

Minutes  
Jefferson County Zoning Board of Appeals

1 Meeting Date: December 10, 2015

2 Meeting Location: Charles Town Library Conference Room

3 200 East Washington Street, West Virginia

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5 Board members present: Tyler Quynn, Chair; Jeffrey Bannon, Vice Chair; Christy Huddle,  
6 Ted Schiltz, Craig Foster, Alternate, and Jeff Bresee, Alternate

7 Board members absent: Matt Knott (with notification)

8 Staff members present: Jennifer M. Brockman, Acting Zoning Administrator/Director of  
9 Planning and Zoning; Lydia Lehman, Assistant Prosecuting Attorney;  
10 Jennilee Hartman, Zoning Clerk

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12 All requests are pursuant to the Jefferson County Zoning and Land Development Ordinance.

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14 As the Senior Alternate Board Member, Mr. Bresee filled Mr. Knott's vacancy.

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16 Ms. Huddle moved to begin the meeting at 2:00 p.m. Mr. Quynn called for a vote, which carried  
17 unanimously.

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19 Mr. Quynn explained how the meeting would be conducted to the public.

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21 1. Approval of the minutes from the November 12, 2015 meeting.

22

23 Ms. Huddle moved to approve the minutes with the following corrections:

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25 a. Page 2, line 38, revise sentence to read as follows, Ms. Huddle ~~seconded the motion to~~  
26 ~~add an amendment~~. Ms. Huddle seconded the motion and asked to add an amendment.

27 b. Page 2, line 39, correct ~~Ms.~~ to Mr. Bannon.

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29 Mr. Quynn called for a vote, which carried four (4) in support and one (1) abstention (Mr. Bresee  
30 did not attend the meeting).

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32 2. Swearing in of members of the public intending to provide testimony.

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34 Ms. Hartman swore in members of the public who indicated they would be providing testimony.

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36 3. An Appeal of the Acting Zoning Administrator's determination to enforce a 2013 Memorandum,  
37 which restricted shipping containers from being used as residential accessory structures.  
38 Appellant: Brian Billey. Location: Lot 1, William Parker Minor Subdivision, 46 Hinton Ridge Rd,  
39 Middleway. District: 07; Map: 27; Parcel: 4.1; Size: 2.38 ac; Zone: R; File: AP15-03.

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41 Mr. Brian Billey, Appellant, was present to address the Board. Mr. Quynn read from a portion of  
42 §8A-8-9, "Powers and Duties of the Board of Zoning Appeals." Ms. Brockman presented her staff  
43 report to the Board that outlined the origination of the 2013 Memorandum (Memo), which had been  
44 draft by the former Zoning Administrator, Steve Barney. Ms. Brockman stated that the Memo  
45 provided clarification between the Departments of Planning, Zoning and Engineering regarding his  
46 determination that shipping containers, conex boxes, etc. were not considered accessory structures  
47 defined in Section 2.2 in the Zoning Ordinance, when requested for residential properties.

48

49 Ms. Brockman explained the purpose of the determination, citing Section 1.1G, which states,  
"Encourage an improved appearance of Jefferson County with relationship to the use and

1 development of land and structures.” and the circumstance under which a container could be used  
2 as a storage unit (see Memo). Ms. Huddle asked if the shipping containers could be modified to  
3 give the appearance of a typical storage structure. Ms. Brockman stated she would take that option  
4 into consideration; however, she did not want to change Mr. Barney’s previous interpretation as she  
5 was acting as the interim Zoning Administrator and preferred to keep any past interpretations in  
6 effect to maintain consistency until a permanent Zoning Administrator was on staff.

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8 Mr. Billey addressed the Board stating that he had researched the Zoning Ordinance on the  
9 County’s website prior to purchasing the shipping containers and found no regulations restricting  
10 shipping containers. Mr. Billey said he was unaware of the restriction until he received a violation  
11 notice from the County. Mr. Billey argued that if shipping containers were not permitted then this  
12 restriction should have been clearly addressed in the Zoning Ordinance, rather than a Memo stating  
13 they were not allowed. Mr. Billey further contended that the location of his property is in a rural  
14 setting and that it is not unusual for people to use shipping containers as storage units. Mr. Billey  
15 added that shipping containers are frequently converted for a variety of uses. Mr. Bresee had  
16 questions concerning the dimensions of the shipping containers. The Board had questions  
17 concerning the issuance dates of the building permits for the shipping containers.

