

Minutes  
Jefferson County Zoning Board of Appeals

1 Meeting Date: May 26, 2016

2 Meeting Location: Charles Town Library Conference Room  
3 200 East Washington Street, Charles Town West Virginia

4 Board members present: Tyler Quynn, Chair; Jeffrey Bannon, Vice Chair; Matt Knott, Christy Huddle  
5 Ted Schiltz and Craig Foster, Alternate.

6 Absent members: Jeffrey Bresee (with notification)

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

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

12 Ms. Huddle motioned to commence the meeting at 2:05 PM. Mr. Quynn called for a vote, which  
13 carried unanimously.

14 Mr. Quynn explained how the meeting will be conducted to the public.

15 1. Approval of the minutes from the March 24, 2016 and the April 28, 2016 meeting.

16 The following corrections were requested of the March 24, 2016 minutes:

17 a) Page 2, Line 20-32, Clarify Ms. Thompson's statement regarding the size of the sign  
18 and the base of the sign.

19 b) Page 3, Line 38, add *motion* before the comma.

20 c) Page 4; remove second reference to Legal Update, renumber the agenda items  
21 appropriately, and the phrase "Not Addressed" when an agenda item is not addressed  
22 (without copying the full item content from the agenda).

23 Ms. Huddle moved to approve the March 24, 2016 minutes as amended. Mr. Quynn called  
24 for a vote, which carried unanimously.

25 The following corrections were requested of the April 28, 2016 minutes:

26 a) Page 2, Line 40, change *request* to *requested*.

27 b) Page 3, Line 2, change ~~3~~:55 p.m. to 2:55 p.m.

28 Ms. Huddle moved to approve the April 28, 2016 minutes as amended. Mr. Quynn called for  
29 a vote, which carried four (4) in support and one (1) abstention (as Mr. Schiltz did not attend  
30 this meeting).

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

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

33 Mr. Quynn suggested reordering the Agenda as it may be beneficial for the applicants. Items #3 and  
34 #4 were thus switched.

35 3. Variance from Section 10.4B to increase the maximum square footage of two proposed  
36 business signs from 144 square feet to 264 square feet (Washington St.) and from 192 square  
37 feet to 264 square feet. (Euclid Ave.); and, to allow signage to face a residential property.  
38 Bret Skirvin, Site Enhancement Services, Inc., Applicant. Primax Properties, LLC, Owner.  
39 Location: Corner of Washington and Euclid St. Charles Town (future Advanced Auto Parts).  
40 District: 02; Map: 10A; Parcel: 76; Size: 1.04 ac; Zone: RLIC; File: ZV16-11. *Previously*  
41 *agenda item #4.*

