



**TOWN OF MIDDLEBURG
BOARD OF ZONING APPEALS
MINUTES**



Monday, April 1, 2019

PENDING APPROVAL

The Middleburg Board of Zoning Appeals meeting was held on April 1, 2019 in the Town Hall Council Chambers, located at 10 West Marshall Street. Deputy Town Administrator/Zoning Administrator Moore called the meeting to order at 6:00 p.m.

PRESENT: Terry Cooke, Member
Kathy Fisher, Member
Trow Littleton, Member
Catherine “Bundles” Murdock, Member
H. H. “Dev” Roszel, Member

STAFF: William M. Moore, Deputy Town Administrator/Zoning Administrator
Rhonda S. North, MMC, Town Clerk

Oath of Office

Gary Clemens, the Clerk of the Loudoun County Circuit Court, administered the oath of office to each of the members. He thanked them for their service to the community.

Nomination of Officers

Board Member Murdock moved, seconded by Board Member Littleton, to nominate Terry Cooke as Chair.

Vote: Yes – BZA Members Cooke, Fisher, Littleton, Murdock and Roszel
No: N/A
Abstain: N/A
Absent: N/A

Board Member Littleton moved, seconded by Board Member Roszel, to nominate Bundles Murdock as Vice Chair.

Vote: Yes – BZA Members Cooke, Fisher, Littleton, Murdock and Roszel
No: N/A
Abstain: N/A
Absent: N/A

Discussion - Case Types Heard by BZA

Deputy Town Administrator/Zoning Administrator Moore noted that the members were provided with a number of resources for their review and asked that they study them outside of the meeting. He displayed a copy of the Town’s zoning map and noted that it was divided into zoning districts. Mr. Moore

explained that the zoning ordinance identified the uses allowed within each zoning district, including both by-right uses and those allowed by special use permit, and the standards that apply. He opined that it would be good if the members familiarized themselves with this information.

Deputy Town Administrator/Zoning Administrator Moore advised the Board that there were three types of cases that could be heard by the BZA. He reviewed each type.

Appeals of Determination

Deputy Town Administrator/Zoning Administrator Moore advised the Board that he, as the Zoning Administrator, could write a zoning determination letter or issue a notice of violation and if someone disagreed, they could file an appeal. He explained that if there was an appeal, the BZA would decide whether his determination was correct as a matter of fact. Mr. Moore stressed that they would not act on what they thought the law should be. He explained that under the State Code, the BZA must assume he was correct and that the applicant must prove he was not by a preponderance of the evidence. Mr. Moore opined that the reasons the BZA did not meet often was that the town was small; he did not issue a lot of determinations or notices of violation; and, even when he did, he tried to work with people. He noted that they had not heard a case since 2008. Mr. Moore advised that there were also other avenues for people to achieve what they wanted, such as changes to the zoning ordinance.

Variances

Deputy Town Administrator/Zoning Administrator Moore explained that if a property owner had no avenue left for relief, he may ask for a variance. He further explained that this would almost always involve something that was dimensional or measurable, such as a setback. Mr. Moore noted that variances were not allowed to apply to uses in Virginia. He advised that the standards to receive a variance were difficult to meet and explained that an applicant must have acquired the property in good faith and there must be something unique about it so that applying the ordinance would create a hardship. Mr. Moore advised that a hardship could not be based on a desire, nor could it apply if the situation applied to the surrounding properties. He opined that the Town had not seen many variances that met the hardship requirements.

Interpretations of Zoning Map

Deputy Town Administrator/Zoning Administrator Moore advised the Board that they were not likely to see an interpretation of the zoning map as they usually applied to larger rural lots where the zoning boundary line was drawn in such a way that it bisected the property. He advised that Middleburg's zoning map was clean and followed logical boundaries.

