

ALBEMARLE COUNTY BOARD OF ZONING APPEALS

COUNTY OFFICE BUILDING
401 MCINTIRE ROAD – LANE AUDITORIUM
TUESDAY, JULY 10, 2012 – 2:00 P.M.

Board Members: David Bass, Chairman
Lloyd (L.F.) Wood, Vice-Chairman - *(Absent)*
Randy Rinehart, Secretary
David Bowerman
Ed Robb

Staff Members: Amelia McCulley
J.T. Newberry
Sharon Taylor
Carla Harris - *(Absent)*

County Attorney: Andy Herrick, Assistant County Attorney - *(Absent)*

1. Call to Order

The meeting was called to order at 2:05 p.m. by Board Chairman David Bass, who stated that if someone was aggrieved by a decision of the Board they had a right to appeal to circuit court within 30 days of their decision.

2. Establish a Quorum

A quorum was established, and the meeting proceeded.

3. Matters Not on the Agenda

None were presented, and the meeting proceeded.

4. Matters Deferred from Previous Hearing

None were presented, and the meeting proceeded.

5. Old Business

A. Off-site Signs

Ms. McCulley noted staff met in a work session with the Planning Commission to discuss the current ordinance language for off-site signs. The current ordinance language is not clear and problematic. Staff received comments from the Planning Commission. The Planning commission asked staff to do a survey of other jurisdictions and find out whether they have options available through VDOT. Staff is working on clearer ordinance language for off-site signs. Staff will forward the BZA a copy of the staff report.

6. New Business

A. Approval of Minutes

MOTION: Mr. Rinehart moved to approve the minutes as presented. Mr. Bowerman seconded the motion, which passed unanimously (4-0). *(Mr. Wood – absent)*

B. Annual Report

Mr. Bass said that this is a state requirement via statute, and he asked fellow BZA member David Bowerman how he felt it might be improved, since he had previously served on the Board of Supervisors.

Ms. McCulley explained that it's always been done as a Consent Agenda item for the Board, but they get so many reams of information it's likely put at the bottom of an agenda.

Mr. Bowerman said if the BZA had a number of appeals in which they sided with the applicant, the Board would be interested in that, but for routine matters they won't pay much attention because they don't have control over the BZA and what they do.

Mr. Bass commented that it might be of interest to them if there were ordinance issues that the BZA had dealt with and overturned. He asked if Ms. McCulley personally presented the Annual Report, and she said she did not. Mr. Bass asked why there was a lot of information in her memorandum as well as in the Annual Report.

Ms. McCulley explained that it's a summary and it's really just a way of conveying information, but if they feel that less is better to be included along with the report, that's also acceptable.

Mr. Bass said there is a lot of reading to do, and the Annual Report has everything in the memo plus additional information.

He also asked about the "Special Use Permit" section of the Annual Report and what happened with the Clifton Inn.

Ms. McCulley reminded him that staff failed to include adequate conditions, and the County Attorney's office asked them to bring it back with some clearer conditions – and the BZA agreed to let them do that.

Mr. Bass commented that the memorandum mentions the Watkins Appeal, but "that goes way back."

Ms. McCulley responded that Planned Parenthood also went way back, and wondered if including those might raise more questions than answers.

Mr. Bass replied that it very well might, and asked what was going on with Watkins.

Ms. McCulley clarified that Watkins had secured a new site, in Clover Lawn across from Blue Ridge Builders Supply in Crozet, and the County should probably try to force them to drop the Circuit Court appeal. She said that maybe having the long list of items including older pending decisions was more confusing than helpful, and just listing any new action in the Circuit Court might be a better approach.

Mr. Bass said that they need to know about Re'Store N Station and Arganica, and Ms. McCulley suggested having Planned Parenthood, Ellen Hawkins and Watkins items removed from the list.

Mr. Bowerman stated that Mr. Davis, County Attorney, would bring up any of those items in Executive Session for the Board, because that department stays very current.

Mr. Bass said that Ms. McCulley is suggesting only doing the active items, and Mr. Bowerman said that made sense to him.

MOTION: Mr. Rinehart moved to approve the Annual Report with modifications as suggested. Mr. Bowerman seconded the motion, which passed unanimously (4-0).

C. Welcome New Board Member

BZA members welcomed Ed Robb, former Sheriff, as the newest member of the Board of Zoning Appeals.

