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2 ALBEMARLE COUNTY BOARD OF ZONING APPEALS  
3 ELECTRONIC MEETING VIA ZOOM  
4 TUESDAY, NOVEMBER 10 2020 – 2:00 P.M.  
5  
6

7 Board Members Present: John Shepherd, Chairman  
8 Ed Robb, Vice Chairman  
9 Marcia Joseph, Secretary  
10 Randy Rinehart  
11 Edward (Bo) Carrington  
12  
13 Staff Members: Bart Svoboda, Zoning Administrator  
14 Marsha Alley, BZA Recording Clerk  
15  
16 County Attorney: Andy Herrick, Deputy County Attorney  
17  
18 BZA Attorney: James Bowling, IV  
19  
20

21 **1. Call to Order**

22 The meeting was called to order at 2:00 p.m. by Chairman John Shepherd.

23  
24 Mr. Shepherd addressed the board stating that this is an electronic meeting and asked for everyone to be  
25 patient as we all become familiar with this meeting alternative and virtual process. He made the  
26 following statement:

27 This meeting is being held pursuant to and in compliance with Emergency Ordinance No. 20-  
28 A(14); An Emergency Ordinance to Ensure the Continuity of Government During the Covid-19  
29 Disaster.

30  
31 The BZA members who are electronically present at this meeting are Ed Robb, Randy Rinehart,  
32 Marcia Joseph, Bo Carrington, and John Shepherd.

33  
34 The opportunities for the public to access and participate in the electronic meeting are posted on  
35 the Albemarle County website on the Board of Zoning Appeals home page and on the Albemarle  
36 County calendar. Participation will include the opportunity to comment on those matters for  
37 which comments from the public will be received.  
38

39 Mr. Shepherd noted that there are no public hearings scheduled for the meeting.  
40

41 **2. Establish a Quorum**

42 Each member verbally indicated their presence for the record in order to establish a quorum with five  
43 members present. Ed Robb, John Shepherd, Randy Rinehart, Bo Carrington, and Marcia Joseph.

44  
45 Mr. Shepherd introduced others in attendance: Bart Svoboda, Zoning Administrator; Francis MacCall,  
46 Deputy Zoning Administrator; Andy Herrick, Deputy County Attorney; James Bowling, BZA Attorney;  
47 staff members Marsha Alley, BZA Recording Clerk and Lisa Green.  
48

1 **3. Public Hearings**

2 Mr. Shepherd announced that there were no public hearings scheduled for this meeting.

3  
4 **4. Approval of Minutes**

5 **A. October 6, 2020**

6 Mr. Shepherd requested to have the word *it* removed from the sentence on page 2, line 33. There were no  
7 other comments regarding the minutes.

8  
9 **MOTION:** Mr. Rinehart moved to approve the minutes for October 6, 2020. Mr. Robb seconded the  
10 motion, which passed unanimously (5-0).

11  
12 **5. Old Business**

13 Mr. Shepherd asked Mr. Svoboda if there was any Old Business to discuss.

14  
15 Mr. Svoboda explained that Mr. Maus has submitted and recorded a boundary line adjustment which  
16 makes the structure meet the setback. He added that the application is being processed accordingly.

17  
18 Mr. Shepherd asked about the status of the appeal.

19  
20 Mr. Svoboda stated that the appeal is currently at a standstill until the application is processed. He added  
21 that once the application is processed, Zoning will consult with Mr. Herrick, Deputy County Attorney, to  
22 determine the court process.

23  
24 **6. New Business**

25 **A. Training Session**

26 Mr. Shepherd stated that Mr. Herrick would be continuing the training from the October meeting. He  
27 added that the BZA appreciates the opportunity to attend this training at the same time together.

28  
29 Mr. Herrick addressed the board and gave a brief review of topics covered at the October meeting. He  
30 continued the presentation and discussion of the remaining topics:

- 31 • Meeting Procedures and the Freedom of Information Act (FOIA)

32 A. The Eight Important Principles of FOIA

- 33 1. Quorum  
34 2. Assembly without discussion business  
35 3. Electronic Communications  
36 4. Public Meetings  
37 5. Closed Meetings  
38 6. Meeting established under FOIA without a quorum  
39 7. Quorum required for action  
40 8. Quorum in the case of conflict of interest

41 B. Rules of Procedure/Procedural Issues

- 42  
43 • Conflicts of Interest

- 44 A. Purpose  
45 B. Definition – generally focused on financial interests  
46 C. Disclosure and Disqualification  
47

1 There was discussion regarding how FOIA regulations apply to the BZA and which items, documents,  
2 and conversations are subject to FOIA. Additionally, there was discussion related to how the regulations  
3 of Conflicts of Interest apply to members of the BZA. Mr. Bowling and Mr. Herrick each suggested that  
4 members with potential conflicts seek an opinion from the Commonwealth's Attorney prior to a meeting  
5 regarding concerns as they relate to the determination of conflicts of interest.  
6

7 Mr. Herrick encouraged the members to refer to the Land Use Law Handbook for various questions that  
8 may arise.  
9

10 Mr. Shepherd agreed, noting that the Land Use Law Handbook is the gold standard in Virginia.  
11

12 Mr. Herrick stated that his presentation was complete but that he could respond to any additional  
13 questions.  
14

15 There was a discussion regarding historical cases and how to reduce the conflict and confusion for  
16 applicants as it relates to the process. Mr. Svoboda noted that often timetables come into play and actions  
17 must be taken in order to keep the process moving toward the ultimate goal of compliance.  
18

19 There was a discussion regarding the relationship between a special exception and a variance. Mr.  
20 Svoboda noted that the choice is left up to the applicant after reviewing the question with staff. He noted  
21 that the variance criteria are strict, but the special exception criteria are different and not as strict, noting  
22 that staff works with the applicant to determine the better avenue to choose. However, the choice  
23 between variance and special exception is up to the applicant. Mr. Herrick noted that state law does not  
24 limit the applicant from seeking both simultaneously.  
25

26 Several members offered their appreciation to Mr. Herrick for the informative training presentation. Mr.  
27 Shepherd suggested that there should be an annual presentation.  
28

29 Mr. Shepherd asked if there was any additional New Business for discussion.  
30

31 Mr. Svoboda stated that there is a Variance request and an Appeal scheduled for December.  
32

### 33 7. Adjournment

34  
35 **MOTION:** At approximately 3:25 p.m., Mr. Rinehart moved to adjourn the meeting. Mr. Robb seconded  
36 the motion, which passed unanimously (5-0).  
37

38 (Recorded and compiled by Marsha Alley)  
39

40 Respectfully Submitted,  
41

42  
43   
44 \_\_\_\_\_  
45 Marcia Joseph, Secretary Board of Zoning Appeals

Dec 4, 2020