Ex-parte Communications

Deputy Town Administrator/Zoning Administrator Moore advised the Board that while an applicant could talk to a member of the Planning Commission or Town Council, this was not the case with the BZA. He explained that they are a quasi-judicial body and an arm of the Loudoun County Circuit Court. Mr. Moore reiterated that ex-parte communication was not permitted, even with him if it related to a case. He explained that if a case were filed, he would issue a staff report and reiterated that the members could not ask him about it except in an open meeting. Mr. Moore advised that the same was true with the applicant. He noted that if an applicant asked to speak to a member, they must decline and must state that this occurred during the BZA meeting.

Deputy Town Administrator/Zoning Administrator Moore thanked the members for agreeing to serve. He advised them that they were required to meet once a year for an organizational meeting; otherwise, they would only meet if an application was received. It was noted that the members served five-year, staggered terms.

The members questioned whether they were allowed to discuss an application amongst themselves. Deputy Town Administrator/Zoning Administrator Moore advised that he would research that question. He noted that in the case of other Town committees, two members could get together to discuss an application; however, it could be no more than two. Mr. Moore reiterated that he would research whether this applied to the BZA and get back to the members. He encouraged them to send any emails by blind copy if they found they must do so in order to avoid FOIA violations.

Deputy Town Administrator/Zoning Administrator Moore reminded the Board that there were no set dates for their meetings and advised that he would poll them if a case arose.

There being no further business, the Chair declared the meeting adjourned at 6:40 p.m.

RESPECTFULLY SUBMITTED:

Rhonda S. North, MMC, Town Clerk

BZA Meeting Transcript – April 1, 2019

(Note: This is a transcript prepared by a Town contractor based on the video of the meeting. It may not be entirely accurate. For greater accuracy, we encourage you to review the video of the meeting that is on the Town's website – www.middleburgva.gov)

Bundles Murdock: All right, you want us here?

Will Moore: [Off mic].

Dev Roszel: I'm Dev Roszel.

Bundles Murdock: Bundles Murdock

Terry Cooke: Terry Cooke.

Kathy Fisher: Kathy Fisher.

Trow Littleton: Trowbridge Littleton

Gary Clemens: And I'm Gary Clemens, the clerk of the Circuit Court. The purpose of my presence here this evening is to administer the oath of office to each of you because you've been appointed to the Board of Zoning Appeals for the Town of Middleburg. I'm prepared to do that, so if you'd please all rise. And please note for the record that you'll need to raise your right hand. Your right hands are raised and I'll make this easy. I'll just recite the oath and if you accept the oath and these responsibilities you'll simply say, I do. Do you solemnly swear that you'll support the Constitution of the United States and the Constitution of the Commonwealth of Virginia, and that you will faithfully and impartially discharge all the duties incumbent upon you as a member of the Board of Zoning Appeals for the town of Middleburg, Virginia according to the best of your abilities so help you God?

Everyone: I do.

Gary Clemens: May the record reflect that every member said I do. Thank you very much. Now, I'll have you sign your oath documents.

Bundles Murdock: Shall we come over there? [Off mic]. Yes. Oh, okay.

Gary Clemens: [Off mic].

Bundles Murdock: I almost fell off my chair. That's a good beginning. Sue the town. [Inaudible]. Yes. [Laughter]. [Inaudible] publicly.

Gary Clemens: If I don't hug Bundles something's not right with the world.

Bundles Murdock: [Off mic].

Gary Clemens: [Off mic]. But I will never swear at you.

Bundles Murdock: [Inaudible] many, many times.

Terry Cooke: It's better to be sworn in than sworn at.

Bundles Murdock: [Off mic]. Three times for this. [Off mic]. Don't worry about it.

Trow Littleton: [Off mic]. Yeah. Pleasure meeting you as well. I've heard a lot about you.

Gary Clemens: [Off mic]. [Laughter]. [Off mic].

Terry Cooke: Same here. [Off mic].

Kathy Fisher: Thank you.

Gary Clemens: [Off mic].

Bundles Murdock: [Inaudible] one.

Gary Clemens: Thank you. Always good to see you. [Multiple speakers].

Dev Roszel: Thank you. Good to meet you. And on behalf Loudoun County and Middleburg, thank you for your service to the residents of Middleburg by serving on the Board of zoning Appeals.