Mr. Robb said he appreciated the opportunity to serve with them and hoped they would be understanding and patient, even in times they didn't agree. "We're all in it for the right reasons because I know all of us."

Mr. Bass stated that there were many times he has changed his mind on an issue after hearing other Board members, as well as listening to the public.

Mr. Rinehart said there were times Board members were not able to vote their conscience as there are legal constraints under which the BZA must operate.

Ms. McCulley confirmed that Mr. Robb had met with Mr. Herrick to review the BZA's legal parameters, powers and duties, and scope. She commented that the Board is a group of laypeople – not professional designers and attorneys, etc. – and the setting here is information. "I think you all do a really good job of applying common sense, and people feel heard by you...out of all the boards the County has, this is a great one to come in front of."

She reported that Mr. Newberry would discuss the BZA certification program.

Mr. Newberry explained that in May he completed the BZA class, and it was "a fantastic overview" of the fundamentals of zoning, the history of it, some of the legal precedent – and attendees hear from Mr. Kamptner as well as private attorneys from around the state. He said that there are mostly other BZA members attending from localities around the state, and they share how they handle their meetings – with some protocols being far more formal and meeting times and frequency varying greatly. Mr. Newberry stated that some localities have independent attorneys advising them, and some BZA members make site visits as a group to project sites. He said that the course requires completion of three books as well as a field trip to see another BZA meeting.

Mr. Newberry said, "It's a great way to talk to other people who are involved in this around the state, hear how they do business, and get a strong fundamental basis for the important roles that BZAs play for all the objectives that zoning has."

Mr. Bowerman emphasized that the BZA was limited in its scope because of the law and asked how a BZA could possibly meet three times a month.

Mr. Newberry responded that some localities with legislative opportunities get certain types of requests, adding that not every BZA was acting in accordance with the law – in the opinion of some of the attorneys speaking to the class. So they get petitioned far more often.

Mr. Bass commented that the role of the BZA is the most poorly understood of any public board, and applicants often think they can change ordinances – when in fact the most they can do is grant variances. He said that when he attended, he didn't take the test for certification but did go to all the classes.

D. Meeting Dates

Ms. McCulley reported that the next month's meeting date is August 7, but no items have been submitted although she has heard that a violator of urban agriculture/livestock regulations was going to appeal. She said that the next feasible meeting date was September 11th. (*Note: August 7th meeting cancelled.*)

Mr. Bass said that the agendas had been set through January 2013, and asked if Mr. Robb had received a copy of bylaws.

Ms. McCulley confirmed that he had.

She also mentioned that the BZA had a lot of discussion on the ordinance language regarding offsite signs, and she has asked the Board of Supervisors to pass a resolution of intent asking staff to study it – which they did – and she also had a worksession with the Planning Commission several weeks prior, and they asked her to do a survey of peer localities prior to making their recommendation. Ms. McCulley said that there are other options through the VDOT signage program, and a lot of other localities simply disallow offsite signs. But these are often cities and don't have the depth of development without road frontage.

Ms. McCulley also stated that they wanted to examine whether the offsite signs should be handled administratively, through the Planning Commission and Board of Supervisors, or through the BZA. The Commission said if tight criteria could be established, it could be handled administratively. It would only come to the BZA if it can't be handled by staff.

Mr. Bass said the ordinance language doesn't state the offsite criteria very clearly, and Ms. McCulley said that it only says, "The sign is not visible off the property," but it doesn't consider turning movements and turning decisions. She said that there could be an appeal process if it the administrative decision was challenged. And she wants to ensure that applicants have examined all of their options prior to using an offsite sign – and that needs to be stated in the ordinance.

Mr. Bass stated that the last offsite sign permit Mr. Newberry had brought to the BZA seemed to be a candidate for an administrative process. Mr. Newberry said he hasn't heard anything else from that applicant. Ms. McCulley said she used that as one of her examples for the Planning Commission.

7. Adjournment

Mr. Rinehart moved to adjourn the meeting. Mr. Bowerman seconded the motion, which passed unanimously (4-0).

There being no further business, the meeting adjourned at 2:34 p.m.

(Recorded by Sharon Taylor and transcribed by Beth Golden)

Respectfully Submitted,


Randolph R. Rinehart, Secretary Board of Zoning Appeals