

**STAFFORD COUNTY BOARD OF ZONING APPEALS MINUTES**  
**October 22, 2019**

The regular meeting of the Stafford County Board of Zoning Appeals (BZA) of Wednesday, October 22, 2019, was called to order with the determination of a quorum at 7:01 p.m. by Chairman Dean Larson in the Board of Supervisors Chambers of the George L. Gordon, Jr., Government Center.

MEMBERS PRESENT: Dana Brown, Robert Gibbons, Robert Grimes, Brian Jenkins, Dean Larson, Heather Stefl

MEMBERS ABSENT: Steven Apicella, Adela Bertoldi, Jeffrey Spinnanger

STAFF PRESENT: Douglas Morgan, Melody Musante, Stacie Stinnette

DECLARATIONS OF DISQUALIFICATION

Dr. Larson: I propose that we dispense with the, um, reading the preamble, since there are no members of the public to hear it and it's primarily for them, I think. So we'll just walk through the agenda if nobody has objections to that. Okay, I bring this meeting to order. We have five people present and voting, so we have our quorum. There are no public hearings, so we'll go straight to... do we really want to do the minutes first? Okay. So, these are the August 27<sup>th</sup> minutes. I have a couple of items on the August 27<sup>th</sup> minutes while everybody else gets ready for their... with their notes. Line 1833, where I'm talking; let me know when you're there. You ready? It says, I hear you, but it was folding it into hardship. I'm pretty sure it was, I was folding it into hardship. Just a typo or something. And then line 2925. It says, well, I disagree with you guys, and then it goes on, as a member that's not part of the legislative committee. So, I didn't say that because I was part of the executive... the legislative committee. So somebody else said that, those two sentences. Can I suggest you guys reconvene and hash this out?

PUBLIC HEARINGS

NONE

UNFINISHED BUSINESS

NONE

ZONING ADMINISTRATOR'S REPORT

ADOPTION OF MINUTES

August 27, 2019

Mr. Gibbons: Do you remember that somebody said it?

Dr. Larson: I don't recall who said it, and I certainly... I wouldn't have said that I wasn't part of the legislative committee because I chaired it, so.

Ms. Brown: *Inaudible, microphone not on.*

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Dr. Larson: As a member that is not part of the legislative committee. If I said it, maybe I was referring to somebody that had said something that wasn't part of the legislative committee, but I didn't... I don't see that.

Mr. Gibbons: I don't think it's going to affect...

Dr. Larson: It's not going to affect anything. It was, um... well, Dana and Adela and I and we were all there, so I don't... that was who preceded that. So I don't... I just don't think I said that. I wonder if it was Mr. Grimes, because he... he says something a couple of lines down. Anyway, I'll leave that to you guys to try to figure out. Any other comments on the minutes?

Ms. Brown: Yeah, I had some corrections.

Dr. Larson: Go ahead.

Ms. Brown: Actually, quite a few. Sorry. How do you want me to tell you? Do you want me to tell you the page number and the line number or...? Do let me tell you the page number and the line number? Or how would you like me to... okay. Page 28, line 1390; the last word, instead of ensuring us should be ensuring as. And then on page 33, line 1606, it says your plot map. I think that should be plat. Page 42, line 2083; we need to delete the word hey. It says company thinks, hey, they're in an ex. I don't know... I don't think I said that.

Ms. Musante: Can you repeat that please? You're going a little too fast for us.

Ms. Brown: Okay.

*Unknown speaker: Inaudible, microphone not on.*

Ms. Brown: After the word thinks. Is it okay to go on? I don't know. Okay, I'm sorry. Page 53, line 2622; the sixth word -- the I needs to be deleted. Let me see, I had to mark these without a hard copy, so. Where it says do this, and I. That was my opinion. I just think it should be and that was my opinion. And then page 54, line 2640; we need to add "ed" to the end of research, to make it researched. And then same page, line 2685; will, w-i-l-l should be well. Okay. Page 57, line 2830; change mine to my, m-y, and add an s onto things. Page 60, line 2960; please add a question mark after home. And I only have two more. Page 62, line 3046; the word isn't should be is. And then the last one is page 66, line 3251; and that's delete are, a-r-e, after will. And that's all I had.

Dr. Larson: Anybody else? Go ahead.

Mrs. Stefl: Mine's just clerical, and it's still Ms. in there instead of Mrs.

Dr. Larson: Is your mic on?

Mrs. Stefl: Whenever... oh, sorry... it says Ms. Stefl whenever I speak instead of Mrs. That's all.

Dr. Larson: Brian?

Mr. Jenkins: Page 25, line 1232; delete the word no after complaints or. And that was all I had.

Dr. Larson: Bob?

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Mr. Gibbons: I'll make a motion to accept.

Dr. Larson: Second? Is there a second?

Ms. Brown: Second.

Dr. Larson: Those in favor say aye.

Mr. Gibbons: Aye.

Mrs. Stefl: Aye.

Mr. Jenkins: Aye.

Ms. Brown: Aye.

Dr. Larson: Aye. Any opposed? August 27 minutes are approved. Okay, so for the by-laws, where we are now, what I propose is that we go through and just look at the changes that are being made. Treat them item by item. Discuss if we need to. But I want to limit the discussion to no more than 10 minutes if we can, for each item. Some of these items are clearly going to take longer than 10 minutes. Those I would suggest we leave till the end. And then we can go back and have discussion on some of those. There are a couple of them that I would suggest we just not get to, but we might. Adela sent a couple of things in the e-mail and one in particular she sounded pretty passionate about. So, I think that she should be present for that discussion. I think it was the term limit one that was brought up. So, let's put it this way -- let's slide that all the way to the end and if we get there, we'll talk about it.

**OTHER BUSINESS**

- By-Laws

Ms. Brown: I thought we were having the meeting tonight to wrap this up?

Dr. Larson: The way the Board tends to go, let's put it this way -- this item, the by-laws, has been on the agenda for 12 months. This is the 12<sup>th</sup> month. Now, some of those months we didn't meet, but the months we did meet we were unable to even get to it. So, that's why we're here tonight. Yes, I'd love to get through the whole thing, but I don't know if that's going to be possible. If we can, that would be great.

Ms. Brown: Well, I want to get to it tonight because we, you know, I asked you for a deferral on this. Not that I wasn't gonna be here, but I'd ask for a deferral because this is the only thing we had. And in September, I guess, nobody thought it was important enough to meet in September. And now tonight, we're... we... we came down here just for this. So.

Dr. Larson: Well, I mean, I'm saying that there are people on the Board that like to talk, and I would like to limit that discussion until the end. But some of these points are very important and there may be a substantial amount of talking. If we get to say 10 o'clock and we're still talking, I don't think I want to stay any longer.

Ms. Brown: No, no, I agree. But I just... I don't want to not do something because somebody is not here. I mean, you made... you made that very clear in my email that we were going to proceed.

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Dr. Larson: We are, we are proceeding. This is a regularly scheduled meeting of the Board. That's why here. And we have business to do.

Ms. Brown: And we're going to defer it because people aren't here?

Dr. Larson: We'll discuss that when the time comes.

Mr. Gibbons: Well, you have to decide whether you want to defer it or going till you pass it.

Dr. Larson: At that that time. What I'm saying is...

Mr. Gibbons: *Inaudible, microphone not on.*

Dr. Larson: Yeah, we've already spent three or four minutes talking about just the procedure. I'm saying that we'll go through the by-laws, item by item, limit the discussion to 10 minutes, for those things that look like they're legitimately going to take longer than 10 minutes I suggest we postpone that to the end so we can get through as much as we possibly can in the by-laws. This is like taking a test. You do the easy questions. You run into a hard one. You think, oh, gee, this is gonna take a long time. You do the rest of the test and come back to the hard one. That way at least you get the rest of the test done. That's what I'm proposing.

Mr. Gibbons: I can see us working tonight and then doing it again.

Dr. Larson: I don't want to do that either.

Mr. Morgan: May I offer a suggestion?

Dr. Larson: Go ahead.

Mr. Morgan: Being new, of course, and having time to digest these over this past weekend and read them myself, I feel that everybody's had a chance and an opportunity to look at these, if I'm not mistaken.

Dr. Larson: Of course.

Mr. Morgan: And maybe we should look at the ones that people have questions about, because there were not any real substance until we get down in here. So, the ones that have substance, maybe let's target on those and focus on the ones that maybe anybody has any opposition about. And the ones that, brought up at the end, those can be deferred and those can go to next year and we can adopt these and move forward. And those would be changes that would come at another year.

Dr. Larson: Well, I... I would prefer not to defer anything either.

Mr. Morgan: I agree.

Dr. Larson: I would keep the meeting at a reasonable time. Alright, what I'd like to do is just... we'll do sort of a hybrid approach in that. Melody, if you go to the first...

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Mr. Gibbons: *Inaudible, microphone not on.* If you get into it and then you go through it line by line, and then all of a sudden we ought to defer this, I just as soon defer the thing and send it back... *inaudible, microphone not on.*

Dr. Larson: We've had this for 12 months. I mean, there are a couple of new things, but most of the things you're looking at we have had for 12 months...

Mr. Gibbons: Oh, I agree.

Dr. Larson: ... literally 12 months.

Mr. Gibbons: What are the ones that are not...

Dr. Larson: We'll recognize them, I guarantee you; when we start talking about them and there's a lot of conversation, we'll know it. Alright, so, item 2-3, is that the first one, Melody? Okay. First change is, in the event of an abstention or absence. I have to find the right glasses to do this. Okay. In the event of an abstention or absence, the Chairman shall select the alternate to serve in the absence... or in the absent or abstaining member. Does anybody have a problem with that?

Several members: No.

Dr. Larson: No problems? Okay. Melody, could you accept that change? Next one. If the Chairman is absent or abstaining... is the absent or abstaining member, all duties assigned to the Chairman under this paragraph shall be delegated to the Vice Chairman. Anybody have a problem with that?

Several members: No.

Dr. Larson: Let's accept that one, Melody. This is how I'd like to proceed. Okay, the next change... oh, the next one is a comment, Section 4-1. The Chairman shall, it says preside at all meetings. Comment -- Chair should have some administrative authority to handle ad hoc emergent issues. This is... oh, the things I have to point out, the things that I have added, which I think that's one, may or may not have been my idea. People call me and I just add it. But I... that may or may... I honestly don't remember on that one. But, anyway...

Ms. Brown: I don't like that one.

Dr. Larson: Okay. We have 10 minutes to try to get this discussion finished.

Mr. Morgan: So, the Chair does have the administrative authority and works with staff; that's already so self-spoken in here as these are delegated and who your roles and what your roles are. And that's spoken throughout the Code of Virginia and the BZA. So, I think that's kind of self-spoken, then as you move forward. If you give yourself or try to define too many things and do too much, then you find yourself being pigeon-holed and not being able to vary yourself around that.

Dr. Larson: Yeah, I... I actually agree with that. It's inferred. I've chaired several things and that's pretty much always the case. But apparently there was some controversy at some time and we had an objection down here, so maybe we should hear the objection.

Ms. Brown: Yeah, I... since I've been on the Board, and I don't remember who was Chair at the time, sometimes Chairmen tend to take more responsibility and do things for the Board that the Board hasn't

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approved. And I understand a couple things you'll need to, but I think this gives the Chair a license to speak for the Board on everything and I don't like that.

Mr. Morgan: Am I on a different one than everybody?

Ms. Brown: No.

Mr. Morgan: Are we on page 4 of 9, 4-1?

Dr. Larson: 4-1.

Ms. Brown: Yeah, we're looking at the comment on the right.

Dr. Larson: Preside... preside at all meetings.

Mr. Gibbons: That's part of the code.

Mr. Morgan: That's... that's already there now. That's already there, that's already part of it.

Ms. Brown: What, to handle ad hoc emergent issues?

Mr. Morgan: No, I think...

Ms. Brown: That's what I'm talking about.

Mr. Morgan: ... just as presides at all meetings.

Ms. Brown: Yeah, no, I'm fine with that. It's the comment.

Dr. Larson: Talking about the comment. The comment implies Chair activities outside of the meetings.

Ms. Brown: To handle ad hoc emergent. And I think that gives the Chair a little too much power. I agree he should... *inaudible, being talked over.*

Mr. Morgan: In my history... in my history, and again, I've only done this for 30 years with 3 other localities so every locality is different, the Chairman does have the responsibility to act in the manner for the Board and as the Board so speaks and so does desire. But you would have that authority to come to the staff or ask for emergencies and staff would work through those emergencies. I think you already have that power without it being so written.

Dr. Larson: Yeah, I'm... this is talking about administrative authority. Could you give us an example, Dana? Do you remember the example you're talking about?

Ms. Brown: I do not. There's been several times. I just... I don't remember. One of... oh, actually I can think of one and I thought we fixed that and that's on my notes because it doesn't look like we did. Going to the attorney; we had had a couple meetings and I think the last time we had a case, back in August, we did it like we agreed, meaning the Chair would not go to the attorney unless... initially... unless the majority of the Board agreed we wouldn't spend money on something. We had talked about that at a couple... yeah, that kind of thing. And that wasn't happening before. The Chair was just going

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when the Chair felt like it and other people didn't know, we couldn't get stuff in, and, you know. That's just one example. I mean, that's what I can think of right now.

Mr. Morgan: Well, I hope to be a better liaison in that matter and hope that maybe we can foster that relationship so when those things are needed, I can help and assist.

Ms. Brown: Well, you probably can't, because it would be on things like, um...

Mr. Morgan: Oh, you're talking about proceedings... gotcha.

Ms. Brown: ... appeals, yes. Yeah.

Dr. Larson: Yeah, right, right.

Ms. Brown: We had a meeting, gosh, I think it's been like a year ago...

Dr. Larson: It was a special meeting that there were no minutes taken and I didn't attend.

Ms. Brown: Yeah. You were there.

Dr. Larson: I was not there. I was out of the country.

Ms. Brown: A year ago?

Dr. Larson: Yes. October; I was gone.

Ms. Brown: I think you were there. Anyway, we agreed on it and you've been doing it. You've been... in August you sent out a note and you said the majority of the Board, we had enough questions, we're going to go to the attorney...

Dr. Larson: Right.

Ms. Brown: ... which I appreciated that. But I want to put that in here, and I think that that's an example of one of the things that I'm talking about where the Chair would assume too much, you know. I wanted to add it in. That was one of my notes that I wanted to add and I wanted to codify that, that we wouldn't do it without a majority vote. But that kind of contradicts that... as one example.

Dr. Larson: I wish I knew what you were actually... I mean, I wish I would have been at the meeting. I, yeah, but I did... I actually tried to follow what you guys have said that was decided at the meeting.

Ms. Brown: Yeah. And you have, you have; you've done great. But it's not... you may not be Chair every year.

Dr. Larson: I certainly won't.

Ms. Brown: So, I wanted to codify that in the by-laws. That was one of my add-ons for later. And I didn't have many, just so you, Dean; I only have like two or three things.

Dr. Larson: Yeah, actually the, um, we have a little more time, there is... on consulting the attorney, there are a couple of things that probably should be in there. I'm not sure they should be in the by-laws

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though. But I think that the Chair should be the bellybutton so to speak for the attorney. So, if the Board wants to ask the attorney something, it should go through the Chair. So, the attorney only gets tasking from the Chair.

Ms. Brown: Correct.

Dr. Larson: The reason you want that is you don't want everybody asking...

Ms. Brown: And totally agree, totally agree.

Mr. Gibbons: We agree with you.

Dr. Larson: Yes, I understand. And I'm... I'm sensing that, you know, I don't have... I don't have a disagreement with agreeing on generally what we're asking the attorney. I mean, no member of the Board should just off on his own without any, you know, prompting go ask the attorney something.

Ms. Brown: But that's happened. That's why we talked about having a majority vote, which you've been great about sticking with.

Dr. Larson: Well, um...

Ms. Brown: But I don't know if any future Chair, because it's not written anywhere and since it was a meeting with no minutes, it's kinda hard to, you know.

Dr. Larson: Right, so should we... what do you think about having a section in the by-laws concerning the research attorney?

Mr. Morgan: I think that, you know, when you go through your BZA training, you are identified as a Board to elect a Chair. That Chair and the definition of what that Chair's role is is kind of spoken and outlined in the by-laws, as well as in our Zoning Ordinance, as well as in the Code of Virginia. So, for individual members of the Board of Zoning Appeals to go directly to the attorney without going directly through the Chair, I've never had that kind of an instance.

Dr. Larson: That's never happened here to my knowledge. All I'm saying is...

Ms. Brown: Yeah, that's not an issue, that's not an issue.

Dr. Larson: All I'm saying is we should be aware that we should all go through the Chair.

Mr. Morgan: So, I think that's housekeeping here, just kind of having that rapport so that everybody knows. You're pretty much are dictated with those privileges as Chair to make sure that you are the leader of the group, so to speak. So, the hierarchy kind of would funnel through you.

Mr. Gibbons: I'll be the one to... *inaudible, microphone not on.*

Mr. Morgan: The only thing that I would say... the only thing that I would say is since we've been working on these for a year and we don't have direct language that they're trying to approve today, so now we're trying to come up with new language to draft into it. I think that that would be something that's kind of spoken to give you that authority without adding new language. If we were going to adopt



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these today, we should have already had language in here so that we could discuss that language, alter it, change it, or remove it.

