



BOARD OF ZONING APPEALS

**Business Meeting: Tuesday, December 19, 2023, 7:00pm
Council Chamber, Town Hall, 25 West Market Street,
Leesburg, VA 20176**

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Board Members

Peter Vanderloo, Chair
Susan Moffett, Vice Chair
Gregory Gutierrez
Martha Mason Semmes
Thomas Marshall

Support Staff

Michael Watkins, Zoning Administrator
Ashleigh Goedeke, Zoning Analyst
Carmen Babonneau, Zoning Inspector
Shelby Miller, Planner-Zoning Administration

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- I. Call to Order and Roll Call
 - II. Determination of Quorum
 - III. Approval of Meeting Minutes:
 - a. September 19, 2023 Meeting Minutes
 - IV. Zoning Ordinance Rewrite Presentation-Betsy Arnett
 - V. Unfinished Business
 - VI. New Business
 - VII. Adjournment

NEXT SCHEDULED BUSINESS MEETING: January 16, 2024*

* The BZA holds regular business meetings in January and September of each year. Other meetings of the Board are held on an as needed basis.

Assisted Listening System devices are available at this meeting. If you require any type of reasonable accommodation to attend and/or participate in this meeting, please contact Ashleigh Goedeke at agoedeke@leesburgva.gov or 703-737-2395. Three days advance notice is requested.



MINUTES OF THE BOARD OF ZONING APPEALS
Tuesday, September 19, 2023
25 West Market Street
Council Chamber

MEMBERS PRESENT: Chairman Peter Vanderloo, Vice Chair Susan Moffett, Gregory Gutierrez, and Tom Marshall

MEMBERS ABSENT: Martha Mason Semmes

STAFF: Senior Management Analyst Betsy Arnett, Assistant Zoning Administrator Evan Harlow, Preservation Specialist Deborah Parry, and Zoning Analyst Ashleigh Goedeke

Call to Order and Roll Call

Chairman Vanderloo called the meeting to order at 7:01pm. Attendance was noted by roll call and a quorum of four voting members was deemed present.

Chairman Vanderloo acknowledged Mr. Marshall as a new member of the Board.

Mr. Marshall stated he is grateful for the opportunity to serve and is interested in continuing his appointment beyond the current expiration date of December 31, 2023.

Approval of Meeting Minutes

a. January 17, 2023, Board of Zoning Appeals Meeting

On a motion by Vice Chair Moffett, seconded by Mr. Gutierrez, the minutes of January 17, 2023 were approved by a 4-0-1-1 vote (Marshall abstained and Mason Semmes absent).

BZA Disclosures

None

Public Hearings

None

Zoning Ordinance Rewrite Presentation

Ms. Arnett provided a comprehensive overview of the Zoning Ordinance rewrite process, commenting on the important role that stakeholders, including the BZA, will play in the project. Further, she discussed the timeline for this rewrite, noting the tentative goal of having an adopted Zoning Ordinance by the end of fiscal year 2025.

Members of the Board asked questions regarding outreach and coordination efforts and commented on the magnitude of this undertaking. It was noted that the Board is very interested in being engaged throughout the review process.

Unfinished Business

None

New Business

None

Adjournment

On a motion by Mr. Gutierrez, seconded by Vice Chair Moffett, the meeting was adjourned at 7:24pm by a 4-0-1 vote (Mason Semmes absent).

BZA Minutes – September 19, 2023

Peter Vanderloo, Chairman

Deborah Parry, Preservation Specialist

September 19, 2023 Board of Zoning Appeals Meeting

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Chairman Vanderloo: I'm going to call to order the town of Leesburg Board of Zoning Appeals meeting for September 19th. Debi, would you please take the role?

Ms. Parry: Chair Vanderloo?

Chairman Vanderloo: Present.

Ms. Parry: Vice-chair Moffett?

Vice Chair Moffett: Present.

Ms. Parry: Mr. Gutierrez?

Mr. Gutierrez: Present.

Ms. Parry: Mr. Marshall?

Mr. Marshall: Present.

Ms. Parry: Ms. Mason Semmes is absent.