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19 Mr. Quynn opened the public hearing. There was no public comment. Mr. Quynn closed the  
20 public hearing.

- 21  
22 4. Variance from Section 9.7 and Appendix A to reduce the front setback on S. Church St. from  
23 20’ to 7’ for a 12’x15’ breezeway, a 25’ x 28’ attached garage with a 5’ x 25’ attached porch.  
24 Owner: Elena Mestre and Eric Hyman. Location: 110 Fairmont Ave. Shepherdstown.  
25 District: 09; Map: 8B; Parcel: 48; Size: .25 ac; Zone: RG; File: ZV15-29.

26  
27 Ms. Sara Lambert, architect, was present to address the Board. Ms. Brockman presented her  
28 staff report to the Board stating that the garage structure proposed on the property would be  
29 accessed from a rear alley. Ms. Brockman addressed questions concerning the nonconformity  
30 of the existing structure and the surrounding lots. Ms. Huddle expressed an interest in having  
31 the Zoning Ordinance amended to include reduced setbacks for historic structures and/or  
32 historic districts. Ms. Lambert explained the nature of the request, disclosing the structure  
33 would contain a bedroom and bathroom on the second floor. Mr. Quynn opened the public  
34 hearing. There was no public comment. Mr. Quynn closed the public hearing.

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36 Ms. Huddle moved to approve the variance from Section 9.7 and Appendix A to reduce the  
37 front setback on S. Church St. from 20’ to 7’ for a 12’ x 15’ connecting building to a 25’ x 28’  
38 garage and with a 5’ x 25’ attached porch for the above reference parcel. Mr. Quynn called for  
39 a vote, which carried unanimously.

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41 Mr. Bresee moved to go into deliberative session at 2:52 p.m. Ms. Huddle moved to go back into  
42 public session at 3:20 p.m.

- 1 3. An Appeal of the Acting Zoning Administrator's determination to enforce a 2013 Memorandum,  
2 which restricted shipping containers from being used as residential accessory structures.  
3 Appellant: Brian Billey.

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5 Mr. Bresee moved to affirm the Acting Zoning Administrator's determination to restrict  
6 shipping containers from being used as residential accessory structures. Additionally, the  
7 Board suggests the Appellant to file for a variance from the relevant section of the Zoning  
8 Ordinance within 60 days from the date of this determination, during which time the existing  
9 shipping containers may remain on the property. Mr. Quynn called for a vote, which carried  
10 unanimously. Ms. Huddle suggested to Staff that the 2013 Memorandum be amended to  
11 include a provision that if a shipping container were modified to have the appearance of a  
12 residential storage structure, then the shipping container would be permitted.

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14 5. Director's Report.  
15 a) Monthly Zoning Certificate Activity Report

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17 Ms. Brockman updated the Board on the following pending text amendments

- 18 1) Campgrounds: PC discussion & action or proposed revisions scheduled for 12/8/15  
19 2) Major/Minor Subdivision & Site Plan Process: CC action scheduled for 12/3/15  
20 3) Mass Events (#ZTA 14-02): PC public hearing scheduled for 12/8/15  
21 4) Article 12 (ZO)- awaiting final language from legal for 12/8/15 PC meeting  
22 5) Pending amendments: Historic Resource Demolition and Adaptive Reuse, LESA/  
23 Conditional Use and Cluster Subdivision Provision Modifications, Parking  
24 Standards, Landscape Standards, Signage

25 Ms. Brockman explained the purpose of the staff reports. The Board requested that  
26 staff continue providing the reports.

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28 6. Legal Update. None.  
29 a) William Neufeld Pending Litigation CA #14-C-394  
30 b) Shenandoah Air Conditioning & Heating Inc. Pending Litigation CA #15-P-73  
31 c) Whistling Farms Bed & Breakfast Litigation CA # 15-C-209 (possible executive session)  
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33 7) Discussion with possible deliberative session and signing of draft findings/decisions. None.

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35 Ms. Huddle moved to adjourn the meeting at 3:35 p.m. Mr. Quynn called for a vote, which carried  
36 unanimously.