Bundles Murdock: Thank you.

Gary Clemens: Thank you.

Bundles Murdock: And thank you for making the trip here.

Terry Cooke: Yes.

Bundles Murdock: So we didn't have to drive Leesburg. [Laughter].

I was hoping I'd leave work early and enjoy some of your fine establishments, but they [off mic]. [Multiple speakers].

Bundles Murdock: Come back. Come back. Come back [inaudible] meeting.

Gary Clemens: [Off mic].

Trow Littleton: Well, you got a lot [inaudible]. What the heck?

Gary Clemens: Yeah. It's different out here. [Off mic]. Thank you, Rhonda. Always good to see you.

Gary Clemens: Thank you folks very much. [Multiple speakers].

Trow Littleton: Appreciate it.

Bundles Murdock: Thank you Gary.

Will Moore: Thank you Gary.

Bundles Murdock: See you soon.

Gary Clemens: [Off mic].

Will Moore: Ok. Very good. So the next item on your agenda is a nomination and election of officers. The last time this board met officers were elected, but both of those are people who were the chair and vice chair, respectively, have since rotated off. So you have no current elected officers. So if you wanted

to make individual nominations for chair and vice chair or group them together, whatever is at your pleasure.

Bundles Murdock: I would like to nominate Terry Cooke, on my right? [Inaudible] sounding terribly happy. He currently serves on the planning commission, and I understand that is not a conflict. That actually would be helpful, and he also likes short meetings.

Trow Littleton: I'll second it.

Will Moore: Ok. Are there any other nominations for chair? Hearing none, all in favor of Mr. Cook as chair.

Everyone: Aye.

Will Moore: Any opposed? None? OK, I will turn it over to Mr. Cooke to accept nominations for vice chair.

Terry Cooke: Thank you, Will. Thank you members of the BZA. The next item is a discussion item of the types of cases to be heard by the BZA.

Bundles Murdock: [Inaudible] have to nominate a vice chair.

Terry Cooke: Oh, excuse me. Yes, we have the [inaudible]. All right. We'll now entertain nominations for the office of vice chair of the BZA. Does anyone have any nomination for vice chair?

Bundles Murdock: Who wants it?

Trow Littleton: OK? Yeah, I'll nominate Bundles Murdoch.

Bundles Murdock: Oh, no, no. Who else wants it? [Laughter].

Trow Littleton: Okay.

Terry Cooke: I'll second that.

Bundles Murdock: We're never gonna meet anyway, so that's fine.

Terry Cooke: Any other nominations?

All right, we have a nomination for Bundles Murdock for vice chair. All in favor, please indicate by saying aye.

Everyone: Aye.

Will Moore: Pretty good.

Terry Cooke: You can run but you can't hide. [Laughter].

Terry Cooke: And the next item is discussion of the types of cases heard by the BZA. [Off mic].

Will Moore: Yes. So thank you, Mr. Cooke. We will be fairly quick this evening. But if you do have any questions, feel free to chime in. At the bottom of your agenda, whether you're looking at it electronically or in hard copy there's a number of resources. Those are mainly there for your study outside of this