Chairman Vanderloo: We have four members present. We have a quorum. We can proceed with business. I would like just to take a moment to welcome Mr. Marshall. This is his first meeting on the Board of Zoning Appeals. Welcome and thank you in advance for your service on the Board. Any comments?

Mr. Marshall: Thank you.

Ms. Parry: There you go. You're live.

Mr. Marshall: Oh, thank you. Thank you, Mr. Chairman. Good evening to you, sir, and to the other board members. I'm very anxious to be a member of the board that has such an important role it plays as far as making or continue to make our Leesburg such a great Town for raising children and developing a strong sense of commitment in our community. I come with little expertise, but I'm confident with the assistance of staff, I will make the grade as we move forward in the interest of what is best for the Town of Leesburg and its citizens.

In preparation for these meetings, I noticed that my term only lasts until the end of the year on December 31st. My question is, how can I extend my appointment beyond the unexpired term of my predecessor Mr. Carter? I'm going to throw my hand and my hat in the ring. I had originally thought I would use my private email, but I now suspect it would be better to set up the @leesburg.gov for protection vis-a-vis cybersecurity.

Prior to any future meetings, I will try to meet with the appropriate IT staff. I'm not technically too savvy with the internet, but I did master those kinds of requirements

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while serving on the Loudoun County School Board representing the Leesburg district for a total of nine years. Not all being consecutive, however, 2008 to 2013, 2016 to 2019, and 2022. I would also like to meet Mr. Watkins and others that would help me in orientation of my responsibilities. I will be going out of town to Dallas, Texas for a conference from September 26th to October 2nd, 2023. I have no other planned absences. Thank you, Mr. Chairman.

Chairman Vanderloo: Wonderful and welcome again. Thank you for those comments. We appreciate it. Thank you for your past service and continuing service. I think the next item on our agenda is the approval of the meeting minutes of January 17th, 2023. Has everyone received a copy of the meeting minutes?

Board Members: Yes.

Chairman Mr. Vanderloo: Does anybody have any comments to the meeting minutes?

Mr. Marshall: Mr. Chairman, I would have to abstain from voting on the meeting minutes.

Chairman Vanderloo: Very well. If there are no comments, I would entertain a motion to approve the January 17th, 2023 meeting minutes as prepared.

Vice Chair Moffett: I move to approve the January 2023 minutes as written.

Chairman Vanderloo: Thank you. Is there--

Mr. Gutierrez: I'll second the motion.

Chairman Vanderloo: Wonderful. All in favor?

Board Members: Aye.

Chairman Vanderloo: Any opposed? The meeting's passed 3:20. The next item on the agenda is the Zoning Ordinance Rewrite presentation by Ms. Betsy Arnett. Welcome and thank you for coming tonight to the Board of Zoning Appeals.

Ms. Arnett: Thank you and good evening. For those of you who have not met me before, my name is Betsy Arnett. I'm the Senior Management Analyst in the Town Manager's office, and I'm the project manager for the Zoning Ordinance Rewrite. I've been with the Town for 21 years. I've held a variety of positions, but I am not the subject matter expert for this project. I'm the logistical person. I make sure that everything stays on track.

This is just an overview for you of the project as it is progressing. As you all know, in March of last year, the Council adopted a new Town Plan, the Legacy Leesburg Town Plan. That includes both the Town Plan as well as the transportation improvement plan. Two pieces of that. That's the vision, that's our hopes and dreams for the Town. The Zoning Ordinance is how we get there. The Zoning Ordinance is

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the rules and regulations. What we need to do now that we have a new Town Plan is we need to bring our Zoning Ordinance in alignment with the vision in the Town Plan. This is the implementation tool for achieving the vision of the Town Plan. The last time our Zoning Ordinance was majorly updated was 20 years ago. It's time to do this. [clears throat] We have contracted with Kendig Keast Collaborative as consultants on this project. They will be doing the writing of the new ordinance, and this is our project team, Brett Keys, Brian Mabry, Marsha Boyle, and Steve Sizemore.