- 1 Brett Skirvin, representative with Site Enhancement Services, was present to address the Board.
- 2 Ms. Brockman informed the Board that there had been concerns regarding the placards posted  
3 on site. Ms. Brockman noted that the placards along East Washington Street and Euclid  
4 Avenue had come down during the posting period. Mr. Quynn lives in the vicinity and travels  
5 along Euclid Avenue regularly. He stated that he was unable to see the sign on Euclid and  
6 therefore he does not believe its posting met the intent of being “conspicuously posted”.
- 7 The Board discussed the implications of the potential notification issue. Ms. Lehman advised  
8 that if the Board was uncomfortable and felt that the site had not been properly posted that it  
9 would be appropriate to postpone the request until the next meeting.
- 10 Mr. Skirvin explained that once he received notification from staff that the Washington placard  
11 was not posted he contacted the construction crew to ensure it would be reposted. Mr. Skirvin  
12 stated that he visited the site once staff had advised him of the absence of the Euclid placard  
13 and noted that the placard was posted correctly.
- 14 Local resident, Randolph Hilton, spoke briefly regarding the posting issue; however, was not  
15 able to offer testimony as the public hearing for this item had not been opened.
- 16 Mr. Bannon moved to postpone this item until the June 23, 2016 meeting. Mr. Schiltz  
17 seconded the motion, which carried three (3) in support, one (1) opposed (Mr. Quynn); and  
18 one (1) abstention (Mr. Knott). New signs are to be made for this agenda item.
- 19 4. Request by The Middleway Conservancy Association Inc. for a Seasonal Use Permit for ‘The  
20 Battle of Smithfield Anniversary Re-enactment’ to operate from August 12-14, 2016. The  
21 event is to consist of a re-enactment of civil war camp life, drills, educational activities and  
22 public parking (SU16-01). Owner/location of proposed events as follows: Battle of Smithfield  
23 Reenactment, military drills & educational activities: Chappell, William D. & Linda; 175 East  
24 St., Kearneysville; D: 07; M: 22B; P: 28; Size: .89 ac; Z: R & V; File: SU16-01A; Re-enactor  
25 parking: Bowers, Daniel B. & Anne L.; 272 Mason Farm Dr., Kearneysville; D: 07; M: 22; P:  
26 12.9; Size: 7.75 ac; Z: R; File: SU16-01B; Military drills & educational activities: DeHart,  
27 Dorothea; 207 East St., Kearneysville; D: 07; M: 22B; P: 29 & 20; Size: 2.17 ac & .53 ac; Z: R  
28 & V; File: SU16-01C; Information & exhibit center; educational activities; public parking:  
29 Grace Episcopal Church; 112 East St., Kearneysville; D: 07; M: 22A; P: 70; Size: .38 ac; Z: V;  
30 File: SU16-01D; Civil War-style encampment of 150 reenactors; military drills; cannon and  
31 firearms demonstrations; educational activities: Quinones A., Carmen; 7513 Queen St.,  
32 Kearneysville; D: 07; M: 22A; P: 18; Size: 2.45 ac; Z: V; File: SU16-01E; Encampment of SO  
33 cavalry re-enactors with horses; educational activities: Stickles, James; 7316 Queen St.,  
34 Kearneysville; D: 07; M: 22A; P: 61; Size: 2.6 ac; Z: V; File: SU16-01F; Re-enactments of  
35 Civil War cavalry and infantry engagements; public parking: Supplee, J. Frank, IV, & Mary L.;  
36 6880 Leetown Rd., Kearneysville; D: 07; M: 22; P: 31; Size: 137 ac; Z: V; File: SU16-01G;  
37 Living history presentations; educational activities: Middleway United Methodist Church  
38 Trustees; 328 King St., Kearneysville D: 07; M: 22A; P: 19; Size: .67 ac; Z: V; File: SU16-01H;  
39 Public parking: Middleway United Methodist Church Trustees; 7437 Queen St. Kearneysville;  
40 D: 07; M: 22A; P: 44; Size: .35 ac; Z: V; File: SU16-01I. *Previously agenda item #3.*
- 41 Peter Fricke and William Chappell, with the Middleway Conservancy, were present to address  
42 the Board. Ms. Brockman informed the Board that one of the required 10 placards posted in  
43 the Middleway area had been removed by a local resident who had disputed its location within

1 the platted easement. Specifically concerned that the placard was nailed to a tree, the resident  
2 removed the placard. Ms. Brockman stated the remaining nine placards had been continuously  
3 posted throughout the posting period. Mr. Quynn informed Mr. Fricke that further  
4 explanation of the placard's absence was unnecessary. The Board agreed the remaining  
5 placards met the intent of public notification.

6 Ms. Brockman presented her staff report to the Board stating that while there were additional  
7 parcel's participating in the proposed event, it would consist of similar activities as the  
8 previous year's event. Ms. Brockman noted the Board approved a Seasonal Use Permit for  
9 the 2015 Re-enactment request and that the Board had added conditions to the approval  
10 (referenced in staff report). Ms. Brockman added that the applicant had taken the initiative to  
11 contact the Division of Highways, the Board of Health, and the Sheriff's Department. The  
12 applicant had received written confirmation from the Health Department that the event would  
13 be exempt from processing due to limited number of anticipated attendees and verbal  
14 acknowledgment of the event from the Sheriff; however, direction from the Highway  
15 Department was pending. Mr. Fricke addressed the Board noting that all parties along the  
16 easement that lacked proper posting had submitted written letters of support. Mr. Fricke  
17 continued his presentation by offering a brief synopsis of the event's activities and reiterated  
18 Ms. Brockman's report regarding notification of the event to the aforementioned governing  
19 agencies. Mr. Fricke also stated that the Conservancy would carry Event insurance for this  
20 type of event and will furnish the office with a certificate to that effect.

21 Mr. Chappell explained the event in more detail and stated that the reenactment would be  
22 larger this year, with additional participants in period costume. Ms. Huddle asked if the event  
23 was proposing a rain date or rain contingency plan. Mr. Chappell and Mr. Fricke stated they  
24 did not have a plan to address unforeseen weather conditions yet the sloping topography of the  
25 fields should assist in alleviating any potential rainfall impacts.