meeting. And some of what we will talk about is covered within there. Also is a copy of the bylaws for the group if you want to look at that. What I would ask you to do is just take a quick look at the zoning map. If you did not have a chance to look at that ahead of time, if you click on that link at the bottom of your agenda, that would bring up a zoning map for those who have not dealt with zoning much maybe in the past basically, this just shows that the town is divided into different districts. And as you can see, they're color coded on here and corresponding with each of these districts. There is text in the zoning ordinance that describes what uses are allowable in that district as well as certain types of minimum zoning standards. So I also included an excerpt from the R2 district. That's just one of many districts we have. But if you were to open up that, it would tell you that a single family detached dwellings are permitted uses. It will also give you a list of what are called special exception uses. Those uses are ones that may be allowed in a district, but on a case by case basis, it's a discretionary action that requires a recommendation by the Planning Commission, and action by the town council. In certain jurisdictions in Virginia the Board of Zoning Appeals is actually the issuing authority for special use permits. That is not the case here in Middleburg, so that's not one of the types of cases that you would hear. But it's good for you to kind of just do a quick familiarization of yourself and that's why I gave you just one chapter of the R2 excerpt. And if you get a chance to look that over, you'll see how it's structured again, that there are uses that are permitted in the district and then there are special exception uses. As far as the types of cases that you might be called on to hear there are three types. Again, because the special use permits are not delegated to you here, there are only three types. It's appeals of determinations, variances and interpretations of the zoning map. So I'll just kind of go through those quickly to kind of give you an idea of what it is you might be asked to deal with. So with appeals of determinations, that's going to be in the case where the zoning administrator, that's myself, has issued a determination. A determination could be in the form of a notice of violation. So if I determined that somebody was doing something in violation of the ordinance, I would issue a notice of violation. It could also be just a blanket determination. And what I mean by that is sometimes I will be requested by a private party to issue a zoning determination. Sometimes this comes in the case of a real estate transaction. So somebody wants some assurance that they're going to be able to use the property for what they want to use it for if they purchase it and they will ask for a zoning determination to be issued. So then I would issue a determination based on the specifics of the request for a determination. The questions that they ask in that determination I would respond to. Somebody always has a right to appeal either of those things, a notice of violation or a determination request. It would then be your job to determine whether or not the determination I issued was correct. And you do that as a matter of fact. So you would look at, there can be there can be grey areas and determinations. But the important thing to remember is that you are not acting on what you think the law should be. So that's determined by the town council when they set rules that go into the zoning ordinance. So it's not your job to determine, again, whether the law is correct. It's whether I'm applying the determination correctly to the law that exists. That's an important distinction to make. There's a history of Boards of Zoning Appeals in Virginia that's kind of evolved over time that the the legislature has changed a lot of language in the enabling legislation and the state code to make it very specific about the powers of BZAs. BZAs generally in the past operated a little more like I was saying, making the law. We think you should be able to do this so we will grant your appeal or we will grant a variance, rather than acting on was the the law applied correctly? So that's one thing to keep in mind. The other thing to keep in mind, which I just love about the state code, is that it tells you that absent the appellant proving by a preponderance of evidence that I was incorrect you are to assume that I was correct in making a determination and that actually as is written in the state code. One of the reasons why this board does not meet very often, especially to hear a case, is that A) we're a small jurisdiction. We don't issue lots of determinations here. I do issue determinations occasionally. We don't issue a lot of notices of violation. Even though violations may occur on occasion we try to work cooperatively with somebody to correct the violation before we go to that step of issuing the formal notice of violation. So again, this body has not met to hear an actual case since 2008, and we love that. Another reason why you haven't met very often is because, and we'll get into this a little more in the part about variances, is that we have other avenues that people can achieve what they want to do with sometimes with property. So, for example, fence height regulations, in the jurisdiction that I worked in previously was hearing multiple cases, 10, 12 cases a year where somebody wanted to build a fence higher than was allowed for in the ordinance. And

