

## **ALBEMARLE COUNTY BOARD OF ZONING APPEALS** **2007 ANNUAL REPORT**

### **I. INTRODUCTION**

The Code of Virginia states that the Board of Zoning Appeals shall submit a report of its activities to the governing body at least once each year {Sec. 15.2-2308}. This report is a brief outline of their activities.

### **II. PERSONNEL**

The Board of Zoning Appeals consists of five members. They are appointed by the Circuit Court for a term not to exceed five years. The Board members during the year 2007 were:

<u>Member</u>	<u>Term Expiration</u>
<i>Max C. Kennedy</i>	Reappointed May 23, 2003 for a five year term – to expire May 23, 2008
<i>David Bass, Chairman</i>	Reappointed May 23, 2007 for a five year term – to expire May 23, 2012
<i>George Bailey (Vacant Position)</i>	Reappointed May 23, 2005 for a five year term – to expire May 23, 2010
<i>Richard Cogan, Vice Chairman</i>	Reappointed May 23, 2004 for a five year term – to expire May 23, 2009
<i>Randy Rinehart, Secretary</i>	Reappointed May 23, 2006 for a five year term – to expire May 23, 2011

### **III. OPERATING PROCEDURES**

Regular meetings of the Board are held the first Tuesday of each month starting at 2:00 p.m. Special meetings are called in cases of appeals or a high number of submittals, when the regular schedule does not provide sufficient hearing time. These special meetings may begin at 1:00 p.m.

The Board operates with Rules of Procedure which were adopted November 15, 2002.

### **IV. EXPENSES**

The Board of Zoning Appeals does not have a separate budget. Compensation and mileage are included within the budget of the Community Development Department, specifically within the Zoning and Current Development cost center. Funding for Board salaries in the fiscal year 2006-2007 is consistent with prior years and expenses were a

total of \$2313.77. Board members are paid \$45 per meeting and are reimbursed for mileage traveled to the meetings.

Staff to the Board includes the Director of Zoning & Current Development (Zoning Administrator), Manager of Zoning Administration and the Chief of Zoning Administration (Deputy Zoning Administrator). Support staff includes the Zoning Assistant and at times will include the Zoning Technician.

## V. ACTION SUMMARY

The Board of Zoning Appeals held 10 meetings in 2007. The number of submittals and actions considered by the Board in 2007 are shown in the following tables:

### Variances

Twelve (12) variance applications were received in 2007. Seven (7) variances were approved, three (3) were denied, one (1) was withdrawn, and one (1) was void. The Board also took action on three (3) variances that were pending from 2006.

<i>Application #</i>	<i>Project Name</i>	<i>Type of request</i>	<i>Approved</i>	<i>Denied</i>	<i>With Conditions</i>
VA-07-01	Kappa Sigma Fraternity Intl Headquarters	Increase maximum wall sign height	X		X
VA-07-02	Victory Hill Church of God Crozet	Increase the size of a freestanding sign		X	
VA-07-03	Calvary Baptist Church of S'Ville Samuel W. Spino	Reduce setback for a sign	X		
VA-07-04	Elven Land LLC	Reduce side setbacks to allow construction of a home and to allow a primary and reserve drainfield adequate for 2 bedrooms	X		X
VA-07-05	Timothy or Linda Sigmon	Reduce setback to allow a storage shed to be located closer to the rear property line.		X	

<i>Application #</i>	<i>Project Name</i>	<i>Type of request</i>	<i>Approved</i>	<i>Denied</i>	<i>With Conditions</i>
VA-07-06	Shifflett Farm LLC - Westhall Sign	Reduce the setback for a sign	X		X
VA-07-07	Jason & Ellen Eckford & Linda Eckford	Reduce setback to allow a porch addition (area and bulk regulations)		X	
VA-07-08	Paula Gladieux	1) Allow existing structure to remain and 2) allow a porch addition (area and bulk regulations)	Item 1) approved	Item 2) denied	
VA-07-09	Randel or Pamela Stokes	Reduce side setback to allow addition to the house	X		X
VA-07-12	Richard Palermo	Reduce size of an existing non-conforming lot	X		

### **Withdrawn and Void**

<i>Application #</i>	<i>Project Name</i>	<i>Withdrawn</i>	<i>Void</i>
VA-07-10	Robert or Deborah Holewinski	X	
VA-07-11	Trinity Mission of Charlottesville		X

### **Pending from previous years**

<i>Application #</i>	<i>Project Name</i>	<i>Pending/Action</i>
VA-06-11	Glenwood Station Sign	Withdrawn April 10, 2007
VA-06-12	Glenwood Station Sign	Withdrawn April 10, 2007
VA-06-13	Glenwood Station Sign	Withdrawn April 10, 2007

### **Appeals**

Nine (9) appeals were taken in 2007. Two (2) appeals were withdrawn, one (1) was void, one (1) was moot and 4 (four) were affirmed by the Board. One (1) appeal is still pending from 2007. The Board also took action on one appeal that was remanded from the Albemarle Circuit Court.

