

ALBEMARLE COUNTY BOARD OF ZONING APPEALS
2020 ANNUAL REPORT

I. INTRODUCTION

Virginia Code § 15.2-2308 requires that the Board of Zoning Appeals (BZA) submit a report of its activities to the governing body at least once each year. The following report outlines the BZA's activities during 2020.

II. PERSONNEL

The BZA consists of five members appointed by the Circuit Court for a term not to exceed five years. The BZA members during the year 2020 were:

<u>Member</u>	<u>Term Expiration</u>
<i>John Shepherd, Chairman</i>	Appointed May 23, 2017 for a five-year term to expire May 22, 2022.
<i>Edgar S. Robb, Vice Chairman</i>	Reappointed May 16, 2019 for a five-year term to expire May 23, 2024.
<i>Marcia Joseph, Secretary</i>	Reappointed May 23, 2020 to complete the term to expire May 23, 2025.
<i>Edward "Bo" Carrington</i>	Appointed July 1, 2020 to complete the term to expire May 23, 2023. (Previously the term of David Bowerman.)
<i>Randy Rinehart</i>	Reappointed May 23, 2016 for a five-year term to expire May 23, 2021.

III. OPERATING PROCEDURES

Regular meetings of the BZA are held the first Tuesday of each month starting at 2:00 p.m. Special meetings may be called when the regular schedule does not provide sufficient hearing time. These special meetings may begin at 1:00 p.m. The BZA operates with Rules of Procedure adopted January 5, 2016, last revised April 2, 2019, and most recently adopted January 7, 2020.

IV. EXPENSES

The BZA does not have a separate budget. Compensation and mileage are included within the budget of the Department of Community Development. Funding for BZA salaries in the fiscal year 2020-2021 was consistent with prior years. BZA members are paid \$45 per meeting. Compensation expenses for calendar year 2020 totaled \$1,845.00. Compensation expenses for FY2019-20 totaled \$945.00. Compensation expenses for FY 2020-21 total \$1,260.00 to date.

In June 2019, the BZA retained the legal services of James M. Bowling, IV of St. John, Bowling, Lawrence, & Quagliana, LLP. The letter of agreement stipulated that services would be charged at the rate of \$250 per hour not to exceed \$2,000 for FY2018-19. The budgeted amount of \$5,000 for FY2019-20 was allotted for BZA legal counsel. The budgeted amount of \$5,000 for FY2020-21 was allotted for BZA legal counsel. According to the letter of agreement, Mr. Bowling will provide legal services even if his billing exceeds the budgeted amount of \$5,000. Legal counsel expenses for FY2019-20 totaled \$2,900.00. Legal counsel expenses for FY 2020-21 total \$2,875.00 to date.

County staff working with the BZA includes the Director of Zoning (Zoning Administrator), Chief of Zoning (Deputy Zoning Administrator), Deputy County Attorney, Planners and Code Compliance Officers. Support staff includes the Recording Secretary (Community Development Assistant II).

V. ACTION SUMMARY

The BZA held nine meetings in calendar year 2020. Training sessions were held at two of the meetings. The number of submittals and actions considered by the BZA in 2020 are shown in the following tables:

Appeals

One appeal application was heard in 2020.

<u>Application #</u>	<u>Appellant or Project Name</u>	<u>Action</u>	<u>Issue</u>
AP2020-003	Appeal of Zoning Administrator's Determination regarding North Pointe	Affirmed the Zoning Administrator's determination (5-0) December 1, 2020	Determination regarding North Pointe construction entrance on Pritchett Lane

Requests for Deferral

Two requests for deferral were heard in 2020.

<u>Application #</u>	<u>Appellant or Project Name</u>	<u>Action</u>	<u>Issue</u>
AP2020-001	R.A. Yancey Lumber Corporation	Deferred decision to August 4, 2020 (4-0) June 2, 2020	Appeal Notice of Violation
AP2020-001	R.A. Yancey Lumber Corporation	Deferred decision to September 1, 2020 (4-0) August 4, 2020	Extend the deferral to allow the BOS to act on submitted Special Exceptions

Motion for Rehearing

One motion for rehearing was heard in 2020.

<u>Application #</u>	<u>Appellant or Project Name</u>	<u>Action</u>	<u>Issue</u>
AP2019-004	Buften & Maus, PLC	Reversed decision from October 1, 2019 and upheld the Zoning Administrator's Determination (4-0) February 4, 2020	Determination regarding setbacks for Major Home Occupation

Special Use Permits

Two special use applications were heard in 2020.

<u>Application #</u>	<u>Applicant or Project Name</u>	<u>Action</u>	<u>Issue</u>
SP2020-009	North Pointe Middle Entrance Sign	Approved with conditions (4-0) July 7, 2020	Construct entrance sign in public right-of-way
SP2020-011	Pantops Corner Bundle Sign	Approved with conditions (5-0) September 1, 2020	Construct bundle sign on Stony Point Road

Variances

Two variance applications were heard in 2020.

<u>Application #</u>	<u>Applicant or Project Name</u>	<u>Action</u>	<u>Issue</u>
VA2019-001	Buften & Maus, PLC	Approved with conditions (4-0) February 4, 2020	Setback variance for accessory structure to be used for Major Home Occupation
VA2020-001	Corbett Agricultural Barn	Granted the variance with conditions (5-0) December 1, 2020	Setback variance for agricultural barn

VI. COURT ACTION

During 2020, two decisions of the BZA were the subject of Circuit Court appeals:

- October 1, 2019 Decision of the BZA in AP2019-004 – On October 31, 2019, the Board of Supervisors appealed the BZA's reversal of the denial of a home occupation clearance. At issue was the BZA's reliance on VA Code 15.2-2311 (C) in making its decision.

- February 4, 2020 Decision of the BZA in VA2019-001 -- On March 3, 2020, the Board of Supervisors appealed the BZA's granting of a variance that had reduced the setback at issue in AP2019-004. At issue was staff's position that the granting of the variance created a use variance.

In both cases, the BZA compiled and returned its official record to the Circuit Court, as required by *Virginia Code* § 15.2-2314. By law, the BZA is not an active participant in Circuit Court proceedings beyond compiling and submitting its record.

Following a resolution of the underlying issues, on December 18, 2020, the County Attorney filed for a voluntary non-suit (withdrawal) of both County appeals.