Dr. Larson: And there are a few things like that in here. Those are the things that we would typically... in fact... no, we still have 2 minutes. We will postpone this if we can't decide it within 2 minutes.

Mr. Gibbons: How do you want to word it, Dana?

Ms. Brown: I don't want that comment in there.

Mr. Gibbons: What?

Ms. Brown: The comment, d1, is that what it is?

Dr. Larson: Oh, well, the comment's not... it's just a comment.

Mrs. Stefl: It's just like a note that's... *inaudible, microphone not on and being talked over.*

Dr. Larson: Yeah, we can delete the note. If we don't want to make the change...

Ms. Brown: Yeah, I mean, yeah, because we just had some issues in the past with the Chairman doing... overstepping I think.

Dr. Larson: And I think that as a Board, we should, after every Chairman's elected, have a little pow-wow and say look, this is what we expect to do, administratively, the Board expects this. And a lot of us will have served long enough on the Board that we... those people already know that. We do continuously get newer people and they should hear some of that stuff.

Ms. Brown: Yeah, and then...

Mrs. Stefl: I think the comment is something, Dana, that's more maybe in the Chairman's, like, handbook for how... you know, that we create. Like he has his preamble prewritten, his, you know, various languages, his various motions. That's more of like here's just an administrative kind of handbook when you become Chairman of things to keep in mind. It's not necessarily in the by-laws which are the rules and regulations that we have, as much as just a work product.

Ms. Brown: Which is why I wanted something in the by-laws and you're shaking your head no, no, that's greyed.

Mrs. Stefl: I mean, I don't see why we did it in the by-laws.

Mr. Gibbons: Inaudible, microphone not on... ran out of time.

Dr. Larson: That's right. Let's delete the comment if there are no objections.

Ms. Brown: Nope.

Dr. Larson: Okay, let's delete the comment. Okay, next. Chair act as BZA FOIA Officer. So this... this is one of them that I thought would take a while. It may not, we can try it.

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Mrs. Stefl: We can approve that formatting, right? That's just an administrative kind of thing.

Dr. Larson: Well, here's... here's... okay.

Mrs. Stefl: It's just a format.

Dr. Larson: I think the sensitive part of this was the term BZA FOIA Officer. I really, in remembering our conversation with our research attorney, I don't... I think he used that term, too, but I don't think he really meant it. I think what he meant was something more of what I got from Robert, which was basically the Chairman would accumulate attorney/client and work product information. And the Chairman would then coordinate the release or non-release of that. Now, we discussed before, if our offline communication, I don't think it's attorney/client privilege to say that here, the attorney/client and work product information belongs to the BZA as a whole. So, no single member of the BZA has the right to release that anyway. The attorney is the BZA's attorney, not the Chairman's attorney or not the Vice Chairman's attorney, or whatever. So, um, I think if we just... in my opinion, if we just act as, or just make a modification to this that says something like the Chairman will act as the conduit through which attorney/client privilege and work product privilege information goes in response to a FOIA, I think that would...

Ms. Brown: I'm fine with that, I'm fine.

Mr. Gibbons: *Inaudible, microphone not on.*

Dr. Larson: Okay, can you... can you type something like that in, Melody? Okay, the Chairman shall act...

Ms. Brown: As liaison or conduit, yeah.

Dr. Larson: ... as liaison between the BZA and the County's FOIA Officer.

Ms. Brown: Oh, no, no... I thought we were talking about the research attorney?

Dr. Larson: No, we're talking about the County's FOIA -- oh...

Ms. Brown: Hard no, hard no.

Dr. Larson: I see where you were.

Ms. Brown: Okay.

Ms. Musante: *Inaudible, microphone not on...* Robert's calling.

Dr. Larson: Oh, stand by.

Mr. Morgan: So, you would still work at that capacity and the FOIA... that stuff has to be given up anyhow.

Dr. Larson: Not attorney-client privilege.

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Mr. Morgan: Not attorney-client, correct. But the stuff for the BZA, all the stuff that we discuss here is all public.

Dr. Larson: Right. I think what would, in reality, happen here is somebody would come to the Chairman and say I think we ought to release this. And the Chairman will look at it and go, okay, let's call a meeting of the BZA and decide.

Ms. Brown: Absolutely on board.

Dr. Larson: We're going to release that or that.

Ms. Brown: I think that's fine.

Mr. Morgan: So then just craft it to say the Chairman shall act as liaison between the BZA and all FOIA inquiries?

Ms. Brown: No. With the research attorney. We're only talking the research attorney. The regular FOIA is just going to go up to the County's FOIA Officer.

Mr. Morgan: Yes.

Dr. Larson: Yeah, we need... we need to specify attorney-client privilege and work product privilege, because that's all we're talking about. Everything else we don't want FOIA responsibility for.

Ms. Brown: Correct.

Mrs. Stefl: But I think we need to say, you know, between the BZA and the BZA research attorney, because it's our BZ... it's our research attorney...

Ms. Brown: Correct.

Mrs. Stefl: ... not just some...

Mr. Morgan: That sounds good.

Dr. Larson: Okay. And then... and then act as... no, that's not right.

Ms. Brown: How about after research attorney, for matters concerning attorney-client privilege and work product privilege?

Dr. Larson: Well, that's... anything he produces is that.

Ms. Brown: Yeah. So just delete act as BZA FOIA Officer.

Mr. Morgan: Just delete the rest of that?

Dr. Larson: Wait, wait...

Ms. Brown: Well, we want to keep the attorney-client privilege and work product privilege, spell it out, right?

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Dr. Larson: Yes. So, you're saying the Chairman shall act as liaison between the BZA and the BZA research attorney...

Ms. Brown: In matters concerning...

Dr. Larson: ... in matter concer... no, then it goes back to the FOIA Officer.

Mrs. Stefl: *Inaudible, microphone not on...* in regards to attorney-client privileges?

Dr. Larson: Well, see, that's... that's... it's always attorney-client privilege with the research attorney. I... we need... okay. So, there are two things we're trying to get across here and we're getting wrapped around the axel.

Ms. Brown: No, I think that's fine, just...

Mr. Morgan: I think you guys are on point.

Ms. Brown: I think we are, yeah.

Dr. Larson: The... the BZ... okay, I'm okay with the first chair... where it says the Chairman shall act as liaison between the BZA and the BZA research attorney period. Got it?

Ms. Brown: I would just keep it in, what you have in matters concerning attorney...

Dr. Larson: Well, no, then... then the Chairman will act as liaison between the BZA and the County FOIA Officer...

Ms. Brown: No, hard no.

Dr. Larson: ... in matters concerning attorney-client privilege and work product privilege.

Ms. Brown: Well, we don't give them anything like that.

Dr. Larson: We could. That's what I'm saying; we could have a...

Mr. Morgan: The law predicts that though. If it's a FOIA and you have to give information, the information would be... the only thing that would be protected is the attorney-client privilege, and you would work with the attorney and the attorney will say yes or no. So, that kinda is given. You have to disclose that information. So, I see what you're trying to say.

Dr. Larson: We don't have to disclose attorney-client privilege information.

Mr. Morgan: That's what I just said.

Dr. Larson: Okay.

Mr. Morgan: Anything else in all other matters you would have to. So, I think that you, you know, dealing with the County Attor... or your BZA attorney, read that and see if that doesn't say what you mean.

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Dr. Larson: Well... what would I be dealing with the research attorney if it wasn't attorney-client privilege or product? It's always... whatever he produces for us. So, what does that say? It says the obvious. There's... so, what I'm saying is, the BZA would act... the Chairman would act as the liaison between the BZA and the BZA's research attorney period. And then the Chairman would act as liaison between the BZA and the County FOIA Officer period.

Ms. Brown: No. We discussed that.

Dr. Larson: Oh, no, because we want to... I'm sorry.

Ms. Brown: It was good how it was.

Dr. Larson: Yes, concerning attorney-client privilege and work product.

Ms. Brown: Yeah, everything else is the County FOIA Officer.

Dr. Larson: Yes, you're right, you're right. The Chairman does not want all that stuff.

Mr. Morgan: Correct.

Ms. Brown: So, we need to put that back in. All other BZA FOIA matters are handled by the Stafford County FOIA Officer.

Mr. Morgan: There's no sense in reiterating things that are already intact.

Ms. Brown: Well, there was a suggestion to have one of us do it, and I wanna make sure that doesn't come back up. Oh, we talked about that; that's not in our by-laws so who says we can't.

Dr. Larson: I think this'll... I think this... So, Melody, if you say, the BZA Chairman will act as liaison...

Ms. Musante: Oh, I've already got it in there.

Mrs. Stefl: Yeah.

Ms. Musante: Am I repeating what I have already?

Dr. Larson: No, no. Will act as... the BZA Chairman will act as liaison between the BZA and the County FOIA Officer in matters concerning BZA attorney-client privilege and work privilege. How does that sound?

Ms. Brown: That's fine. But I still want to put that thing in there about the rest of it.

Dr. Larson: I'm sorry, about the what?

Ms. Brown: The last sentence, because we've had a lot of discussion about appointing ourselves as that which, you know, some of us had strong feelings no, and I don't want that to come back up so mid-next year...

Dr. Larson: I don't have a problem with that.

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Ms. Brown: ... well, it's not in our by-laws, we can do it.

Dr. Larson: I don't have a problem with that.

Ms. Brown: Okay. Then I'm fine with yours.

Dr. Larson: Let's just hammer out the... what do we got going here? I'll stick with my own rule. We have 2 minutes.

Mr. Gibbons: *Microphone not on*... well, it's wordsmithing in 2 minutes.

Mr. Morgan: In matters concerning privileges? Does that read... does everybody read that? Is that what you were trying to get across?

Dr. Larson: Well, the BZA Chairman will act as liaison between the BZA and the County FOIA Officer in matters concerning attorney-client.

Mr. Morgan: Oh, gotcha. As liaison between...

Dr. Larson: The BZA and the County FOIA Officer... in matters concerning attorney-client privilege... *inaudible*. And what Dana's suggesting... and we've got 1 minute to discuss... un-delete the last sentence. Does anybody have any comment on that?

Mrs. Stefl: No.

Dr. Larson: Okay, let's do that. We can accept this.

Ms. Brown: We're putting in back in, right?

Dr. Larson: Okay, so just editorially, item c would be the Chairman shall act as liaison between the BZA and the BZA Research Attorney. Somehow it got pushed down to the next line.

Mr. Morgan: Okay, well just let her accept these track changes and look at it real quick.

Dr. Larson: Okay.

Ms. Brown: Uh, nope, you got rid of it. That's wrong.

Dr. Larson: Yeah, you just got rid of... yeah.

Ms. Brown: Yeah, that's got to be in there. That last sentence...

Dr. Larson: You see, you can't accept it because it's been deleted. You have to un-delete it.

Mr. Morgan: Okay, so you want that last sentence, all other BZA...

Dr. Larson: Yes.

Ms. Brown: Yes.

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Mr. Morgan: ... FOIA matters?

Dr. Larson: Yes.

Mr. Morgan: Okay, okay.

Dr. Larson: We did... we did have that discussion and I think we sort of all understand what it means. But again, people roll in and roll out of the BZA.

Mr. Gibbons: Are you comfortable now, Mr. Chairman, with it?

Dr. Larson: I am.

Mr. Gibbons: Okay.

Ms. Brown: Well, let's make sure it gets righted here before we move on.

Dr. Larson: Once she un-deletes the last sentence.

Ms. Musante: Well, it's not liking us over here so I'm retyping it.

Dr. Larson: Okay.

Mr. Morgan: We have a mouse that's not so mousy.

Ms. Brown: Stafford County FOIA Officer.

Dr. Larson: Okay. Why don't you accept all that and then we'll see how it reads.

Ms. Brown: Dean? Is this where we would put in about the, you know, majority of the Board before we seek the attorney initially? Wouldn't that go in here? We keep talking about it but we never put it in and then we have like selective memory, some of us. You're doing great. I don't know if you're always going to be the Chair.

Mr. Morgan: How does that read for everybody?

Dr. Larson: It reads fine. The item... the items need to be numbered appropriately.

Ms. Musante: She'll fix that once... *inaudible*.

Dr. Larson: Okay, okay. So, the Chairman shall act as the liaison between the BZA and the BZA Research Attorney. Everybody's fine. The BZA Chairman shall act as liaison between the BZA and the County FOIA Officer in matters concerning attorney-client privilege and work product privilege. Everybody's good with that. All other BZA FOIA matters are handled by the Stafford County FOIA Officer. Basically, we're... I understand your point about that being obvious, and it is, but, as we discussed, new people come in and out of the BZA and there's always, well, gee, are we supposed to send the Chairman this email that I had here that has nothing to do with the attorney? No, you send that directly in. Okay. Actually we went over about 2 minutes but I thought it was worth it on that one. Okay, Vice Chairman act in the absence, abstention, or inability. Well, okay. Any objections with that?

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Ms. Brown: No.

Mrs. Stefl: Nope.

Dr. Larson: Please accept that one, Melody. Okay, item... I'm not sure why... oh, there's...

Mrs. Stefl: It's just a formatting thing. Just clerical.

Dr. Larson: Oh, okay. You can make the clerical things look good; we're not going to mess with that. Did I miss a comment up above? Another comment that we were supposed to talk about?

Mr. Morgan: Nope, we're on 4-3.

Dr. Larson: Okay, okay, go back to 4-3. Okay, good. 5-2 - unless otherwise changed by the BZA, the regular meetings of the Board shall be on the fourth Tuesday of each month, with the exception of the month of December. By the October meeting, the Board will establish the date for the meeting, if any, to be held in December. When case is pending, a meeting shall not be mandatory. Any objections to that?

Mrs. Stefl: The only thing I could see is the, I don't know...

Mr. Morgan: Your microphone? Turn your microphone on.

Mrs. Stefl: Sorry... by October kind of reads funny. It says no later than the October meeting. The Board shall establish. So, I mean, we could in theory do it in September, we could do it in August. I mean, it's more of a legalese term, you know, rather than...

Dr. Larson: So, instead of by the, you'd like to say no later than the.

Mrs. Stefl: Yeah, no later than the October meeting, the Board shall establish. So it gives us a timeline...

Mr. Gibbons: That's good.

Dr. Larson: That's fine.

Mrs. Stefl: You know what I'm saying?

Dr. Larson: Any objections?

Ms. Brown: No, I think it's great.

Dr. Larson: Okay. Anybody have any reason not to accept this 5-2? Okay, please accept. Okay, unless otherwise changed by the BZA, the regular meetings of the BZA shall be held on the fourth Tuesday of each month -- don't move it yet -- with the exception of the month of December. No later than the October meeting, the Board shall establish the date for the meeting, if any, to be held in December. When no case is pending, no meeting's mandatory. Okay? That's what we've got.

Ms. Brown: Does that sound like, when no case is pending, no meeting's mandatory only for December? Or are we talking throughout the year?



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Dr. Larson: Um, I think it was meant for December. I don't... I mean, why would you have a meeting unless you either had a case or you had like administrative stuff to take care of like we do tonight so?

Ms. Brown: Because it just says when no case is pending. It doesn't say administrative... that's what I mean, is it just for the December meeting or any time during the year? Can we say business, would that solve the problem? When no business is pending?

Dr. Larson: Well, we can just delete the sentence and decide on a case-by-case basis what we want to do.

Mr. Morgan: It reiterates the State Code. I know many BZAs don't meet every month; many of them meet only when they have cases, and some meet only once a year, depending on administrative. So this basically is saying that when no other pending... when no case is pending...

Ms. Brown: Can we say business? Because tonight we're meeting with no case.

Dr. Larson: That's right.

Mr. Morgan: Sure. So, would you rather that read, no business or...?

Ms. Brown: Yeah, I would.

Mr. Morgan: Or, we don't even need to have it in there at all, like Mr. Larson said.

Dr. Larson: Well, no, I think your first when no business is pending, business would include cases and things that we're doing tonight.

Mr. Morgan: Anything else, okay.

Dr. Larson: Okay? Anybody have any problem with that?

Mr. Jenkins: No.

Dr. Larson: Please accept. Okay. 5-4.

Mr. Gibbons: *Inaudible, microphone not on.*

Dr. Larson: Yes. Reasonable notice of a special meeting shall be given to each member and shall state the purpose and time of the meeting in accordance with the Code of Virginia.

Ms. Brown: I'm fine with that.

Dr. Larson: I'm not sure why that was added, but I think there may have been a comment at some point associated with that that somehow didn't make it. I don't know.

Ms. Brown: I'm okay with putting it in.

Dr. Larson: I don't have any objection to it.

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Mrs. Stefl: I think we were trying to add the accordance with the State of Virginia, meaning like notices being given in enough time. Like, you can't just call a meeting and say be here in an hour.

Dr. Larson: Oh.

Mrs. Stefl: I think that's what we... where we were going, like, hey, you're still going to have to follow the Code of Virginia, proper notice, all that kind of stuff.

Dr. Larson: Proper public notice.

Mrs. Stefl: Public notice, all those kinds of things. I think that's... we tend to always like to add that...

Dr. Larson: Oh, that's true. That's a good point.

Mrs. Stefl: ... you know, disclaimer.

Mr. Gibbons: *Inaudible, microphone not on.*

Mrs. Stefl: Yeah, I mean, I'm totally in agree; let's leave it.

