.
5 Rosenberg seconded the motion, which carried unanimously (3-0). (Mr. Shepherd and Mr.
6 Carrington were absent)

7
8 **5. Old Business**

9 Ms. Joseph asked if there was any new information in relation to the gun case appeal.

10
11 Mr. MacCall stated that there was no new information.

12
13 **6. New Business**

14
15 **A. BZA Annual Report FY2024-25**

16 Mr. Burkhart noted that the report had already been submitted to the Board of Supervisors, and
17 there were no comments on the report.

18
19 **B. Budget Discussion**

20 Mr. Burkhart reported that there was a request for a \$1,000 increase in the FY26-27 budget for
21 BZA legal counsel costs, bringing the line-item total to \$6,000.

22
23 Bart Svoboda, Zoning Administrator, clarified that the County was just beginning the budget
24 cycle, so they would have more information after the new year.

25
26 Mr. Burkhart expressed concern about the lack of alternates on the Board, and he asked when
27 they should request funding for alternate appointments. He noted that the cost was about \$85 per
28 meeting, and they only had a couple of meetings that year.

29
30 Ms. Joseph said she planned to attend a Board of Supervisor's meeting and reiterate the request
31 for alternates during the public comment period.

32
33 Mr. Rosenberg suggested that the Board of Supervisors receive a presentation about the purpose
34 of the BZA, since there would be two new supervisors.

35
36 Ms. Joseph said she agreed with Mr. Rosenberg's suggestion. She said it was important that all of
37 the supervisors receive the presentation so they can be refreshed on how the BZA functioned.

38
39 **C. Upcoming Meeting Information**

40 Mr. MacCall said that there were no appeals scheduled for the January meeting, and since the
41 submittal deadline had passed for items to be scheduled for the meeting, they were unlikely to
42 have any other business.

43
44 Ms. Joseph requested to schedule a discussion about the application process to make it clear what
45 was required in the application.

1 Mr. MacCall said staff was still working out issues with the new system, but they were aware of
2 the problems and working on them.

3
4 Ms. Joseph suggested that the application include an affidavit if it was filled out with assistance
5 from County staff or another party, noting the statements made during the public hearing about
6 staff helping the appellant complete the appeal submittal.

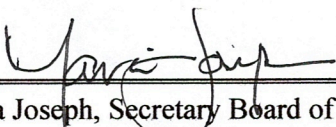
7
8 **7. Adjournment**

9 **MOTION:** Ms. Joseph motioned to adjourn the meeting. Mr. Rosenberg seconded the motion,
10 which carried unanimously (3-0). (Mr. Shepherd and Mr. Carrington were absent)

11
12 The meeting adjourned at 2:59 p.m.

13
14 (Recorded by Marsha Alley and transcribed by Golden Transcription Services)

15
16 Respectfully Submitted,

17
18
19 
20
21 _____
22 Marcia Joseph, Secretary Board of Zoning Appeals

March 4, 2026
Date

23
24 *This meeting may be viewed at <https://www.youtube.com/watch?v=N-JybdOkO3w>