They each bring a different set of expertise to the table as we are focusing on this rewrite. Just to be clear, this is a comprehensive rewrite of the Zoning Ordinance. We're looking at everything. They've also contracted with a number of sub-consultants to look at specific topics such as the legal things, the very specific legal issues here in Virginia as well as engineering and subdivision-related provisions and general urban design work and the Crescent District. [clears throat]

What all is going to go into this Zoning Ordinance rewrite? Obviously, we have the Town Plan, we're starting with that, there is an update of the Crescent District Master Plan underway, we are also working on developing capital intensity factors. A capital intensity factor is a dollar figure per household or per employee or per capita depending upon what we're talking about, of the cost to the Town to provide the capital facilities that we need to provide in order to support that household, whether that's road lane miles or square footage of park, of recreation center, acreages of park, square footage of town facilities.

As I'm sure you're aware, as part of the zoning process, we cannot, in Virginia with rare exceptions, cannot charge impact fees. Our only avenue for getting developer contributions to help defray the cost of capital facilities is through a rezoning process where we accept proffers. The capital intensity factors will be used as a basis for proffer negotiation, a starting point. This is what it costs us. You're adding 400 homes, 400 new households to the Town. Here's what that comes out to be. Again, it's still all very negotiated. Nothing's written in. It's not a regulation. It's not hard and fast.

The first deliverable for the Zoning Ordinance rewrite will be a code audit that will be conducted by our consultants and so it is a third-party analysis of our existing ordinance and what's working and what isn't working. It's not staff looking at that. This is a third-party, folks who do zoning ordinances across the country, so they've got a lot of experience.

[clears throat] Some of the things that we're looking to accomplish with the rewrite, we want to modernize the document, improve the document structure so that it is more user-friendly, and have a streamlined process for land development as much as we can do within the restrictions of our legal process.

This is our current zoning map. We will be looking at all of the zoning districts, all of the overlay districts, our use standards, our building and lot standards, we'll be updating our definitions, and looking at the review process. How can we simplify

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that? How can we streamline it? Are there things that we can make administratively approved as opposed to having to go through a legislative process?

Some additional goals. Right now, the ordinance is a standalone ordinance. We want to codify it as part of the Town Code. We also are looking to bring more consistency with the Design and Construction Standards manual as well as the Subdivision and Land Development regulations. We are getting ready to kick off a complete rewrite of those two documents as well and so by doing all three of them at the same time, we're going to be able to provide a lot of consistency across the board so that the definition in one document means exactly the same thing in the other, and there's no confusion.

Then one of the things we're very excited about is to launch an online interactive document platform, and here's this sneak peek at what that's going to look like. Oops, sorry. It's called Encode Plus. It's called Encode Plus. When you go to the document, so you'll be able to-- right now, the Zoning Ordinance is a series of separate PDFs, and so you have to go from one PDF to the next, and this will be all linked. It will also be linked to the DCSM, to the Town Plan, and to the SLDR.

You can link, you can click on this. If there are definitions, you can hover over it and a popup will come up and tell you what the definition is. There will be a mapping feature that you can type in your address and click on your parcel, and you'll know everything, and you'll have links to everything that is related to it in the Zoning Ordinance. We're very excited about that.

In addition, once we have draft text of the new ordinance, so right now this is our existing ordinance that is in the platform now, and it will be archived for reference. Once the new ordinance is put in here, people will be able to go in while it's still in draft form, review it, and comment. Staff will be able to consolidate all those comments and relay those comments to the consultants so that we are addressing people's concerns and issues as we go through the approval process.

The project timeline. We kicked it off in June. Right now, what's happening is we've had a series of focus group meetings. The consultants were here to make a presentation to the BAR and to the Planning Commission. As I said, one of the first deliverables is the code audit. Another early deliverable is an annotated outline of the proposed new ordinance. That provides a crosswalk from all the chapters in the existing ordinance to where they'll reside in the new ordinance, what new sections they're proposing, what maybe they're proposing to get rid of or consolidate. We're expecting to get that this week.

Then on October 19th, the consultants will be here to present both the code audit and that annotated outline to a joint work session of the Planning Commission and the Town Council. Then once that's been accepted, then the consultants will go into the actual drafting of the ordinance. They'll be sending it to us in chunks so that we can review it in chunks so we can share it with the boards and commissions in chunks and the Council and the members of the public and our focus groups and

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everybody gets a chance to look at it and provide their feedback. That's going to take a year.