Dr. Larson: I like that. Anybody have objection to that? Please accept it. What we're gonna do, in case I didn't already mention it and I think I forgot to, at the end of this meeting, we'll just vote on the by-laws that we just modified. Okay, so we're not having a vote on every particular item; we're doing that by sort of acclimation and then we'll vote at the end of the meeting for the by-laws. 5-9, a regular meeting may be deferred if all applications or appeals cannot be disposed of on the meeting date set and reconvened at a later date without further public notice, provide the time, date, and location of the deferred meeting is properly noticed during the original meeting.

Ms. Brown: Boy, that sounds really wordy. Is there a better way to say that?

Dr. Larson: Well, okay, what it's saying is, we're here, we can't... we want to defer, we don't have enough information or we're about to get more information. For some reason we defer to the next meeting to conclude a particular case. What this is saying is, we can do that as long as we announce during our public meeting the date, time, and location of when we're going to have that following meeting.

Ms. Brown: Right. Oh, no, I agree, just is there a quicker way to say it? It just seemed really... *inaudible, being talked over.*

Dr. Larson: Yeah, it seems pretty wordy.

Ms. Brown: How about just add as long as it's announced at that meeting, just like you said. That's short.

Dr. Larson: Provided the date... time, date, and location is announced at the original meeting or during the original meeting?

Ms. Brown: Yeah... well, I guess. Yeah, it just seemed like a lot of words. I don't care.

Dr. Larson: No, you're right.

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Mrs. Stefl: No, you love to give full instructions. You'd rather have more than less, so, I mean, I don't see why we...

Ms. Brown: No, I'm asking for less.

Mrs. Stefl: I know! I'm shocked you're asking for less. Usually you want to put more in.

Dr. Larson: Okay. We're talking about a meeting being deferred and there really is no reason to say that, you know, it's already mentioned; it's no reason to say it again, the deferred meeting. So, location is proper...

Mrs. Stefl: I mean, if you want to say unless proper notice has been given at the meeting...

Dr. Larson: But it's already in there.

Ms. Brown: That's fine.

Dr. Larson: Just delete from the word of through the word meeting.

Mrs. Stefl: I mean, I just...

Dr. Larson: Okay.

Mrs. Stefl: I'm hesitant. I'm hesitant because I... I much rather the, you know, in transparency at a meeting for the public that they understand we're deferring this and we'll be doing this... like, we give them full notice, hey, we told you that the time, the date, and location, so someone doesn't come back and say oh, I didn't know you were going to do it the next day.

Dr. Larson: So, what you're saying is, we should be giving written public notice?

Mrs. Stefl: No, no, no, no... I'm all for... I'm all for, at a regular meeting, if we say hey, we're gonna, you know, defer this till next month, our normal business... you know, our normal time and location here. You know, so if someone is in the audience, they totally understand. Do you see what I'm saying?

Dr. Larson: Okay, so what... what would you suggest for the wording then?

Mrs. Stefl: Well, I don't think we... we may not need to... without announcement during the time of deferral? Unless... I mean, something to the effect of a regular meeting may be deferred if all applications or appeals cannot be disposed of... without public notice...

Ms. Brown: I think it's good like it is. You don't like that?

Mrs. Stefl: I don't know. I'm all for... I'm with you in the in the sense of usually like making sure that everyone is always fully informed. Do you know what I'm saying? Because we've been accused of we didn't know you were going to defer this or something like that. I'm just stumbling right here.

Dr. Larson: What do you think is missing? What do you think should be added?

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Mr. Gibbons: Microphone not on... it's providing the time so when you defer it, you're providing the time and the date... *inaudible, being talked over...*

Dr. Larson: And the location.

Mr. Gibbons: ... that you're hearing the case. That's what she's getting at.

Dr. Larson: So, okay, I just need wording suggestions. I don't see anything wrong with what's written so I'm... that's I'm having a problem.

Mrs. Stefl: Yeah, I liked what we originally had, that's why I'm...

Dr. Larson: Oh...

Ms. Brown: I like it.

Dr. Larson: ... you want to put it back in, okay.

Mrs. Stefl: Yeah, that's what I'm saying. Like, I... I much rather have that stuff.

Dr. Larson: Okay, let's do it.

Mr. Morgan: So now it will continue to read, provided the time, date, and location of the deferred meeting is properly noticed during the original meeting.

Mrs. Stefl: Right.

Dr. Larson: Yes.

Mr. Morgan: That's like, that's a regular deferral.

Mrs. Stefl: That's what I'm trying to say. That's what I'm just trying to say.

Mr. Morgan: Gotcha.

Mrs. Stefl: As long as we...

Dr. Larson: So, can you un-delete that, Melody? That's the problem of doing things on the fly.

Ms. Brown: That's one long sentence, just so you... for all you English people, you know, English majors.

Mrs. Stefl: I get... my grammar police are gonna come after me, but I'd much rather have that then the public saying you didn't notify us either.

Ms. Brown: Well, we still have to do it, no matter what.

Mrs. Stefl: Right, but I mean, we... would we have to still go through the notice in the paper, the... all that kind of stuff if we defer it to the next meeting?

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Dr. Larson: No.

Mrs. Stefl: No.

Dr. Larson: That's what this says; you can do it during the public meeting.

Mrs. Stefl: Right, and that's...

Ms. Brown: Right. That's why I just wanted to take out the deferred just so it wouldn't be so wordy and redundant.

Mr. Morgan: So, the Code of Virginia... if we defer it, then it's usually to the next meeting, and you can announce that at the next meeting. If it's an open meeting and the public meeting hasn't closed, that's deferred to the next meeting as well. That's how the Code of Virginia reads. But, if you're gonna say no, we're not gonna hear this case or it has to be reposted or it has to re-ad, nonetheless, we have to follow those... *inaudible*... so that we are very transparent. And like you're saying, we're very transparent to make sure that everybody has the opportunity to come, speak, and be heard.

Dr. Larson: Okay. So, what you're saying, I think, is that we would have to re-advertise anyway in that case, is that right?

Mr. Morgan: No.

Ms. Brown: No.

Dr. Larson: Okay.

Ms. Brown: We don't have to re-advertise at all as long as we state it at the meeting, the Chairman.

Dr. Larson: Well, I'm good with the change if nobody else has any objections.

Mrs. Stefl: Are you objecting to the of the deferred meeting?

Ms. Brown: Yeah, that's all I want...

Mrs. Stefl: Or are you saying that providing the time, date, and location is properly notified during the original meeting?

Ms. Brown: I'm not gonna fall on my sword for this. All I wanted to do was take out 'of the deferred meeting' so it wouldn't be so redundant and long, that's all.

Mrs. Stefl: Oh, I'm okay with that, of the deferred meeting.

Ms. Brown: Okay, that's all I wanted.

Mrs. Stefl: Okay, I understand what you're saying now. I guess I'm following your... *inaudible* -- provided the time, date, and location is properly noticed during the regular meeting.

Ms. Brown: Yes, yes.

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Mrs. Stefl: Okay, then yes.

Mr. Morgan: So, we are taking out...

Ms. Brown: Of the deferred meeting.

Mr. Morgan: ... of the deferred meeting in the underlying sentence.

Ms. Brown: Yes.

Mrs. Stefl: Yes, okay.

Mr. Morgan: There you go.

Mrs. Stefl: Alright, thank you.

Dr. Larson: Okay. So, does anybody have any issue with what is written in 5-9 as it stands?

Ms. Brown: No.

Unknown member: No issue.

Dr. Larson: Please accept the changes. And the bonus here is that you learned how to un-delete a section... which I forgot how to do. Okay, 5-10. In the event... oh, stand by. In the event of inclement weather or other emergency, so that we've added or other emergency, that requires the closure of the County office...

Mr. Gibbons: I agree on that.

Ms. Brown: I'm fine with that.

Dr. Larson: Yeah, I don't see why that would be a problem.

Mrs. Stefl: Absolutely.

Dr. Larson: Okay, please accept that one, Melody. Order of Business. Where is the... so, they added Applications and Appeals to the Board.

Mrs. Stefl: That looks like a clerical, kind of just grammatical thing.

Dr. Larson: So, don't... don't we...? Well, okay, so a Special Exception is an application, application for... okay, yeah, alright.

Ms. Brown: I'm fine.

Mrs. Stefl: Yeah.

Dr. Larson: Any problems? Please accept that, Melody. Where are we?

Mr. Grimes: Apologies to the rest of the members that I was late.

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Dr. Larson: No problem.

Ms. Brown: Hey, Dean, who's Chris McKenzie? Who is that?

Dr. Larson: Sorry?

Ms. Brown: Who is Chris McKenzie? That name keeps popping up on there. I was like, who's that?

Dr. Larson: I'm quite sure she works in Andrew's office.

Ms. Brown: Okay.

Dr. Larson: Actually, I'm not sure if it's a she or a he, now that you mention it.

Ms. Brown: That's fine. I was just wondering who it was.

Dr. Larson: Yeah. I've seen that name with an opinion somewhere; that's how I know that.

Ms. Brown: So, these are Andrew's suggested changes?

Dr. Larson: Well, in effect. I mean, I'm assuming that he gave the assignment to somebody else, it's cheaper that way, and then he probably reviewed what they said. That would be my guess.

Ms. Brown: Okay. Well, I'm good. I'm ready to move on.

Dr. Larson: Well, these aren't all their changes. We're... some of these are BZA changes. Okay.

Ms. Brown: Okay.

Dr. Larson: The next one is on 7-3. And, Robert, we're going through change by change and by acclimation, approving them at the end and then we'll approve the by-laws as they stand. Okay, 7-3 please.

Mrs. Stefl: Wow, there's just a lot of colors.

Dr. Larson: Okay, 7-3. The Board shall review the applicant's standing for appeals to the Board pursuant to Virginia Code blah, blah, blah, or on other matters in determining the BZA's... okay, this is not right.

Ms. Brown: Should it be review or decide?

Dr. Larson: Well, there are two things; the jurisdiction is a question and the standing is a question. In my mind, they're two separate questions. This implies that somehow one's related to the other.

Ms. Brown: What's the difference?

Dr. Larson: And it probably is... well, the jurisdiction of the BZA is pretty clear. If it's not a zoning matter dealing with an administrator or, you know, the code, then we don't have jurisdiction.

Ms. Brown: Got it. Okay, I understand, I understand.

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Dr. Larson: Standing, as you... I think...

Ms. Brown: Okay, I get it.

Dr. Larson: I think you know that. So, so...

Ms. Brown: Sounds like they'd be two separate things.

Dr. Larson: I think they should be separate. I think jurisdiction is the easiest. So then I think the BZA should establish jurisdiction first and then go to standing because I think it's a little harder... sometimes.

Ms. Brown: I'm okay with adding that. So, you want to make that 7-3 and just ripple the change... *inaudible, being talked over.*

Dr. Larson: Yes, yes, I do. Melody, if you could review the... say something in place of... Well, add a 7-2 in the... or a 7-3 and it'll go down or however it does. Just... there ya go. The Board shall establish BZA jurisdiction... um... for, uh... well, certainly for appeals.

Ms. Brown: For all cases. How about for all cases?

Mr. Gibbons: *Inaudible, microphone not on...* application process?

Mr. Morgan: *Inaudible, microphone not on.*

Ms. Brown: Well, no, no, no.

Dr. Larson: No.

Mrs. Stefl: No, no, no. No, we've had this issue.

Dr. Larson: Well, if it's an appeal, it's clearly our jurisdiction. That's what you just said.

Mr. Morgan: I'm talking about an appeal. Appeals are your jurisdiction.

Dr. Larson: Okay, we're racing a little bit ahead because there had been applications for variances or special exceptions that were not in our jurisdiction. The code allows us to grant special exceptions under certain conditions and, if those conditions aren't met, then... in the code.

Ms. Brown: Melody, I think, if I can summarize this maybe for our new person, didn't during one of our cases last year, weren't we told by Jeff Harvey that, or you were told just to accept the application and not to...? Yes, that's what we're talking about.

Dr. Larson: I'm sorry? What was that?

Mr. Grimes: We were... the intake office, and I'll call it the intake office, but the zoning office was told by the County that as long as the paperwork was complete, we have to accept it.

Ms. Brown: Oh, no, it didn't have to even be complete. It wasn't even...

Mr. Grimes: It was the flag case, right?



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Ms. Brown: Yeah, it didn't even have to be complete. We were just to accept it, correct?

Mr. Grimes: Right.

Ms. Brown: Melody's nodding yes. That's why we need to have this one in there.

Dr. Larson: But I think we had decided we had jurisdiction in that case, we just... the applicant didn't have standing.

Ms. Brown: But we don't know on the next one.

Mrs. Stefl: He had jurisdiction, but didn't have standing.

Dr. Larson: Right.

Ms. Brown: But, the point is, is that Melody's been told to take whatever comes and she doesn't have to grade it for completeness. So, it may or may not have jurisdiction.

Dr. Larson: I can't think of a specific example, but we have had cases where we didn't think we had jurisdiction. It's rare, but we have had them and I can't think... *inaudible, being talked over.*

Mrs. Stefl: Or it shouldn't really fall to the BZA, it should fall to another body is, I think... you're probably thinking is it in Stafford County...?

Mr. Morgan: No, no, no.

Mrs. Stefl: Oh, yeah, I think it's more...

Mr. Morgan: I'm getting that the jurisdiction doesn't fall under the code or under our code for a special exception. It would be a conditional use permit or something else.

Dr. Larson: Exactly, it might be something quite not clear.

Mrs. Stefl: Right.

Mr. Morgan: So, we obviously accept those applications and then we would bring them to the Board of Zoning Appeals and accept their money, and even though we tell them it doesn't require a special exception, they would come here and you would say we don't have jurisdiction because it's so not... *inaudible, being talked over.*

Ms. Brown: That's correct.

Mrs. Stefl: Right, right, right.

Dr. Larson: Exactly, exactly.

Mrs. Stefl: That's where we're going with that.

Mr. Morgan: See?

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Mrs. Stefl: I knew you would figure out with us.

Dr. Larson: The Board shall establish BZA jurisdiction...

Ms. Brown: How 'bout for all...

Dr. Larson: ... in all cases.

Ms. Brown: Yeah, all cases.

Mr. Morgan: I'm used to... I'm used to the Zoning Administrator establishing whether it goes to the BZA or not.

Ms. Brown: Well, and that's what happened last year. That's not true anymore. Ask Melody. She's looking at ya.

Mr. Morgan: So, establishing jurisdiction would be...

Ms. Brown: For all cases.

Dr. Larson: For all cases.

Mr. Morgan: ... definitely... it would be definitely a better point to put that at the beginning of that.

Ms. Brown: Yes.

Dr. Larson: Okay. So, and then after that, or the next thing there would then deal with the standing. The Board shall review the applicant's standing for appeals... okay, I stopped there last time. Do we need... do we need to deve... we actually examined standing for a variance this last time, although we said they had standing.

Mr. Grimes: Then you can just change for appeal.

Ms. Brown: Yeah, take appeal out.

Mr. Grimes: You can change for appeals to all cases.

Ms. Brown: Yeah.

Dr. Larson: We could do that.

Mr. Grimes: Standing for all cases.

Dr. Larson: We could do that. I'm, you know...

Ms. Brown: Then the wording's the same and uniform.

Mr. Grimes: We do it every case and some of them it's like, slam dunk, let's go.

Dr. Larson: Well, it's a slam dunk almost always.

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Mr. Grimes: Yeah.

Dr. Larson: Almost always. So...

Mrs. Stefl: And we can get rid of the rest of that, matters in determining jurisdiction.

Dr. Larson: Correct.

Mr. Grimes: Basically from or on.

Ms. Brown: Yes.

Mrs. Stefl: Right, so that both sentences, like Robert said, like you said, both sentences would be identical.

Ms. Brown: Yeah.

Dr. Larson: Right. So, right, that's right. And then up above where you just put in all cases, you can delete the word appeals. So, appeals are one of the cases. Okay, so reading, the Board shall review the applicant's standing for all cases to the Board pursuant to the Code basically.

Mrs. Stefl: No, I thought we were doing the exact same sentence? The Board shall establish standing for all cases pursuant to Virginia Code.

Dr. Larson: Okay.

Mrs. Stefl: If you... right?

Ms. Brown: Well, that's not part of Virginia Code.

Dr. Larson: Shall establish standing, yes, that makes... that... those are good words.

Ms. Brown: Does it say that in the code that we have to establish though? I don't know.

Mrs. Stefl: But we're looking to the code to see if they have standing.

Dr. Larson: Well, right. It's the applicant's standing, so you could probably just say...

Ms. Brown: Yeah, I don't know if we should put that because...

Dr. Larson: ... the Board shall establish and then go all the way to the applicant's standing. Yeah. Is that good?

Ms. Brown: Well, it's... well, I don't know how to talk about this because we have attorney-client privilege I can't talk about. But this has come up before.

Mr. Gibbons: *Microphone not on...* the standing should be determined before you set the public hearing.

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Mr. Grimes: Yeah, unfortunately the County has set up some cases that we've heard that they decided they didn't want to weigh in on the standing, they didn't want to touch it basically is what it came down to. The flag case was the perfect example, right? They didn't want to touch that. The easiest avenue for the County to deal with it was to put it in front of us and let us make that decision, right, and we ultimately ruled that they didn't have standing to present the case. It upset a lot of folks, but the County's hands were clean on it from that perspective. At least that's my opinion. Let me add that since it's on the record.