they would argue that they had special circumstances. Again, this is with variances. So a couple of things there, if you're hearing the same type of case over and over and over again, it tells you that maybe the law should be changed. Maybe the planning commission who makes a recommendation to a council on what the law should be, council who decides what it should be, should re-look at that if you're hearing that many appeals. But the other thing that's possible is you can put in a process for a special use permit to amend that. So basically, we would say that if you're in a front yard, you can build a fence 4 foot high. If you're in a side yard or a rear yard you can build a fence 6 foot high and that's pretty much what the rule is. But you could do a taller fence if you applied for and received a special use permit. That's routed through the planning commission and council. So there is already an avenue for relief built into the ordinance. And when that avenue for relief is built into the ordinance, it's not a candidate for a variance or an appeal. You don't appeal that you just you have to go this route. So that's another reason why you haven't met very often. So appeals of determination, again, it's usually going to be one of two things. The blanket determination that I've issued at somebody's request or someone who is appealing a notice of violation, that I've issued. Things again to keep in mind, it's not what you think the law should be, it's what it is, and did I apply it correctly? And the second point is that absent a preponderance of evidence from the appellant demonstrating that I was in error, you are to operate under the assumption that my interpretation was correct. So that's an appeal of a determination. Any question on that part? OK. If not, then we will talk about variances. Variances is the case again with the fence example I was giving you. I'm not a candidate for variance here because there's that other avenue for relief. But there are certain standards that don't have avenues for relief that somebody might request a variance, which is a departure from the rule in place. Variances are almost always pertaining to something that is dimensional. So it's a setback. It's a building height. It's something measurable. Rarely, if ever, will you find a variance request that is something else. Use variances are not legal in Virginia. So what that means is if you're living in a residential district and the only permitted uses in that district are residential and you wanted to build a gas station, you can't apply for a variance. It could be legally heard for a use. So it's almost always going to apply to a dimension. The standard for receiving a variance is very difficult to meet. In order to receive a variance somebody has to demonstrate that they acquired the property in good faith, that there is something unique about that property. Oftentimes it's gonna be a topographical, but there's something unique about that property that makes applying the standard, where that creates a hardship. So if you want to build your house farther away from the street or closer to the street, then the ordinance allows it. You can't be granted a variance just because you want to do it differently. You have to show that there's something that if we apply that rule as it is, that's going to create a unique hardship for you. It has to be unique. It has to be based on something other than just desire. And it has to be something that doesn't apply generally to all the properties surrounding you. So, for example, if you were on a street where on, say, the east side of the street, the backyards of all the houses drop off tremendously and you want to build a house that's 50 feet deep, that's a big house, but you want to build a house, that's 50 feet deep and you have to set it back X amount of feet from the road and in order to go back 50 feet deep, well, the house is dropping off too far. And you say, well, I have a hardship because the topography of my lot is such that it drops off. So I would like to move my house closer to the street than the ordinance would allow so I can go that 50 feet back before it starts dropping off. Well, you would have to decide well, is that really a hardship? Would you be denying them reasonable use of their property that says, you know, you could just build a house, that's 40 feet deep, maybe you want a larger house. But, you know, is that actually a hardship or is it just a desire? But in the case I just mentioned, if you're on the east side of the street and all the lots drop off in the back, not only is it probably not a hardship versus a desire, it's not a hardship that uniquely applies to your house. And that's something else. So it has to be a hardship and has to be a hardship that doesn't apply generally to all the properties. It's something that's unique to yours. Again, you're not going to see many variances that are requested or could meet the threshold for a hardship that is uniquely applicable to your property. But it is possible. In the case of a variance they're not in conflict with me as opposed to the first example, the appeals of determination that's a case where I've made a decision and they're appealing it. In the variance they're agreeing they understand what the rule is and they're just asking relief from that rule. Any questions on variances? Okay. The last one is probably the easiest of it. It's interpretations of the zoning map. And again, you see your map here, you're probably never going to see one of these. An interpretation of a zoning map it kind of hearken back to

