

# ALBEMARLE COUNTY BOARD OF ZONING APPEALS

COUNTY OFFICE BUILDING  
401 MCINTIRE ROAD – LANE AUDITORIUM  
TUESDAY, AUGUST 5, 2014 – 2:00 P.M.

Board Members: David Bass, Chairman  
L.F. Wood, Vice-Chairman  
Randy Rinehart, Secretary  
David Bowerman  
Ed Robb

Staff Members: Ron Higgins  
Stewart Wright  
Francis MacCall  
Amanda Burbage  
Amelia McCulley - absent  
Carla Harris, BZA Clerk and Recorder

County Attorney: Andy Herrick, Assistant County Attorney

## 1. Call to Order

The meeting was called to order at 2:02 p.m. by Board Chairman David Bass.

## 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. Offsite Sign Training

Ms. Amanda Burbage addressed the Board, stating that she is a senior planner in the zoning division and would be providing them with an orientation to the offsite sign regulations that were revised over the last two years, completed earlier this year – and because the BZA is the body reviewing the applications, staff wanted to help them become fully informed before they are in the position of having to review an application under the new regulations. Ms. Burbage said that as a refresher, offsite signs are regulated under Section 4.15.5 of the Zoning Ordinance, and are defined as signs that are not located on the same lot as the use to which the sign pertains. She stated that there are several signs that are by-right, including political signs, temporary signs, subdivision signs, planned development signs, and agricultural product signs – with right of way signs regulated by the Virginia Department of Transportation; signs in those categories were not affected by the change in regulations. Ms. Burbage reported that what were affected by the changes were all other offsite signs, which were allowed by special use permit – reviewed by the Board of Zoning Appeals – and those would be the focus of her presentation.

Ms. Burbage reported that the former ordinance language was a bit unclear on the qualifying criteria for an offsite sign, and the language was that “the onsite signage was ineffective to communicate its message offsite because of topography or vegetation” was unclear and difficult to administer. She said that conditions of eligibility were limited to two very specific factors, topography & vegetation, and it was also unclear where the offsite signs should be visible from. She stated that there was also an occasional challenge with identifying an appropriate location for the offsite sign, and businesses obviously want to have their signs in locations with greatest visibility on major roadways, but there was a question as to whether that was aligned with the County’s sign regulations – so through this ZTA process, the Board confirmed that the intent of the regulations is to prevent a proliferation of signage that could result in confusion, unsafe driving conditions, and also detract from the County’s scenic qualities. Ms. Burbage said that staff worked for two years with the Planning Commission and the Board to come up with the current regulations that provide guidelines that are clearer and easier for them to administer, and that will also give applicants greater certainty as to whether or not they can qualify for an offsite sign. She said that to that end, ordinance amendments accomplished three things: they created two classifications for offsite signs; they created clear eligibility criteria for each sign classification; and they limited where the signs could go so that the signs that are out there can more clearly communicate.

Ms. Burbage said that directional signs were the first class of offsite signs created under the new regulations, and are for guiding travelers to a location with limited entrance visibility. To be eligible for a directional sign, a property must exhaust all of its onsite sign opportunities, and demonstrate that no sign face located at an entrance is visible within 100 feet of that entrance. She stated that the new regulations for directional signs also introduced a by-right provision for emergency medical and public uses, such as Martha Jefferson Hospital, and all other directional signs would be permitted by special use permit provided that they satisfy the criteria of no onsite sign face being visible within 100 feet of the entrance. Regarding location, Ms. Burbage said that the placement of all other directional signs is dictated by criteria that encourage the proximity of the sign to the entrance. For example, if Parcel A wanted to have an offsite sign and satisfied the eligibility criteria, the first option for location would be within a half-mile of the entrance on the primary access road; if the property owner were not able to do that, they could consider a location within a quarter-mile of the turning decision of the road providing access; if that were not possible, a third option could be considered by the BZA – or the Zoning Administrator in the case of a public sign since that’s a by-right review; and these signs are permitted in all zoning districts.

Ms. Burbage reported that bundle signs are similar to the entrance signs that are currently permitted by-right for planned developments, and they’re available by special use permit to two or more industrial, commercial or residential properties that are served by a common entrance or access road. For the purpose of this definition, she said, an access road is a road that is not a through-street, or provides access to fewer than 10 parcels. Ms. Burbage said that bundle signs can be located in industrial, commercial, planned development, or R-6 or greater residential zoning districts, and must be located at the intersection of the access road with the road providing access to the property – so in the diagram presented, any of the blue-shaded parcels would be eligible to have a bundle sign located on either frontage of lots A or B. In order to qualify, there would have to be at least two businesses listing on the sign; you can’t have a bundle sign with just one establishment.

Mr. Wood asked if it was permissible to have a bundle sign with one user, if a business is just getting started.