<i>Application #</i>	<i>Project Name</i>	<i>Affirmed ZA</i>	<i>Type</i>
AP-07-02	Barbara or Krzysztof Sliwinski - Four Seasons Learning Center	<u>Affirmed ZA:</u> 1. Site not in compliance with approved SP. 2. Site not in compliance	Determination of violation

<i>Application #</i>	<i>Project Name</i>	<i>Affirmed ZA</i>	<i>Type</i>
		with approved Site Plan. 3. Building addition was occupied without the issuance of a CO <u>Overtured ZA on decision:</u> Building addition is a different size and in a different location than shown on approved site plan.	
AP-07-05 AP-07-06	Marcia Joseph William & Ann Debutts	<u>Affirmed ZA:</u> County's zoning regulations do not require the installation of curb and gutter SDP-05-83 Rio Truck Repair <u>Affirmed ZA with a modification:</u> Staff requested that the following sentence be removed from Official Letter of determination "VDOT determined that the entrance to the site (from Rio Road onto Rio School Lane) is adequate."	Letter of Determination
AP-07-07  AP-07-07 continued	Ellen F. Hawkins	<u>Affirmed &amp; modified ZA</u> 1. The Board upheld the ZA's determination in relation to any and all the transient dogs and the equipment that goes with them. The Board found that the animal rescue operation is not a permitted accessory use. 2. The Board overruled the ZA's determination as far as Ms. Ellen Hawkins' personal pets that are permanent residents at her home. The permanent dogs need to be licensed to Ms. Ellen Hawkins.	Determination of Violation

**Withdrawn and Void**

<i>Application #</i>	<i>Project Name</i>	<i>Withdrawn / Dismissed / Moot</i>	<i>Void</i>
AP-07-01	David or Connie Abdullah-The Rocks Lot 1	Withdrawn	
AP-07-04	Vanderlinde Housing Inc- Woodbrook Shopping Center	Withdrawn	
AP-07-08	Pantops Giant LLC - Mailbox Express Sign		Void
AP-07-09	Trinity Mission of Charlottesville	Moot - Violation abated	

**Pending**

<i>Application #</i>	<i>Project Name</i>	<i>Pending</i>
AP-07-03	Hollymead Town Center Area B	Determination of violation

**Action taken in an Appeal that was remanded from the Albemarle Circuit Court**

<i>Application #</i>	<i>Project Name</i>	<i>Affirmed ZA</i>	<i>Type</i>
AP-05-04	Remanded Appeal Vanderlinde Housing Inc.	<u>Modify ZA:</u> The Board found upon remand of the Albemarle Circuit Court that the use by the appellant in the Woodbrook Shopping Center is "machinery and equipment sales, service and rental," a use permitted by right in the PDSC Zoning District.	Determination of violation

**Special Use Permits**

The Board did not receive any special use permits for off-site signs in 2007. The Board took action on a Special Use Permit that was pending from 2006.

**Pending Special Use Permit from 2006**

<i>Application #</i>	<i>Project Name</i>	<i>Pending/Action</i>
SP-06-030	Morningside Assisted Living	This application was denied on March 6, 2007.

**VI. COURT ACTIONS**

The following are court actions taken on the Board of Zoning Appeals in 2007:

1. Barry Schmidt v. Board of Zoning Appeals: Petition for writ of certiorari filed in Albemarle County Circuit Court challenging the decision of the Board of Zoning Appeals that the mobile home on the property lost its nonconforming status. The Circuit Court affirmed the decision of the Board. Schmidt filed a notice of appeal to the Virginia Supreme Court. The Virginia Supreme Court denied his request to have the Court consider his appeal.
2. Paul Begin, et al. v. Board of Zoning Appeals and Planned Parenthood: Petition for writ of certiorari filed in Albemarle County Circuit Court challenging the decision of the Board of Zoning Appeals that Planned Parenthood's use of the property is a professional office use. The court has not yet issued a writ of certiorari directing the Board of Zoning Appeals to file the record of its proceedings, so the case has not proceeded and a trial date has not been set.
3. Scott W. and Caroline F. Watkins v. Board of Zoning Appeals: Petition for writ of certiorari filed in Albemarle County Circuit Court challenging the decision of the Board of Zoning Appeals that the use of the property by Watkins & Co Landscape Contracting constitutes a contractor's storage yard which is not a permitted use in the Rural Areas District. The applicant is pursuing a different location and is in the process of rezoning and site plan approval.