earlier times when zoning was first being established in Virginia. Almost always these kinds of cases were more applicable in large lot rural areas which we have surrounding us, but not in the town where somebody would draw a line but it wasn't a hundred percent sure. It wasn't tied to a survey. It wasn't tied to GIS location points. It wasn't tied to something that could locate where that boundary line was drawn perfectly. So sometimes if that line dissected a really large lot, a 200 acre lot, and somebody wanted to develop that, the zoning administrator would have to make a determination where exactly is that line? And if the applicant disagreed, then they could apply to the Board of Zoning Appeals and they would have to determine. Okay, well, this map was drawn so many years ago. Here, fortunately, we have a nice clean map that follows logical boundaries, surveys of properties, streets, things like that. So the boundaries of those are pretty clear. There's a couple where I mean, literally only a couple where we have zoning boundaries that bisect a property, one that I will show [Off mic]. So in that case, that property has split zoning. So there's a portion of it that is zoned the light green, which is a residential district, and then the rear portion of it, the dark green is our agricultural conservancy district. We think we know where that line is with reason. But if the person that owned that property wanted to do a use that's allowable in one district, but not the other. And he was putting it kind of close to where that line is. I would have to make a determination. Is that being developed in the residential portion of your property? Is it being developed in the agricultural portion of your property? And if he disagreed with my determination of where that line is, he could come to you and ask for you to make that. So it's kind of like the first thing appealing a determination, but it's one specific to the zoning map. Don't anticipate you'll ever see one of those. But again, most of our town is clear as to where those delineations are. Any questions on interpretations of a zoning map? Okay. So really, just to recap appeals of determinations, variances which are going to be to grant relief of a dimensional standard, and interpretations of the zoning map. Those are the three types of cases you would be likely to hear. Within the resources I would highlight the the last one that is listed regarding ex parte communications. It's something very important for this body, especially to keep in mind. If you were on planning commission and an applicant wanted to come to you individually and talk about a project that they have, they can do that. Sometimes it's okay. Sometimes you might not want to do that, but there's allowances for that. That doesn't disqualify you from taking part in deliberations later. They want to meet with people one on one and just talk about the project. Here we ask our planning commissioners every meeting to disclose any meetings they've had with applicants. But that's just so that we know that that's taking place. Same thing with council. An applicant can come to you individually if you were on the town council and talk to you about a project that they wanted to do. It's happened many times, in fact, and that's OK. Again, it's usually best if you disclose that. With this body, you're what we call a quasi-judicial body, so you are kind of acting as an extension of the circuit court, which is why Gary Clemens was here. You're making decisions. Was the law applied properly? Ex parte communications are not permitted, and that even includes with me as it pertains to law or facts about the case. So if I were to give you notice that a case was forthcoming, I would at some point in time issue a staff report, which is allowable. I have to make that report available to the applicant as soon as I make it available to you. It's allowable. But once I issue that, you could not call me and ask me to discuss any further facts about the case. I've read your report, can you give me a little more insight into this? Can I ask you about this? Can I ask you why you determined something this way?

Bundles Murdock: You can do that in the meeting.

Will Moore: Right. You can. You can in the meeting. Yes, absolutely. You can't do an ex parte so outside of the proceedings. And the same with the applicant. The applicant cannot come to you and say, hey, hey Trow, I want to talk to you. I've got this requested variance for this. Can I talk to you about it off line? No, you can't. If something like that would happen, even if somebody were to request that of you, you have to make that known in a meeting. So you would have to disclose any contact that you received from the applicant. If you called me up and said, I want to talk to you about your report here. I would stop you and say, I can't do that. We would have you disclose it. You called me up, but then I cut you off. Just so everything is aboveboard. So the ex parte communication part is really important. Glossing over it quickly, but if we would ever get to the point where you had to hear a case, it's important for you to

understand that. With that. Thank you for agreeing to do this. We hope that we continue our marvelous record of not having to meet [inaudible].

Bundles Murdock: That brings up a point. What about the required meetings? Are there any required? Is there yearly?

Will Moore: Right. So our bylaws state that you should.

Bundles Murdock: [Inaudible].

Will Moore: You need to meet yearly.

Bundles Murdock: Okay. [Inaudible].

Will Moore: Just to basically do this. And it's really so that so that you have some basic understanding of what you're supposed to do organizationally. So we should meet annually and to elect the chair and vice chair that's provided for it in your bylaws.

Bundles Murdock: [Inaudible].

Will Moore: Correct. But otherwise, there are no other required meetings.

Terry Cooke: Will, is there a term associated with membership on the BZA?

Will Moore: There is.

Rhonda North: Five year terms.

Will Moore: It's a five year term. Right. Right. [Off mic]. [Laughter]. We can confirm this. I want to say somebody's was.

Bundles Murdock: Mine was interrupted.

Will Moore: Yeah, but I think somebody is was to fulfill.

Rhonda North: I think Terry's may have been filling [multiple speakers].

Will Moore: So we'll check.

Dev Roszel: I understood from reading the documents that there was a rotation in the election.