Ms. Burbage said that her understanding is that they would be able to satisfy if they express their intention to be on that sign, as long as they are in an industrial, commercial or residential district.

She reviewed several sign applications that the BZA had considered before, to look at them through the lens of the current regulations and whether or not they would be eligible. Ms. Burbage reported that the Church of the Incarnation was approved for an offsite sign because of the difficulty seeing the entrance sign at the old

entrance. She noted a photo showing the difficulty in seeing the sign at that location because of the curve and the grade of the road, and said that the new location was approved at a more visible entrance, and under the new regulations, the sign would be eligible because of the visibility criteria. Ms. Burbage said that you wouldn't have been able to see the old sign within 100 feet of the entrance, and the new sign is located on the road providing access to the property within a half-mile of the entrance.

Ms. Burbage reported that the Clifton Inn sign was approved as an offsite sign, located on the Colina Farm property next to Route 250, and it was approved due to the difficulty in seeing the sign at the entrance, which is on a hill and surrounded by vegetation. Under the new regulations, she said, this site would not likely satisfy the qualifying criteria for a directional sign, because the current sign at the entrance is visible within 100 feet of the entrance. The location of the sign approved would be an approved location, if it could meet the eligibility criteria, because it is located on the road providing access to the property within a half-mile of the entrance.

She reported that the third example is The Independence, which was denied a special use permit for an offsite sign, collocated with the Wilton Farm sign on Route 20, and the property has limited visibility – so under the new regulations, the Independence would qualify for a bundle sign at the entrance to Avemore because it's located in an R-15 zoning district and shares a common entrance with that subdivision. She added that because they're part of the Avemore subdivision, they're also eligible for a subdivision sign at their shared entrance along Fontana Drive – and that doesn't preclude them from having a bundle sign. Ms. Burbage said that the fourth and final example is Kegler's, which was approved previously for a special use permit for an offsite sign, located at the Schewels property at the intersection of Route 29 North, and under the new regulations, this sign could be approved as a bundle sign if it was collocated on the monument sign for Rivanna Plaza.

Mr. Ron Higgins addressed the Board and stated that the original request to collocate on the sign on Route 20 for Wilton Farm would not be eligible under the new regulations.

Ms. Burbage noted that the bundle sign needs to be at the intersection of the access road and the street.

Mr. Bass asked them to recap the 4-1 approval for a subdivision sign on Rio Road.

Mr. Bowerman said that it was in Penn Park.

Mr. Higgins said that was for the Lochlyn subdivision, and that was a development sign seeking an offsite location.

Ms. Burbage said those would not be affected by the change in regulations. She said that those would be reviewed administratively, and that process hasn't changed.

Mr. Wood commented that these changes make the BZA's job a little bit easier, because there's less to consider administratively.

Mr. Bowerman agreed, stating that they would see more applications than they have in the past, but the criteria are much clearer and answer the questions that the BZA has had.

Ms. Burbage said that they had originally proposed more signs for administrative review, but the Board did not feel comfortable with that, and felt that the special use permit process was a good way of filtering the signs – as they were worried about having too many signs on public roadways. She stated that the only offsite signs to be reviewed administratively are public signs and emergency medical directional signs; everything else would still

come to the BZA, but now they have a clear set of criteria as to whether or not they're eligible and where they can go.

Mr. Bowerman asked what a temporary sign was.

Ms. Burbage said that it's a sign that is up 15 days or less.

Mr. Higgins said that there's an application process and a whole section of the sign ordinance that deals with temporary signs, and there's a limit on how many you can have during the year and how many days total – and any one time can't exceed 15 days.

Mr. Rinehart said that in traveling home 5<sup>th</sup> Street several nights ago, one of the furniture stores was having a sale, and stuck the wire signs all over the place.

Mr. Higgins said that in the County, no sign is legal in the right of way, unless it's a public sign approved by VDOT; in the City, they own and maintain all right of way and don't allow a right of way sign without permission of the City either.

Mr. Rinehart asked why they can't get enough enforcement and fine to stop this from happening.

Mr. Higgins said that they're limited by state law as to how much they can charge, but in the County there is now a ticketing system – with \$100 per violation in the County for signs in the right of way, and that is charged per sign; in terms of Zoning Ordinance violation, they're limited to a \$200 first offense and \$500 for a second offense, etc.

Mr. Rinehart asked if realtors could buy a permit and put signs in on a Thursday then pick them up on Sunday.

Mr. Higgins said that they're prohibited in the right of way regardless, and sometimes the County will do weekend sweeps whereby enforcement personnel will pick up signs and send a warning, followed by penalty for a second offense. He stated that about a half-dozen companies have come in and said they understand why that's being done, so some of them have stopped – but not all. Mr. Higgins said that it takes "eternal vigilance" to control the situation, and VDOT will not grant permits for right of way.