Dr. Larson: Um, the suggestion is made that we delete the last part of the sentence, pursuant to Virginia Code blah, blah, blah.

Ms. Brown: Or leave it how we had it before, but yeah.

Dr. Larson: I'm not sure how we had it before. Oh, you mean, see Virginia Code -- is that what you mean?

Ms. Brown: Yeah, I just... I don't... Here's my issue for the rest of the board. I'm not sure it's very clear in the code what exactly standing is.

Mr. Grimes: I think the code's very clear on standing.

Mrs. Stefl: Yeah, an appeal...

Ms. Brown: Well...

Mrs. Stefl: ... an appeal shall be made by any person aggrieved or by any officer, department, board, or bureau... I mean, it's saying who has standing...

Ms. Brown: Well, this is where we... *inaudible, talking over someone else...* the attorney-client privilege that I couldn't talk about. I had to go whisper in Dean's ear.

Dr. Larson: Do you, Melody... well, hold on. We've just expired here on our time. Okay, can we accept the one above? The jurisdiction one? We all agreed on that. Let's leave this one and come back to it. Next one, 7-4; staff shall present any report prepared by the Stafford County Department of Planning and Zoning. Such presentation shall be afforded 10 minutes or more as determined by the Chairman.

Mr. Gibbons: Nothing wrong with that.

Dr. Larson: That's the way we've been operating. Any ques... any complaints about that one?

Ms. Brown: Do we want it through to Chairman or by the Board?

Dr. Larson: Ah... I think that's pretty clearly a Chairman thing. The Chairman's in charge of running the meeting.

Ms. Brown: Well, usually you're very gracious and say, you know, do you mind if I give them more time. I mean, you're good about that.

Mrs. Stefl: This is just the report.

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Dr. Larson: This is the staff report.

Mrs. Stefl: This is not when the applicant speaks.

Ms. Brown: Okay. Okay, I'm sorry; I thought we were talking about the applicant. I apologize.

Mr. Gibbons: *Inaudible, microphone not on.*

Dr. Larson: I think we are. Go ahead and accept.

Mr. Gibbons: I think 7-5 is a no brainer either.

Ms. Brown: Well, that's... I guess that's the one I was just talking about. So, we don't want to have Board; we want to have Chairman. All Chairmen aren't going to be as nice as you, Dean. You're very good on your manners.

Dr. Larson: Thank you. I really think that is a running the meeting function, and that's actually I think in the code. And I don't see any problem with that. I had been on boards, by the way, that do have a vote on that kind of thing; a real quick vote. But I think that would be unnecessary. Does anybody else want to put a vote of the Board in for extending...?

Mrs. Stefl: Absolutely. Because I think, you know, sometimes I think it's the will of the Board whether the applicant should be allowed 10 more minutes, not...

Mr. Grimes: We're still talking...

Mrs. Stefl: ... one particular person.

Mr. Grimes: Aren't we still talking about that?

Mrs. Stefl: Oh, are we still back...?

Dr. Larson: We're still... we were still on the Department of Planning and Zoning.

Mrs. Stefl: Oh, I thought we already accepted all that?

Mr. Morgan: I thought we accepted 7-4? We were on 7-5.

Mrs. Stefl: I thought we were at 7-5?

Ms. Brown: Me, too.

Dr. Larson: Okay, alright. Let me read that. Each applicant or appellant, or a representative of the applicant or appellant, shall appear at the public hearing and present evidence to the Board. Okay, so that... the reason I put in delete there, and that was me, is that it's been suggested, even down here by Chris McKenzie, in that it says public hearings shall then be conducted. So, he's... Chris is assuming that the stuff before 7-6 is not part of the public hearing.

Mrs. Stefl: Correct.

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Dr. Larson: That is, the case is presented. I like that because we were talking about jurisdiction and especially standing.

Mrs. Stefl: Mm-hmm.

Dr. Larson: The appellant has to be able to speak.

Mrs. Stefl: Mm-hmm.

Dr. Larson: And... I don't know. The actual presenting of the case...

Ms. Brown: I really like it as Board.

Dr. Larson: ... of course, it could go either way.

Mrs. Stefl: The Board kind of does that. They don't open the public hearing when, like Planning Commissions and Board of Supervisors, until staff has presented their report, and then they hear from the public before. So, I think we're following similar procedures that, you know, the general public would already be vided in. So, them presenting their 10 minutes could also allow the public to give their two cents either for or against what maybe the applicant just said.

Ms. Brown: I don't know what you're saying. All I'm saying... *inaudible*... all I'm saying is I'm fine with 7-5. I just want it to say Board instead of Chairman as the last word.

Mrs. Stefl: But you're... I think what Dean is trying to say is he's debating in his head whether the applicant... it's part of the public hearing section now...

Dr. Larson: Right.

Mrs. Stefl: ... or is this kind of all that preamble type of thing.

Dr. Larson: See, in 7-5 there's a phrase, at the public hearing, where I have a comment that says, delete? That's why I wanted this discussion.

Ms. Brown: Oh, I think it should be part of the public hearing. I thought that's how you normally do it. You open the public hearing, right, or no?

Dr. Larson: No, I think the discussion should be before that.

Ms. Brown: Right. Yeah, okay, I don't care about that. Whatever you guys... is fine. My only concern is I want the Board to kind of agree going over time.

Mr. Grimes: What does the preamble that we've been using say, Dean? Because I... where is it in the order, according to the preamble, it's not our by-laws but in the preamble...

Ms. Brown: Right.

Mr. Grimes: ... we say at some point that we are opening the public hearing. And I'll be honest, I can't remember because... *inaudible, being talked over*.

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Dr. Larson: I think... I think we wait until opening the public hearing...

Mr. Grimes: After the applicant presents.

Dr. Larson: Yes. Before.

Mr. Grimes: Before.

Mrs. Stefl: Oh, I thought... oh.

Dr. Larson: We open the public hearing and then we go will the applicant or his or her representative please come forward and present their case.

Mrs. Stefl: Ooooooooohhhhh.

Dr. Larson: What we're discussing is, we open the public hearing after that.

Mr. Grimes: Right.

Mrs. Stefl: I'm all for that.

Dr. Larson: I think I am, too.

Mr. Grimes: And the rea... I mean...

Ms. Brown: I don't know, because that's part of the record and that's part of the public hearing.

Dr. Larson: Oh, it's part of the record. That's not changed.

Ms. Brown: That's part of the case. If they're going... for going to court, it's going to be...

Dr. Larson: Well, it depends on what you call public hearing.

Mr. Grimes: Yeah. I mean, everything that is conducted from the minute he strikes the gavel and starts reading the preamble is part of the record.

Ms. Brown: Right.

Mr. Grimes: The public hearing is simply the part where we can hear from the public. So, where that lands in the preamble in my mind can move up or down after they present their case, before they present their case. But if you really wanted to... if you want to throw it all into the public hearing section, then you should just open the public hearing before the County reads the first case. But, for my mind, you know, you get the County side, you get the applicant side, then you open up the public hearing because that's when we're going to start...

Mrs. Stefl: Right.

Mr. Grimes: ... hearing from the public.

Mrs. Stefl: Right, and...

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Ms. Brown: I'm fine.

Mrs. Stefl: ... there might be something that the public hears the applicant or us say that maybe they now want to speak in their remarks.

Mr. Grimes: Yeah, and then it doesn't, from a perspective of documenting and having a record of the case, it doesn't... I don't, you know, I don't think it matters that much but from a flow perspective, it might just be moving literally moving in the preamble, moving that one line down after he presents his case. Because, you know, the County presents their... the case, we ask questions of the County. The applicant presents their side, we ask questions of the applicant. Then we ask the public to speak. Well, right then is kinda like the magic line of now we're going to open the public hearing. The idea is the public is supposed to sit there and be quiet and listen until we're ready to hear from them.

Mrs. Stefl: Right.

Ms. Brown: I'm good with that.

Dr. Larson: Doug, do you have any experience with this in your other BZAs?

Mr. Morgan: Every single one is conducted exactly that way.

Dr. Larson: The public hearing... I'm sorry...

Mr. Morgan: You announce the public hearing, you announce at each, right now we're getting to open our public hearing. The Board does that, Planning Commission does that, BZAs do that. You open that time period for your public hearing, you announce that, they come up and speak...

Dr. Larson: And then you close it, right.

Mr. Morgan: ... they come up to speak and, at the beginning of the meeting you announce, and I don't know if you guys do that but, you announce each speaker has 3 minutes, if you'd like to come up after the public...

Dr. Larson: Yes, we do.

Mr. Morgan: Okay, you do all that. So, this to me, I think it's very transparent; 7-4 and 7-5 with regards to it being the Chairman. Are we still right there? And so, I think if you're going to let staff do a presentation and it's up to the Chairman to let them speak, I think that it's kinda would be the same to have the appellant to have the exact same courtesy.

Ms. Brown: Mm-hmm. So, we want to do like Dean says, take at the public hearing out, correct?

Mr. Grimes: Yeah, I agree... inaudible, microphone not on and being talked over.

Ms. Brown: I'm fine with that totally.

Dr. Larson: Yeah, let's go ahead and delete that phrase, at the public hearing there. No, actually it's not an assertion. That was a comment. Ah, yeah, you have to physically just delete the comment.

Mrs. Stefl: Yeah, because it's part of the comment.



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Dr. Larson: Right. It didn't actually do it.

Mrs. Stefl: Right, because she needs to delete and then, because...

Dr. Larson: Right.

Mrs. Stefl: ... right.

Dr. Larson: No, yeah, right, sorry. Okay, then you can delete the comment. Okay, so each applicant or appellant, a representative or... a representative of the appellant... applicant or appellant shall appear and present evidence to the Board. Such presentation shall be afforded 10 minutes or more, as determined by the Chairman. Okay, so, those are the same words as up above.

Ms. Brown: That's where I wanted the Board though, instead of the Chairman. Didn't you say that, too, Heather?

Dr. Larson: Discussion? Anybody else?

Mrs. Stefl: Yes. I was... I was for a polling of the Board, a decision of the Board, because sometimes, yeah, I think it's the will of the Board whether the applicant or appellant is allowed more time.

Ms. Brown: I agree.

Dr. Larson: Anybody else?

Mr. Grimes: I'll, as a past Chair, there's some personalities that present to us and there are some personalities on this Board and I'm going to be very blunt...

Mrs. Stefl: Yes.

Mr. Grimes: ... that do not get along and would instantly be pushing back. And I'd like to think that it's been my experience or like to hope that I was doing it when I was there, but I know Dean does it, that that emotion isn't there. It's kind of made in the moment. Was this person simply grandstanding, dragging on, do they think we have more appropriate information? And I just feel like there's some Board members that if it was that one gentleman standing up there, there'd be four people going nope, no more time, you're done. It didn't matter what he had because they just... they don't... they clash. So, that is my concern of putting it to the vote. Could it be abused by a Chair? Sure. I respect the position... *being talked over*...

Ms. Brown: I don't know that we actually vote, I just think we kind of...

Mr. Grimes: ... of wanting to do a little quick straw vote.

Ms. Brown: Yeah, that's what I'm... yeah.

Mrs. Stefl: It just it... it shows... it shows that we have rules for all and it doesn't make it seem like we're picking on one particular representative or something. It's like hey, we ask all, you know...

Mr. Gibbons: *Inaudible, microphone not on*... in the Code, the Chairman presides.

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Mrs. Stefl: Yeah.

Ms. Brown: And we want the Chairman to preside and do like he's been doing and kinda straw poll the Board, do we want to give him more time or not. Sometimes we do have, you know, some members that want to go on and on and on and on, and it gets a little off track. And maybe the Board needs to pull some of that back sometimes. I mean, I don't know but it's happened. Dean has been very good, I think, you know, during his term when it's getting, you know... you know, some members are engaging overly long, you know, we've gone past our 10 minutes and he'll say what's the will of the Board, and he'll just kind of look around. It's not an official, you know, vote, but it's kind of a will of the Board, do you want to give more time. And I think usually we always agree, but I'm not sure, you know. He's very polite about it.

Dr. Larson: I don't really... I'll go either way on this; however, there are 4 other people.

Mr. Grimes: Again, I understand the position perfectly and I'm not opposed to it. I'm just... I'm just offering that if the Chairman is supposed to run the meeting, the Chairman should run the meeting.

Dr. Larson: Well, there are lots of things that are up to the Chairman that really can't be voted on, and some of that is what Dana was saying. If somebody is going off track and...

Mr. Gibbons: You can always ask for a point of order.

Dr. Larson: You can always ask for a point of order.

Ms. Brown: That's probably more hostile though than we'd want to do.

Mr. Morgan: I have a question -- you guys do timers, correct?

Dr. Larson: Yes.

Mr. Morgan: Are there lights? Green, yellow, red?

Dr. Larson: Yes, there are lights.

Ms. Brown: Do we have that? I've never seen that.

Mrs. Stefl: Yeah.

Ms. Brown: I didn't know we used it.

Mrs. Stefl: Yeah, we use it. He ignores it.

Mr. Morgan: So, at that time when it turns red, do you say please wrap up your comments?

Mrs. Stefl: No.

Dr. Larson: Generally not.

Mrs. Stefl: Generally not, and that's why there's this contention right now.

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Mr. Morgan: Okay, gotcha.

Mr. Morgan: Just learning, I'm just trying to...

*Inaudible, several members talking over each other.*

Mr. Grimes: Quite often the presenter, and it's one person in particular, he goes I see I'm running out of time but I have more. He acknowledged that he's running out of time.

Dr. Larson: Yeah, I think...

Mrs. Stefl: Mr. Chairman, may I have some more time is what will be the common statement.

Dr. Larson: I would have no objection to having the entire Board decide that.

Mr. Morgan: It takes the heat off of you.

Dr. Larson: It does.

Mrs. Stefl: Right, and that's... that's where I was...

Dr. Larson: Because my... honestly, and you all probably know this by now... *inaudible*... my default position is to let people speak because I don't... I want to hear everything. But I'd be perfectly happy if the red light's flashing and we say if you can't wrap it up in another minute or so, we're gonna have to have the Board vote at that and we have our discussion. And I could say I'd prefer to let him speak. That probably would be what I say. But there may be other Board members that don't... that think that there's been enough, that we've heard enough, and they're taking up too much time... *inaudible, being talked over.*

Ms. Brown: Yeah, I don't want to call it a vote. I like how you do a poll; I'd like to poll the Board, that way it's not an official vote, we have to go down the line. It's just a I'd like to poll the Board.

Mr. Morgan: Then that would be an act of the Chairman.

Ms. Brown: Right. But I...

Mr. Morgan: Because if you want to do it by the Board...

Ms. Brown: But that's what I mean. But otherwise we could have a Chairman in here that wants to go on and on and on and argue and debate and...

Mr. Grimes: But I think Doug's point is, it is an act by the Chairman to poll the Board.

Mrs. Stefl: Right.

Mr. Grimes: So, you don't have to actually change the by-laws, but you almost have to have a gentleperson's agreement I think is what I wrote in my email earlier today...

Mrs. Stefl: Right.

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Mr. Grimes: ... that we, as a Board, just know that that's kind of the rule that we're going to adhere by, but you don't put it in the by-laws. The Chairman controls that.

Ms. Brown: Why would you not put it in?

Dr. Larson: Well, and another thing that a lot of times they don't even notice the lights.

Mr. Grimes: As Doug noted, it's an act of the Chair.

Dr. Larson: A lot of times I don't notice the lights so, if one of you could say, Mr. Chairman, I see the red light flashing.

Mrs. Stefl: Right. I guess, for me, I'm with Dana in the sense that I'd like to see it in the by-laws because we might have a Chairman who, in my opinion, might favor a particular representative and go oh, yeah, sure, keep talking. But another representative doesn't... they don't like and no, 10 minutes, you're done. I'm with Douglas; it takes the heat off of the Chairman if he gets a vote; hey, do you all want to allow a few more minutes, you know. Then it shows that we're being fair to all applicants and all representatives.

Mr. Morgan: Why don't we add that language?

Mrs. Stefl: Yeah.

Mr. Morgan: Determined by a poll of the Board by the Chairman.

Mrs. Stefl: Right.

Ms. Brown: That's fine.

Mrs. Stefl: Yeah.

Mr. Morgan: That makes it easy; that's kinda... *inaudible, being talked over.*

Mrs. Stefl: It takes the heat off and it doesn't... it takes it off the Chairman to possibly be playing favorites or to be possibly targeting.

Mr. Morgan: Does that read well?

Mrs. Stefl: Mm-hmm.

Dr. Larson: Where are we?

Mr. Morgan: 7-5.

Dr. Larson: Sure. What I would probably do is ask if anybody objected to a 5-minute extension.

Mrs. Stefl: Right.

Dr. Larson: And if there are no objects, then we go another 5 minutes.

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Ms. Brown: Yeah, well, that'll be up to, like you said, the Chair, but as long as we're polling the Board to continue. That's my thing.

Dr. Larson: But I do think this will help speed meetings up a little bit, too.

Ms. Brown: Yeah, I didn't even know we were using the lights. I'd never...