Will Moore: There should be.

Dev Roszel: So that one falls off every year and a new one comes on.

Will Moore: Something along that line. Generally, we do that with our boards and commissions so that not everybody rotates off at the same time and a whole new structure comes in [inaudible].

Dev Roszel: With regards to the ex parte communications. Can we have discussions among ourselves about something outside of the meeting?

Will Moore: You know what? That's a good question. [Off mic]. So generally, for any elected or appointed position, two members can get together to discuss business, but no more than two.

Bundles Murdock: We can go to our chair and say, maybe the subject's come up in a planning commission meeting.

Will Moore: You know what? I'm going to do a little research on that because this might be something that's unique to this body. So I'll do a little research on that and get you an answer that.

Dev Roszel: [Inaudible] the planning commission we couldn't have more than two people [inaudible].

Bundles Murdock: Yeah, and it's council too [inaudible] that. [Multiple speakers] getting some more information is what I think we really should be care about this thing. Are we allowed to talk amongst ourselves or to our chair?

Will Moore: I'm going to get an answer on that for you. I'm gonna do some research and I'll let you know.

Dev Roszel: [Multiple speakers], but I don't know if you, me, and Trow could sit down and have a conversation.

Bundles Murdock: Well, I don't know that it's so much about the two as are you allowed to talk at all?

Will Moore: That's what I need to find out.

Bundles Murdock: Because you may not be allowed to talk at all.

Will Moore: If you are allowed to talk at all, it would be no more than two of you together.

Dev Roszel: [Inaudible] documents that you sent. I've lost mine on my screen, so I can't pull it back up again [laughter].

Will Moore: Okay.

Dev Roszel: But I think in one of the documents [inaudible].

Will Moore: Yeah, I don't see anything in the state code that specifically addresses it, but let me get you an answer on that anyway, though. It's something I can research for you and we'll get that answer for you.

Bundles Murdock: [Inaudible]. It's definitely not in there. [Inaudible]. So it would be in here.

Will Moore: No, it's not in the document, pertaining to ex parte communication. But again, let me do some research. I can get you a quick answer. I'll shoot an email so that you have that. You'll notice on any emails that I send you you won't be able to see everybody else's email address. I blind copy each of you, and that's to avoid inadvertently violating public meeting laws. We can't discuss business with more than two people and that includes electronically. So I couldn't send you an email where all you are copied and then one person hits a reply to all and then that could arguably become a discussion or a meeting that's taking place without proper notice. So you won't see. I'll generally write BCC BZA at the bottom of the email so that to alert you that everybody is. But if you look at the address and you say, well, he sent that email to himself and copied Rhonda. That's why you're not going to see any other addresses on there. But I'll find an answer on that. My gut reaction is it's probably best not to talk to anybody outside the meeting if a case is actually presented. But I'll definitely get you an answer.

Dev Roszel: But that's specifically relating to a case.

Will Moore: Correct. If you wanted to talk to somebody about, you know, determinations. You wanted to say, you know, Terry, do we really have to assume Will is correct in his determination? Is that really right? Yeah. It says it in state code. But yeah, you could talk about procedural things. You could talk about your availability for a meeting. Those kind of things. There is no set day of the week and time of day for a meeting. So if a case ever comes up, I'll do basically what I did with this one is I'll send out a list of like 5 available days and times. And when you get one of those, if you ever get one of those, if you could reply back to me as to your availability for for each particular date. That's helpful because if one person says I could do April 1st. Yeah. What about the other four days? Because the chances are not everybody's going to [inaudible]. And then we found we were lucky to find this is the one day that of those five that worked for everybody.

Dev Roszel: So this isn't really an April Fool's thing is it?

Will Moore: It's not an April Fools thing. [Laughter]. It is not. OK.

Terry Cooke: Thank you will.

Will Moore: Yes, sir.

Terry Cooke: There being no further business for the BZA tonight this meeting is adjourned. Thank you all.

Will Moore: Thank you all. [Multiple speakers].

Terry Cooke: Will, could I ask a favor?