Mr. Rinehart asked about political signs.

Mr. Higgins said that those count as signs, and the County has contacted candidates to let them know they are eligible to be fined – but they have to be careful so all candidates are treated equally.

Mr. Rinehart asked how many feet off the pavement is the right of way on average.

Mr. Higgins said that it can be anywhere from 10-50 feet behind the pavement, and what staff goes out into the field with are VDOT right of way maps that list the total right of way width of each road, and they have a written agreement with VDOT to enforce the ordinance, and collect and keep the fines. He said that the teams will ignore signs that are questionable as to presence in the right of way, and the width varies – with 30 feet being about the narrowest.

Mr. Robb asked how long the County had been doing the sweeps.

Mr. Higgins said that he's been on staff since 2007, and that was the year of the first agreement although they couldn't collect any fines; and since 2008, they've been doing the weekend sweeps. He emphasized that they have to pay staff overtime to do the policing, and it's been happening sporadically for the last 18 months.

Mr. Bass asked if electric message signs were covered under these provisions.

Ms. Burbage said that the regulation of electric message signs didn't change, but the changes they were making required such an overhaul of that section that they ended up getting called out as a separate section.

Mr. Wood asked if staff was familiar with the mortgage loan companies up and down 29 North, and said that there is a full life-size doll shaking around to get attention, and asked if that was legal.

Mr. Higgins said that it was not legal, and that business has been warned – and will soon receive correspondence with a \$100 fine. He stated that the code enforcement officer from the County went to the store and stood by as an employee took the mannequin out to chain it to the sign – and they have been going overboard with non-approved signs.

Mr. Bowerman asked about the advertising things that are blown up with air and move in the wind.

Mr. Higgins said that those are called “swoop banners,” and they are completely prohibited under the County ordinance – with at least a dozen businesses fined for using them thus far. He mentioned that an onsite fine is a \$200 fine, not a \$100 fine.

Mr. Rinehart asked if Albemarle treated this differently than other jurisdictions.

Mr. Higgins responded that there are similar laws in most other communities, and there are counties in Northern Virginia that have come to a truce and have established a very limited set of criteria where you can put these things up on the weekends, but their effort is to try to consolidate them. He said that even though they put a lot of effort into consolidating real estate companies, they still had many others that didn't cooperate – and most have local ordinances as well as VDOT's standard right of way regulations. Mr. Higgins mentioned that a locality must have an agreement with VDOT in order to be able to implement any kind of enforcement in the right of way – and Albemarle has that – with Mr. Herrick getting the provision added that allows the County to keep the fines.

#### **B. Signing of April 1, 2014 minutes**

The BZA approved the minutes for Mr. Rinehart's signature.

#### **C. Other**

Mr. Bass commented that Ms. McCulley had mentioned a possible big appeal on the quarry decision determination, which she had made the previous Friday.

Mr. Higgins said that regardless of how that decision was made, one side or the other was going to appeal, and he said that the matter would not be appealed before October.

Mr. Bass said that it was a very complicated issue in Schuyler, and Ms. McCulley has been working on it for at least six months.

Mr. Bowerman said that it was very difficult, and it took Ms. McCulley a while to issue the determination.

Ms. Burbage stated that there was a lot of information that was being submitted for review before she could make the determination.

Mr. Rinehart said that he would not be in town on October 8, 2014.

Mr. Higgins noted that Ms. Burbage had used an example of the Church of Incarnation, and that was an offsite sign that took a while to get to the BZA – and the reason is because the offsite location was actually County land, so it had to go through an evaluation process and Board of Supervisors review. He said that the next one they would see was related to a facility whose owners claim that their only location for a sign is a piece of land at the main road leading in that is owned by Albemarle County. Mr. Higgins stated that this will have to go through the same process with the Board of Supervisors to determine whether they want to allow a private sign on public property, and looking at such things as public benefit – because they have to get permission for it.

Mr. Rinehart noted that Bill Roudabush had passed away, and commented that he was a great person as well as a former member of this Board.

Mr. Wood seconded the comment about Mr. Roudabush, stating that he had been appointed to the Planning Commission when Mr. Wood served on the Board of Supervisors, and then ended up serving on the Board of Supervisors from 1976-80. He stated that the Board of Supervisors would recognize him at their meeting.

Mr. Higgins said that 39 years earlier, when he had just started his planning career, one of the first engineers he had worked with – applying for a subdivision – was Mr. Roudabush, and he was a great guy.

## 6. Adjournment

Mr. Rinehart moved to adjourn the meeting. Mr. Wood seconded the motion, which passed unanimously (5-0).

There being no further business, the meeting adjourned at 2:40 p.m.

(Recorded by Carla Harris and transcribed by Beth Golden)

Respectfully Submitted,



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Randolph R. Rinehart, Secretary Board of Zoning Appeals