Dr. Larson: I'm so busy listening to the speaker that I... a lot of times I don't notice the lights. But, anyway.

Ms. Brown: Does Melody ever... I know that like...

Mr. Morgan: Can I accept the changes so you guys can read that?

Dr. Larson: Uh, okay. Okay, each applicant or appellant or representative shall appear and present evidence to the Board. Such presentation shall be afforded 10 minutes or more as determined by a poll of the Board by the Chairman.

Ms. Brown: I'm great.

Dr. Larson: Okay, let's press on. 7-6, public hearings. The comment; cautious approach should be to conduct the public hearing even if they find the application incomplete or the applicant to lack standing, then rule based on these findings after the public hearing.

Ms. Brown: Where are you reading?

Dr. Larson: This is a comment from one of Andrew's people.

Mr. Gibbons: Who?

Dr. Larson: One of Andrew's clerks in the law office, the research attorney.

Mr. Gibbons: *Inaudible, microphone not on.*

Dr. Larson: Pardon?

Mr. Gibbons: The word then.

Dr. Larson: Oh, I didn't see that. The public shall then be conducted... oh, yeah, because what she's trying to say is everything prior to that was not the public hearing. That's what we've been discussing about having the applicant present their case.

Ms. Brown: Didn't we talk about like we don't want to drag this out for the public, we want to rule we're gonna hear it or we're not gonna hear it at the beginning so we don't have the kangaroo court that we'd had before?

Dr. Larson: Well, see, I'm a little... I'm not sure I agree with this comment.

Ms. Brown: Yeah, I don't... I don't either.

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Dr. Larson: I mean, if an applicant lacks standing, then what's the reason to proceed?

Mrs. Stefl: Well, one of the... I mean, that could be a will of the Board is, okay, maybe you don't have standing, maybe you don't have jurisdiction, but we... we'll still hear this case. I mean, that is a possibility that we could do. I mean, it's highly unlikely between I know the 7 of us as we're, you know, doing that but future Boards might have a different will.

Inaudible, microphone not on.

Mrs. Stefl: That's okay, that's okay. I mean...

Mr. Grimes: I'm with you, Dean. While I appreciate the comment from our attorney, I... you know, if we don't find... if we find they don't have standing, they have a vehicle to appeal.

Ms. Brown: I agree with you.

Mr. Grimes: And go from there. I mean, we're going to sit there, we're going to hear all this evidence, and at the end we're gonna go well, thank you for presenting all this evidence but we basically believe you don't have standing so we can't rule on the case.

Ms. Brown: It seems like we kinda did that once.

Mr. Grimes: Yeah, we...

Mrs. Stefl: Well, we did...

Mr. Grimes: ... we might have.

Mrs. Stefl: ... but we had op... but we also were presented...

Ms. Brown: It didn't end well.

Mrs. Stefl: ... we were presented options to consider.

Dr. Larson: Well, see, I think moving... I think moving the appellant's presentation up before the public hearing helps mitigate some of this because we may have questions to help us determine either jurisdiction or standing -- I'm not sure if I can give an example -- but that the applicant maybe can respond to; which I think we've also done in the past anyway. I think we should delete the comment and ignore it.

Ms. Brown: I think we should delete it, too.

Mrs. Stefl: Mm-hmm.

Mr. Morgan: So, Melody's going to add the word then and delete the comment to the side?

Dr. Larson: Yes, please.

Mr. Morgan: On 7-6.

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Dr. Larson: Unless somebody objects.

Ms. Brown: Nope, I'm good.

Dr. Larson: Okay. Uh, you can... oh, we just determined that, right? Or may elect not to open the public hearing unless... right. There you go. Um, okay, (a) Each applicant or appellant or representative shall appear at the public hearing... okay, we've already covered that.

Mr. Grimes: We moved that up above the public hearing.

Mr. Gibbons: Right.

Dr. Larson: Yeah, we can do it...

Mr. Morgan: So, is she just going to delete that...?

Dr. Larson: Yes, except the, uh, except the...

Mr. Morgan: Yes, because that's been moved, correct?

Dr. Larson: ... deletion.

Ms. Brown: Yes.

Mrs. Stefl: Correct.

Dr. Larson: The Chair shall solicit comments from the public. Each speaker shall clearly state their name... of 3 minutes for each individual. This has deleted the group thing; I hadn't noticed that before.

Ms. Brown: I'd like to leave that in, because if we can save time by instead of having 10 people speak, if they could have one representative come up; save us some time.

Dr. Larson: I think an individual could certainly speak as a representative of a group, say an HOA or something, and I think that's valuable. I don't have a problem with giving them 5 minutes.

Ms. Brown: All the other Boards I think still do that. I know the School Board does. I think the Supervisors still do it?

Mr. Morgan: The Planning Commission and the Board of Supervisors do.

Ms. Brown: I'd like to leave it in.

Dr. Larson: Let's leave... does anybody object to leaving it in? Not sure where the deletion came from.

Mr. Morgan: So, Melody's taking out then and then she's going to leave in the individual and leave in the speaker group 5 minutes?

Dr. Larson: That's correct. So, she's not going to delete that, right? No, I think if you accept the change it goes... oh, okay, never mind.

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Ms. Brown: She's on top of it.

Dr. Larson: Okay. After the public comments have been received, the applicant or appellant or a representative may respond to rebuttal of no more than...

Ms. Brown: Yeah, see, that was not... it should be no more than.

Dr. Larson: I would say no more than. If it says at least, they could go for hours.

Mr. Morgan: Yeah, the reason why it's no more than is because all of our timers are set to the requirements.

Dr. Larson: Right. It's a time.

Ms. Brown: Right. Who changed that? Who changed that, do we know?

Dr. Larson: So, I don't know. McKenzie, Chris McKenzie.

Mr. Morgan: So, change that back to...

Dr. Larson: Yeah, yeah, I think...

Mr. Morgan: ... no more than 3 minutes.

Dr. Larson: Yeah, I think... does anybody disagree with that?

Ms. Brown: No.

Dr. Larson: I don't know why it reads that way.

Ms. Brown: Should we go ahead and add the same thing about the Chair, you know, more minutes by the Chair is polled by the Board? The thing we did before. Should we do that at the same time?

Dr. Larson: I think we should. If somebody that's in front of the public really has meaningful things to say and it's clear that they do, I think that they ought to... *inaudible, being talked over.*

Ms. Brown: They might be rebutting 10 things.

Mrs. Stefl: It's the representative.

Ms. Brown: Right.

Mrs. Stefl: It's the rebuttal of the representative, not the public.

Dr. Larson: Oh, the rebuttal. Okay, yes, you're right. Yes, you're right.

Ms. Brown: Yeah, but it's the rebuttal that the representative gets to do after the public comment.

Dr. Larson: I'm sorry, I was... I was one line behind.



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Mr. Morgan: Did you... what I'm hearing is, by poll of the Board by the Chairman?

Ms. Brown: The same thing we wrote before.

Dr. Larson: Yeah, poll the Board.

Ms. Brown: Three minutes or more is determined by a poll of the Board by the Chairman; same thing we did before. I think we'd have to add 3 minutes or more as determined by a poll of the Board by the Chairman.

Mrs. Stefl: Wouldn't it just be... sorry, wouldn't it be a respond with no more than 3 minutes and then period. More time may be allotted.

Mr. Morgan: Yes.

Dr. Larson: Yes.

Mrs. Stefl: So, it'd be minutes period. More time may be allotted by poll of the Board by the Chairman.

Ms. Brown: Then we should change the one above it to the same thing then, under 7-5. I was just copying the language from that to make it simple. It's the same situation.

Dr. Larson: Yeah.

Mr. Morgan: Okay. So, then Melody would go ahead...

Dr. Larson: Well, she could cut and paste that.

Mrs. Stefl: Oh, you're saying that such presentation should be afforded... you're saying copy that down to there for the rebuttal?

Ms. Brown: Yeah, I was just saying copy 7-5.

Mrs. Stefl: That it's the same language?

Ms. Brown: Yeah. But, I don't care; if you want to change it to that one just as long as both are the same. I don't care.

Mrs. Stefl: Okay.

Ms. Brown: It's more final. I kinda like yours a little better because it's harder that, you know, 3 minutes we want you to stop.

Mr. Morgan: So, what would you... what's your... what's your flavor? Minutes comma or more as determined by poll of the Board? Or period, more time may be allotted?

Ms. Brown: Period.

Dr. Larson: Yeah, the period's good.

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Mr. Morgan: Just like it is.

Ms. Brown: Just like it is.

Dr. Larson: Mm-hmm.

Mr. Morgan: Okay.

Ms. Brown: But, could we do the same on 7-5?

Dr. Larson: Yes.

Ms. Brown: After 10 minutes period...

Dr. Larson: So, such presentation shall be afforded no more than 10 minutes period, and then more time may be allotted.

Ms. Brown: Yep.

Dr. Larson: And you can cut and paste that from the other one.

Mrs. Stefl: Oh, okay.

Ms. Brown: You're a great multi-tasker.

Mrs. Stefl: Serving too many masters tonight.

Mr. Morgan: But she's doing a fine job.

Mrs. Stefl: Yeah she is.

Ms. Brown: She is.

Dr. Larson: Absolutely.

*Speaking off microphone.*

Dr. Larson: You shouldn't listen to us.

*Speaking off microphone.*

Mr. Morgan: Melody was just saying, like, in some places it says Chair, some places it says Board, some places it says BZA Board, some place... we're going to clean that all up.

Mrs. Stefl: That's fine.

Mr. Gibbons: *Inaudible, microphone not on.*

Ms. Brown: I was just thinking that, Bob, actually. I was I'm not going to suggest anything but I was thinking that.

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Mr. Morgan: Okay, does that read like you guys wanted?

Ms. Brown: Yes.

Mr. Morgan: Is that good?

Ms. Brown: Yes.

Dr. Larson: That's fine.

Mr. Morgan: Thank you, Melody.

Dr. Larson: Okay, next change other than... *inaudible*.

Mrs. Stefl: It looks like 7-12.

Ms. Brown: Ah, this one, Heather, our favorite.

Dr. Larson: Okay, what's the 7-6?

Ms. Brown: 7-9 I think.

Dr. Larson: Oh, 7-9, okay. Okay, the Board may accept additional relevant material from. Okay, this is one of the things we really like. How about when a BZA member or member of the public inputs information prior to, not during, the meeting, but doesn't make the 10-day limitation.

Ms. Brown: Well, it says may, so that gives us an out to say no. I thought we decided pretty much that we would accept extra materials from members of the public because they're not smart like an attorney and we would give them that grace.

Dr. Larson: Yep. We'll accept additional material from either side but, if it gets to be too much... I mean, there was one time that we got a couple hundred pages at the meeting.

Ms. Brown: I know, which is what spurred this.

Mr. Grimes: I think in our last working session, basically we discussed that the Chair should start being a little more tough on accepting that stuff, and that we weren't going to change any language. It was just gonna be we've got to start drawing a little bit of a line and demonstrating a little bit more force to some of the people that come and apply and do that on a regular basis, so that they start understanding that we're not going to do that.

Ms. Brown: Right, which is why I like the word may because it doesn't box us in and we can say no.

Mr. Grimes: Yeah, and I think it's been may forever. And, you know, the first few years I was on it, it was just kind of just normal habit; we just took whatever he brought and gave us. But those last few where we were getting 200 pages at a time and then that one case he brought 200 pages of...

Mrs. Stefl: Right, right.

Mr. Grimes: ... news article clips.

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Mrs. Stefl: Right. I like the may; I like the may because once you start saying shall, which is legalese meaning you must do, then we're getting into a lot more, you know, law of the land kind of thing. So, I like the Board may. Like, it gives us that flexibility like Dana said. But this is about the applicant, right? Because it's not the public, we're not tal... the applicant or applicant's representative must present this relevant material.

Mr. Grimes: Yep.

Mrs. Stefl: And they may... we may accept it. We're not talking about the public here in this particular sentence.

Dr. Larson: Yeah, I think the question was, between the 10 days and the meeting.

Mrs. Stefl: Right.

Dr. Larson: I think we can delete the comment. I think the may accept probably covers it. Any objections to that?

Mrs. Stefl: Nope.

Ms. Brown: No, but I like the gentleman's agreement like Robert was saying. We wanted the Chair to be a little more hard on...

Mr. Grimes: Yeah, I think that was all kind of part of that decorum discussion... inaudible, being talked over.

Ms. Brown: We don't want to be taken advantage of.

Mrs. Stefl: And, Robert, like I said, there's a Chairman's handbook, and like we were saying, comments and things and little notes, that can be in the Chairman's handbook versus what is actually written in the BZA...

Ms. Brown: Who decides that?

Mrs. Stefl: ... of what shall be done. That's... that's where...

Mr. Grimes: There's a handbook?

Mrs. Stefl: Well, you're little preamble and the stuff that you wrote and all that stuff.

Mr. Grimes: Say what??

Mrs. Stefl: You know, the kind of... so that's what we were talking about earlier, just to catch you up when we were saying...

*Inaudible, microphone not on.*

Ms. Brown: Can you go back up to it, Melody? Just because I'm on my screen and I can't see it; 7-9. Okay, I'm good. 7-10 actually is on my notes, Dean. I don't see any changes on here but something about if the first vote fails, it's automatically considered passed? Is that this one?

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Dr. Larson: Say that again; deferred vote what?

Ms. Brown: Okay... I had it in my notes. Hang on here. Is this the one where it's automatically...

Mr. Jenkins: If it was a tie vote?

Ms. Brown: No. Okay, down at the bottom. The application, appeal, or matter shall be considered to be denied just as if the Board voted affirmatively to deny it. That doesn't make sense, because we've always...

Dr. Larson: Oh, what that means is if somebody moves to approve an application...

Ms. Brown: Right.

Dr. Larson: ... and it fails to get 4 votes, it's denied. We don't have to take another vote to say...

Mrs. Stefl: Denied.

Dr. Larson: ... we deny you.

Mrs. Stefl: Oooooohh.

Dr. Larson: The failure of the approval is the denial.

Ms. Brown: Well, no, because sometimes we'll have another motion. If it doesn't pass the first time, somebody will make another motion; well, we might approve it this time with this.

Dr. Larson: If that... if that happens...

Ms. Brown: That's why I don't want...

Dr. Larson: If there's another motion, we'll consider that. But...

Ms. Brown: We need to have an affirmative.

Dr. Larson: ... but this says if there's... if somebody says I move to accept this variance application and that's denied, what this is saying is we don't have to vote again to deny the variance if the approval doesn't get 4 votes.

Ms. Brown: Okay, maybe I'm thinking more like on a special exception or something else, because sometimes it doesn't always pass on the first vote and, just because it doesn't pass the first time, we don't want to consider it passed because sometimes we'll... we'll have to agree a little bit more and negotiate and then we end up passing... *inaudible, being talked over.*

Mrs. Stefl: But that's what we do. We end up having a... a substitute motion. So then that's when we... like what you're saying is someone will move to pass it and then we'll have a discussion, and then we'll say well, okay, I have a substitute motion that we add this. So, we vote on that substitute motion first and then it would go to that original motion. So, if we vote to accept that sec... that, you know, deny that second motion or... we already take care of that in the sense of we work out those logistics

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before we vote. And a no denial... it's just basically saying we don't have to take a second vote of another 3-4 vote.

Ms. Brown: I think we should though so we can poll the Board and... *inaudible, several people talking at the same time.*

Mr. Grimes: Well, I think... I think, just, and with all due respect, I think you're conflating two things, Heather.

Mrs. Stefl: Okay.

Mr. Grimes: A substitute motion would be made before a vote is take.

Mrs. Stefl: Right.

Mr. Grimes: So, like, let's say I want to approve. And I say I vote to approve this motion.

Mrs. Stefl: Right.

Mr. Grimes: Or I make a motion to approve this appeal.

Mrs. Stefl: Right.

Mr. Grimes: And before we take that vote, you say I'd like to make a substitute motion to deny this appeal for all these reasons. Yours then gets voted on first.

Mrs. Stefl: Right.

Mr. Grimes: Coming back to this original issue, our Board has... rarely has this ever happened and I can't actually recall that it ever did. We have always just... somebody's always offered up another motion.

Mrs. Stefl: Right.

Mr. Grimes: So, what this is simply saying is you don't have to do that. We seem to do it kind of naturally where somebody will put it up for approval, it won't get enough votes, and then somebody'll come right back and go well, in that case, I make a motion to deny it.

Mrs. Stefl: Right. I guess we were both... I was trying to say the same thing. Yeah.

Mr. Grimes: But it's a separate motion, it's not a substitute motion by parliamentary rules.

Mrs. Stefl: Right, okay.

Mr. Grimes: And this is simply saying in the by-laws, you don't have to take the second vote.

Mrs. Stefl: Right.

Dr. Larson: I think that...

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Mrs. Stefl: I'm... yeah.

Dr. Larson: I think this is okay for appeals and variances. I can see Dana's point for a special exception. And what I would suggest is that, um, if somebody's, you know, on the fence with a special exception and they somehow didn't get something into the conditions they really thought had to be in there so they voted no, then we need to go back and say well, okay, what... what do you need.

Ms. Brown: That's all I'm asking for, yeah. I want to be able... I don't want to assume it's over because we had the first vote.