26 The Board determined that a deliberative session was unnecessary. Ms. Huddle moved to  
27 approve the request as proposed. Mr. Quynn called for a vote, which carried unanimously.

28 5. Director's Report. Ms. Brockman provided the Board with an update on the following:

- 29 a) LESA/Conditional Use and Cluster Subdivision Provision Modifications: 05/17/16 PC  
30 Public Hearing was held open to accept written comments through 05/31/16.
- 31 b) Pending Zoning Ordinance and Subdivision Regulation Amendments: Campgrounds:  
32 County Commission's follow up to proposed revisions to draft discussed at 5/5/16 work  
33 session - tentatively scheduled for June 2, 2016 County Commission agenda.
- 34 c) Mass Events:(#ZTA 14-02): County Commission Public Hearing postponed until  
35 Summer 2016.
- 36 d) Pending amendments: Historic Resource Demolition and Adaptive Reuse staff is  
37 collaborating with the HLC Board. Parking, Landscaping and Signage Standards- no  
38 action at this time.
- 39 e) Upcoming BZA meeting: June 23, 2016

40 Ms. Brockman informed the Board that she did not have any new information regarding the  
41 Department reorganization.

- 1 6. Legal Update. Ms. Lehman reviewed the following with the Board in deliberative session.  
2 No action was taken on the following items.
- 3 a) Whistling Farms Bed & Breakfast Litigation CA # 15-C-209. Petitioner motioned to  
4 dismiss the case, which was granted. This case is closed.
- 5 b) Shenandoah Air Conditioning & Heating Inc. Pending Litigation CA #15-P-73.  
6 Petitioner filed a Writ of Certiorari, which was denied. This case is closed.
- 7 7. Discussion with possible deliberative session and signing of draft findings/decisions.  
8 Meeting Dates: 02/25/16, 03/24/16 and 04/28/16. *See agenda for full item description.*
- 9 No action was taken on these items.
- 10 a) Postponed from the 01/28/16 meeting. Variance request from Sec. 4.11A.2, 4.11E and  
11 App. B to remove the side and rear landscape/screening buffer for a private,  
12 commercial warehouse/garage. Owner: Daniel McGinn. *Complete.*
- 13 b) Variance request by United Methodist Church from Sec. 10.4C to reduce the required  
14 setback of 25' to 0' to allow for the replacement of the existing freestanding sign.  
15 File: ZV16-03. *Complete.*
- 16 c) Variance request by United Methodist Church from the following: (A) Sec. 4.10A to  
17 waive the requirement of a site plan for the installation of a 1000 square foot gravel  
18 parking lot. File: ZV16-04 (B) App. B to reduce the front parking setback from 15'  
19 to 0'. File: ZV16-04. *Complete.*
- 20 d) Variance from Sec. 4.11A.1 & App. B to reduce the side & rear setback from 50' to 25';  
21 and, to eliminate the required residential landscape buffer to allow for the construction  
22 of a proposed 37,500 square foot self-storage facility. Owner: CTSS, LLC. *Complete.*
- 23 e) Variance from App. B to reduce the rear setback from 50' to 25' for the existing bowling  
24 alley to accommodate a proposed lot line adjustment. Owner: LSCG Fund LLC.  
25 Applicant: CTSS, LLC. *Complete.*
- 26 f) Variance from Sec. 4.11A.2, 4.11E and App. B to eliminate the landscaping, parking,  
27 drive aisle & building setback requirements for the interior lot line between Lots 2 & 3;  
28 and, to reduce the landscape buffer along the side of Lot 3 & the rear of Lots 2 & 3.  
29 Owner: Decker Holding, LLC. Applicant: Kubic Enterprises. *Pending.*
- 30 g) Variance from Sec. 5.7B to reduce the rear setback from 50' to 35' for the  
31 construction of 40' x 60' garage. Owner : Christopher & Victoria Dudash. *Pending.*
- 32 h) Variance from Sec. 5.4B to reduce the rear setback from 20' to 10' to construct a  
33 deck. Pending. Owner : Yin Xu. Applicant: Brick Street Construction. *Pending.*
- 34 Mr. Bannon stated he would not be attending the June meeting. Ms. Huddle stated she would not  
35 be attending the July meeting.
- 36 Mr. Knott moved to adjourn the meeting at 3:03 p.m. Mr. Quynn called for a vote, which carried  
37 unanimously.