Then we will go into the public hearing process. There'll be a 60-day public comment period once the entire ordinance is available on the online platform, and then there'll be a public hearing before the Planning Commission, a series of work sessions with the Planning Commission to hammer out all the details. Once they have approved it, made a recommendation to the Town Council, then we'll go through that same process with the Town Council with the goal being before the end of fiscal year '25 we'll have a new Zoning Ordinance. We're hoping to get that done by May of '25.

A little bit more detail on the project schedule. The first block, the summer is over. Those are the things that we accomplished. fall of '23, that's where we are now. As I said, the code audit and the annotated outline will be presented to the Planning Commission and the Council in October. We'll hold another round of focus group meetings for them to weigh in on this. Then in the winter, we'll get the first half of the draft. We will hold an open house, a public meeting to invite folks in to come review and talk and give us their feedback. We'll repeat that in the summer with the second half of the draft.

Then in the fall, we'll start the public hearing process with the anticipation that before the end of fiscal year '25, we will have a new Zoning Ordinance adopted. That concludes my presentation.

Chairman Vanderloo: Wonderful. Thank you for coming and presenting that to us. As you know, many people who aren't familiar with the Board of Zoning appeals don't know, our primary job is to interpret the Zoning Ordinance, and I often tell people, it's a very technical job we have up here. We have to pull the Zoning Ordinance open. We have to look at the right sections, we have to cross-reference them. We have to redo definitions, and we have to basically puzzle through what an answer is in large part based on what's in the Zoning Ordinance. I'm excited for this process and I appreciate the opportunity to hear, generally, what it is.

I would like to comment if it's possible to consider having a member of the Board of Zoning Appeals, on one or more of the focus sessions because again, as a statutory Board, it is a substantial part of what we do. There is some expertise, I know you've had 30-plus years on the Board, I've been almost 20 years. We've been around a few years and we're familiar with some of the things that have come up.

Ms. Arnett: I would imagine that we will not include just one member of the BZA, but all of you in the process of reviewing the proposed ordinance and getting your feedback.

Chairman Vanderloo: Wonderful. Thank you for that, I think we'd be very happy to. If I could just give some unsolicited comments, one of the first things I would note is, please, please, please, make the definitions as robust as possible. Including default definitions. If it doesn't say anything else, the default is this.

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I think the other thing would be as well, it sounds like we have some very strong consultants working on this. I urge them to get into some of the plats in the Town and look at how we do things, not only in the old Zoning Ordinances or what the laws may be in Virginia, but what does the plat look like? If you come in front of a Board, "This is my house, here's my street," does it say, front yard, rear yard, side yard?

We have a very historic town that's been around for hundreds of years, and as you know, things have evolved. What might have once been a front is now a side, and again, to really try to make it specific to the conditions that we have here in Leesburg. Which are a mix from we've got some suburban and industrial and commercial, but also historic. That provides us some very interesting challenges.

Vice Chair Moffett: We have two front yards. [laughter]

Chairman Vanderloo: Exactly right, and then just my last question. I'd have to have the Board pose questions as well, I'm not monopolizing the time. It sounds like this will be taking the current ordinance and improving upon it. Can you confirm that we're not going to throw the old ordinance out, we're going to start from the old ordinance.

Ms. Arnett: Right. We're not throwing the baby out with the bath water, certainly. They'll be going through and looking, and deciding what's working in the ordinance, but that's a big part of the code audit, what is working, that we don't want to mess up, and then what isn't working and what needs to be improved upon.

Chairman Vanderloo: Thank you for entertaining me. I'd love to open it for the Board, any questions?

Mr. Gutierrez: I do have a question. Is it permissible to include the Board of BZA members and email distributions for the presentations, the documents, a preliminary for review as well?

Ms. Arnett: Absolutely, we will include you. We do have a web page set up that is www.leesburgva.gov/zoningordinancerewrite, all together. You can sign up, and members of the public as well, can sign up to get regular updates, email updates. We will be posting. We had a calendar on there. This meeting is on that page, the October 19th work session. Then after the work session, we'll be posting that code audit, and the annotated outline on that page for the members of the public. We will absolutely make sure that you are included in any email that goes out to say, "Hey, we've received this, we'd love your feedback."