Dr. Larson: I think what she's saying is if there's... if it's down to say one or two conditions that somehow didn't get in there, and somebody says well, I'm just not gonna vote for that because I don't like the conditions, it's not like, you know, they're not voting against the applicant because they hate the applicant's whole idea of the special exception. It's just one of the conditions or something didn't quite make it. So I think this is another one of these gentleman's agreement among the Board. We just have to understand that somebody might have... be hard over on and normally this doesn't happen. Normally when somebody's really hard over on a condition, we just hammer it out until it's satisfied.

Mr. Grimes: Yeah, exactly, yeah.

Dr. Larson: Until they're satisfied and the Board's satisfied... *inaudible, being talked over.*

Mr. Grimes: I can see what Dana's talking about happening, yes.

Dr. Larson: Right.

Mr. Grimes: But, you're right, we don't typically let that go.

Dr. Larson: Right.

Ms. Brown: I just want to make sure...

Mr. Grimes: If somebody has a problem with one of those conditions, it gets pretty well hammered out.

Ms. Brown: I just want to make sure on any vote that it states who voted yes or no. I want my vote on record.

Mr. Grimes: And again, by not voting in the affirmative, you are voting against whatever that motion was.

Dr. Larson: Right.

Mr. Grimes: And that's really what that says. If you are not...

Ms. Brown: Don't we usually go down and say no, yes, no, yes, or something like that?

Mr. Grimes: But what I'm saying is if you don't... the motion is to approve, right? If you're not voting in the affirmative to approve, you are therefore then denying that.

Ms. Brown: Right.

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Dr. Larson: Right.

Mr. Grimes: So, and again, it's for variances and...

Dr. Larson: And right, for variances and appeals...

Mr. Grimes: Correct.

Dr. Larson: ... you either vote for it or against it. You may have your reasons...

Mr. Grimes: Yep.

Ms. Brown: Right.

Dr. Larson: ... and most people try to verbalize those; they may be different from somebody else's who votes the same way. But, you know, you either vote for or against...

Ms. Brown: Okay, that's fine. As long as on special exceptions so we can...

Dr. Larson: Well, we... and I think there we'll just continue to do what we do and just make the conditions work for everybody before we call for a vote.

Ms. Brown: Okay. It doesn't mention special exceptions so I'm fine, as long as it's not locked in, I'm fine.

Mrs. Stefl: And Dana, getting to your point, staff's been really good to figure out when someone votes in the affirmative and not, too. So, the record does truly reflect whether you voted for approval or denial, so it will always be in the record.

Ms. Brown: Right, but on a special exception sometimes I'm one of the ones, I'll dig in my heels, I'm not voting for that like that.

Dr. Larson: Okay.

Ms. Brown: But then I have to negotiate.

Dr. Larson: Well, let's... *inaudible*. I think we got this cleared up. If you don't mind, let's go to 7-12. The comment was in order to avoid is poll, it was suggested at a recent working session that the BZA automatically authorize the first deferral if the request is received by the County before the ad showing the case is sent out. Okay, so this is the 22-day requirement thing. If the request is received after the ad has been sent out, the request will be automatically denied. I like that.

Mrs. Stefl: Me, too.

Dr. Larson: I think that's great, especially in this era of...

Mr. Grimes: Delay?

Dr. Larson: Well, you can't talk among the Board, more than 2 Board members can't have any contact otherwise it's a meeting and all meetings have to be public and, you know, this totally avoids that. This



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is autopilot here. This says if we get a request for deferral, and most of us act this way anyway -- if it's before the 22-day requirement, okay. If it's afterwards, too late. It's in the paper, we can't defer.

Ms. Brown: I disagree, and I'll tell you why, because this has happened before on some of our cases. And the reason being, and I remember I've gotten calls from the Chair, something has come up. The applicant wants to defer after the 22 days and, during the course of that time, something has come up that we, as a Board, decided that we needed legal advice on. So, a deferral was in our best interest. Um, so I don't want to lock ourselves down to that.

Dr. Larson: I think we have a section here where we can defer at the Boards election somewhere; I don't remember the exact wording.

Ms. Brown: But if we do it, it gets into the count of how many times it can be deferred. It's to our advantage to grant a deferral sometimes for our benefit, requested by the applicant. Because doesn't the applicant only get one deferral or something like that?

Mr. Morgan: Ninety days from the actual application being submitted.

Ms. Brown: Yeah, so that would be one referral.

Mr. Morgan: So, once you guys have an application that's been deemed and it's actually accepted, they choose to defer it, they still have their 90 days for an appeal. It's still clicking.

Mrs. Stefl: Yeah, and Dana, surprise, surprise, I disagree with you. I think once it's in the paper, the public sees it, and whether we as a Board now decide we need a deferral to decide more matters or to get more opinions, I think it's in our best interest to still have the meeting and let the public know we are deferring this for more comment because people, they don't understand what's going on behind the scenes. And if they see it in the paper, they're going to be prepared to come and give their two cents, and we have to hear that in my two cents, in my opinion, and we vote to defer. I'm all for everything being out in the open, especially after it hits the paper. We can do a lot before it hits the paper, but I think once it hits the paper, we have to do it in open session.

Ms. Brown: Well, what if we need legal advice on standing?

Dr. Larson: Well, then we can continue...

Mrs. Stefl: And we state that... we state that during the meeting.

Dr. Larson: We can continue the case.

Mrs. Stefl: Yes, we can continue the case. But...

Ms. Brown: So, we're going to make everybody come and then we're gonna...

Dr. Larson: We're not making... see, they're...

Mrs. Stefl: We're not making them come. We've already said we're opening... we're having this meeting. It looks fishy when we don't have the meeting.

Ms. Brown: We've done this a lot, that's what I'm saying. We've done this a lot.

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Dr. Larson: To me, this is common courtesy to the public.

Mrs. Stefl: Right.

Dr. Larson: You tell them we're having this meeting and some people in the public get spun up and they're gonna come, and they have remarks prepared and here they come. And then they show up and that's why later on in these by-laws you'll see that the Chair can open the public meeting, get comments from the people that are here...

Mrs. Stefl: Right.

Dr. Larson: ... and leave the public meeting open...

Ms. Brown: Right.

Dr. Larson: ... for the continuance if we decide to continue.

Ms. Brown: But you just said it. The Chair can open the public meeting and we decided two pages back that we were not going to open the public hearing if they didn't have jurisdiction or standing. And if we are waiting on the attorney...

Dr. Larson: That's a different thing. If... oh, okay, I see your point now, I see your point.

Ms. Brown: Yes.

Dr. Larson: Well we have to get our attorney's...

Ms. Brown: And that's happened.

Dr. Larson: We have to get an attorney's opinion before the meeting.

Ms. Brown: Right. And that's the thing that's happened like 4 or 5 times, and I was reluctant the first time I was asked to defer it, I remember getting a call thinking well, we've already announced this, people are coming. But it was to our advantage and, since we've now changed our rules that we're not going to open public hearings unless they have standing and jurisdiction, some of our questions have been about that.

Mrs. Stefl: But in the sense it's open...

Ms. Brown: You see what I mean?

Mrs. Stefl: ... so, the public is open, the public sees what we're doing. The public is seeing that we are establishing standing, we need to seek our legal counsel, so we're doing this all open to them so it doesn't appear as if why the heck did they cancel that meeting when they advertised it, and now they're going to advertise it again, waste our money, you know, all these kinds of things. I am all for being open to the public and listen, we're gonna have to talk to the attorney to find out jurisdiction. We're gonna have to find out standing.

Ms. Brown: Yeah, those are just some examples. I'm just... we've done this before and that's why I'm...

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Dr. Larson: Personally, I think that the... I like the autopilot approach because, once again, once we announce it to the public, I think we should carry through.

Mrs. Stefl: Yes.

Dr. Larson: I think there's another thing that's sort of incumbent on the Chair when we have a situation like that. When we're discussing jurisdiction and standing and there's a real chance that the applicant may not satisfy one of those and there's a room full of people, I think the Chairman needs to say up front, okay, this is there are two parts to this.

Mrs. Stefl: Yeah.

Dr. Larson: And the first part is just technical. It's going to be jurisdiction and standing and maybe explain what that is to the public and then carry that on. And if the standing or jurisdiction fails, then you just say we're not going to make it to the second part because they failed the first part. They don't have the standing so there's no reason to proceed.

Ms. Brown: And the second time this can happen is, as Melody can say, sometimes the client is working through something and they may fix something so it doesn't end up coming to us. That's happened a couple times where they've asked for more time to correct something so we can avoid the whole thing altogether, and they have asked for a deferral and we've granted that. So, if we lock ourselves into this, we can't do that.

Mrs. Stefl: But, as someone who has sat in the audience, who sees these in my opinion maneuvers done by applicants, done by BZA members, done by Board members, I'm sorry. I think once it's advertised, we have to be open and forthright with the public and explain what is going on. Because I've seen it too many times; meetings have been advertised, I go to a meeting, at least when I first moved here to the County, and it was like what the heck happened. Oh, we decided to cancel the meeting or we decided to do something else. And it was like what the heck's going on.

Dr. Larson: Okay, I'm gonna... I'm gonna assume I forgot to write the time down when we first started talking about this, but I'm assuming it's about 10 minutes so let's just make a decision here. Dana, if your hard over on opposing that, then we already know your position. I'm gonna have to poll the rest of the Board then or maybe have a vote. Okay?

Ms. Brown: I'm hard over, yes, sorry.

Dr. Larson: Well, um, let's just take a vote. The suggestion is to, um, have the deferral process on autopilot; if they ask for a deferral before the 22-day deadline, they can get it. If they don't... if they don't make the 22-day deadline, they don't get it. And that is based on the newspaper announcement. So, the public gets the information after that.

Ms. Brown: I'm okay with part 1, it's just not part 2.

Mr. Morgan: And the reason for that is because of the staff posting, the cost that goes into that, the money that's out there. Now all of a sudden you have a hundred residents that are going to show up. That's only common courtesy to our citizens.

Dr. Larson: I agree.

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Mr. Morgan: That, to me, is really nice language that I have not seen before and I wish it was in many other by-laws.

Ms. Brown: If it's a zoning violation that doesn't have to actually come to the Board because they want another couple weeks to fix it, which we've granted in the past; is that worth it? Do we want to still haul them in front of the... as a zoning, you know...?

Mr. Morgan: They have plenty of time.

Mr. Grimes: By the time it gets to us, they've had several months to correct it.

Mrs. Stefl: Yeah, yeah.

Mr. Grimes: I mean, that would be the gas station guy is the perfect example, right. You know, oh we're gonna fix it, we're gonna fix it, we're gonna fix it. And the ultimately ended up in front of us because he just kept dragging his feet.

Dr. Larson: Okay, in the interest of moving on, I'm actually gonna ask for a vote on this. Those in favor of making this change, raise your hand (Mr. Grimes, Mr. Jenkins, Mrs. Stefl, Dr. Larson). Those opposed (Ms. Brown, Mr. Gibbons).

Ms. Brown: I don't care, I can be the lone wolf.

Mrs. Stefl: No, Bob sided with you.

Dr. Larson: Okay, so it will pass. Alright, so let's make that change then. You can delete the comment so that change is already in there.

Mr. Grimes: The change is already in there? Sorry.

Dr. Larson: Yes. I thought.

Mr. Grimes: No.

Dr. Larson: Can you un-delete what you just... or undo what you just did?

Mrs. Stefl: That was a comment.

Mr. Grimes: Yeah, it was a comment. There's no actual text to that change.

Mrs. Stefl: It was just the comment.

Dr. Larson: Well, but somebody wrote the change in.

Mr. Grimes: No, somebody wrote the comment.

Mrs. Stefl: Someone wrote a comment.

Mr. Grimes: Which was, Dean, because what's highlighted is the original text that you... *inaudible, being talked over.*

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Dr. Larson: Oh, it is?

Mrs. Stefl: Yeah.

Mr. Grimes: Yeah. So, I mean...

Dr. Larson: I like it, I like the original text.

Mr. Grimes: I would defer, just let the County rewrite it to state what you were trying to achieve with that. I mean, I don't think we have to write the text here. We know what it is. I mean, you said it right there.

Dr. Larson: That the comment... uh, never mind. Let's just press on. Just delete the comment.

Mrs. Stefl: We kind of debated both 12 and 13 sort of together. Because that was the whole after the advertisement versus before the advertisement.

Dr. Larson: Right, but the comment is still relevant.

Mrs. Stefl: Yeah, the comment is still relevant, but it's not a change.

Dr. Larson: It's a question.

Mrs. Stefl: Right, it's just the question on the side.

Dr. Larson: Or it's indented as a question. Should the BZA be able to defer a case on its own discretion?

Mrs. Stefl: And I disagree. I think after the advertisement, we do not have... we should not be... we should not allow a deferral, we should not be able to do a deferral unless it's in an open meeting and in front of the public.

Dr. Larson: Right, I mean, I think we can... we can...

Ms. Brown: That's what it says, Heather, a deferral may be granted at the meeting.

Mrs. Stefl: Yeah. Only at a meeting. Not just...

Dr. Larson: We can do it at the meeting.

Mrs. Stefl: Right.

Dr. Larson: Okay, so does anybody, other than the two that disagree with the first one, does anybody who agreed with the first one disagree with the second one?

Ms. Brown: I'm not sure. I'm confused now. But I like the comment; I like having some discretion. We get weird things all the time, and we've had to defer a lot of things.

Dr. Larson: But the discretion, again, is the same discussion, between when within the 22-day period.

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Mr. Morgan: And you're still allowed to defer it.

Dr. Larson: We're still allowed to defer it at the meeting. And the same arguments apply.

Mr. Grimes: I think if you're going to automatically reject, you have to automatically accept and we're going to have to defer at the meeting. I think they go hand in hand.

Ms. Brown: So, how does this work? They walk in and we want to defer it, everybody assembles, we do not open the public hearing, right, and we defer? So we have like a 3 minute meeting?

Dr. Larson: No, I disagree.

Mr. Grimes: I think we can defer it...

Ms. Brown: So, how does it work? I'm asking...

Mr. Grimes: We can defer it at any point in the hearing...

Ms. Brown: Right.

Mr. Grimes: ... before, after, during.

Dr. Larson: I think we could open the public hearing, hear the public's comments so they don't have to come back again.

Ms. Brown: The guy in violation has asked for a 2-week extension so, we're going to wait, according to what we just passed, they're going to come in, I understand that, we passed that. So, how does it work? They're going to come in, we're going to grant the 2-week delay at the public hearing. So, is it like that's the only case that night, so it means everybody... *inaudible*. We can't open the public hearing, right, because...

Dr. Larson: Why can't we open the public hearing?

Mr. Morgan: You have to after it's advertised... *inaudible, microphone not on and being talked over*.

Ms. Brown: Well, it could be one of those things that we're waiting on attorney stuff for standing and jurisdiction.

Dr. Larson: Well, let's face it. People come in... somebody's asking for a variance or a special exception or something like that, people come in; they know they're either opposed or in favor.

Mrs. Stefl: Mm-hmm.

Dr. Larson: They're not... they're not listening to anything. They just know...

Ms. Brown: No, I'm talking about us procedurally just for... *inaudible, being talked over*...

Dr. Larson: Procedurally, we would open the public hearing.

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Ms. Brown: ... for litigation purposes. I just want to, you know, do we want to go out there half-cocked? That's... that's all I'm saying.

Mrs. Stefl: What do you mean, half-cocked? We're going out there, we're saying we're... we're being open and honest with the public that we're opening... we're starting this meeting and want to let you know we're gonna defer so it allows...

Dr. Larson: But you're here, so we're gonna allow you to speak.

Mrs. Stefl: We're gonna allow you to speak or...

Ms. Brown: That's only if we've determined they have standing and jurisdiction.

Dr. Larson: That's true.

Ms. Brown: That's my point.

Dr. Larson: If there's no standing and jurisdiction... or jurisdiction then there's no reason to go on with the case.

Ms. Brown: Then we... yeah. So then, you know, but we have to determine that and we're waiting on advice outside... *inaudible, being talked over.*

Mrs. Stefl: You know what? I'd much rather...

Dr. Larson: But he's here...

Mrs. Stefl: ... I'd much rather waste...

Ms. Brown: Okay.

Mrs. Stefl: ... I'd much rather waste the fourth Thurs... or fourth Tuesday of the month, come in, and like you said, have a 10-minute meeting if we are open and honest with the public, when, just an opinion doing something behind the back.

Ms. Brown: We are not... okay. I accept... no, we have never been not open and honest. To imply that, Heather, is insulting. We have never hidden anything from the public or been that way.

Dr. Larson: Okay, let's not... let's not...

Mrs. Stefl: But yeah, procedurally that's what we're doing. So, yes...

Dr. Larson: Ladies, please...

Mrs. Stefl: ... procedurally we are doing that.

Dr. Larson: ... let's come back to this question. The question is should the BZA be able to defer a case on its own discretion between the time the ad is accepted and the meeting? That's basically what this is. I think the answer is no. We have the meeting once it's sent to the advertisers. This is the same discussion we just had.

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Ms. Brown: Okay, it snowed, Dean. It snowed, we can't get here. So now, according to our by-laws, we still have to have this.

Dr. Larson: I'm not sure I understand what you're saying.

