



BZA REPORT

Warrenton Board of Zoning Appeals

Larry Kovalik, Chair
Malea Maybach
Geoff Fiutak
Susan Helander
A Van Baggett

BZA Meeting Date:	September 3 rd , 2024.
Agenda Title:	Board of Zoning Appeals Legal Representation Discussion
Requested Action:	Consider the proposal and determine next steps
Department / Agency Lead:	Board of Zoning Appeals
Staff Lead:	Chair, Larry Kovalik

EXECUTIVE SUMMARY

The Warrenton Board of Zoning appeals has requested funding from the Warrenton Town Council for legal representation. A resolution granting that request was passed at the August 13th, 2024, Regular Town Council meeting.

The process regarding use of the funds appropriated by Council for the BZA,

1. The proposed BZA counsel will submit an engagement letter noting that the source of funds is the Town Council's appropriation.
2. If the Town approves the engagement, the Town Manager will endorse the engagement letter and provide a copy to the BZA.
3. The engagement will begin upon the Town Manager's execution and delivery of the engagement letter.

The Chair of the BZA has received a proposal from one firm that he has been in contact with. It is recommended to enter into closed session to discuss the proposal and the direction that the BZA would like to give staff on the matter.

A vote can be held to enter into closed session as permitted under § 2.2-3711 (A)(1), a personnel matter involving: Discussion, consideration or interviews of prospective candidates for employment or appointment; OR assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of the Town. specifically dealing with Board of Zoning Appeals legal representation.

After the closed session concludes, a vote to certify the closed session must be held.

The BZA can then pass a motion or resolution to proceed with their request.

BACKGROUND

The Board of Zoning Appeals is a quasi-judicial body that is appointed by the Fauquier County Circuit Court. The purpose of the Board is to hear and decide appeals from any order, requirement, decision or

determination made by an administrative officer of the Town in the administration or enforcement of the Zoning Ordinance. The duties and powers of the Board of Zoning Appeals are regulated by the Code of Virginia, §15.2-2308 and subsequent sections, as well as the Town Zoning Ordinance, Article 11, Section 11-2 *Board of Zoning Appeals*. A copy of the relevant Code of Virginia sections is included with this staff report as Attachment C; a copy of Zoning Ordinance Section 11-2 is included as Attachment D.

On July 2, 2024 the Board of Zoning Appeals held a work session to discuss recent applications to the Board and court filings listing the Board at the request of the Chair. After lengthy discussion the Board members passed a motion to request that the Town Council provide funds so that the Board may retain legal counsel that is separate and independent from the Town and the Town Attorney on a short-term, as-needed basis.

BZA RECOMMENDATION

Consider the representation and identify how the representation

Service Level/Collaborative Impact

The purpose of the Board of Zoning Appeals is to hear and decide appeals from any order, requirement, decision or determination made by an administrative officer of the Town in the administration or enforcement of the Zoning Ordinance. In the matter of an appeal, the Town Attorney represents the Town, and cannot provide legal advice to the Board of Zoning Appeals.

Fiscal Impact

The Board of Zoning Appeals relies on the Town to provide any funding necessary to perform the duties of the Board. The Board does not have a budget line item for legal counsel. Therefore, should the Board desire legal counsel, the Board must request funds from the Town Council.

Legal Impact

The Code of Virginia, §15.2-2308, Subsection D, states that upon request of the Board of Zoning Appeals, the governing body shall consider appropriation of funds so that the Board may employ or contract for services to include legal counsel.

ATTACHMENTS

- A. Closed Session Form
- B. July 2, 2024 Motion
- C. July 5, 2024 Email from Chairman Kovalik
- D. Code of Virginia, §15.2-2308
- E. Zoning Ordinance Section 11-2
- F. Town Council Staff Report 08.13.24

G. RES-24-08-03