Mr. Gutierrez: Then one other follow-up question. On the presentations that the consultants will be making to the Town, will they be broadcast or archived on the website for viewing? Are they closed to the public or are they open to the public?

Ms. Arnett: They'll absolutely be open to the public, it's a public meeting. The joint work session is actually going to take place at Ida Lee, just for space reasons. It won't be broadcast; we are talking about recording it though. Recording the presentation but then the actual PowerPoint will be posted on the web page.

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Mr. Gutierrez: Is there a possibility of a transcript if you don't record it?

Ms. Arnett: We can certainly look into that.

Mr. Gutierrez: I have no further questions.

Chairman Vanderloo: Great questions, thank you. Questions from you, sir?

Mr. Marshall: No, sir.

Chairman Vanderloo: I did have one maybe technical process question, which you mention the code will be written in chunks. Is that the chunks that are intended to be released for public comment or will it be released for public comment once the entire segment is substantially completed.

Ms. Arnett: It will be available to the public in chunks as it goes up into the Encode Plus. Actually, now that I say that out loud, I'm wondering if we are going to, because we'll be getting it in chunks and then we'll be sending it out and sharing it with boards and commissions, with you, with the Planning Commission, the BAR, the Council, and sharing it with our focus groups as well. I'm not sure. I don't know. That's a good question. I don't know if we'll be putting it on Encode Plus at that point or if we're going to wait until we really have more of a final draft before it goes into Encode Plus for people to comment there. That's a good question. I don't [crosstalk].

Chairman Vanderloo: Thank you for talking that through with me because on one hand, it's great to see what the proposed Zoning Ordinance is going to look like. On the other hand, it often is, you pick up a section. Now I now need to look at this, well, it's not ready yet, so I can't quite finish my review. If there was maybe a way to do both, it's like, would you like cake or pie? Yes, please. [laughter] That's just my view of life. Just one final call for questions, comments, thoughts?

Mr. Marshall: Just one thought.

Chairman Vanderloo: Yes, sir.

Mr. Marshall: Ms. Arnett, I'm just curious when you say it's going to be open to the public at some point, what specific public do you think is most interested in what we have to say here?

Ms. Arnett: That's a really good question. We actually had a communications team meeting this morning to talk about the communications plan for this whole process. Because the average homeowner really doesn't have a lot of interaction with the Zoning Ordinance unless they want to build an addition or put in a pool or unless they live in the historic district. That's a whole other issue.

Our focus groups are really focused on businesses and developers and downtown property owners, people who are developing property, who really do have to deal with the Zoning Ordinance. Can I build what I want to build? Can I have this business where I want to have it? Those are the people that we're focused on. Of course, we

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want to include everyone. We don't want to ignore homeowners simply because the vast majority of them aren't really going to have to deal with the Zoning Ordinance very often.

They also have to deal with it for home-based businesses. That's probably the two things. Home improvement projects and home-based businesses are the two reasons that your typical homeowner would have to deal with the Zoning Ordinance. A lot of our communication plans are going to be education. What is zoning? How does it affect you? That thing. We have a plan under development to get that information out there in digestible chunks for the public.

Mr. Marshall: Thank you.

Chairman Vanderloo: Excellent. Ms. Arnett, thank you very much for coming tonight. Thank you very much for your presentation.

Ms. Arnett: Thank you.

Chairman Vanderloo: Yes, we're commenting, it's a big job.

Vice Chair Moffett: Big job.

Chairman Vanderloo: Yes. We're impressed. I do not believe the Board has any unfinished business. If so, feel free to speak up if anybody's aware of any. Not hearing any. We'll move to new business. Is there any new business for the Board tonight? Not hearing any new business. I believe we are ready to adjourn if there's a motion to adjourn.

Mr. Gutierrez: I motion to adjourn tonight's meeting.

Vice Chair Moffett: I'll second.

Chairman Vanderloo: All in favor to adjourn?

Board Members: Aye.

Chairman Vanderloo: All right. The Board stands adjourned. Thank you all for your time tonight. Appreciate it.

The meeting was adjourned at 7:24pm.