Mr. Grimes: No, our by-laws address inclement weather... *inaudible, being talked over.*

Mrs. Stefl: Yeah, I was gonna say, we discussed emergencies...

Ms. Brown: That's right, and so now they're in conflict. Yes, so now are by-laws are in conflict.

Mr. Grimes: No.

Mrs. Stefl: No we're not.

Ms. Brown: It says a deferral may only be granted at the meeting.

Dr. Larson: That's not a deferral, that's pretty much a cancellation.

Mr. Grimes: That's a cancellation or reschedule of the meeting because of inclement weather.

Dr. Larson: That's an emergency or weather cancellation.

Ms. Brown: Well, if we cancel the meeting, we're still deferring the cases; we're not cancelling the cases.

Mr. Grimes: No, that's not a deferral.

Mrs. Stefl: That's not a deferral.

Mr. Grimes: They're two different things.

Ms. Brown: Alright, go ahead and vote. I say no, so I'm the only one.

Dr. Larson: Okay, those in favor of deleting the comment and leaving the existing language, raise your hand (Mr. Gibbons, Mr. Grimes, Mr. Jenkins, Mrs. Stefl, Dr. Larson). Those opposed (Ms. Brown).

Ms. Brown: Me.

Dr. Larson: Okay, so let's... we don't need to note these side votes; we're just trying to figure out what's in the by-laws and what's not. Okay. Just a comment; within 90 days of the conclusion of the public hearing, the Board shall render a decision on the case. Her... his or her, I don't really know this person, states the Board shall make its decision within 90 days of filing of the application or appeal. Okay, rather than the conclusion of the public hearing. However, there's a legal argument that this provision is not jurisdictional. As such, the BZA wishes... if the BZA wishes to maintain this provision and the related deferral positions above, it may elect to do so but should be aware this issue is... of this issue nonetheless.



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Mr. Morgan: Whoever made that comment is right on point; 15.2-23112 states the actions of the Board and how the Board shall make decisions under the Code of Virginia. And it clearly explicitly states in there, the Board shall make its decision within 90 days of filing the application.

Mr. Grimes: And that is the same thing that Andrew brought up in that meeting where we were discussing... where we got into a debate about how many days to we have to do x, y, or z. I mean, we should make it match the Code of Virginia.

Mr. Morgan: It ties our hands and it makes it very difficult for staff, but staff has to work under the provisions of the Code of Virginia as so directed. We have 90 days. We've got to get everything done and to you guys, um, and of course, I have not brought one, you know, yet. So, when I read that, I was...

Ms. Brown: I think that came from one of our recent cases last year. There was a question on if an application had been accepted or not. That's where that came from.

Mr. Grimes: I think the intake deadline is the 22<sup>nd</sup> or, what's the intake deadline to make the paper on the 22<sup>nd</sup>?

Ms. Musante: Well, the application has to be in by the fourth Tuesday.

Mr. Grimes: Okay, so it's got to be in by the fourth Tuesday of the month. We will see it the next fourth Tuesday of the month, so that's 30. If we defer, that's another, so that's 60. So we would have to make a decision at the next meeting.

Ms. Musante: Correct.

Mr. Grimes: Period. We couldn't defer another time. And I think that's why the by-laws were written that you could make a deferral and it could only happen once, because it locks us into being able to make the decision within the 90 days.

Mrs. Stefl: Does that also play into the, like, the game that could be played; like we defer 30 days, and then the applicant defers so that's another 30 days.

Mr. Grimes: The applicant could request a deferral but the Board doesn't have to approve it, and simply being, we can't approve it because there's no way we could meet the decision... *inaudible, being talked over.*

Mrs. Stefl: Right. But I'm saying, is that what it is? So, it's like 30 days we get it, then 30 days we could defer, 30 days they could in essence, so that's where the 90 come...

Mr. Grimes: We'd be in violation.

Mrs. Stefl: That's where the 90 comes in?

Mr. Grimes: I'm not sure if that's why it was written that way, but that's the reality of it.

Mrs. Stefl: Right.

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Mr. Grimes: So, basically, it's... any case that's... any appeal or case that's been brought to the Board for us to hear is basically gonna be allowed a single deferral, no matter where it comes from.

Mrs. Stefl: Right.

Mr. Grimes: There can't be two, otherwise we really can't meet the deadline...

Ms. Brown: Wow, we've deferred cases two times.

Mr. Grimes: ... without scheduling...

Dr. Larson: Okay, so, let's make the... that the words of the by-laws. So, it says within 90 days of the filing of the application or appeal.

Mrs. Stefl: Yeah, because the conclusion of a public hearing could go on.

Mr. Morgan: I apologize, I didn't bring my Code of Virginia with me, but if anybody has their phone or wants to look that up and you look up 15.2-2312, it's explicitly states right there. This is something that most boards... there's not very much ambiguity there.

Ms. Brown: Well, there was because there was... I mean, correct me if I'm wrong, Melody... I think there was an issue with one of our cases about had they actually filed when it was a telephone call, and then there was something about the dates.

Dr. Larson: It was the appeal, yeah.

Ms. Brown: Do you remember that?

Mrs. Stefl: What was it called?

Dr. Larson: It was the flag case I think.

Ms. Brown: It was one of those.

Ms. Musante: Which one was it?

Dr. Larson: The flag case, when they appealed... somebody appealed the Zoning Administrator's decision, which I think was a phone call...

Ms. Brown: Yeah, when did the clock start.

Ms. Musante: It was a voicemail.

Ms. Brown: Yeah.

Dr. Larson: A voicemail.

Ms. Brown: But that's what I'm talking about.

Dr. Larson: Okay.

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Ms. Brown: So, when did the clock start? Was it from the telephone call? Was it from the application for appeal? Was that considered the application? That's for Mr. Barnes, that's what I was trying to give him some background.

Dr. Larson: Okay, let's press on.

Ms. Brown: So, how did we resolve it?

Dr. Larson: Well, that's not relevant here, right? I mean, you can have that discussion offline.

Ms. Brown: What's the filing? That's the question.

Dr. Larson: Well, that's up to them to figure out, when it's filed.

Mr. Grimes: We're writing filing of the application. That means a piece of paper signed by somebody.

Mrs. Stefl: So, do we need...

Ms. Brown: But didn't we go with the phone call last time?

Mr. Grimes: It doesn't matter what we did in the past. We're establishing the rules now.

Dr. Larson: Does anybody have any objection to what's written in 7-15 as it stands?

Mrs. Stefl: Should we add... should we add like we did before, you know, pursuant to Code 15.2 so that, you know, 2312...

Dr. Larson: We could.

Mrs. Stefl: ... so that it's clearly stated why we put that 90 days in, not just some random number?

Dr. Larson: Certainly. We could certainly put it in there. Okay, so, pursuant to Virginia Code blah, blah, blah. Perfect. Okay, please accept those changes and delete that comment. We're making good progress tonight. Okay. Next one looks to be 9-2. In the event of a conflict between these by-laws and the provisions of the Virginia, or the State Code I assume... yeah, the State Code or the County Code, the applicable provisions of those codes shall control that. I think. It goes without saying. Or we can't override the law.

Mrs. Stefl: Mm-hmm.

Dr. Larson: Any objections to accepting that?

Ms. Brown: I'm good.

Dr. Larson: Court recorders should be given priority seating in the first row of the audience. This was something I think that came from our meeting with Andrew. I don't know...

Ms. Brown: Yeah, because we had somebody come up on the dais, remember?

Dr. Larson: Yes, yes.

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Mrs. Stefl: When did we have someone on the dais?

Ms. Brown: Do you remember the wedding venues?

Mr. Grimes: Yeah, we had a lady sitting right here in front of us, because... *inaudible, being talked over and microphone not on.*

Mrs. Stefl: She sat up here but I don't consider that the dais.

Mr. Grimes: No, it's not; this is the dais. He just put her somewhere because we really hadn't dealt with it before.

Ms. Brown: Yeah, and she didn't ask... *inaudible, being talked over.*

Dr. Larson: This says the first row.

Mr. Grimes: She did actually come up and ask.

Dr. Larson: Okay. But now we know that we'll put them in the first row. And if the first row's full then we're gonna have to ask somebody to move because that's where they need to hear.

Mrs. Stefl: I mean, do we... do we just say, I mean...

Mr. Gibbons: *Inaudible, microphone not on and being talked over.*

Dr. Larson: Say again?

Mr. Gibbons: Are you going to go back and pick up the one... *inaudible, being talked over and microphone not on.*

Dr. Larson: We're just about through it, so yes, we'll go back.

Mr. Jenkins: Is there a reason that this has to be a by-law?

Mrs. Stefl: I don't understand why it needs to be in a by-law.

Mr. Jenkins: I'm just asking a question. I mean, it just seems like...

Ms. Brown: I like it in there just because it... it took all of us. I remember walking in and Melody's like I don't know where she came from. I didn't tell her she could be there and we were all kind of nervous.

Mr. Morgan: And where was she sitting?

Ms. Brown: Right here.

Mrs. Stefl: She sat right over here.

Ms. Brown: Right in front of us, right here. But she didn't ask; she just like showed up. And Melody was like... *inaudible...* and we were all like, who is she. We didn't even know who she was.

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Dr. Larson: It's a reasonable thing. The court recorders need to be able to hear.

Ms. Brown: Right. And I agree with having that in there.

Dr. Larson: I do, too. I don't think there's any reason to take it out.

Ms. Brown: So, if it comes to be an issue, we can put her down there.

Mrs. Stefl: I just don't understand why it needs to be in the by-laws.

Mr. Grimes: We've got way more to get through and I don't care.

Ms. Brown: I'd like it in there so if somebody sets up camp again, we can ask them to move into the front row.

Dr. Larson: Anybody object to leaving it in?

Mr. Grimes: No.

Mr. Jenkins: No objection.

Dr. Larson: Okay, please accept 9-3. 9-4, BZA material that is covered by attorney-client belongs to the BZA as a whole. It will be released... only released to non-BZA or other organization after such release has been authorized. Alright, a majority vote. This is something we've all agreed to, but I think this should be in the by-laws for sure.

Ms. Brown: I like it.

Mr. Grimes: Yes.

Dr. Larson: Anybody object to 9-4?

Mr. Grimes: No.

Mr. Jenkins: No objection.

Dr. Larson: Please accept that. Okay, there's one... that's the last page. There's one way back that we didn't get through, and then there are a couple from Adela. Actually, we already just went from Adela; that was the FOIA issue. Okay, 7-3; the Board shall establish the applicant's standing for all cases to the Board pursuant to the Virginia Code. Okay, and I think where we got hung up was Dana's suggestion that we remove the pursuant to the Virginia Code part. Is that right, Dana?

Ms. Brown: Yeah, because it doesn't... in Virginia Code, it doesn't say exactly what is and what isn't standing, kinda. It's kinda grey which is why we've had to seek counsel before. That's all. I don't know. I just don't want to lock us into something.

Mr. Grimes: My perspective is that the Code's very clear. Whether or not you... the person standing in front of you, the way they're presenting the information may not be clear to you as you interpret what the Code says. But the Code's the Code, right? It is what the Code is. How we interpret it, how a

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person interprets it, that's a different animal. We've got to talk to the attorney and all that stuff. But the Code clearly states, here's the items that justify standing. Who is an aggrieved person?

Dr. Larson: Does staff have a copy of that section of the Virginia Code handy that we can hear?

Mrs. Stefl: I do.

Dr. Larson: You do? Can you read it?

Mrs. Stefl: An appeal to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the locality affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article, any ordinance adopted pursuant to this article, or any modification of zoning requirements pursuant to 15.2-2286. Notwithstanding any charter provision to the contrary, any written notice of a zoning violation or a written order of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision [may be made] final and unappealable if not appealed within 30 days. The zoning violation or written order shall include the applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal. The appeal period shall not commence until the statement is given and the zoning administrator's written order is sent by registered or certified mail to, or posted at, the last known address or usual place of abode of the property owner or its registered agent, if any. There shall be a rebuttable presumption that the property owner's last known address is that shown on the current real estate tax assessment records, or the address of a registered agent that is shown in the records...

Mr. Grimes: You don't have to go...

Mrs. Stefl: I know, I was gonna say, do I need to keep going?

Mr. Grimes: The first sentence is where you kinda needed to stop because what Andrew...

Mrs. Stefl: Sorry.

Mr. Grimes: No, that's okay... what Andrew tried to educate us on was that that's the section who has standing. It says the aggrieved party.

Mrs. Stefl: Right.

Mr. Grimes: But you have to go back to the other code section that defines what an aggrieved party is, and that's where it listed out, that's where it defines those people...

Ms. Brown: Should we add that section of code?

Mr. Grimes: ... being as part of this or this or that. But again, that would be like, well, we have to go then reference every code section that references another code section.

Ms. Brown: That's I suggested taking it out.

Dr. Larson: I think I agree with taking it out.

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Mr. Grimes: Again, it's not a hill that I care to die on so it doesn't make a difference to me.

Dr. Larson: It's certainly not clear that's an end all, be of all for standing. There's actually more jurisdictional things in there than standing. I would say taking it out would be a good idea. So just...

Mr. Morgan: So, Melody's taking out Virginia Code Section 15.2-2311(a).

Dr. Larson: And the two words pursuant to.

Mr. Morgan: Oh, gotcha.

Dr. Larson: Before that, yeah. Does anybody have any object to that?

Mr. Jenkins: No objection.

Ms. Brown: No, no objection.

Dr. Larson: Okay. Please accept... I think that was the only issue with this section. If that's not correct, speak now. Okay, so with that deletion, Melody, please accept those changes. Okay. Adela sent an email with two issues, one of which was she objected to the FOIA, there being a FOIA Officer for the BZA. I think we've already addressed those issues. Um, the other was terms. I don't know if she suggested something, but she thought that there should be term limits for BZA officers.

Ms. Brown: I agree.

Mr. Jenkins: I agree.

Dr. Larson: So, I think that that's definitely open for discussion and we would... if we did something, we would just add it to the by-laws. So, first of all, just the concept; before we talk about how many terms or whatever, the concept of term limits. We've had two people agree. Does anybody else wish to agree or disagree, and I'm open for discussion.

Mr. Grimes: Sorry, can you repeat that?

Dr. Larson: Yes. Does the BZ... do officers of... should officers of the BZA be subjected to term limits?

Mr. Grimes: Okay.

Mr. Morgan: Well, don't you have term limits in Article 2?

Ms. Brown/Mrs. Stefl: No.

Dr. Larson: No.

Mr. Morgan: That's just your members.

Mr. Jenkins: A member has term limits.

Dr. Larson: We can... right now, there's nothing said about how many terms...

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Ms. Brown: Officer term limits.

Dr. Larson: ... in an office that you can serve.

Ms. Brown: I agree with Adela. This came up last year when the Board of Supervisors had all their BACCs, um, change their by-laws to have term limits. Every board in this County, the School Board, the Supervisors, and all the BACCs have it. By law, we do not have to, but, um, it was certainly the Board of Supervisors' wish that we do. I think we should. I think it's fair and I think it change... trains us all. We talked about this before where we have two of our Chair and Chairman not being able to participate, and then we have the other five members who've never chaired a meeting before having to chair an important case. We can do it several ways. We can match the other BACCs. Um, I think how they have it is they can serve two years at a time and then they have to step down for a year, then they can serve again but they have to have a break in between. The Supervi... and that's how the School Board does it. The Supervisors is a little more tight; it's one year. But I'm okay with two.

Mr. Grimes: Has anybody else's Supervisor in their district contacted them and said you guys should have term limits?

Mrs. Stefl: No.

Ms. Brown: Yes.

Mr. Grimes: Okay, so you're the only one. So, just, as you're making your argument, please clarify that it's your Supervisor talked to you about having term limits on this Board, not everybody and not other Supervisors.

Ms. Brown: No, no. Last year the Supervisors sent a letter...

Mr. Grimes: To who?

Ms. Brown: ... to Mike Smith who sent a letter to them saying that he would take care of it with our Boards and we rejected that. And we don't have to do it.

Mr. Grimes: Where is that letter?

Mrs. Stefl: I've never been presented that letter.

Ms. Brown: I gave it to you guys at the meeting that we had before. I can get it out again.

Mr. Grimes: That would be wonderful. I'm not... I'm not... again, let's not...

Ms. Brown: I can get it out again, that's not the issue.

Dr. Larson: Let's...

Mr. Grimes: I don't necessarily oppose this, I'm just asking for the information.

Ms. Brown: Yes.



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Dr. Larson: Let's... let's set that aside and talk about the question, should the BZA have term limits? Just that question right now.

Mr. Grimes: I'm not opposed to it.

Dr. Larson: Is anybody opposed to the idea that BZA officers should have term limits? That means we're all in favor of it. So, then the question is... I think that's what that means... so the question is, okay, if the BZA is going to have term limits, what should they be? I think we heard Dana talk about two years on, one year off, something like that.

Ms. Brown: I say, if we're gonna do it, match the other BACCs; but I'm open to suggestion.

Mr. Grimes: Yeah, I just... I... and again, not opposed to your suggestion at all. I just don't think that we should rule ourselves based on what the other boards do, because we are not like them. We are completely different than them.

Mr. Morgan: They're political boards.

Mr. Grimes: In so many ways.

Mr. Morgan: Yeah.

Mr. Grimes: Thank you. That's a great way to put it; they're political boards. We are appointed by the Court system. We may get nominated by our Supervisors or suggested; that's fine, they could throw ten people in a hat. But we shouldn't... the reason that I... the same reason I rejected it at the last time was for that exact same reason. We are not like those other boards. And there are many cases that, I think there's other BZAs where they don't have term limits because their Chairman does a good job at running meetings. So they don't necessarily need to worry about it and they have a Vice Chairman that's done it enough that he's the backup. So, again, no problem by me having those terms. Doesn't make a difference to me. I'm just saying that you might get into a situation that, you know, Dean decides to retire and, you know, the last two people that have ever been Chair, Mr. Gibbons and myself, you know, we can't make it or something, then who's gonna do it?

Ms. Brown: Right, which is why I think we should be rotating the Chair so others are getting trained to do it.

Mr. Grimes: Well, I don't know that other people want to do it.

Mr. Gibbons: But you all agree on... everybody agrees on term limits.

Ms. Brown: Yes.

Dr. Larson: Right.

Mr. Jenkins: Just in case we get a rotten Chairman.

[Laughter]

Mr. Morgan: Don't you guys vote every year?

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Mrs. Stefl: We could get an iron face Chairman.

Mr. Grimes: And that's my point is that we vote every year.

Mr. Morgan: You can change it every year. I mean, you vote on your board.

Mrs. Stefl: We do. We vote on our board and my proposal would be maybe that we have one year terms and no member can serve more than two... two terms, two consecutive terms.

Ms. Brown: That's fine.

Dr. Larson: That's the way I think I heard what Dana said.

Mrs. Stefl: Right.

Dr. Larson: I'd be okay with that.

Ms. Brown: I'm in complete agreement.

Mr. Morgan: So, do you want Melody to add that in under the Article 2 members?

Dr. Larson: Yeah, we're not... *inaudible, being talked over*... yet. Well, does anybody object to BZA... okay, we already have 1-year terms. So, two consecutive terms, then at least one mandatory term off before you run again for the same office.

Mr. Grimes: Then you've got to clarify same office.

Dr. Larson: Isn't that what we're talking about?

Ms. Brown: Yeah...

Mr. Jenkins: Same position.

Ms. Brown: ... yeah, same position.

Mr. Grimes: Okay, because there's...

Dr. Larson: You could be another officer.

Mr. Grimes: ... there's quite often where it just kind of flips back and forth between Chair and Vice Chair because, to be honest, how many of you really want to do that job? Right?

Ms. Brown: We don't know, I mean...

Mr. Grimes: Well, I'm just saying.

Dr. Larson: Alright.

Ms. Brown: So, Heather... Heather said it that way probably for clarity, because it's a 1-year term with an option to renew, no more than two.

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Mr. Grimes: Well, but our by-laws... our by-laws say...

Dr. Larson: We already have that.

Mr. Grimes: ... our by-laws say we have to vote for the... those positions every year.

Dr. Larson: That's right, it's a 1-year term.

Mr. Grimes: So, it's already a 1-year term in the by-laws.

Dr. Larson: The question is, how many consecutive terms can you... can you... *inaudible, being talked over.*

Mr. Grimes: I think you set it at two.

Ms. Brown: Yeah, max at two; I'm fine with that.

Dr. Larson: So, where would we put that?

Mr. Morgan: Right under 2-1.

Ms. Brown: Under... there's a section... yeah.

Mr. Morgan: So, I suggest it be right there with members, right in the first article right after we have 5-year terms. So, it should be...

Mr. Grimes: Wouldn't it be under where we vote for...

Mrs. Stefl: Wouldn't it be under Officers? Wouldn't it be more...

Mr. Grimes: Yeah, I'm just asking. I don't know where it is.

Ms. Brown: It's in there somewhere.

Mr. Grimes: Where it talks about election of officers?

Ms. Brown: It talks about elections.

*Inaudible, several people speaking at once.*

Dr. Larson: Officers and their selection.

Mr. Grimes: So, they'll serve for one year or until the successor takes office vacancies, and then just make it 3.4? That officer position shall be limited to two consecutive years in the same position?

Mrs. Stefl: Right.

Ms. Brown: That's fine.

Mr. Grimes: And don't ask me to repeat that.

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Dr. Larson: I think that was good.

Mr. Grimes: I always say it off the top of my head the first time the way it needs to be.

Mr. Gibbons: Is that a motion?

Dr. Larson: We don't need a motion.

Ms. Brown: I'll second.

Dr. Larson: We don't need it. What we're gonna do is we're all going to agree, as we have been, on the wordings of this section. Once we all agree, except there was one section where we had a couple of dissenters.

Mr. Morgan: Melody needs help with this.

Mr. Grimes: Yeah, let me get my brain back into that mode.

Dr. Larson: So, we can still put that in but what we're gonna do is vote at the end on the whole by-laws.

Mr. Gibbons: Right.

Mrs. Stefl: Right.

Mr. Grimes: An officer shall serve no more than two consecutive terms...

Dr. Larson: In the same office.

Mr. Grimes: ... in the same office.

Mr. Jenkins: Position probably?

Mr. Gibbons: *Inaudible, microphone not on...* and then we're going to vote on all the changes as a whole.

Dr. Larson: Unless there's something that I've forgotten about.

Mr. Grimes: And then you can just wordsmith that as you like.

Dr. Larson: Does anybody know something that I have forgotten about?

Ms. Brown: Hang on, let me just double check. Oh, yeah, were we gonna add anything about the majority before we go to the outside counsel initially?

Mrs. Stefl: Huh?

Ms. Brown: When we get a new case; not like when we're in a case, but when we get a new case, if we're gonna go to the attorney or not. You know how you've been doing it?

Dr. Larson: Yes, yes, yes, yes, I know what you're talking about.

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Mrs. Stefl: Oh, you mean gathering everyone's questions and presenting it?

Ms. Brown: No, no, deciding... like Dean worded it in his last email. I looked at it today, it was from August 26<sup>th</sup>. He just said... I guess he polled the Board individually and he said we've had four members, a majority of the Board, request information from the attorney so as a majority of the Board... *inaudible, being talked over.*

Mr. Jenkins: Melody, could you scroll back up to members?

Dr. Larson: Right. So, you're wondering if we should have that in the by-laws?

Ms. Brown: Yeah, because that's... because we... we talk about this all the time and then half of us have... we forget. So, I wanted to codify it while we're in agreements at this time.

Dr. Larson: Where would it go?

Ms. Brown: Under powers of duty of the Chair or something; I don't know. We just might have passed it. Because the Chair is gonna be the one polling the board and making the contact with the attorney, if that's what the board wants to do. So I'd say it's under your...

Mr. Morgan: Okay, we're back to that 3.4. Does that look right what every... 3.4, an officer shall serve no more than two consecutive terms in the same office.

Ms. Brown: That's fine.

Dr. Larson: Yep, that's what we wanted. Um...

Mr. Jenkins: Was the comment on training not gonna be put in these by-laws?

Ms. Brown: That was for state.

Mr. Jenkins: Oh.

Dr. Larson: Okay. Dana, I'm sorry, say again? It was under the Chairman's duties?

Ms. Brown: I'm thinking we should put it under the Chairman's duties, because the Chairman's gonna be the one polling the board and interacting with the attorney. Duties of officers maybe?

Dr. Larson: Yeah, I don't have a problem with that. I think... I just want to clarify though. This is, um... so I don't want to get to the situation where the Chair has to wordsmith the wording of the email to the attorney. I think what we're talking about is just the general authorization to say, okay, we want to ask the attorney basically this... this issue.

Ms. Brown: We want to tap our attorney budget, that's basically what I'm saying. I'm not getting into the weeds, I just... whether we're going to consult with the attorney or not. Not on what or anything like that, just that... remember, we decided?

Dr. Larson: Yeah, yeah.

Ms. Brown: That's all, that's all. Very simple.

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Dr. Larson: For example, there's another example. When I wanted to have the class on FOIA, I asked the Board during the meeting or right after the meeting or something like that, what do you think of that? And we all... I think it was unanimous... we all decided that yeah, we'll do it, so we did it. So, basically it's something like, um, before the Chair...

Ms. Brown: Engages the attorney.

Dr. Larson: ... engages or tasks the attorney to poll the board?

Ms. Brown: It would be by a majority of the board, yeah. Poll the Board. That's what you did, you polled us last time.

Dr. Larson: Yeah, it happened to be... I think it was unanimous.

Ms. Brown: You had... you worded it really well.

Dr. Larson: Well, I can't remember what I said.

Ms. Brown: Well, it was in your... I looked back for an example...

Mr. Grimes: The question is should that be in the by-laws?

Dr. Larson: Well, that's the question. Should it be in the by-laws and, if so, what's the wording?

Mr. Grimes: A, the answer yes, it should be in the by-laws, because that is a procedure for this board. And I think something very simple as, you know, before the board... Melody, write this down...

Ms. Musante: Oh, Lord.

Mr. Grimes: Before the board seeks an opinion from their attorney, the Chairman shall poll the board for approval.

Dr. Larson: And that's actually all we need, because we already know an approval is on board.

Ms. Brown: Do we need to say with a majority? I don't know.

Dr. Larson: No.

Ms. Brown: That's what you said in your email. You had it very nicely written.

Mr. Grimes: A vote of approval is majority.

Ms. Brown: A majority... yes.

Mr. Grimes: So, that word, majority approval, again, doesn't matter.

Mr. Gibbons: I like it.

Dr. Larson: So do I.

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Ms. Brown: I do, too.

Dr. Larson: That's pretty much the way... *inaudible, several people speaking at once.*

Mr. Morgan: *Inaudible, several people speaking at once...* to go under the President... or the Chairman shall?

Dr. Larson: The Chairman shall poll...

Mr. Morgan: Do you want that like under C or wherever?

Dr. Larson: The Chairman shall poll the BZA prior to tasking the research attorney period. I guess, right? Is that basically what you said?

Ms. Brown: Well, some... *inaudible...* the majority.

Mr. Grimes: It works.

Ms. Brown: You said, before you engage or seek counsel, you said... *inaudible, several people speaking at once.*

Dr. Larson: Well, it says the Chairman shall, and then you have to fill in...

Ms. Brown: You have it good.

Mr. Grimes: But it doesn't matter. It results in the same thing.

Ms. Brown: Yeah, before the... Robert said it really good.

Dr. Larson: Well, put it in.

Mr. Grimes: Engaging.

Ms. Brown: I like engaging, too.

Mr. Jenkins: And the only reason we're doing that is because we have a finite budget?

Dr. Larson: That's... well...

Ms. Brown: That's correct.

Dr. Larson: ... that's one of the reasons. The other reason is, you know, you don't want to waste a... well, that is the reason.

Mr. Grimes: It keeps the Chair and the Vice Chair in check, too, from just kind of like going well I'm just gonna go get an opinion from the attorney. And it also prevents just a member in general from calling the attorney on their own because they know, oh, I'm a member of the BZA so I need your opinion on. And the Chairman does have to monitor the funds. They are limited, although the County's been very good at replenishing that fund for us.

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Dr. Larson: So, the bullet you just entered, I think you can delete the first three words, the Chairman shall, because that's under the Chairman shall in the first line. So, poll the BZA prior to seeking -- seeking, s-e-e -- opinion from the research attorney. Any objections to that?

Ms. Brown: How about counsel? Because somebody might say well, it was an opinion, I just wanted to know what the law said.

Dr. Larson: I'm sorry, what is it you want to change?

Ms. Brown: Seeking counsel...

Mr. Jenkins: Seeking counsel...

Ms. Brown: Yeah, any engagement of the attorney, not for an opinion but just any engagement of the attorney.

Dr. Larson: Oh, okay. Um, seeking advice?

Ms. Brown: Yeah, counsel or engagement, whatever you want to say. Robert said it good, too.

Dr. Larson: What did you want to put in there, Robert? Engagement is what you said?

Mr. Grimes: No, I simply said the before engaging the research attorney. That could cover anything from opinions to counsel to whatever.

Mr. Jenkins: Yeah, get rid of seeking.

Dr. Larson: But, okay, up above it, it says the Chairman shall... so you got that part.

Mr. Grimes: Yes.

Dr. Larson: You start with that...

Ms. Brown: Prior to engaging...

Mr. Grimes: Poll the BZA prior to engaging the research attorney.

Dr. Larson: Okay.

Ms. Brown: Perfect.

Mr. Grimes: Prior to engaging the research attorney.

Mr. Gibbons: So, we're alright with that message in?

Dr. Larson: I am.

Ms. Brown: I am.

Mrs. Stefl: I am.



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Dr. Larson: Anybody have objections?

Mr. Grimes: None.

Dr. Larson: Okay, Melody, please accept the latest change.

Mr. Gibbons: Okay, now I make a motion to approve... *inaudible, microphone not on.*

Dr. Larson: Is there a second...

Ms. Brown: Second.

Dr. Larson: ... to the motion? A motion has been made and seconded to approve the by-laws as we have just constructed this evening. All those in favor say aye.

Ms. Brown: Aye.

Mr. Gibbons: Aye.

Mr. Grimes: Aye.

Mr. Jenkins: Aye.

Mrs. Stefl: Aye.

Dr. Larson: Aye. Any opposed? Perfect.

Ms. Brown: Did we just get this done?

Mrs. Stefl: We did.

Dr. Larson: We got it done.

Ms. Brown: Good job Board.

Dr. Larson: Wow. Okay...

Mr. Grimes: After two and a half hours, I congratulate you all for doing all the heavy lifting before I got here.

Dr. Larson: Before we leave, um, some of you may have noticed that I don't send emails to the board very much. And I think some of you have forgotten why I don't do that. So let me just remind you. And if I'm mistaken, you can correct me. The way I understood what we learned in our FOIA class, one of the things we learned was that, and I think we knew this before, anything more than three... anything more than two members of the BZA, any grouping of more than two members of the BZA, is considered a meeting. Okay? And all meetings of the BZA must be public with certain exceptions that are very highly controlled. We did one of those when we went into the attorney-client privilege meeting, but there's a lot of rig-a-marole you have to do to get that done. So, then there was this, well, is an email a meeting? And I'm going to submit this for you to think about. I think it is, because I think when you get together with anybody, what do you do? You have a discussion. If you're discussing verbally,

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clearly that's a discussion. If you're discussing via email, I think that's also a discussion. If you have a discussion with more than two BZA members, you're having a meeting. If it's on the email, it clearly can't be public. So, I'm recommending what the attorneys I think recommended to us; to be safe, don't email the whole BZA.

Ms. Brown: I thought the lady attorney that did our public session said it couldn't be a live meeting. Like if you were doing an email, and you were emailing back and forth in live time...

Dr. Larson: Melody's getting those minutes printed up, so we'll know, we'll know. I thought that somebody actually asked the email question, but I could be wrong.

Mr. Grimes: Yeah, I kinda remember the way Dana said it, because she basically was saying only if it was happening in real time.

Ms. Brown: Yeah.

Dr. Larson: So, it isn't email...

Mr. Grimes: No, because it has to go then it has to come back. If it was a chat room, that would be real time.

Dr. Larson: Okay, alright.

Mr. Grimes: So, I kinda got that impression, but I still like the idea of just make the phone call, pick up the phone.

Dr. Larson: Well, let's see what the minutes say and maybe... maybe... maybe... anyway, that's why I haven't been sending email to the BZA and I've been... you may or may not have known it, but a lot of the stuff Melody sends out I ask her to send out because she can and I have interpreted that I can't. I may be wrong.

Ms. Brown: Well, that's why I send it to you and copy the others.

Mr. Gibbons: Whatever you feel comfortable with.

Dr. Larson: Right now, that's what I'm gonna continue to do. But once I read the minutes, I might change my mind then.

Ms. Brown: Okay.

Mr. Grimes: I think you're right. I think Bob is right. It's what makes you comfortable and discretion? Having Melody send something out to everybody is the best avenue. Her email is recorded, logged, it's County email...

Dr. Larson: And she can do that.

Mr. Grimes: Yeah.

Ms. Brown: Can I just say something, just real quick? On the two is a meeting? Well, she did also talk about because there's lots of times when BZA meetings... members are together when there's more than

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two of us, and she said it's not considered a meeting as long as we don't discuss business. So, there could be three or four of us at another meeting and it's okay as long as we're not discussing BZA business.

Dr. Larson: Yeah, I think I was standing nearby and I actually heard the same thing so. I agree.

Ms. Brown: Yeah, because, you know, some of us go to Committee meetings.

Dr. Larson: So, that may not be in the minutes but she did say that.

Mr. Gibbons: I make a motion for adjournment.

Mrs. Stefl: Um, I just want a motion of personal privilege. I want to apologize, Dana, if my remarks were seeming personal to you. I was not trying to say you were not saying, I just wanted for the record for me to be stating that I was trying to say I wanted things open. I'm sorry if came across as a personal attack. That was never my intention.

Ms. Brown: No, I just didn't want the minutes to reflect that the Board had been acting improperly in the past, that's all.

Mrs. Stefl: Okay, alright, thank you.

Dr. Larson: Okay, there's a motion to adjourn.

Mr. Grimes: Second.

Dr. Larson: All those in favor say aye. Okay, we're dismissed.

**ADJOURNMENT**

With no further business to discuss, the meeting adjourned at 9:32 p.m.